

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADAPTIX, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 6:13-cv-00585
)	
NEC CASIO MOBILE)	JURY TRIAL DEMANDED
COMMUNICATIONS, LTD.,)	
NEC CORPORATION OF AMERICA,)	
AT&T, INC., AT&T MOBILITY LLC,)	
and CELLCO PARTNERSHIP <i>d/b/a</i>)	
VERIZON WIRELESS,)	
)	
Defendants.)	
)	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which plaintiff, ADAPTIX, Inc. (“ADAPTIX”), complains against Defendants NEC Casio Mobile Communications, Ltd. (“NEC Casio”), NEC Corporation of America (“NEC America”), AT&T, Inc. and AT&T Mobility LLC (collectively “AT&T”), and Cellco Partnership *d/b/a* Verizon Wireless (“Verizon”) (NEC Casio, NEC America, AT&T, and Verizon may be referred to collectively as “Defendants”), as follows:

THE PARTIES

1. ADAPTIX is a Delaware corporation with a principal place of business in the Eastern District of Texas at 2400 Dallas Parkway, Suite 200, Plano, Texas 75093.
2. On information and belief, NEC Casio Mobile Communications, Ltd. (“NEC Casio”) is a corporation registered and lawfully existing under the Laws of Japan, with a principal place of business at 1753, Shimonumabe, Nakahara-Ku, Kawasaki, Kanagawa, 211-

8666, JAPAN, where it can be served with process, and regularly does business throughout this judicial district and by, among things, committing jointly, directly, and/or indirectly the tort of patent infringement giving rise to this complaint.

3. On information and belief, NEC Corporation of America (“NEC America”) is a Nevada corporation with a principal place of business at 6535 N. State Highway 161, Irving, TX 75039 and regularly does business throughout this judicial district and by, among things, committing jointly, directly, and/or indirectly the tort of patent infringement giving rise to this complaint. NEC America has designated National Registered Agents Inc., located at 1021 Main Street, Suite 1150, Houston, TX 77002, and/or National Registered Agents, Inc. of Nevada, 311 South Division Street, Carson City, Nevada 89703, as its agent for service of process.

4. On information and belief, NEC America is a subsidiary of non-party NEC Corporation, a Japanese corporation having a principal place of business at 7-1, Shiba 5-chome, Minato-ku, Tokyo 108-8001, JAPAN, and regularly does business throughout this judicial district.

5. On information and belief, NEC Casio is a joint venture between three Japanese electronics manufacturers: NEC Corporation, Casio Computer Co., Ltd., and Hitachi, Ltd., where NEC Corporation owns 70.14%, Casio Computer Co., Ltd. owns 20.00%, and Hitachi, Ltd. owns 9.26%.

6. On information and belief, NEC America has an internet site (<http://www.necam.com/Smartphones/det.cfm?t=NECTerrain&c=5>) which provides information concerning (a) *support* of certain computerized communications devices, including the **NEC Terrain™ 4G LTE** device, *infra.*; (b) *a link to* download a 12.5 MB “NEC Terrain™ User Manual” that states, at page 95, that “[a]ll applicable rights of the Intellectual Property

[concerning the NEC Terrain™ 4G LTE device] shall remain with NEC CASIO Mobile Communications, Ltd. and its suppliers,” and, at page 97, that “NEC TERRAIN and NEC are registered trademarks of NEC Corporation [and t]he TERRAIN logo is a registered trademark of NEC CASIO Mobile Communications;” (c) *contact information* by phone (1-800-637-5917), by email (customercare@necam.com), and by regular mail (to NEC, 1801 N. Robison Road, Texarkana, TX 75501 (in this judicial district)) regarding the NEC Terrain™ 4G LTE device; and (d) *a link to* 14 Frequently Asked Questions about the NEC Terrain™ 4G LTE device;

