

STATE OF WISCONSIN

SHELLEY J. GAYLORD
CIRCUIT COURT, BR. 6
DANE COUNTY

STATE OF WISCONSIN
17 West Main Street
Post Office Box 7857
Madison, Wisconsin 53707-7857,

Plaintiff,

v.

Case No. 09-CV-

09CV5777

Unclassified - Civil: 30703

VONAGE HOLDINGS CORP.,
a Delaware corporation
23 Main Street
Holmdel, New Jersey 07733-2136,

Defendant.

THIS IS AN UNCLASSIFIED COPY OF THE
CASE FILED IN THE DANE
CIRCUIT COURT
DATE: 11/15/09
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2009 Nov 15 4:11:23 PM
DANE CO. CIRCUIT COURT

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

1. Plaintiff, State of Wisconsin, by its attorneys, J.B. Van Hollen, Attorney General, and Lara Sutherlin, Assistant Attorney General, on behalf of the Wisconsin Department of Justice and the Wisconsin Department of Agriculture Trade and Consumer Protection, brings this action against Defendant VONAGE Holdings Corp., a Delaware corporation and alleges as follows:

PARTIES

2. Plaintiff, State of Wisconsin, is a sovereign state of the United States, with its principal offices at the State Capitol in Madison, Wisconsin.

3. Defendant VONAGE Holdings Corp. (“VONAGE” or “Defendant”), is a Delaware corporation with its principal place of business in New Jersey.

4. At all times relevant to this complaint, VONAGE transacts business in the State of Wisconsin by marketing, advertising, soliciting, selling, promoting Vonage service and equipment to consumers in the State of Wisconsin and nationwide.

JURISDICTION AND VENUE

5. This action is brought pursuant to Wis. Stat. § 100.18(1), and 100.18(11)(d) to enjoin and restrain violations of Wis. Stat. § 100.18(1), and appropriate monetary relief.

6. Venue for this action properly lies in Dane County, Wisconsin because VONAGE transacts business in Dane County, Wisconsin and/or some of the transactions out of which this action arose occurred in Dane County, Wisconsin.

BACKGROUND

7. Since 2002, VONAGE has provided Voice over Internet Protocol (“VoIP”), which is a voice transmission over a high-speed Internet connection.

8. VONAGE currently has approximately 2.5 million subscriber lines.

9. Consumers can enroll and accept services from VONAGE by signing up online at www.vonage.com or by contacting VONAGE by telephone.

10. In order to use significant aspects of the VONAGE telephone service, consumers must have a high-speed Internet connection, a billing and shipping address, a softphone or a VONAGE phone adapter and a touch-tone telephone, and an email address.

11. In order to use significant aspects of the VONAGE telephone service, consumers must either have a softphone or must first receive a VONAGE phone adapter (“device”) either directly from VONAGE or from a third-party vendor.
12. VONAGE advertises its service through the Internet, telemarketing, direct mail, newspaper, and television.
13. VONAGE has offered its service through “free trial” or “risk free” offers that requires consumers to cancel the service prior to the end of the free trial period to avoid certain charges and fees.
14. VONAGE residential service plans have ranged in price depending on whether the plan has unlimited or limited minutes, or includes additional features.
15. VONAGE has offered a “Money Back Guarantee” which provides that consumers who meet certain requirements will receive a refund of specified fees and charges if they cancel the service within thirty days from their subscription date.
16. VONAGE has represented that when consumers sign up for their service they may be able to port or transfer their current telephone number to VONAGE.
17. VONAGE has required that consumers who want to cancel service must do so by telephone and must first obtain a return authorization number before returning the device.
18. Consumers who contact VONAGE by telephone to cancel their service are directed to a VONAGE employee who is trained to assess whether the consumer has an issue that can be resolved short of cancellation. A consumer who subsequently decides not to cancel the service after speaking with a customer service representative is

considered “saved” by VONAGE. Historically, VONAGE has provided compensation incentives to employees for “saving” subscribers.

