

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN GAMMINO,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
VERIZON COMMUNICATIONS, INC., VERIZON	:	NO. 03-CV-5579
PENNSYLVANIA INC., VERIZON NEW JERSEY, INC.,	:	
VERIZON NEW YORK, INC., VERIZON DELAWARE, INC.	:	
VERIZON CALIFORNIA, INC., VERIZON FLORIDA, INC.,	:	
VERIZON MARYLAND, INC., VERIZON, VIRGINIA, INC.,	:	
VERIZON WASHINGTON DC, INC., VERIZON WEST	:	
VIRGINIA, INC., VERIZON NEW ENGLAND, INC.,	:	
VERIZON NEW ENGLAND, INC., VERIZON NORTH, INC.,	:	
VERIZON NORTHWEST, INC., VERIZON SOUTH, INC.,	:	
GTE SOUTHWEST INC., CONTEL OF THE SOUTH, INC.	:	
PUERTO RICO TELEPHONE CO., INC., GTE MIDWEST,	:	
INC.,	:	
Defendants.		

GREEN, S.J.

December 27 , 2005

MEMORANDUM

Presently pending is Defendant Verizon Communication, Inc.’s (“VCI”) Motion for Summary Judgment, Plaintiff’s Response in Opposition thereto and the parties’ respective sur-replies. For the reasons set forth below, VCI’s motion for summary judgment will be dismissed at this time.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff, John Gammino, filed a Complaint against Defendant VCI and many of VCI’s subsidiaries. The Complaint alleges that the Defendants have infringed upon - and continue to infringe upon - two patents registered and owned by Plaintiff. The patents allegedly cover techniques for blocking international telephone calls. VCI moves for summary judgment on the basis that as a holding company VCI does not make, use, sell, offer to sell, or import anything and consequently cannot be liable for patent infringement. VCI asserts that it cannot be liable for the alleged infringements of its subsidiaries because it is a separate and distinct corporation. VCI further asserts that Plaintiff cannot meet his burden of proving inducement to infringe the patents because VCI does not take affirmative

steps to cause its subsidiaries to infringe Plaintiff's patents. Plaintiff maintains that VCI and its subsidiaries are a single functioning entity and asserts that VCI and its subsidiaries have infringed his patents. In the alternative Plaintiff prays for the opportunity to conduct discovery to establish his claims.

By Memorandum and Order of this same date the Court dismissed many of VCI's subsidiaries from the instant matter for lack of personal jurisdiction. VCI, Verizon Pennsylvania, Inc., and Verizon North, Inc. remain as the sole Defendants herein. Plaintiff has requested discovery from VCI, and the Defendant subsidiaries. Plaintiff seeks discovery to establish the extent to which VCI controls and/or operates in conjunction with its subsidiaries, VCI's involvement in pay telephone operations, VCI's use of international call blocking algorithm, and the method by which VCI communicates with its subsidiaries. Despite the parties' several stipulations extending the time for Plaintiff to respond to VCI's motion for summary judgment, full discovery on these issues has not been completed. Several of the subsidiaries have already been dismissed from this matter. Although VCI objects, the court will grant Plaintiff time to complete discovery on these matters. Plaintiff's discovery requests, however, will be limited to VCI, Verizon Pennsylvania, Inc., and Verizon North, Inc. Consequently, VCI's motion for summary judgment will be dismissed at this time.

An appropriate order follows.