7. On information and belief, AT&T, Inc. is a Delaware corporation with a principal place of business at 208 Akard Street, Dallas, Texas 75202, and regularly does business throughout this judicial district and by, among things, committing jointly, directly, and/or indirectly the tort of patent infringement giving rise to this complaint. AT&T, Inc.’s registered agent for service of process in Texas is CT Corporation System, 350 North St. Paul Street, Suite 2900, Dallas, Texas 75201, and its registered agent for service of process in Delaware is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

8. On information and belief, AT&T Mobility LLC is a Delaware corporation with a principal place of business at Glenridge Highlands Two, 5565 Glenridge Connector, Atlanta, Georgia 30342 and/or 1025 Lenox Park Blvd., NE, Atlanta, Georgia 30319, and regularly does business in this judicial district at 5976 West Parker Road, Plano, Texas 75093 and by, among things, committing jointly, directly, and/or indirectly the tort of patent infringement giving rise to this complaint. AT&T Mobility LLC’s registered agent for service of process in Texas is CT Corporation System, 350 North St. Paul Street, Dallas, Suite 2900, Texas 75201, and its registered agent for service of process in Delaware is The Corporation Trust Company,

Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801. AT&T, Inc. and AT&T Mobility LLC may be referred to collectively as “AT&T.”

9. On information and belief, Cellco Partnership *d/b/a* Verizon Wireless (“Verizon”) is a Delaware corporation with a principal place of business at 1 Verizon Way, Basking Ridge, New Jersey 07920 and regularly does business throughout this judicial district and by, among things, committing jointly, directly, and/or indirectly the tort of patent infringement giving rise to this complaint. Verizon has designated Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808 as its agent for service of process. Alternatively, Verizon may be served with process by serving the Secretary of State of the State of Texas pursuant to the Texas Long Arm Statute, Texas Civil Practice & Remedies Code § 17.044 and asking the Secretary of State to serve Verizon at its principal place of business at 1 Verizon Way, Basking Ridge, New Jersey 07920 – Return Receipt Requested.

10. NEC Casio, NEC America, AT&T, and Verizon may be referred to collectively as the “Defendants.”

JURISDICTION AND VENUE

11. This action arises under the patent laws of the United States, Title 35 of the United States Code, 35 U.S.C. §§ 101 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

12. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b, c) and 1400(b). On information and belief, each Defendant has purposely transacted substantial business in this judicial district, and has committed acts of direct and/or indirect infringement in this judicial district.

13. On information and belief, each Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (A) at least part of its infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent causes of conduct, and/or deriving substantial revenue from goods and services provided to persons and other entities in Texas and this judicial district.

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 7,454,212)

14. ADAPTIX incorporates paragraphs 1 through 13 herein by reference.

15. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271 *et seq.*

16. ADAPTIX is the owner by assignment of United States Patent No. 7,454,212, entitled "OFDMA WITH ADAPTIVE SUBCARRIER-CLUSTER CONFIGURATION AND SELECTIVE LOADING" ("the '212 patent") with ownership of all substantial rights in the '212 patent, including the right to exclude others and to sue and recover damages for the past and future infringement thereof. A true and correct copy of the '212 patent is attached as Exhibit A.

17. The '212 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

18. ADAPTIX has been damaged as a result of Defendants' infringing conduct described in this Count. Defendants are, thus, liable to ADAPTIX in an amount that adequately compensates it for their infringement, which by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

(Direct Infringement)

