

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KLAUSNER TECHNOLOGIES, INC.,
a New York corporation,

Plaintiff,

vs.

CASE NO. _____

JURY TRIAL DEMANDED

ORACLE CORPORATION, a Delaware corporation; HEWLETT-PACKARD COMPANY, a Delaware corporation; 8X8, INC., a Delaware corporation; ACN, Inc., a Delaware corporation; ALTEVA, LLC, a New Jersey limited liability company; ALTIGEN COMMUNICATIONS, INC., a Delaware corporation; APTELA, INC., a Delaware corporation; BANDWIDTH.COM, INC., a Delaware corporation; BRIGHT HOUSE NETWORKS, LLC, a Delaware limited liability company; CBEYOND, INC., a Delaware corporation; CLEARWIRE COMMUNICATIONS, LLC, a Delaware limited liability company; THE BROADVOX HOLDING COMPANY, LLC, a Delaware limited liability company; EARTHLINK, INC., a Delaware corporation; FONALITY, INC., a Delaware corporation; INTERACTIVE INTELLIGENCE GROUP, INC., an Indiana corporation; NEXTIVA, INC., an Arizona corporation; NUVIO, INC., a Delaware corporation; PHONE.COM, INC., a Delaware corporation; SMOOTHSTONE IP COMMUNICATIONS CORPORATION, a Delaware corporation; TELESPIHERE NETWORKS, LTD., a Washington limited partnership; VOICE CARRIER, INC., a Delaware corporation, and 3CX Ltd., a Seychelles limited liability company; ACCESSLINE COMMUNICATIONS

CORPORATION, a Delaware corporation;
APPTIX, INC., a Florida corporation;
AUDIOCODES, INC., a Delaware
corporation; CALLWAVE, INC., a
Delaware corporation; M5 NETWORKS,
INC., a Delaware corporation; SCHMOOZE
COM, INC., a Wisconsin corporation;
TARIDIUM, LLC, a Delaware limited
liability company; IXC, INC., a Delaware
corporation; ZULTYS, INC., a Delaware
corporation,

Defendants.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Klausner Technologies, Inc. (“Klausner Technologies”) sues
Defendants Oracle Corporation; Hewlett-Packard Company; 8x8, Inc.; ACN, Inc.; Alteva,
LLC; AltiGen Communications, Inc.; Aptela, Inc.; Bandwidth.Com, Inc.; Bright House
Networks, LLC; Cbeyond, Inc.; Clearwire Communications, LLC; The Broadvox Holding
Company, LLC; Earthlink, Inc.; Fonality, Inc.; Interactive Intelligence Group, Inc.; Nextiva,
Inc.; Nuvio, Inc.; Phone.Com, Inc.; Smoothstone IP Communications Corporation;
Telesphere Networks, Ltd.; Voice Carrier, Inc.; and 3CX Ltd.; AccessLine Communications
Corporation; Apptix, Inc.; AudioCodes, Inc.; CallWave, Inc.; M5 Networks, Inc.; Schmooze
Com, Inc.; Taridium, LLC; IXC, Inc.; and Zultys, Inc. (“Defendants”) and on information
and belief, alleges as follows:

Introduction

1. Plaintiff Klausner Technologies owns the inventions described and
claimed in United States Patent Nos. 5,572,576 entitled “Telephone Answering Device
Linking Displayed Data with Recorded Audio Message” (the “‘576 Patent”). Defendants

(a) have used and continue to use Plaintiff's patented technology in products that they make, use, sell, and offer to sell, without Plaintiff's permission, and (b) have contributed to or induced, and continue to contribute to or induce, others to infringe the '576 Patent. Plaintiff Klausner Technologies seeks damages for patent infringements and an injunction preventing Defendants from making, using, selling, or offering to sell, and from contributing to and inducing others to make, use, sell, or offer to sell, Plaintiff's patented technology without permission.

Jurisdiction and Venue

2. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281, et seq. The Court has original jurisdiction over this patent infringement action under 28 U.S.C. §§ 1338(a).

3. Venue is proper in this Court because the Defendants are responsible for acts of infringement occurring in the Eastern District of Texas as alleged in this Complaint, and have delivered or caused to be delivered its infringing products in the Eastern District of Texas.

Plaintiff Klausner Technologies

4. Plaintiff Klausner Technologies, Inc. is a corporation existing under and by virtue of the laws of the State of New York.

