

If it Looks too Good to be True...

Vonage and other VoIP Options

A friend of mine recently made me aware of a pending class action lawsuit brought against Vonage for the internet phone provider's purported misleading statements about the quality (or lack thereof) of fax service it supports. Vonage provides telephone service under a technical configuration called "Voice over Internet Protocol" or "VoIP" for short. VoIP offers all sorts of great options and features at incredible prices, but it's not without its risks, some of which could put the system owner (read: employer) at significant risk. While I don't consider myself someone who is unwilling to accept--if not embrace--change, I've never been a fan of Vonage or its equivalents because I believe that like any good marketer, those who market these services promote only the great strengths of the services without clearly presenting the risks. And herein lies the basis of the aforementioned lawsuit, Bustos et al v. Vonage America Inc. and Vonage Holdings Corp., (Case No. 06-CV-2308 (HAA), D.N.J.).

VoIP and other IP-enabled phone systems and technologies make a good deal of sense. As a result of the technologies upon which they are based, such systems, and delivery mechanisms are able to deliver voice and data communications with sophisticated features at a significantly reduced cost. Telecommunications consultant Garrett Myers of the Gateway Group of Grosse Pointe, MI (<http://www.gg-mi.com>), who also has an office in London, is a satisfied Vonage customer.

"My overall bill is about half of what it was with the previous carrier," he said recently. "That's not to say that the original carrier wasn't affordable. But Vonage has provided me with affordable advanced functionalities. In addition," he said, "they are easier to deal with than my

previous provider. They answer the phones, the bills are understandable and the online service makes it clear what I'm buying and what I'm not."

"However, he continued, "I know that the risks are huge." One of the reasons that the risks are significant is because of the nature of the services that Vonage and other IP providers offer, where there is no oversight or accountability to the New York Public Service Commission or any other telecommunications regulatory body. That is, an company that does business with a traditional carrier, like, for example Verizon or Paetec among others, knows (or should know) that in the event of a major financial disaster on the part of the provider, that it would not be left without dial tone without both notice and time to make adequate accommodations. With a provider such as Vonage that is not a "carrier" but a service provider that bases its offering(s) on someone else's broadband connection (it uses the broadband services provided by an entity such as Time Warner or Comcast), that is not the case. In 2007, SunRocket, a company whose offerings were similar to those offered by Vonage, ran out of cash, leaving its customers not only without dial tone, but without notice, service or recourse. SunRocket simply pulled the plug.

A second area of concern is patent infringement. Since VoIP is a relatively young technology, many patents covering the underlying technology are still enforceable. Since 2007, Vonage has settled patent disputes with telecom behemoths Verizon, Nortel and Sprint Nextel. And not without cost. Vonage paid Sprint Nextel an eye-popping \$69.5 million to settle 6 patent claims and \$58 million to settle other claims with Verizon. However, according to Kent Roberts, a patent attorney at Hodgson Russ, with clients servicing the international telecom market, these amounts are not surprising. "In this industry," he commented, patents can be quite valuable not only in terms of the amounts that might be paid by competitors as part of a

settlement, but also in forcing competitors to conduct their businesses in ways that do not infringe a patent.” Things have been calm (or at least calmer) on the patent front since these settlements, but big payouts like these don’t do much to encourage either consumer or investor confidence. And without investors, particularly in these financially frosty days, consumers have good reason to be very concerned.

Another concern is that internet phone providers do not automatically support two obvious features which most of us take for granted – 911 access and power failure operation. Carriers including Vonage offer special E911 capabilities, but at an additional cost. Such additional features are mandatory under federal law, but they are only as reliable as the systems that host them. And while none of us plan to call 911, the fact is that when you need 911, you simply don’t have the luxury of time or unreliability. It simply has to work.

In addition, IP telephony relies upon computers to deliver service. As such, when there is no power to support the hosting computer, there is no dial tone. We don’t experience major power failures often, but, for example, during the October 2007 storm, customers who relied upon Vonage or other similar services, who were without power, were also without phone service unless they had sufficient battery back up to keep the computers running long after the power shut off. A traditional corded landline phone does not require an additional source of power (unlike a cordless phone, which operates on battery power, for as long as it lasts).

Finally, and this is the topic of the lawsuit at hand, is the issue of how services, like faxing, for example, don’t work the same way on an IP-based system as they do in the more traditional environment. According to consultant Garrett Myers, “with a traditional phone system, it’s obviously possible to pass a T.38 (international standard

for fax transmission) signal over a phone line.” As a result, we’ve all gotten used to the fact that fax machines are reasonably reliable. “However,” he continued, “that signaling works over VoIP only some of the time, and definitely not all of the time. Whether it’s Vonage or Avaya or Mitel or anything else, fax operations over a VoIP connection are always iffy. The line will allow for the transmission of a few pages and then break the connection. Try to do 20 pages, and you can just forget it.”

If you require reliability from a fax, then the best approach is to use a traditional POTS (plain old telephone service) line for 2 purposes – fax and E911. It’s reliable, it’s relatively inexpensive, and it works.