19. On information and belief, each Defendant has and continues to directly infringe one or more claims of the '212 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 1 by, among other things, making, using, offering for sale, selling, and/or importing computerized communications devices, including and not limited to the **NEC Terrain™ 4G LTE** device (<http://www.att.com/shop/wireless/devices/nec/terrain-black.html#fbid=JXH6ea9x7Md>; <http://www.phonearena.com/phones/compare/NEC-Terrain,Casio-GzOne-Commando-4G-LTE/phones/7910,7906>; http://www.computerworld.com/s/article/9240191/_AT_T_to_offer_NEC_Terrain_push_to_talk_Android_smartphone_starting_Friday)¹ and the **CASIO G'zOne COMMANDO™ 4G LTE** device *a/k/a* **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device *a/k/a* **CASIO GZ1 COMMANDO™ 4G LTE** (C811) device (http://www.nec-casio-mobile.com/products/index_casio.html; <http://www.casiogzone.com/us/4glte/>; <http://search.verizonwireless.com/?q=casio+4G+lte>; <http://www.phonearena.com/phones/compare/NEC-Terrain,Casio-GzOne-Commando-4G-LTE/phones/7910,7906>)² which, at a minimum, directly infringe² the '212 patent. Each Defendant is thereby liable for infringement of the '212 patent pursuant to 35 U.S.C. § 271(a). Each Defendant's infringement has caused damage to ADAPTIX, which infringement and damage will continue unless and until each Defendant is enjoined. Each Defendant is thereby liable for infringement of the '212 patent pursuant to 35 U.S.C. § 271(a).

¹ On information and belief, "NEC Terrain" is a trademark of NEC CASIO Mobile Communications, Ltd., and "NEC" is a registered trademark of non-party NEC Corporation.

² On information and belief, "CASIO," "G'zOne," and "G-SHOCK" are registered trademarks of non-party Casio Computer Co., Ltd.

20. On information and belief, AT&T and Verizon have and continue to directly infringe one or more claims of the '212 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 1 by, among other things, making, using, offering for sale, selling and/or importing computerized communications devices including and not limited to the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE (C811)** which, at a minimum, directly infringe the '212 patent. AT&T's and Verizon's infringement have caused damage to ADAPTIX, which infringement and damage will continue unless and until AT&T and Verizon are enjoined. AT&T and Verizon are thereby liable for infringement of the '212 patent pursuant to 35 U.S.C. § 271(a).

21. Based upon information set forth in the preceding two paragraphs, on information and belief the Defendants have and continue to directly infringe one or more claims of the '212 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 1 by, among other things, making, using, offering for sale, selling and/or importing computerized communications devices including and not limited to the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE (C811)** which, at a minimum, directly infringe the '212 patent. Thereby, the Defendants are liable for infringement of the '212 patent pursuant to 35 U.S.C. § 271(a). Defendants' infringement has caused damage to ADAPTIX, which infringement and damage will continue unless and until Defendants are enjoined.

(Indirect Infringement - Inducement)

22. Based on information presently available to ADAPTIX, absent discovery, ADAPTIX contends that each Defendant has and continues to indirectly infringe one or more claims of the '212 patent, including at least claim 16 by, among other things, making, selling, testing, and/or importing the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE** (C811), and/or advertising the LTE capability of the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE** (C811). Each Defendant's end users who purchase systems and components thereof and operate such systems and components in accordance with the Defendants' instructions directly infringe one or more claims of the '212 patent in violation of 35 U.S.C. § 271(b). Each Defendant's infringement has caused damage to ADAPTIX, which infringement and damage will continue unless and until each Defendant is enjoined. Each Defendant is thereby liable for infringement of the '212 patent pursuant to 35 U.S.C. § 271(b).

23. Based on information presently available to ADAPTIX, absent discovery, ADAPTIX contends that AT&T and Verizon have and continue to indirectly infringe one or more claims of the '212 patent, including at least claim 16 by, among other things, taking active steps to encourage and facilitate its customers to purchase and use the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE** (C811). AT&T's and Verizon's customers who purchase systems and components thereof and

operate such systems and components in accordance with AT&T's and Verizon's instructions directly infringe one or more claims of the '212 patent in violation of 35 U.S.C. § 271(b).

AT&T's and Verizon's infringement has caused damage to ADAPTIX, which infringement and damage will continue unless and until AT&T and Verizon are enjoined. AT&T and Verizon are thereby liable for infringement of the '212 patent pursuant to 35 U.S.C. § 271(b).