19. Wisconsin has received numerous complaints from consumers who have claimed difficulty in attempting to cancel their VONAGE services. For example, some consumers state that they have had to wait for a long period of time in order to talk to a customer service representative. Other consumers state that they have contacted VONAGE by phone and cancelled their service, and yet subsequently received a monthly bill from VONAGE or had funds deducted from their bank accounts. Still other consumers state that difficulty in attempting to cancel VONAGE service resulted in their cancellation not being effected within a “free trial” or “Money Back Guarantee” period.

VONAGE’S ILLEGAL BUSINESS PRACTICES

20. VONAGE has engaged in the following business acts or practices:
- a. Failing to clearly and conspicuously disclose in advertisements for the offer and sale of goods and services all material terms and conditions including, without limitation:
 - (i) That consumers may be required to purchase other equipment in order to utilize “free” service;
 - (ii) That consumers may be required to agree to certain terms and conditions in order to receive “free” service;
 - (iii) That consumers who cancel the service within a free trial period must pay the cost of shipping the equipment back to VONAGE;

- (iv) That consumers may be unable to immediately use the service with their old phone number within a free trial period because porting of the consumer's telephone number to VONAGE may take up to ten (10) days or longer;
 - (v) That consumers may be unable to immediately use significant aspects of the service within a trial period because consumers must wait for the device to be mailed to them which can take up to eight (8) days to receive;
 - (vi) That there are limitations on the time period and minutes that consumers may use during the "Money Back Guarantee";
 - (vii) That there are certain fees and charges that will not be refunded upon cancellation within the "Money Back Guarantee" period;
 - (viii) That consumers will be charged a rebate recovery fee or a fee representing the regular price of any discounted goods or services if they cancel prior to the expiration of their service term; and
 - (ix) That consumers must have high speed internet to utilize VONAGE service.
- b. Representing to consumers that it will take seven (7) to ten (10) business days to port their telephone number to VONAGE when, in truth and in fact, it will sometimes take well over the seven (7) to ten (10) business days as represented by VONAGE.

- c. Representing to consumers that they have the option to cancel their service with VONAGE but failing to timely accept or effect the cancellation requests, resulting in consumers having difficulty in cancelling their VONAGE service.
- d. Failing to properly ensure that all requests for consumer cancellations have been honored, which resulted in consumers who believed that they canceled service discovering that they were considered “saved” by VONAGE after they continued to receive a monthly bill or had funds deducted from their bank accounts.

VIOLATIONS OF LAW

21. The allegations contained in paragraphs 1 through 20 are incorporated herein by reference.

22. The Defendant, in the course of marketing, advertising, soliciting, selling, and promoting VONAGE service and equipment, has made untrue, deceptive and misleading representations in violation of Wis. Stat. §100.18(1).

PRAYER FOR RELIEF

WHEREFORE, the plaintiff prays that this honorable court enter an Order:

A. Enjoining Defendant VONAGE Holdings Corp., from further violations of Wisconsin law pursuant to Wis. Stat. § 100.18(11)(d);

B. Ordering Defendant VONAGE Holdings Corp., to pay restitution to affected consumers suffering pecuniary loss because of Defendant VONAGE Holdings Corp.’s violation pursuant to Wis. Stat. § 100. 18(11)(d).

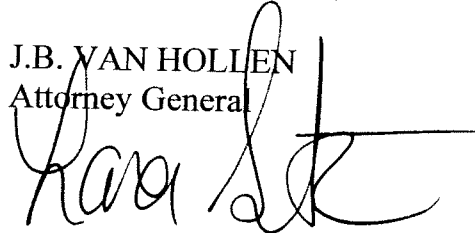
C. Ordering Defendant VONAGE Holdings Corp. to pay all costs for the prosecution and investigation of this action, as provided by Wis. Stat. §100.253; and

D. Granting such other and further relief as the Court deems equitable and proper.

Dated in Madison, Wisconsin, this 16th day of November, 2009.

Respectfully submitted,

J.B. VAN HOLLIN
Attorney General

A handwritten signature in black ink, appearing to read 'Lara Sutherland', written over the typed name of the Assistant Attorney General.

LARA SUTHERLIN
Assistant Attorney General
State Bar #1057096

Attorneys for State of Wisconsin

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 267-7163
(608) 267-2778 (Fax)
sutherlandla@doj.state.wi.us