

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SPRINT COMMUNICATIONS COMPANY L.P.,))	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 05-2433-JWL
VONAGE HOLDINGS CORP.,)	
VONAGE AMERICA, INC.,)	
)	
Defendants.)	
)	
)	
)	
)	

SPRINT’S MOTION FOR PARTIAL SUMMARY JUDGMENT

Sprint Communications Company L.P. (“Sprint”) hereby moves the Court for partial summary judgment against the above-named defendants and counterplaintiffs pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1. Accompanying this motion are the following: Sprint’s Brief in Support of Its Partial Motion for Summary Judgment, which includes Sprint’s Statement of Undisputed Material Facts, Sprint’s Exhibit List and exhibits, and the Declaration of Adam P. Seitz. Each is incorporated by reference as if fully set forth herein.

WHEREFORE, Sprint requests the following relief:

1. That the Court grant summary judgment in favor of Sprint and against the above-named defendants and counterplaintiffs as follows:
- a. Vonage's Second Affirmative Defense is Appropriate for Summary Judgment Because Vonage Has No Admissible Evidence To Prove Sprint’s Patents Fail To Comply With 35 U.S.C. § 112, ¶ 2;

b. Vonage’s Seventh Affirmative Defense Is Duplicative Of Its Second Affirmative Defense And Summary Judgment Is

Appropriate Because Vonage Has No Evidence Supporting Either Defense;

- c. Vonage Has No Proof Supporting Its Claims that the Doctrines of Laches, Estoppel, and Acquiescence Bar Sprint's Claims And Summary Judgment Is Appropriate On its Fifth Affirmative Defense;
 - d. Vonage Should Be Precluded From Asserting Prosecution Laches Because It Has No Proof Supporting Its Claim And This Defense Was Raised For The First Time After The Close Of Discovery;
 - e. Vonage's Allegations Under the Doctrines of Unclean Hands (Vonage's Sixth Affirmative Defense) and Patent Misuse (Vonage's Eighth Affirmative Defense) Are Legally Defective;
 - f. Vonage's Allegations Under 35 U.S.C. § 287 (Vonage's Ninth Affirmative Defense) Are Legally Defective;
 - g. Summary Judgment Is Appropriate On Vonage's 35 U.S.C. § 101 "Defense" Because Vonage Has No Evidence Supporting Its Claims;
 - h. Vonage's "Unenforceability" Claims Fail Because Vonage Has Not Pled Any Facts Supporting Such A Claim;
 - i. Vonage Should Be Precluded From Asserting Any "Additional Defenses;" and
 - j. Vonage's Defense and Counterclaim for Non-Infringement Must Fail Because Its Expert Is Not Qualified To Provide Testimony On The Necessary Subjects.
2. Award Sprint its costs and attorney fees as allowed by law; and
 3. For any other relief that the Court deems just and reasonable.

Respectfully submitted,

Dated: May 15, 2007

/s/ Adam P. Seitz

B. Trent Webb, KS Bar No. 15965
Eric A. Buresh, KS Bar No. 19895
Adam P. Seitz, KS Bar No. 21059
SHOOK, HARDY & BACON L.L.P.
2555 Grand Boulevard
Kansas City, Missouri 64108-2613
(816) 474-6550 Telephone
(816) 421-5547 Facsimile

Attorneys for Plaintiff
SPRINT COMMUNICATIONS COMPANY
L.P.

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2007, a true and accurate copy of the above and foregoing **SPRINT'S MOTION FOR SUMMARY JUDGMENT** was e-filed with the Court, which sent notice to the following:

Don R. Lolli
Patrick J. Kaine
Dysart Taylor Lay Cotter & McMonigle P.C.
4420 Madison Avenue
Kansas City, Missouri 64111

Patrick D. McPherson
Patrick C. Muldoon
Barry Golob
Duane Morris LLP
1667 K. Street N.W.
Washington, DC 20006-1608
Attorneys for Defendants
Vonage Holdings Corp. and
Vonage America, Inc.

/s/ Adam P. Seitz
Attorneys for Sprint Communications Company L.P.