

**IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION TWO**

DIALPAD, INC.
PETITIONER,
v.

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN FRANCISCO
RESPONDENT,

GARY FREUND, JENNIFER BUELNA, LAJANEE TURNER,
and SHEILLA NAPOLETANO,
Individually and on Behalf of All Others Similarly Situated
REAL PARTIES IN INTEREST.

From an Order of the Superior Court of San Francisco County
Case No. CGC-25-624953
The Honorable Ethan P. Schulman
Department 304, (415) 551-4000

**APPLICATION FOR PERMISSION TO FILE BRIEF OF
VOICE ON THE NET COALITION, INC. AS *AMICUS
CURIAE* IN SUPPORT OF PETITIONER AND PROPOSED
BRIEF OF *AMICUS CURIAE***

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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Attorneys for proposed *amicus curiae* the Voice On the Net Coalition, Inc. (“VON Coalition”) certifies that there are no interested entities or persons that have an ownership interest of 10 percent or more in VON Coalition. A range of companies offering diverse services are members of VON Coalition. *See* <https://www.von.org>. Dialpad, Inc., the petitioner in this case, is one of those members.

Dated: September 4, 2026

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To the Presiding Justice of Division Two of the First District Court of Appeal:

Pursuant to Rule 8.200 of the California Rules of Court, proposed *amicus curiae* the Voice On the Net Coalition, Inc. (“VON Coalition”) respectfully requests leave to file the attached *amicus curiae* brief in support of petitioner Dialpad, Inc.

**APPLICATION FOR LEAVE TO FILE BRIEF OF
*AMICUS CURIAE***

In the attached proposed brief, VON Coalition applies its expertise in Internet communication technology and regulation to explain how broadband-based services have benefited consumers and businesses by expanding the capabilities of voice and text communication tools. The brief then recounts how recent amendments to the California Invasion of Privacy Act (“CIPA”) promoted the development of those cutting-edge tools by clarifying that their mere operation or maintenance cannot give rise to statutory liability. From there, the brief demonstrates that the Superior Court’s ruling mistakenly denied the benefit of those amendments to a critical subset of modern communication services by drawing an arbitrary distinction unfounded in CIPA’s text or policy.¹

INTERESTS OF PROPOSED *AMICUS CURIAE*

VON Coalition is a leading trade association for Internet communications companies in the United States. VON Coalition’s

¹ No party or counsel for a party authored the proposed brief in whole or in part or made a monetary contribution intended to fund the preparation or submission of the proposed brief.

membership includes technology companies that provide widely used communication tools to consumers and businesses across the country, including Voice over Internet Protocol call and text messaging services that are increasingly supplanting legacy telephone systems. The outcome of this case will directly affect VON Coalition's members and their consumers.

CONCLUSION

VON Coalition is uniquely situated to assist this Court in resolving the issues presented.

Dated: September 4, 2026

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TABLE OF CONTENTS

	Page
INTRODUCTION	1
DISCUSSION.....	2
I. VoIP Services Include a Wide Range of Innovative Communication Tools.	2
II. The California Legislature Amended CIPA’s Exemptions Specifically To Ensure VoIP’s Innovative Services Would Not Be Chilled By the Threat of Litigation.	6
III. The Superior Court’s Decision Erroneously Narrows CIPA’s Exemptions.	9
IV. The Superior Court’s Decision Imperils a Wide Range of VoIP’s Innovative Communication Services.	11
CONCLUSION.....	13

TABLE OF AUTHORITIES

	Page(s)
Statutes	
Penal Code § 631	7, 8, 10
Penal Code § 637.2	10
Penal Code § 638	8
Public Utilities Code § 239	1, 7, 8, 9
Other Authorities	
Assembly Committee on Public Safety, Analysis of Sen. Bill. No. 1272 (May 31, 2022)	9, 11
B Meenakshi et al., <i>Real-Time Multilingual Speech Translation for Peer Communication</i> , International Research Journal on Advanced Engineering Hub Vol. 3, Issue 6 (Jun. 2025)	4
California Bill Analysis, S.B. 1161 (Apr. 17, 2012)	1, 7, 8
Federal Communication Commission, <i>Voice Telephone Services: Status as of June 30, 2025</i> (May 2026)	2
Fortune Business Insights, <i>VoIP Phone market size, share & industry analysis</i> (Aug. 10, 2026)	6
Gartner, <i>Customer Service AI: The Top Use Cases Driving Value</i>	5
Precedence Research, <i>Voice over Internet Protocol (VoIP) Market Size, Share and Trends 2026 to 2035</i> (Mar. 2, 2026)	3
RingCentral, <i>The Growing Popularity of VoIP and Emerging Trends in the Market</i> (Mar. 13, 2025)	3
Senate Committee on Public Safety Report on S.B. 1292 (Cal. Apr. 26, 2022)	13