24. On information and belief, Defendants have been on notice of the '212 patent since at least service of this action. In accordance with Fed. R. Civ. P. 11(b)(3), ADAPTIX will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

25. On information and belief, because Defendants have been on notice of the '212 patent since at least service of this action, Defendants have been knowingly inducing infringement of the '212 patent, including at least claim 16 of the '212 patent, and possessing specific intent to encourage others' infringement.

26. On information and belief, because Defendants have been on notice of the '212 patent since at least service of this action, Defendants knew or should have known that their actions would induce actual infringement of the '212 patent, including at least claim 16 of the '212 patent.

27. Defendants have not produced any evidence as to any investigation, design around, or that any remedial action was taken with respect to the '212 patent. In accordance with Fed. R. Civ. P. 11(b)(3), ADAPTIX will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

(Indirect Infringement - Contributory)

28. Based on information presently available to ADAPTIX, absent discovery, ADAPTIX contends that each Defendant has and continues to indirectly infringe one or more claims of the '212 patent, including at least claim 16 by, among other things, contributing to the direct infringement of others, including entities such as AT&T and Verizon, and end users of Defendants' computerized communications devices, including without limitation the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE (C811)**, through supplying infringing systems and components that infringe one or more claims of the '212 patent, including at least claim 16, in violation of 35 U.S.C. § 271(c).

29. Based on information presently available to ADAPTIX, absent discovery, ADAPTIX contends that AT&T and Verizon have and continue to indirectly infringe one or more claims of the '212 patent, including at least claim 16 by, among other things, contributing to the direct infringement of others, including entities such as customers of Defendants' computerized communications devices, including without limitation the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE (C811)**, through supplying infringing systems and components that infringe one or more claims of the '212 patent, including at least claim 16, in violation of 35 U.S.C. § 271(c).

30. Defendants have and continue to contribute to the direct infringement of others, such as end users of Defendants' computerized communications devices, by making, offering to sell, selling, re-selling, and/or importing into the United States a component of a patented

apparatus that constitutes a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '212 patent and not a staple article or commodity of commerce suitable for substantial non-infringing use. An example of such a material component offered for sale, sold, and/or imported by Defendants is Defendants' computerized communications devices and the technology associated therewith.

31. On information and belief, Defendants have been on notice of the '212 patent since at least service of this action, or before, but have continued since that time to cause others to directly infringe the '212 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), ADAPTIX will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

32. Because Defendants have been on notice of the '212 patent since at least service of this action, Defendants knew or should have known that Defendants' computerized communications devices and the technology associated therewith constituted material components of the inventions claimed in the '212 patent, are especially made or especially adapted for use in infringement of the '212 patent, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

33. By virtue of at least this Complaint, Defendants have been provided with written notice of ADAPTIX's allegations that Defendants have and continue to contributorily infringe the '212 patent and written identification of exemplar products that infringe one or more claims of the '212 patent (e.g., systems used by end users of Defendants' computerized communications devices) and written notice of an exemplar material part of these devices (e.g., Defendants' computerized communications devices and the technology associated therewith) that are

especially made or especially adapted for use in infringing the '212 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 6,947,748)

34. ADAPTIX incorporates paragraphs 1 through 33 herein by reference.

35. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271 *et seq.*

36. ADAPTIX is the owner by assignment of United States Patent No. 6,947,748 entitled "OFDMA WITH ADAPTIVE SUBCARRIER-CLUSTER CONFIGURATION AND SELECTIVE LOADING" ("the '748 patent") with ownership of all substantial rights in the '748 patent, including the right to exclude others and to sue and recover damages for the past and future infringement thereof. A true and correct copy of the '748 patent is attached as Exhibit B.

