

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

COMMWORKS SOLUTIONS, LLC,

Plaintiff

-against-

RCN TELECOM SERVICES, LLC,

Defendant.

Civil Action No.: 1:20-cv-7534

**Jury Trial Demanded**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff CommWorks Solutions, LLC (“CommWorks” or “Plaintiff”), by way of this Complaint against Defendants RCN Telecom Services, LLC (“RCN” 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 RCN is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 650 College Road East, Suite 3100, Princeton, NJ 08540.

**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 RCN 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. RCN is subject to personal jurisdiction of this Court because, *inter alia*, on information and belief, (i) RCN maintains a regular and established place of business in New York in this Judicial District at 593 Third Avenue, New York, NY 10016; (ii) RCN sells products and services to customers in this Judicial District; and (iii) the patent infringement claims arise directly from RCN’s continuous and systematic activity in this Judicial District.

6. Venue is proper as to RCN in this Judicial District under 28 U.S.C. § 1400(b) because, *inter alia*, on information and belief, RCN has a regular and established place of business in this Judicial District located at 593 Third Avenue, New York, NY 10016, 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 20, 2020, CommWorks notified RCN of the existence of its patent portfolio, including the Patents-in-Suit, notified RCN that it infringes the Patents-in-Suit, identified exemplary infringed claims and infringing products and services, and invited RCN to hold a licensing discussion with CommWorks.

18. As of the date of this Complaint, CommWorks has not received any response from RCN to its letter.

**COUNT I: INFRINGEMENT OF THE '249 PATENT BY RCN**

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

20. On information and belief, RCN 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), as well as Juniper devices running Junos OS, and other equipment utilizing substantially similar methods of providing broadband communications over a multi-layered network used by RCN to provide services to its customers ("Accused Products and Services").

21. For example, on information and belief, RCN 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* Exs. 1-2 (showing that Ciena devices running Service-Aware Operating Systems (SAOS) facilitate broadband communications over an OSI model multi-layered network, e.g., a network having at least OSI

model layers 2 and 3, and have MPLS Fast Reroute functionality as standardized in IETF RFC 4090); Ex. 9 (showing that Juniper devices running Junos OS facilitate broadband communications over an OSI model multi-layered network, *e.g.*, a network having at least OSI model layers 2 and 3, and have MPLS Fast Reroute functionality as standardized in IETF RFC 4090). 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. 2 (showing that Ciena devices and Junos OS devices with MPLS Fast Reroute monitor and detect a failure of a node and/or link associated with the Internet Protocol (IP) layer, *i.e.*, OSI model layer 3, in the communications network). 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. 2 (showing that Ciena devices and Junos OS devices with MPLS Fast Reroute determine the occurrence of a quality of service event, *i.e.*, a failure condition, such as packet loss and/or latency, of a node and/or link associated with an IP address, thereby affecting network quality of service with particular effect on the quality of real time application services). The method of providing broadband communications over a multi-layered network of each of the Accused Products and Services further comprises determining that the quality of service event occurred at a layer N in the OSI reference model. Ex. 2 (showing that Junos OS devices and Ciena devices with MPLS Fast Reroute determine that a node and/or link associated with an IP address has failed in OSI model layer 3 thereby affecting network quality of service). 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

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