

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

EMSAT ADVANCED GEO-LOCATION TECHNOLOGY, LLC and LOCATION BASED SERVICES LLC,)	
)	CASE NO. 4:08-CV-00817
)	
)	
Plaintiffs,)	JUDGE JOHN R. ADAMS
)	
v.)	
)	JURY TRIAL DEMANDED
T-MOBILE USA, INC.,)	
)	
Defendant.)	
)	

PLAINTIFFS' FOURTH AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Emsat Advanced Geo-Location Technology, LLC (“Emsat”) and Location Based Services LLC (“LBS”) (collectively, “Plaintiffs”) file this Fourth Amended Complaint against T-Mobile USA, Inc. (“T-Mobile”).

INTRODUCTION

1. This case arises as a result of T-Mobile's infringements of a United States patent disclosing and claiming inventions created in Youngstown, Ohio by employees of what was then a small regional wireless telephone service provider, named Sygnet Communications, Inc. Until Sygnet was acquired by a larger wireless carrier in 1998, it was headquartered in the Youngstown area and operated under the name Wilcom Cellular.

THE PARTIES

2. Emsat is a limited liability company organized and existing under the laws of the State of Nevada with its principal place of business located at 101 Southbend Court, Loveland, Ohio.

3. LBS is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business located at 500 Newport Center Drive, Newport Beach, California.

4. T-Mobile is a Delaware corporation with its principal place of business at 12920 SE 38th Street, Bellevue, Washington 98006.

JURISDICTION AND VENUE

5. Plaintiffs bring this action for patent infringement under the Patent Laws of the United States, namely 35 U.S.C. §271, 281, and 284-285, among others.

6. The Court has subject matter jurisdiction over the claims in this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. The Court has personal jurisdiction over T-Mobile, and venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b). T-Mobile has substantial contacts with the forum as a result of pervasive business activities conducted within the State of Ohio and within this District, including but not limited to: (i) the marketing, sale, and distribution of cellular telephones; (ii) the marketing and sale of services for cellular telephone communications; and (iii) the ownership and/or operation of stores where T-Mobile sells its products and services.

8. T-Mobile has committed and continues to commit acts of patent infringement, directly and/or through agents and intermediaries, by making, distributing, importing, using, offering for sale, and/or selling certain infringing products, services, and systems in Ohio and, particularly, the Northern District of Ohio. Specifically, T-Mobile has purposefully and voluntarily placed one or more of its infringing products and services into the stream of commerce with the expectation that they will be purchased and/or used by consumers in this District, which products and services have been, and continue to be, purchased and/or used by

consumers in this District. T-Mobile also provides support for its infringing products and services to its customers in this District.

BACKGROUND

9. In the early 1990s, the cellular telephone industry was much smaller than it is today. Cellular telephone networks encountered numerous problems, including false roaming charges. For example a caller subscribing to one network covering one geographic area (e.g., the Youngstown, Ohio area) would suddenly, and unknowingly, begin using another network covering a neighboring geographic area (e.g., Western Pennsylvania), despite the fact that the caller never ventured beyond his/her own network's borders.

10. Employees of a small cellular service provider in Youngstown, Ohio named Sygnet Wireless, including Everett Dennison ("Dennison"), invented a solution to this problem. Their solution entailed combining certain features of the cellular system with location-finding technology to create a location-aware network that could determine the exact geographic location of mobile phones. Information about mobile phone location could be used to improve the operation of the cellular telephone network by avoiding the generation of false roaming charges.

11. In solving the false roaming problem, the inventors realized that their location-aware network permitted cellular telephone service providers to offer various location-based services, such as location-based emergency 911. Indeed, the cellular telephone network could determine and transmit the location of mobile phones to nearby emergency call centers, also known as "Public Safety Answering Points" ("PSAPs").

12. In 1991, Dennison and his co-inventors filed for the first of several issued patents (the "Dennison Patents"). Emsat is the assignee of the Dennison Patents and owns all rights, title, and interest in and to them. LBS is the exclusive licensee of the Dennison Patents, and

possesses all rights of recovery under them, including the right to prosecute this action and the exclusive right to sue for past, present, and future infringements.

13. Some five years after Dennison and his co-inventors filed their first patent application, the Federal Communications Commission (“FCC”) established the Enhanced 911 (“E911”) program. Under “Phase 2” of the E911 program, all cellular telephone service providers in the United States provide the location of cellular telephones to PSAPs with a specified accuracy for a specified percentage of wireless 911 calls.

14. The methods and systems involved in deploying a mobile E911 system as described above are substantially similar to those required to deploy so-called “commercial” location-based services to cell phone subscribers. In fact, commentators have asserted that the FCC-required development of mobile E911 systems allowed cellular telephone service providers such as T-Mobile to develop and deploy commercial location-based services. These location-based services permit the mobile phone user, often for a fee, to use his or her phone as a navigation device, to locate nearby products and services, and to find friends, among other things.

15. T-Mobile, directly or through intermediaries, makes, has made, uses, sells, and/or offers for sale mobile E911 system(s) for cellular telephones. T-Mobile’s mobile E911 system(s) infringe claims 21 and 31 of U.S. Patent No. 6,847,822 (“the ‘822 patent”). A true and correct copy of the ‘822 patent is attached as Exhibit 1.

INFRINGEMENT OF THE ‘822 PATENT

16. Plaintiffs incorporate each of the allegations in paragraphs 1 through 15 as if fully set forth herein.

17. T-Mobile has infringed and is continuing to infringe, contribute to the

infringement of, and/or induce the infringement of claims 21 and 31 of the '822 patent without the consent or authorization of Plaintiffs by or through its making, having made, offer for sale, sale, use, and/or inducement of the use, offer for sale, and sale of mobile E911 services and related systems.

18. Plaintiffs have been damaged as a result of T-Mobile's infringing conduct, and T-Mobile is, thus, liable to Plaintiffs in an amount that adequately compensates them for T-Mobile's infringements, 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.

PRAYER FOR RELIEF

Plaintiffs request that the Court find in their favor and against T-Mobile, and that the Court grant Plaintiffs the following relief:

- a. Judgment that one or more claims of United States Patent No. 6,847,822 have been infringed, either literally and/or under the doctrine of equivalents, by T-Mobile;
- b. Judgment that T-Mobile account for and pay to Plaintiffs all damages to and costs incurred by them because of T-Mobile's infringing activities;
- c. That Plaintiffs be granted pre-judgment and post-judgment interest on the damages caused by T-Mobile's infringing activities; and
- d. That Plaintiffs be granted such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs request a trial by jury of all issues so triable in this action.

Date: November 7, 2013

Respectfully Submitted,

/s/ Anthony G. Simon

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all counsel of record via the Court's CM/ECF service on November 7, 2013.

/s/ Anthony G. Simon

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