Technavio, <i>AI Note Taking Market Analysis, Size, and Forecast 2025-2029</i> (Dec. 2025)	4, 5
Tobiloba Kollawole Adenekan, <i>An In-Depth Guide to Voice over Internet Protocol (VoIP)</i>	2, 3
VON Coalition, <i>Benefits of VoIP: Connecting People With Disabilities to New Opportunity</i>	4
Webopedia, <i>Visual Voicemail</i>	4

PROPOSED BRIEF OF VON COALITION IN SUPPORT OF PETITIONER

INTRODUCTION

The California Legislature has long recognized that Voice over Internet Protocol (“VoIP”) technology is “an integrated suite of capabilities and features that go beyond the ability to place and receive calls.” Cal. Bill Analysis, S.B. 1161, at 4 (Apr. 17, 2012). Because VoIP digitizes voice calls into Internet Protocol (“IP”) packets, it can incorporate a wide range of software services that improve communications in ways that simply were not possible with legacy telephone systems. Those services have fueled VoIP’s popularity with consumers in California and across the country.

State law defines VoIP with reference to that “enhanced functionality.” Pub. Util. Code § 239(a). In 2022, the Legislature amended CIPA to clarify that VoIP, no less than legacy telephone operations, is exempt from liability under California Penal Code §§ 631 and 637.2. That amendment ensured that VoIP providers could operate their innovative services for California consumers without the threat of crippling civil and even criminal liability. But the Superior Court’s decision here gutted those critical protections. It erroneously narrowed CIPA’s exemptions to cover only VoIP’s bare digitization and IP transmission of messages, leaving VoIP’s innovative communications services exposed to statutory attack.

Left uncorrected, the Superior Court’s ruling will have immediate and damaging consequences far beyond this case. Its reading of CIPA threatens to foreclose a vast range of VoIP

services from a wide array of providers, robbing California consumers of tools that make their communications more effective and efficient. This Court should therefore grant immediate review, sustain Dialpad’s demurrer, and clarify that CIPA’s exemptions cover the full scope of innovative VoIP communications services.

DISCUSSION

I. VoIP Services Include a Wide Range of Innovative Communication Tools.

The communication technology sector, like so many others, has been revolutionized by the Internet. “Traditional telephony relied on analog signals transmitted over” a vast network of “dedicated copper lines” called the public switched telephone network. Tobiloba Kollawole Adenekan, *An In-Depth Guide to Voice over Internet Protocol (VoIP)* § 1.1.² VoIP offers a technological alternative: It instead “digitizes voice into packets” of information that are then “transmitted over IP networks,” just like the packets of information that convey an e-mail or load a website. *Id.*

Over the last two decades, VoIP usage has surged while legacy telephone service has plummeted. As of June 2025, VoIP lines outnumbered legacy lines four to one, with “63 million interconnected VoIP” accounts and just “15 million end-user switched access lines in service.” Fed. Communic. Comm’n, *Voice*

² See https://www.researchgate.net/publication/388615327_An_In-Depth_Guide_to_Voice_over_Internet_Protocol_VoIP.

Telephone Services: Status as of June 30, 2025, at 2 (May 2026);³ see RingCentral, *The Growing Popularity of VoIP and Emerging Trends in the Market* (Mar. 13, 2025).⁴ A recent study valued the global VoIP market at over \$176 billion as of 2025, with North America accounting for nearly half of that value. Precedence Research, *Voice over Internet Protocol (VoIP) Market Size, Share and Trends 2026 to 2035* (Mar. 2, 2026).⁵ VoIP is poised to continue growing more than 10% annually over the next decade. See *id.*

VoIP's success stems in part from cost savings. Switching to VoIP "eliminates" several "expenses" associated with "infrastructure maintenance" and "dedicated line management." Adenekan, *supra*, § 2.1. VoIP is also far more "scalable" than legacy telephone lines, allowing expansion of service without costly "hardware upgrades." *Id.*

But VoIP's innovative range of communication services has been just as essential to its popularity with consumers and businesses. Once voice calls are digitized into IP packets, they may be analyzed and enhanced by complementary software "features" in ways that simply were not possible in legacy telephone systems. *Id.* § 1.1. These novel tools, which entail real-

³ See https://docs.fcc.gov/public/attachments/DOC-42155_8A1.pdf.

