

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

FREEDOM WIRELESS, INC., )

Plaintiff, )

v. )

Civil Action No. 00-CV-12234-EFH

BOSTON COMMUNICATIONS GROUP, INC.; )

AT&T WIRELESS SERVICES, INC.; )

AIRTOUCH COMMUNICATIONS, INC., a/k/a )

AIRTOUCH CELLULAR; ALLTEL )

CORPORATION; BELL ATLANTIC MOBILE, )

**JURY TRIAL DEMANDED**

INC., a/k/a BELL ATLANTIC NYNEX MOBILE, )

a/k/a BANM; BELLSOUTH CELLULAR CORP.; )

BELLSOUTH MOBILITY, INC.; CMT )

PARTNERS, a/k/a/ and d/b/a CELLULAR ONE )

OF SAN FRANCISCO; PRIMECO PERSONAL )

COMMUNICATIONS; ROGERS WIRELESS, )

INC., a/k/a ROGERS AT&T WIRELESS; )

SOUTHWESTERN BELL MOBILE SYSTEMS, )

INC.; WESTERN WIRELESS CORPORATION, )

a/k/a and d/b/a CELLULAR ONE; CELLCO )

PARTNERSHIP, a/k/a and d/b/a VERIZON )

WIRELESS; CINGULAR WIRELESS; and )

DOES 1-20. )

Defendants. )

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

DOCKETED  
107

### JURISDICTION AND VENUE

1. This is a patent infringement action brought under the patent laws of the United States, 35 U.S.C. § 1 et seq. This action arises under the Patent Act, 35 U.S.C. § 271(a)-(c). This Court has original jurisdiction over the patent infringement claims in this action under 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b). Defendants reside in the District of Massachusetts, and a substantial part of the events giving rise to the claims occurred in the District of Massachusetts. Moreover, numerous defendants joined defendant Boston Communications Group, Inc. ("BCGI")'s motion to transfer this case from the United States District Court for the Northern District of California to this Court.

### PARTIES

3. Plaintiff Freedom Wireless, Inc. is a Nevada corporation with its principal place of business in Phoenix, Arizona.

4. Upon information and belief, defendant Boston Communications Group, Inc. ("BCGI") is a Massachusetts corporation with its principal place of business in Woburn, Massachusetts and is doing business in the State of Massachusetts and this judicial district.

5. Upon information and belief, defendant AT&T Wireless Services, Inc. ("AT&T Wireless") is a Delaware corporation with its principal place of business in Redmond, Washington and is doing business in the State of Massachusetts and this judicial district.

6. Upon information and belief, defendant AirTouch Communications, Inc., also known as AirTouch Cellular ("AirTouch"), is a California corporation with its principal place of business in Walnut Creek, California and is doing business in the State of Massachusetts and this judicial district.

7. Upon information and belief, defendant Alltel Corporation ("Alltel") is a Delaware corporation with its principal place of business in Little Rock, Arkansas and is doing business in the State of Massachusetts and this judicial district.

8. Upon information and belief, defendant Bell Atlantic Mobile, Inc., also known as Bell Atlantic NYNEX Mobile and BANM ("Bell Atlantic"), is a Delaware corporation with its principal place of business in Bedminster, New Jersey and is doing business in the State of Massachusetts and this judicial district.

9. Upon information and belief, defendant BellSouth Cellular Corp. ("BellSouth Cellular") is a Georgia corporation with its principal place of business in Atlanta, Georgia and is doing business in the State of Massachusetts and this judicial district.

10. Upon information and belief, defendant BellSouth Mobility, Inc. ("BellSouth Mobility") is a Georgia corporation with its principal place of business in Atlanta, Georgia and is doing business in the State of Massachusetts and this judicial district.

11. Upon information and belief, defendant CMT Partners, also known and doing business as Cellular One of San Francisco ("CMT Partners"), is a general partnership between Vodafone AirTouch Plc, of Newbury, England and AT&T Wireless Services, of Redmond, Washington, with its principal place of business in South San Francisco, California and is doing business in the State of Massachusetts and this judicial district.