37. The '748 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

38. ADAPTIX has been damaged as a result of Defendants' infringing conduct described in this Count. Defendants are, thus, liable to ADAPTIX in an amount that adequately compensates it for their infringement, which by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

(Direct Infringement)

39. On information and belief, each Defendant has and continues to directly infringe one or more claims of the '748 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claims 6 and 8 by, among other things, making, using, offering for sale, selling, and/or importing computerized communications devices, including and not limited to the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE**

device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE (C811)** which, at a minimum, directly infringe the '748 patent. Each Defendant is thereby liable for infringement of the '748 patent pursuant to 35 U.S.C. § 271(a). Each Defendant's infringement has caused damage to ADAPTIX, which infringement and damage will continue unless and until each Defendant is enjoined. Each Defendant is thereby liable for infringement of the '748 patent pursuant to 35 U.S.C. § 271(a).

40. On information and belief, AT&T and Verizon have and continue to directly infringe one or more claims of the '748 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claims 6 and 8 by, among other things, making, using, offering for sale, selling and/or importing computerized communications devices including and not limited to the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE (C811)** which, at a minimum, directly infringe the '748 patent. AT&T's and Verizon's infringement has caused damage to ADAPTIX, which infringement and damage will continue unless and until AT&T and Verizon are enjoined. AT&T and Verizon are thereby liable for infringement of the '748 patent pursuant to 35 U.S.C. § 271(a).

41. Based upon information set forth in the preceding two paragraphs, on information and belief, the Defendants have and continue to directly infringe one or more claims of the '748 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claims 6 and 8 by, among other things, making, using, offering for sale, selling and/or importing computerized communications devices including and not limited to the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless**

CASIO G'zOne COMMANDO™ 4G LTE device, and the **CASIO GZ1 COMMANDO™ 4G LTE** (C811) which, at a minimum, directly infringe the '748 patent. Thereby, the Defendants are jointly liable for infringement of the '748 patent pursuant to 35 U.S.C. § 271(a). Defendants' infringement has caused damage to ADAPTIX, which infringement and damage will continue unless and until Defendants are enjoined.

(Indirect Infringement - Inducement)

42. Based on information presently available to ADAPTIX, absent discovery, ADAPTIX contends that each Defendant has and continues to indirectly infringe one or more claims of the '748 patent, including at least claims 6 and 8 and by, among other things, making, selling, testing, and/or importing the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE** (C811), and/or advertising the LTE capability of the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE** (C811). Each Defendant's end users who purchase systems and components thereof and operate such systems and components in accordance with the Defendants' instructions directly infringe one or more claims of the '748 patent in violation of 35 U.S.C. § 271(b). Each Defendant's infringement has caused damage to ADAPTIX, which infringement and damage will continue unless and until each Defendant is enjoined. Each Defendant is thereby liable for infringement of the '748 patent pursuant to 35 U.S.C. § 271(b).

43. Based on the information presently available to ADAPTIX, absent discovery, ADAPTIX contends that AT&T and Verizon have and continue to indirectly infringe one or

more claims of the '748 patent, including at least claims 6 and 8 by, among other things, taking active steps to encourage and facilitate their customers to purchase and use the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE** (C811). AT&T's and Verizon's customers who purchase systems and components thereof and operate such systems and components in accordance with AT&T's and Verizon's instructions directly infringe one or more claims of the '748 patent in violation of 35 U.S.C. § 271(b). AT&T's and Verizon's infringement has caused damage to ADAPTIX, which infringement and damage will continue unless and until AT&T and Verizon are enjoined. AT&T and Verizon are thereby liable for infringement of the '748 patent pursuant to 35 U.S.C. § 271(b).

44. On information and belief, Defendants have been on notice of the '748 patent since at least service of this action. In accordance with Fed. R. Civ. P. 11(b)(3), ADAPTIX will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

45. On information and belief, because Defendants have been on notice of the '748 patent since at least service of this action, Defendants have been knowingly inducing infringement of the '748 patent, including at least claims 6 and 8 of the '748 patent, and possessing specific intent to encourage others' infringement.

46. On information and belief, because Defendants have been on notice of the '748 patent since at least service of this action, Defendants knew or should have known that their actions would induce actual infringement of the '748 patent, including at least claims 6 and 8 of the '748 patent.