⁴ See <https://www.ringcentral.com/us/en/blog/the-growing-popularity-of-voip-and-emerging-trends-in-the-market>.

⁵ See <https://www.precedenceresearch.com/voice-over-internet-protocol-market>.

time access to call information, are essential to the VoIP experience and make communications far more effective.

For example, VoIP facilitates ***visual voicemail***, a service that makes voicemail messages more accessible by transcribing them into text. See Webopedia, *Visual Voicemail*.⁶ Visual voicemail enhances communication in several ways. It allows consumers to scan a message and pick out relevant details more quickly, without the need to re-listen to catch information that may be hard to memorize. It also makes voicemail information more accessible in circumstances where listening is not feasible—say, a loud train or a public event. On top of that, visual voicemail offers an essential service to consumers with hearing-related disabilities, allowing them to receive messages that begin as voice calls. See VON Coalition, *Benefits of VoIP: Connecting People With Disabilities to New Opportunity*.⁷

VoIP also facilitates ***real-time translation***, a service that nearly instantly converts a voice call into another language. See B Meenakshi et al., *Real-Time Multilingual Speech Translation for Peer Communication*, Int'l Research J. on Advanced Engineering Hub Vol. 3, Issue 6, 2893-2898 (Jun. 2025).⁸ Real-time translation may mediate between active call participants, enabling them to communicate while speaking different languages. *Id.* It may also

⁶ See <https://www.webopedia.com/definitions/visual-voicemail>.

⁷ See https://von.org/secpgs/02_benefits/benefits_06_disabilities.html.

⁸ See https://www.researchgate.net/publication/393081843_Real-Time_Multilingual_Speech_Translation_for_Peer_Communication.

provide subtitles for a group call, allowing passive participants who speak a different language to follow along. *Id.* These services have made it far easier for consumers and businesses around the globe to communicate across language barriers in real time.

VoIP further enables ***automated transcription and notetaking*** tools. See Technavio, *AI Note Taking Market Analysis, Size, and Forecast 2025-2029* (Dec. 2025).⁹ These services help call participants extract meaning from their conversations by recording key points and flagging items for follow-up. Rather than distract themselves with such notetaking during a call, participants remain free to focus on the discussion, yielding more productive exchanges. This type of “efficient information capture” has been “critical in hybrid work environments” and “specialized fields like healthcare,” among other applications. *Id.*

Finally, VoIP facilitates ***conversational intelligence*** services. See, e.g., Gartner, *Customer Service AI: The Top Use Cases Driving Value*.¹⁰ Building on automated notetaking, these tools incorporate artificial intelligence to “surface insights in real time, recommend next best actions, and automate content utility tasks,” helping call participants respond more effectively during conversations. *Id.* For example, in customer service environments, conversational intelligence services can assess both the precise issues callers are raising and the sentiments they are

⁹ See <https://www.technavio.com/report/ai-note-taking-market-industry-analysis>.

¹⁰ See <https://www.gartner.com/en/articles/customer-service-ai>.

expressing. *See id.*; Super. Ct. Order at 2, 13. From there, the services can supply customer service agents with real-time guidance on how to respond most effectively—not just checklists of information to convey, but also suggestions on tone and phrasing. *See Gartner, supra.* The goal, as with all of these VoIP services, is better communication between callers.

VoIP providers across the industry—companies of various sizes and with different customer bases, including the members of the VON Coalition—incorporate these tools into their communications services. VoIP’s innovations have significantly enhanced consumer welfare and fueled the technology’s widespread adoption, with tools like “real-time language translation” and “video voice mail ... escalat[ing] the demand for digital VoIP services.” Fortune Business Insights, *VoIP Phone market size, share & industry analysis* (Aug. 10, 2026).¹¹

II. The California Legislature Amended CIPA’s Exemptions Specifically To Ensure VoIP’s Innovative Services Would Not Be Chilled By the Threat of Litigation.

The California Legislature has always understood that VoIP is defined as much by its broad range of innovative communication services as by its use of the Internet in place of copper wire. The sections of the Public Utilities Code that define “Voice over Internet Protocol” pointedly contrast the technology with legacy services that offer “no *enhanced functionality* to end users due

¹¹ *See* <https://www.fortunebusinessinsights.com/voip-phone-market-103734>.

to the provider’s use of Internet Protocol technology.” Pub. Util. Code § 239(a) (emphases added). When the Legislature added those provisions, it emphasized that “VoIP is different” from “traditional landline telephone services” because “the IP technology and broadband connection provide ***an integrated suite of capabilities and features that go beyond the ability to place and receive calls.***” Cal. Bill Analysis, S.B. 1161, at 4 (emphasis added). In other words, VoIP is not merely about transmitting calls in a different electronic format. It is about new methods of augmenting voice communications.