12. Upon information and belief, defendant PrimeCo Personal Communications ("PrimeCo") was, at the time the Complaint was filed, a partnership between Vodafone AirTouch Plc, of Newbury, England and Bell Atlantic, of New Jersey, with its principal place of business in Westlake, Texas and was doing business in the State of Massachusetts and this judicial district.

13. Upon information and belief, defendant Rogers Wireless, Inc., also known as Rogers AT&T Wireless ("Rogers"), is a Canadian corporation with its principal place of business in Toronto, Ontario, Canada and is doing business in the State of Massachusetts and this judicial district.

14. Upon information and belief, defendant Southwestern Bell Mobile Systems, Inc. ("Southwestern Bell") is dually incorporated in Delaware and Virginia, with its principal place of business in Dallas, Texas, and is doing business in the State of Massachusetts and this judicial district.

15. Upon information and belief, defendant Western Wireless Corporation, also known and doing business as Cellular One ("Western Wireless"), is a Washington corporation with its principal place of business in Bellevue, Washington and is doing business in the State of Massachusetts and this judicial district.

16. Upon information and belief, defendant Celco Partnership, also known and doing business as Verizon Wireless ("Celco"), is a partnership between Vodafone AirTouch Plc (now known as Vodafone Group Plc), of Newbury, England, and Bell Atlantic Corporation, of New Jersey, with its principal place of business in Bedminster, New Jersey and is doing business in the State of Massachusetts and this judicial district. Certain operating units of Celco may be covered by a 1996 Settlement Agreement entered into between Cellexis International, Inc., on the

one hand, and GTE Corporation and GTE Mobilnet Service Corp., on the other hand. To the extent that the Settlement Agreement may preclude recovery of damages against GTE or GTE Partnerships as defined in that Settlement Agreement, plaintiff does not seek such recovery as against GTE or those GTE Partnerships.

17. Upon information and belief, defendant Cingular Wireless ("Cingular"), is a joint venture between the wireless divisions of SBC Communications, Inc., of San Antonio, Texas, and BellSouth Corporation of Atlanta, Georgia, with its principal place of business in Atlanta, Georgia and is doing business in the State of Massachusetts and this judicial district.

18. Freedom is unaware of the true names and capacities, whether individual, corporate, associate, or otherwise, of defendants Does 1 through 20, inclusive, or any of them, and therefore sues these defendants, and each of them, by such fictitious names. Freedom will seek leave of Court to amend this Complaint when the identities of these defendants are ascertained.

**FIRST CLAIM FOR RELIEF**

**(Patent Infringement -- 35 U.S.C. § 271(a)-(c))**

**(Against Defendants BCGI, AT&T Wireless, AirTouch, Alltel,**

**Bell Atlantic, BellSouth Cellular, BellSouth Mobility, CMT Partners,**

**Cellco, Cingular, PrimeCo, Rogers, Southwestern Bell, and Western Wireless)**

19. Freedom realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 18 above, as though set forth at length.

20. Freedom is the assignee and owner of United States Patent No. 5,722,067 (the "'067 patent") entitled "Security Cellular Telecommunications System," a copy of which is attached to this Complaint as Exhibit 1. The '067 patent was duly and legally issued by the United States Patent and Trademark Office on February 24, 1998.

21. The '067 patent relates to, among other things, a novel cellular telecommunications system that allows pre-paid users to complete cellular telephone calls without the necessity of entering additional account codes and further allows account usage to be monitored in real time so that usage may be terminated upon exhaustion of a pre-paid account.

22. On information and belief, the market for such pre-paid cellular telecommunications systems and services will be in excess of \$20 billion.

23. Defendants are not licensed or otherwise authorized by Freedom to make, use, offer for sale, or sell any telecommunications system or method claimed in the '067 patent.

24. Upon information and belief, defendants have been and are infringing the '067 patent by making, using, offering for sale, and selling in the District of Massachusetts and elsewhere pre-paid cellular programs and systems that utilize telecommunications systems and methods claimed in the '067 patent, including the Boston Communications Group C2C Wireless Prepaid System.

25. Upon information and belief, defendants are aiding and abetting, and actively inducing and contributing to infringement of the '067 patent by each other defendant and by nonparties.

26. By reason of defendants' infringing activities, Freedom has suffered, and will continue to suffer, substantial damages, in an amount to be proven at trial.

27. