

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

COMMWORKS SOLUTIONS, LLC,

Plaintiff

-against-

MEDIACOM COMMUNICATIONS
CORPORATION,

Defendant.

Civil Action No.: 1:20-cv-7529

Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff CommWorks Solutions, LLC (“CommWorks” or “Plaintiff”), by way of this Complaint against Mediacom Communications Corporation (“Mediacom” or “Defendant”), alleges as follows:

PARTIES

1. Plaintiff CommWorks Solutions, LLC is a limited liability company organized and existing under the laws of the State of Georgia, having its principal place of business at 44 Milton Avenue, Suite 254, Alpharetta, GA 30009.
2. On information and belief, Defendant Mediacom is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 1 Mediacom Way, Chester, NY 10918.

JURISDICTION AND VENUE

3. This is an action under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*, for infringement by Mediacom of claims of U.S. Patent No. 6,832,249; U.S. Patent No. 6,891,807; U.S. Patent No. 7,027,465; U.S. Patent No. 7,177,285; U.S. Patent No. 7,463,596; U.S. Patent

No. 7,760,664; U.S. Patent No. 7,911,979; U.S. Patent No. 8,116,315 and U.S. Patent No. RE44,904. (collectively “the Patents-in-Suit”).

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Mediacom is subject to personal jurisdiction of this Court because, *inter alia*, on information and belief, (i) Mediacom maintains a regular and established place of business in New York in this Judicial District, including its corporate headquarters at 1 Mediacom Way, Chester, NY 10918; (ii) Mediacom maintains a regular and established place of business in New York in this Judicial District, including offices at 3 World Trade Center, 175 Greenwich Street, New York, NY 10007; and (iii) Mediacom employs employees at and provides services to its customers from offices within the State of New York in this Judicial District.

6. Venue is proper as to Mediacom in this Judicial District under 28 U.S.C. § 1400(b) because, *inter alia*, on information and belief, Mediacom has a regular and established place of business in this Judicial District located at 1 Mediacom Way, Chester, NY 10918, as well as offices at 3 World Trade Center, 175 Greenwich Street, New York, NY 10007, and has committed acts of patent infringement in this Judicial District and/or has contributed to or induced acts of patent infringement by others in this District.

BACKGROUND

7. On December 14, 2004, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 6,832,249 (“the ’249 Patent”), entitled “Globally Accessible Computer Network-Based Broadband Communication System With User-Controllable Quality of Information Delivery and Flow Priority.” A true and correct copy of the ’249 Patent is attached hereto as Exhibit A.

8. On May 10, 2005, the United States Patent and Trademark Office duly and lawfully

issued U.S. Patent No. 6,891,807 (“the ’807 Patent”), entitled “Time Based Wireless Access Provisioning.” A true and correct copy of the ’807 Patent is attached hereto as Exhibit B.

9. On April 11, 2006, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,027,465 (“the ’465 Patent”), entitled “Method for Contention Free Traffic Detection.” A true and correct copy of the ’465 Patent is attached hereto as Exhibit C.

10. On February 13, 2007, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,177,285 (“the ’285 Patent”), entitled “Time Based Wireless Access Provisioning.” A true and correct copy of the ’285 Patent is attached hereto as Exhibit D.

11. On December 9, 2008, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,463,596 (“the ’596 Patent”), entitled “Time Based Wireless Access Provisioning.” A true and correct copy of the ’596 Patent is attached hereto as Exhibit E.

12. On July 20, 2010, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,760,664 (“the ’664 Patent”), entitled “Determining and Provisioning Paths in a Network.” A true and correct copy of the ’664 Patent is attached hereto as Exhibit F.

13. On March 22, 2011, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,911,979 (“the ’979 Patent”), entitled “Time Based Access Provisioning System and Process. A true and correct copy of the ’979 Patent is attached hereto as Exhibit G.

14. On February 14, 2012, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 8,116,315 (“the ’315 Patent”), entitled “System and Method for Packet Classification.” A true and correct copy of the ’315 Patent is attached hereto as Exhibit H.

15. On May 20, 2014, the United States Patent and Trademark Office duly and lawfully reissued U.S. Patent No. RE44,904 (“the ’904 Reissue Patent”), entitled “Method for Contention Free Traffic Detection.” A true and correct copy of the ’904 Reissue Patent is attached hereto as

Exhibit I.

16. CommWorks is the assignee and owner of the right, title, and interest in and to the Patents-in-Suit, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

NOTICE

17. By letter dated April 17, 2020 and email dated April 17, 2020, CommWorks notified Mediacom of the existence of its patent portfolio, including the Patents-in-Suit, notified Mediacom that it infringes the Patents-in-Suit, identified exemplary infringed claims and infringing products and services, and invited Mediacom to hold a licensing discussion with CommWorks.

18. By email dated August 17, 2020, CommWorks provided sample claim charts to Mediacom for each of the Patents-in-Suit.

COUNT I: INFRINGEMENT OF THE '249 PATENT BY MEDIACOM

19. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

20. On information and belief, Mediacom has infringed the '249 Patent, pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by providing services to its customers that make, use, offer to sell, sell in the United States or import into the United States the Ciena devices that run Service Aware Operating System (SAOS), under, for example, Mediacom's "Extream" brand, as well as all other equipment utilizing substantially similar methods of providing broadband communications over a multi-layered network used by Mediacom to provide services to its customers ("Accused Products and Services").

21. For example, on information and belief, Mediacom has infringed and continues to infringe at least claim 11 of the '249 Patent by making, using, offering to sell, selling, and/or importing the Accused Products and Services, which perform a method for providing broadband

communications over a multi-layered network having a plurality of Open System Interconnection (OSI) reference model layers functioning therein. *See* Ex. 1 (“The Mediacom network consists of the Optical Multiservice Edge 6500 equipment”); Ex. 2 (“The 6500 Packet-Optical Platform (formerly called the Optical Multiservice Edge 6500 . . . is a Multi-port, multi-protocol system designed by Ciena . . .”); Ex. 3 at 4-5 (showing that Ciena devices running SAOS supporting IEEE 802.3ah); Ex. 4 (IEEE 802.3ah functioning over a plurality of the OSI reference model layers). The method of providing broadband communications over a multi-layered network of each of the Accused Products and Services comprises monitoring at least one OSI reference model layer functioning in the multi-layered network. *See* Ex. 4 at 439 (*e.g.*, Discovery Processing). The method of providing broadband communications over a multi-layered network of each of the Accused Products and Services further comprises determining that a quality of service event has occurred in the multi-layered network. *See* Ex. 4 at 440 (“The process is driven by the OLT, which periodically makes available Discovery Time Windows during which off-line ONU’s are given the opportunity to make themselves known to the OLT.”). The method of providing broadband communications over a multi-layered network of each of the Accused Products and Services further comprises responding to the quality of service event in the multi-layered network by changing network provisioning at a layer less than N, such as the physical layer. *See* Ex. 4 at 421 (showing “allocation of upstream transmission resources to different ONUs”); *Id.* at 440-442 (showing the allocation of transmission resources to newly discovered ONU by Registering the ONU); *Id.* at 236 (showing that provisioning, *i.e.*, transmission resource allocation, occurs on the physical layer (layer 1) of the OSI model, which is less than the data link layer (layer 2)). The method of providing broadband communications over a multi-layered network of each of the Accused Products and Services further comprises

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