In 2022, the Legislature amended CIPA to clarify that the statute’s exemptions for the operation of communication services extend to VoIP. Before the amendments, Cal. Penal Code §§ 631(b)(1) and 632.7(b)(1) stated that a “public utility engaged in the business of providing communications services and facilities” could not be liable for acts performed “for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility.” Cal. Penal Code § 631(b)(1) (2021). Those exemptions struck a crucial pro-consumer balance. They ensured that while CIPA’s provisions guarded against illicit third-party eavesdropping, they did not interfere with the provision of telephone services on which consumers depended—even if those services sometimes called on telephone companies to access the content of calls.

When VoIP rose to prominence, disagreements emerged about whether it benefited from CIPA’s exemptions. The statute’s reference to “public utilities”—originally drafted in the 1970s, long

before VoIP services were available to California consumers and businesses—plainly encompassed legacy telephone providers but did not clearly cover their more modern VoIP counterparts. Seizing on that perceived ambiguity, some plaintiffs pursued precisely the sorts of lawsuits that CIPA’s exemptions were designed to foreclose, alleging that VoIP providers had violated the law—indeed, committed a crime—merely because they had accessed call data in the course of operating popular VoIP services.

The Legislature acted swiftly to protect VoIP providers by clarifying that they, no less than traditional telephone providers, benefited from CIPA’s exemptions. The exemptions now expressly apply not merely to public utilities but also “telephone companies,” Cal. Penal Code § 631(b)(1), a term defined in cross-referenced statutory provisions to include providers of “voice over Internet protocol,” *id.* § 638(a)(2)-(3). That is, verbatim, the term that the Public Utilities Code defines with reference to “enhanced functionality.” Pub. Util. Code § 239(a). The Legislature thus enshrined in CIPA’s exemptions the same broad understanding of VoIP codified in the Public Utilities Code—the one designed to recognize that VoIP constitutes “an integrated suite of capabilities and features that go beyond the ability to place and receive calls.” Cal. Bill Analysis, S.B. 1161, at 4.

The intent behind these amendments is clear: The Legislature amended CIPA to ensure that as VoIP service became the preferred means of communicating over traditional telephone service, VoIP providers—like their legacy predecessors—could serve the public without the threat of CIPA liability. And that

protection was designed to encompass the broad range of innovative VoIP services. As the bill author’s statement emphasized, the amendments “modernize[d]” the exemptions so that they capture “the full scope of the types of services telecommunication companies can provide in the modern age” through VoIP technology. Assem. Comm. on Pub. Safety, Analysis of Sen. Bill. No. 1272 (May 31, 2022).

III. The Superior Court’s Decision Erroneously Narrows CIPA’s Exemptions.

This case should be a straightforward application of CIPA’s exemptions. Petitioner Dialpad, Inc. provides VoIP services. Super. Ct. Order 2. Like any modern VoIP provider, Dialpad improves communication functionality for its customers with tools like “real-time transcription” “summaries,” and “context-aware live coaching.” *Id.* In particular, Dialpad assists customer service agents in responding to calls by “performing ‘sentiment analysis’” and “suggesting script language and other coaching based on what the customer says.” *Id.* at 13. This is precisely the “enhanced functionality” that the California Legislature made a touchstone when defining VoIP. Pub. Util. Code § 239(a). This lawsuit should therefore have been dismissed on the pleadings.

The Superior Court held otherwise by narrowing CIPA’s exemptions beyond recognition. It ruled that the exemptions apply only to a sliver of modern VoIP service—namely, the bare “act of transmitting information between parties.” Super. Ct. Order 13. In the Superior Court’s view, any VoIP functionality that is not strictly necessary to “transmit messages or information between

parties” falls outside the exemptions’ scope and may give rise to CIPA liability. In other words, if consumers can already exchange information, services that **improve** communication cannot qualify as “communications services.”