The '576 Patent

5. The United States Patent and Trademark Office issued the '576 Patent on November 5, 1996. A copy of the '576 Patent is attached as Exhibit A. Through

assignment, Plaintiff is the owner of all right, title, and interest, including rights for damages for past infringements, in the '576 Patent.

Defendants

Oracle Corporation

6. Upon information and belief, Oracle Corporation is a Delaware corporation having its principal place of business in Redwood Shores, California ("Oracle").

Hewlett-Packard Company

7. Upon information and belief, Hewlett-Packard Company is a Delaware corporation having its principal place of business in Palo Alto, California ("HP").

8x8, Inc.

8. Upon information and belief, 8x8, Inc. is a Delaware corporation having its principal place of business in Sunnyvale, California ("8x8").

ACN, Inc.

9. Upon information and belief, ACN, Inc. is a Delaware corporation having its principal place of business in Concord, North Carolina ("ACN").

Alteva, LLC

10. Upon information and belief, Alteva, LLC is a New Jersey limited liability company with its principal place of business in Philadelphia, Pennsylvania ("Alteva").

AltiGen Communications, Inc.

11. Upon information and belief, AltiGen Communications, Inc. is a Delaware corporation having its principal place of business in San Jose, California ("AltiGen").

Aptela, Inc.

12. Upon information and belief, Aptela, Inc. is a Delaware corporation having its principal place of business in Herndon, Virginia ("Aptela").

Bandwidth.com, Inc.

13. Upon information and belief, Bandwidth.com, Inc. is a Delaware corporation with its principal place of business in Cary, North Carolina ("Bandwidth.com").

Bright House Networks, LLC

14. Upon information and belief, Bright House Networks, LLC is a Delaware limited liability company with its principal place of business in East Syracuse, New York ("Bright House").

Cbeyond, Inc.

15. Upon information and belief, Cbeyond, Inc. is a Delaware corporation with its principal place of business in Atlanta, Georgia ("Cbeyond").

Clearwire Communications, LLC

16. Upon information and belief, Clearwire Communications, LLC is a Delaware limited liability company having its principal place of business in Kirkland, Washington ("Clearwire").

The Broadvox Holding Company, LLC

17. Upon information and belief, The Broadvox Holding Company, LLC is a Delaware limited liability company having its principal place of business in Dallas, Texas ("Broadvox").

EarthLink, Inc

18. Upon information and belief, EarthLink, Inc is a Delaware corporation having its principal place of business in Atlanta, Georgia ("Earthlink").

Fonality, Inc

19. Upon information and belief, Fonality, Inc is a Delaware corporation having its principal place of business in Culver City, California (“Fonality”).

Interactive Intelligence Group, Inc.

20. Upon information and belief, Interactive Intelligence Group, Inc. is an Indiana corporation having its principal place of business in Indianapolis, Indiana (“Interactive”).

Nextiva, Inc.

21. Upon information and belief, Nextiva, Inc. is an Arizona corporation having its principal place of business in Scottsdale, Arizona (“Nextiva”).

Nuvio, Inc.

22. Upon information and belief, Nuvio, Inc. is a Delaware corporation having its principal place of business in Overland Park, Kansas (“Nuvio”).

Phone.com, Inc.

23. Upon information and belief, Phone.com, Inc. is a Delaware corporation having its principal place of business in Livingston, New Jersey (“Phone.com”).

Smoothstone IP Communications Corporation

24. Upon information and belief, Smoothstone IP Communications Corporation is a Delaware corporation having its principal place of business in Louisville, Kentucky (“Smoothstone”).

Telesphere Networks, Ltd.

25. Upon information and belief, Telesphere Networks, Ltd. is a Washington limited partnership having its principal place of business in Scottsdale, Arizona (“Telesphere”).

Voice Carrier, Inc.

26. Upon information and belief, Voice Carrier, Inc. is a Delaware corporation having its principal place of business in San Jose, California ("Voice Carrier").

3CX Ltd.

27. Upon information and belief, 3CX Ltd. is a Seychelles limited liability company with its principal place of business in the United States in Duluth, Georgia ("3CX").

AccessLine Communications Corporation

28. Upon information and belief, AccessLine Communications Corporation is a Delaware corporation having its principal place of business in Bellevue, Washington ("AccessLine").