47. Defendants have not produced any evidence as to any investigation, design around, or that any remedial action was taken with respect to the '748 patent. In accordance with Fed. R. Civ. P. 11(b)(3), ADAPTIX will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

(Indirect Infringement - Contributory)

48. Based on information presently available to ADAPTIX, absent discovery, ADAPTIX contends that each Defendant has and continues to indirectly infringe one or more claims of the '748 patent, including at least claims 19 and 21 by, among other things, contributing to the direct infringement of others, including entities such as AT&T and Verizon, and end users of Defendants' computerized communications devices, including but not limited to the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE (C811)**, through supplying infringing systems and components that infringe one or more claims of the '748 patent, including at least claims 19 and 21, in violation of 35 U.S.C. § 271(c).

49. Based on information presently available to ADAPTIX, absent discovery, ADAPTIX contends that AT&T and Verizon have and continue to indirectly infringe one or more claims of the '748 patent, including at least claims 19 and 21 by, among other things, contributing to the direct infringement of others, including entities such as customers of Defendants' computerized communications devices, including but not limited to the **NEC Terrain™ 4G LTE** device, the **CASIO G'zOne COMMANDO™ 4G LTE** device, the **Verizon Wireless CASIO G'zOne COMMANDO™ 4G LTE** device, and the **CASIO GZ1 COMMANDO™ 4G LTE (C811)**, through supplying infringing systems and components that

infringe one or more claims of the '748 patent, including at least claims 19 and 21, in violation of 35 U.S.C. § 271(c).

50. Defendants have and continue to contribute to the direct infringement of others, such as end users of Defendants' computerized communications devices, by making, offering to sell, selling, re-selling, and/or importing into the United States a component of a patented apparatus that constitutes a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '748 patent and not a staple article or commodity of commerce suitable for substantial non-infringing use. An example of such a material component offered for sale, sold, and/or imported by Defendants is Defendants' computerized communications devices and the technology associated therewith.

51. On information and belief, Defendants have been on notice of the '748 patent since at least service of this action, or before, but have continued since that time to cause others to directly infringe the '748 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), ADAPTIX will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

52. Because Defendants have been on notice of the '748 patent since at least service of this action, Defendants knew or should have known that Defendants' computerized communications devices and the technology associated therewith constituted material components of the inventions claimed in the '748 patent, are especially made or especially adapted for use in infringement of the '748 patent, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

53. By virtue of at least this Complaint, Defendants have been provided with written notice of ADAPTIX's allegations that Defendants have and continue to contributorily infringe

the '748 patent and written identification of exemplar products that infringe one or more claims of the '748 patent (e.g., systems used by end users of Defendants' computerized communications devices) and written notice of an exemplar material part of these devices (e.g., Defendants' computerized communications devices and the technology associated therewith) that are especially made or especially adapted for use in infringing the '748 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

PRAYER FOR RELIEF

Wherefore, ADAPTIX respectfully requests that this Court enter:

A. Judgment in favor of ADAPTIX that each Defendant has infringed the '212 and '748 patents, directly and indirectly, as aforesaid;

B. A permanent injunction enjoining each Defendant, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents and all others acting in active concert or privity therewith from direct and/or indirect infringement of the '212 and '748 patents pursuant to 35 U.S.C. § 283;

C. An order requiring each Defendant to pay ADAPTIX its damages with pre- and post-judgment interest and costs thereon pursuant to 35 U.S.C. § 284;

D. A determination that this case is exceptional pursuant to 35 U.S.C. § 285; and

E. Any and all further relief to which the Court may deem ADAPTIX is entitled.

DEMAND FOR JURY TRIAL

ADAPTIX requests a trial by jury on all issues so triable by right pursuant to Fed. R. Civ.

P. 38.

Dated: August 7, 2013

ADAPTIX, INC.

By: /s/ Craig Tadlock

Craig Tadlock

Texas State Bar No. 00791766

Keith Smiley

Texas State Bar No. 24067869

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