IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION, Plaintiff, v. MEDIATEK INC.; MEDIATEK USA INC.; RALINK TECHNOLOGY CORP. (USA); RALINK TECHNOLOGY CORP. (TAIWAN); REALTEK SEMICONDUCTOR CORP.; TEXAS INSTRUMENTS INC.; AMAZON.COM, INC.; BARNES & NOBLE, INC.; NOKIA CORP.; NOKIA, INC.; SAMSUNG ELECTRONICS CO. LTD.; SAMSUNG ELECTRONICS AMERICA, INC.; and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC; Defendants.	§	Case No. 6:12-cv-578 (LED) (LEAD) Jury Trial Requested
COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION, Plaintiff, v. REAL COMMUNICATIONS, INC.; Defendant.	§	Case No. 6:12-cv-842 (LED) Jury Trial Requested

COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION'S AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Commonwealth Scientific and Industrial Research Organisation ("CSIRO" or "Plaintiff") hereby submits this Complaint against Real Communications, Inc. ("Defendant"); and states as follows:

THE PARTIES

1. CSIRO is one of the largest and most diverse scientific research institutions in the world, and has a principal place of business at Limestone Avenue, Campbell ACT 2612, Australia.

2. CSIRO is informed and believes, and on that basis alleges, that Defendant Real Communications, Inc. is a corporation organized and existing under the laws of California, having a principal place of business at 2870 Zanker Road, Suite 110, San Jose, CA 95134.

JURISDICTION AND VENUE

3. The court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* Venue is proper in this federal district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b) in that Defendant has done business in this District, has committed and/or induced acts of infringement in this District, and/or continues to commit and/or induce acts of infringement in this District, entitling CSIRO to relief.

INFRINGEMENT OF U.S. PATENT NO. 5,487,069

4. On January 23, 1996, United States Patent No. 5,487,069 (the "'069 Patent") was duly and legally issued for inventions entitled "Wireless LAN." CSIRO holds all rights and interest in the '069 Patent. A true and correct copy of the '069 Patent is attached hereto as Exhibit A.

5. On March 15, 2011, the PTO issued an Ex Parte Reexamination Certificate. In the Certificate the PTO deemed patentable without amendment all of the existing claims of the ’069 Patent which are asserted by CSIRO in this matter while also deeming patentable new Claims 73-152. A true and correct copy of the March 15, 2011 Ex Parte Reexamination Certificate is attached hereto as Exhibit B.

6. On July 3, 2012, the PTO issued an Ex Parte Reexamination Certificate. In that Certificate the PTO confirmed the patentability of new claims and all of the claims allowed by the March 15, 2011 Ex Parte Reexamination Certificate which are asserted by CSIRO in this matter, while also deeming patentable new Claims 153-158 and deeming claims 64 and 68 patentable as amended. A true and correct copy of the July 3, 2012 Ex Parte Reexamination Certificate is attached hereto as Exhibit C.

7. Upon information and belief, Defendant has directly infringed and/or induced the infringement of the ’069 Patent, including both the original claims and the new claims allowed in the reexamined patent, and continues to do so.

8. Upon information and belief, Defendant has infringed directly and indirectly and continues to infringe directly and indirectly the ’069 Patent. Defendant infringes the ’069 Patent through the manufacture, use, sale, or offer for sale within the United States or the importation into the United States of products which are operable according to the Institute of Electrical and Electronics Engineers (“IEEE”) 802.11a, g, n, draft n, draft ac and/or ac standards. The accused products do not include products which are licensed pursuant to the terms of a valid ’069 Patent license agreement. Defendant is liable for infringement of the ’069 Patent pursuant to 35 U.S.C. § 271.

9. Upon information and belief, Defendant indirectly infringes one or more claims of the ’069 Patent by active inducement under 35 U.S.C. § 271(b). Defendant has induced, caused, urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import products which are operable according to the 802.11a, g, n, draft n, draft ac and/or ac standards and thereby infringe the ’069 Patent. Defendant has done so by acts including but not limited to selling integrated circuit (IC) chips to its direct and indirect customers intending that the IC chips be used to make products which are operable according to the 802.11a, g, n, draft n, draft ac and/or ac standards; marketing the infringing capabilities of such products; and providing instructions, designs, schematics, testing, components, technical support, and/or marketing support for such products. Such conduct by Defendant was intended to and actually resulted in direct infringement, including the making, using, selling, offering for sale and/or importation of infringing products in the United States.

10. To the extent required, CSIRO has complied with 35 U.S.C. § 287(a). CSIRO has never sold a product in the United States and is therefore not required itself to mark products. CSIRO has made reasonable efforts to ensure its third-party licensees comply with the marking requirement. As alleged below, Defendant received actual notice of the ’069 patent.

11. Upon information and belief, Defendant actually knew of, or was willfully blind to, the existence of the ’069 Patent no later than September 2007.

12. The acts of infringement by Defendant have caused damage to CSIRO and CSIRO is entitled to recover from Defendant the damages sustained by CSIRO as a result of Defendant’s wrongful acts in an amount subject to proof at trial. The infringement of CSIRO’s exclusive rights under the ’069 Patent by Defendant has damaged and will continue to damage CSIRO.

13. Upon information and belief, Defendant has knowledge of its infringement of the ’069 Patent, yet Defendant continues to infringe said patent. The infringement of the ’069 Patent by Defendant is willful and deliberate, and with full knowledge of the patent, entitling CSIRO to increased damages under 35 U.S.C. § 284 and to attorneys’ fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

14. CSIRO hereby demands a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, CSIRO requests entry of judgment in its favor and against Defendant as follows:

a. A declaration that Defendant has infringed and is infringing the ’069 Patent;

b. An award of damages to CSIRO arising out of the infringement of the ’069 Patent by Defendant, including enhanced damages pursuant to 35 U.S.C. § 284, together with prejudgment and post-judgment interest, in an amount according to proof;

c. An award of attorneys’ fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and,

d. Granting CSIRO its costs and further relief as the Court may deem just and proper.

Dated: January 23, 2014

Respectfully submitted,

/s/ Michael Ng

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ATTORNEYS FOR PLAINTIFF COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this January 23, 2014 with a copy of this document via the Court's CM/ECF System per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Michael Ng
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