

## VoIP—Should You Warn Your Customers?

By Wendy M. Canaday, Flynn, Gaskins & Bennett, LLP



Alternate transmission via radio or cellular means has traditionally been a back-up, not primary, means of alarm transmission. What should be done about those existing alarm customers who may cancel their POTS line after the alarm is installed? Some VOIP providers are undertaking to warn their customers on the limitations it can present to an alarm system. But should the alarm company also warn its customers about the potential dangers of using VOIP phone service for alarm transmission?

The short answer is yes. Although there have been no reported court cases on this issue yet,

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If he couldn't have her, no one else would either. The spurned ex-boyfriend had his attack carefully planned. He left a note and specific instructions regarding his personal affairs for his father, knowing that after that night he would be dead or in jail. In the dark of night, he drove to her neighborhood and parked down the street from her house. In the past weeks he'd driven by her house enough to notice the alarm company sign freshly posted in the flower bed outside the front door. That would not stop him. He quietly crept into the backyard and used a newly purchased crowbar to smash a basement window. He jumped through the shards of glass, and quickly bounded up the steps to her bedroom, shotgun in hand, and began firing. Her new boyfriend, who was spending the night, was killed immediately. She was shot, then tortured for several hours, and slowly bled to death.

Two months later, I was at the home inspecting the alarm system. I'd read all the newspaper articles and seen the TV news pieces on this tragedy, all focusing on how the family was blaming the alarm system's alleged failure for the murders. Reportedly, the alarm system sent no signals to the monitoring company on that fateful night. So I was not surprised when the letter came from an attorney representing the families, putting my client, an alarm component manufacturer, on notice of an inspection of the alarm system.

At the inspection, we learned one thing right away: the home did not have a working POTS line. The woman had switched to VoIP phone service several weeks before the murder. She made the switch after her alarm system was installed. Knowing this, and ruling out equipment failure through testing, gave us a solid explanation as to why the alarm system did not notify of the murderer's intrusion. In the end, my client was not sued.

As anyone in the industry knows, VoIP is a hot topic. VoIP service can sometimes be spotty and may not work if there is a power outage, making it not ideal for alarm transmission. New products and services are being developed to allow alarm systems to reliably communicate when there is no analog phone service. But most alarm systems in place today are designed to communicate via analog phone service.

in my view, it is only a matter of time before a plaintiff's attorney makes the argument that the alarm company failed to warn its customer that the alarm system may not work without an analog phone service.

If a court were to analyze this issue it would make a legal determination on whether the alarm company had a duty to warn its customer. To determine whether a duty exists, courts generally look at the following factors: the probability of harm, the gravity of the resulting injury, and the burden of taking adequate precautions.

### **Looking at these factors, it is likely a court would find an alarm company has a duty to warn regarding alarm system use with VoIP:**

Probability of Harm - the probability of harm is high. The problems with alarm transmission with VoIP are widely known in the industry. And, VoIP telephone service is becoming more and more popular—particularly because it is typically a lower cost option than traditional phone service.

Gravity of Resulting Injury - People get alarm systems to protect themselves and their property from serious events such as fire, burglary, and sometimes, as in the case I wrote about above, even deranged individuals intent on murder. If the alarm system does not transmit a signal, then obviously grave harm can occur.

Burden of Precautions - The burden is your time and money spent in getting a warning out to your customers. This burden is relatively low compared with the probability of harm and the gravity of the injury.

You can fulfill this duty by providing your customers a written warning that contains the following information:

#### **If you switch to internet phone service:**

**Your alarm may not work.**

**In the event of a power or phone service failure your alarm will not transmit a signal.**

**Signal transmission can be sporadic. The alarm may transmit a signal one time but not another.**

**If you are interested in switching to internet phone service, it is your responsibility to notify (your company name here).**

**Alternative alarm transmission methods should be used, such as cellular or radio; and a battery back-up should be installed.**

For new customers, the sales person should explain this information and have the customer sign the written warning at the time of sale. You should also consider adding a provision to the customer's contract with this information.

For existing customers, the written warning could be mailed separately or inserted in the customer's bill. You should also put this warning on your company's website if you have one.

The time, effort, and money it takes to get this warning out to your customers will be well worth it if you are involved in a lawsuit, or even a potential lawsuit. And, on the upside, this could present additional opportunities for your company to sell cellular or radio back-up products and services.

Smartly, the installing alarm company in the case I wrote about above had provided the woman a notice when the alarm was sold, and had her sign it, warning that the alarm system may not work with VoIP and that should she switch phone service, she must notify the alarm company. Tragically, she did not heed the warning.

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*Wendy Canaday is an attorney who defends alarm companies and manufacturers nationwide in state and federal court. She can be reached at her law firm, Flynn, Gaskins & Bennett, LLP, at [wcanaday@flynngaskins.com](mailto:wcanaday@flynngaskins.com) or 612-333-9519.*