

# Patent infringement of internet technology

[Technology](#), [Internet](#)



\n[[toc title="Table of Contents"](#)]\n

\n \t

1. [Issue in Dispute & Factual Background](#) \n \t
2. [Position of Litigants](#) \n \t
3. [Ethical Issue & Opinion on the Case](#) \n \t
4. [References](#) \n

\n[/toc]\n \n

## **Issue in Dispute & Factual Background**

The issue being disputed is whether Vonage contravened patent law by using a technological invention registered to Verizon, without permission, in providing its onlinecommunicationservices. Infringement was claimed by Verizon on three of its patents.

Since 2006, a string of patent infringement cases have been filed against Vonage, an online communications company providing customers with the means to communicate through their computers through the Internet route. Verizon was first to sue Vonage for the use of three patents covering the translation of ‘ analog voice signals’ into ‘ digital signals’ to allow customers to communicate through their computers with broadband connections. In March, a jury verdict found Vonage to have infringed the patents and this was also upheld by the appellate court but only for the two patents.

However, the appellate court remanded the case down to the lower court for re-determination of the monetary award since this was not detailed by the jury. Next to file a case was Sprint Nextel Corporation for the use of its

patented voice-over internet protocol (VoIP), which allows computer users to make calls using broadband connections. In September, a jury also found voyage to have infringed this patent. Lastly, Klausner Technologies also communicated its claims to Vonage but this has been settled. To date, claims of Sprint Nextel Corporation and Klausner have already been settled. All these claims involved Vonage's online use of these technology patents in its online popular communication services.

## **Position of Litigants**

Verizon based its claims on the infringement of three patents. Patent 574 enhances translations of communication information such as telephone numbers or websites into IP addresses. Patent 711 covers the manner of using computer speakers or microphones to communicate online. Patent 880 covers 'localized wireless gateway system' that enables phones to register with transceivers before connecting to the Internet.[1]

Although these patents do not constitute online communications, this serves to enhance the system by providing a means of translating numerous digital to analog signals, instructing a means of using speakers and microphones to communicate online, and connecting into local base stations to connect mobile phones to computers. By offering online communication services using these three patents without its permission, Verizon claims that Vonage has violated its patent grant.

Vonage claims that it has not violated Verizon's patents because it did not translate but merely extracted and reformatted the telephone numbers. Verizon also claimed that the court of first instance erred in the direction it

gave to the jury, particularly on the construction of vital terms found in the claims. First contested term is ' translation', which was construed by the courts generally instead of limiting this to the conversation of higher to lower protocols as contained in the patent grant.

Second contested term is ' conditional analysis', which was interpreted by the court as generating a result from a prior first condition. Vonage claims that this should be limited only to the preferences of the parties using the system.[2] Since its operations do not fall under the technological systems patented by Verizon, it has not infringed any patent.

### **Ethical Issue & Opinion on the Case**

Prior to the cases, Vonage has become popular as an online communications company[3]. In 2006, it launched virtual phone numbers in Europe[4] implying the development of a new type of Internet based community function apart from linking its services to various Internet communication channels such as voicemail. Its popularity was due to the competitive prices together with the high Internet accessibility in most developed countries and the higher interconnectivity it offers by being able to link landlines and mobile phones to computers when compared to purely landline or mobile services or with Internet connectivity but limited only to same network calls.

Basically, prior to Vonage's service, VoIP was already existent but with limited use only to partners of the service provider. Vonage took the VoIP concept fused it with the other online communication connectivity and processes and created a service that higher interconnectivity. Did Vonage

violate the law? According to the courts, it did violate the patents of the two companies. Was its actions right or wrong?

The answer cannot be plainly stated in black and white. On one hand, this may be wrong because it profited out of somebody else's technological innovation but on the other hand, it served or even empowered the public by giving them an alternative option. Even in a competitive world, consumers, through demand, do not always influence market prices, quality of service, or innovation. This is especially so in the case of online technology sector, which have become a venue for monopoly such as Microsoft.

Under existing law and jurisprudence[5] there may be infringement.