Apptix, Inc.

29. Upon information and belief, Apptix, Inc. is a Florida corporation with its principal place of business in Herndon, Virginia ("Apptix").

AudioCodes, Inc.

30. Upon information and belief, AudioCodes, Inc. is a Delaware corporation having its principal place of business in Somerset, New Jersey ("AudioCodes").

CallWave, Inc.

31. Upon information and belief, CallWave, Inc. is a Delaware corporation with its principal place of business in Santa Barbara, California ("CallWave").

M5 Networks, Inc.

32. Upon information and belief, M5 Networks, Inc. is a Delaware corporation having its principal place of business in New York, New York ("M5").

Schmooze Com, Inc.

33. Upon information and belief, Schmooze Com, Inc is a Wisconsin corporation having its principal place of business in Neenah, Wisconsin (“Schmooze”).

Taridium, LLC

34. Upon information and belief, Taridium, LLC is a Delaware limited liability company having its principal place of business in New York, New York (“Taridium”).

IXC, Inc.

35. Upon information and belief, IXC, Inc. is a Delaware corporation having its principal place of business in San Francisco, California (“IXC”).

Zultys, Inc.

36. Upon information and belief, Zultys, Inc. is an Delaware corporation having its principal place of business in Sunnyvale, California (“Zultys”).

First Claim for Patent Infringement (‘576 Patent)

Against All Defendants

37. On or about November 5, 1996, the ‘576 Patent, disclosing and claiming a “Telephone Answering Service Linking Displayed Data with Recorded Audio Message,” was duly and legally issued by the United States Patent and Trademark Office.

38. Plaintiff Klausner Technologies is the owner of the ‘576 Patent with full rights to pursue recovery of royalties or damages for infringement of such patent, including full rights to recover past and future damages.

39. Defendants have infringed, contributed to the infringement, and induced others to infringe the ‘576 Patent and, unless enjoined, will continue to infringe the

‘576 Patent by manufacturing, using, selling, offering for sale, or by using the method(s) claimed in the Patent or by contributing to or inducing others to make, use, sell, or offer to sell, the claimed invention or use the claimed methods(s) without a license or permission from Plaintiff.

40. Plaintiff has been damaged by Defendants’ infringement of the ‘576 Patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the ‘576 Patent.

41. On information and belief Defendants each provide a Voice over Internet Protocol (VOIP) messaging service having some common or similar visual voicemail capabilities as those of other defendants. Thus, there are questions of fact common to all Defendants and joinder is appropriate.

42. The claims against all Defendants similarly involve common questions of fact which relate to the infringement and/or validity due to the fact that it is the same patent being asserted against all defendants.

43. Plaintiff demands trial by jury of all issues so triable.

WHEREFORE, Plaintiff prays for judgment as follows:

- A. A decree preliminarily and permanently enjoining Defendants, their officers, directors, employees, agents, and all persons in active concert with them, from infringing, and contributing to or inducing others to infringe the ‘576 Patent;
- B. Compensatory damages awarding Plaintiff damages caused by Defendants’ infringement of the ‘576 Patent;
- C. For costs of suit and attorneys fees;
- D. For pre-judgment interest; and

E. For such other relief as justice requires.

Dated: October 25, 2011

Respectfully submitted,

By: /s/ S. Calvin Capshaw

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ATTORNEYS FOR PLAINTIFF,
KLAUSNER TECHNOLOGIES, INC.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

KLAUSNER TECHNOLOGIES, INC.,

(b) County of Residence of First Listed Plaintiff New York
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Capshaw DeRieux, LLP, 114 E. Commerce Ave.,
Gladewater, Texas 75647, Telephone: (903)-233-4826**DEFENDANTS**

ORACLE CORPORATION, et al.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question
(U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Med. Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 463 Habeas Corpus - Alien Detainee (Prisoner Petition) ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☒ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS ☐ 510 Motions to Vacate Sentence Habeas Corpus: ☐ 530 General ☐ 535 Death Penalty ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

35 U.S.C. §§ 271 and 281, et seq.

Brief description of cause:

Patent Infringement

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE L. E. DavisDOCKET NUMBER 6:11-cv-480

DATE

10/25/2011

SIGNATURE OF ATTORNEY OF RECORD

/s/ Calvin Capshaw

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____