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## **Pryor Cashman Partner Andrew Langsam Discusses Vonage Litigations In E-Commerce Times**

Pryor Cashman Patent Partner Andrew Langsam was quoted extensively in an October 22, 2007 article on *E-Commerce Times* entitled “AT&T Puts Vonage Back on Litigation Merry-Go-Round.” The article by Erika Morphy discusses the numerous litigations currently being faced by Vonage.

In the article, Langsam explained that the act of playing defense by Vonage might not have been the best strategy, given the potential costs of losing litigation if the case does go to trial. “Merely because Vonage has removed itself, by taking a license post-judgment from other patent holders/owners does not mean that it is free from liability for patent infringement by another patent holder, namely AT&T.” Langsam explained that each patent case is determined on its merits and stated: “One looks at the claims of the patent, and if what Vonage does or provides falls within the language of even one claim of the issued patent, then Vonage is liable for patent infringement.”

Langsam noted that if Vonage was found liable for patent infringement, then it may be also liable for the damages to AT&T in lost profits, “but only if AT&T can prove ‘but for’ Vonage providing that product/service, AT&T would have provided it and at a profit.” However, even if AT&T cannot meet the “but for” threshold, it will still be entitled to no less than a reasonable royalty for the infringing use by Vonage. Langsam did note that “Vonage can always seek a license under the asserted AT&T patents – if AT&T is willing to provide the same – and/or design around the patent so that its products/services no longer infringe the asserted patent.”

In the article, Morphy notes that while Vonage has weathered the earlier lawsuits, this latest by AT&T could prove to be too much for some customers, especially the valued corporate clients that VoIP providers have been targeting. Langsam stated that the risk of permanent injunction, although not likely to be imposed, could prove to be too big of a risk for corporate decision makers to ignore. He closed by noting that “[s]uch an injunction is rare before a trial of the case on the merits.”

To read the entire article, please [click here](#).