However, this case could have become a landmark by clarifying the concept of patent for the purpose of negating infringement. A patent is a property right to use or own inventions for a given number of years and an invention is a new creation[6]. However, it does not necessarily cover purpose, function or importance to the community. Patent has also been used for abuse such as the monopolistic tendencies of technological companies. While private property should be respected, this should also be balanced with public good. Moreover, Internet technologies are virtual, making it necessary to determine or limit the processes or operations considered as qualifying for patents.

## References

1. KSR Int'l Co. v. Teleflex Inc. (No. 04-1350) 119 Fed. Appx. 282.

Retrieved November 1, 2007, from [www.law.cornell.edu/supct/html/04-1350.ZO.html](http://www.law.cornell.edu/supct/html/04-1350.ZO.html).

[www.law.cornell.edu/supct/html/04-1350.ZO.html](http://www.law.cornell.edu/supct/html/04-1350.ZO.html).

<https://assignbuster.com/patent-infringement-of-internet-technology/>

2. Richtel, M. (2007, October 26). Shares Rise as Vonage Settles Fight over Patent. The New York Times. Retrieved November 1, 2007, from <http://www.nytimes.com/2007/10/26/technology/26phone.html>.
3. Vonage (2007). Timeline. Retrieved November 1, 2007, from [www.vonage.com](http://www.vonage.com).
4. US Patent and Trademark Office (2007). General Information Concerning Patents. Retrieved November 1, 2007, from <http://www.uspto.gov/web/offices/pac/doc/general/index.html#patent>.
5. Vonage Told to Stop Using Verizon Technology By IAN AUSTEN  
Published: March 24, 2007
6. A federal judge said yesterday that he would order Vonage Holdings, the Internet-based telephone service, to stop using technologies patented by Verizon Communications.

The decision, which could force Vonage to close or to install new systems, follows a jury decision this month that awarded Verizon \$58 million and monthly royalties.

But the judge agreed to postpone the effective date of the injunction for two weeks while he considers a request by Vonage for a stay pending what could be a lengthy appeal.

The decision forced a temporary halt in the trading of Vonage shares and eventually sent the company's stock down \$1.05, or 26 percent, to close at \$3. Vonage began trading last May at \$17 a share.

“ For Vonage, everything that can go wrong has gone wrong,” said Richard Greenfield, the co-head of Pali Research in New York. “ The constant stream of bad publicity has got to be adding to customer churn.”

As it did earlier this month, Vonage quickly moved to assure its two million customers that their service would not be affected. It has said it is developing alternative technology that does not conflict with Verizon’s patents.

“ We are confident that Vonage customers will not experience service interruptions or other changes,” the company’s chief executive, Mike Snyder, said in a statement. “ Our fight is far from over. We remain confident that Vonage has not infringed on any of Verizon’s patents.”

Brooke Schulz, a spokeswoman for Vonage, said the company had not seen any effect on its ability to attract and retain customers because of the case.

“ We believe this case has had not impact on churn to date, nor do we expect it to,” she said.

Judge Claude M. Hilton of Federal District Court for the Eastern District of Virginia in Alexandria said yesterday that an injunction was necessary because fines and royalties will “ not prevent continued erosion of the client base of the plaintiff,” The Associated Press reported from Alexandria.

Vonage has been the early leader in an attempt by several companies to shift traditional telephone company customers to Internet-based calling.

“ We’re pleased the court has decided to issue a permanent injunction to protect Verizon’s patented innovations,” said John Thorne, a senior vice president and deputy general counsel at Verizon.

The three patents that a jury found Vonage to be infringing upon involve the way the company moves calls to and from the Internet from the conventional telephone system, methods for giving customers calling features like call waiting, and means for providing Internet calling through wireless networks.

If Vonage is forced to switch to other technologies, the cost and feasibility of such a change is not clear. It is believed that the company has the ability to make remote software updates in devices that its customers have installed at their homes and offices. Many conventional telephone companies hold patents involving Internet calling. Vonage faces a separate patent lawsuit from Sprint Nextel that has yet to go to trial.