The Superior Court’s construction cannot be squared with CIPA’s language. The exemptions apply to any “acts” a VoIP provider undertakes “for the purpose of construction, maintenance, conduct or operation of [its] services and facilities.” Cal. Penal Code §§ 631(b)(1), 637.2(b)(1). The Superior Court read that clause to refer more specifically to “**communications services and facilities**.” Super. Ct. Order 11 (emphasis added). Even accepting that gloss, all of Dialpad’s VoIP services are plainly communications services. Digitizing voice signals for IP transmission is of course a communication service, as it facilitates voice calls. But “real-time transcription” and “summaries” are also communication services, as they make communication more effective by helping callers keep track of and share information conveyed during a call. *Id.* at 13. Similarly, “suggesting script language and other coaching” to customer service agents is a communication service because it helps agents improve how they communicate with customers. *Id.* The idea that such enhanced functionality has nothing to do with the adjective “communications” is simply untenable.

To be sure, these enhanced services improve communications between parties that are already able to exchange information. But that does not mean they are not VoIP “communications services.” When an airline passenger pays for

optional services like checked baggage or a first class seat, those are “transportation services.” It makes no difference that the passenger could technically fly from one place to another without them by booking an economy seat and bringing only carry-on luggage. Indeed, even the basic nuts and bolts of VoIP—digitizing voice calls for IP transmission—are an improvement for callers who can already use legacy telephone systems, but wish to communicate more effectively and efficiently. That is the nature of progress in the communication industry—not a reason to rule that services no longer qualify as “communications” products.

The Superior Court’s error is even more stark when set against the Legislature’s stated intent in amending CIPA’s exemptions. The revised language was designed to capture “the full scope of the types of services telecommunication companies can provide in the modern age” through VoIP technology. Assem. Comm. on Pub. Safety, Analysis of Sen. Bill. No. 1272. Yet that is precisely what the Superior Court mistakenly excised from the exemptions’ scope.

IV. The Superior Court’s Decision Imperils a Wide Range of VoIP’s Innovative Communication Services.

If the Superior Court’s decision stands, it will pose a profound threat to the VoIP industry in California (and beyond). As explained above, *supra* § I, numerous forms of “enhanced functionality” have become standard across the VoIP sector and are overwhelmingly popular with consumers and businesses, driving a surge in VoIP adoption within California and across the country. The Superior Court’s crabbed reading of CIPA’s

exemptions, however, would expose VoIP providers to substantial civil and even criminal liability simply for operating those services.

The Superior Court's decision expressly held as much for several popular VoIP services: "real-time transcription," "summaries," and "suggesting script language and other coaching" all fall outside the scope of CIPA's exemptions as construed here. Super. Ct. Order 13. The same would be true for other successful VoIP services that enhance communications. Automated notetaking assistance, for example, is not required for one party's message to reach another. Neither is visual voicemail. At bottom, the only VoIP services that could qualify for protection under CIPA's exemptions are the bare digitization and IP transmission of voice or text messages. Every other VoIP tool—that is, nearly every way that VoIP has modernized communications by enhancing the functionality of legacy telephone systems—would be susceptible to civil actions and even criminal prosecutions under CIPA.

It is hard to overstate the potential chilling effect of the Superior Court's decision or the degree to which it will ultimately shortchange consumers. If VoIP providers cannot operate their services in California with confidence that they will not face corresponding CIPA liability, those services will disappear from the market. And they will disappear quickly, underscoring the need for this Court's immediate review. With the fast-growing, multi-billion-dollar VoIP industry crippled in California, the state's consumers and businesses will lose out on a wide range of innovation and efficiency in their communications, including

popular implementations of artificial intelligence. They will be left (at best) with stripped-down VoIP services that do nothing more than replicate the traditional, far more limited functionality long offered by legacy telephone systems.

The Legislature amended CIPA in 2022 to head off exactly this sort of result. It recognized that subjecting VoIP providers to “legal uncertainty” over the application of CIPA’s exemptions threatened to hamstring a technology that has become essential for Californians, as providers would be forced to limit their offerings in the state. Sen. Comm. on Public Safety Rep. on S.B. 1292, at 2 (Cal. Apr. 26, 2022). It now falls to this Court to head off the same harmful consequences by accepting Dialpad’s petition and correcting the Superior Court’s misreading of CIPA before it chills the very VoIP services California law expressly protects.

CONCLUSION

This Court should grant immediate review to reverse the Superior Court’s decision, sustain Dialpad’s demurrer, and clarify the breadth of VoIP services covered by CIPA’s exemptions.

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CERTIFICATE OF COMPLIANCE

The undersigned counsel for *Amicus Curiae*, pursuant to Rule 8.204 of the California Rules of Court, certifies that the foregoing is proportionally spaced and contains 2839 words, as counted by the word count of the computer program used to prepare the brief.

Dated: September 4, 2026

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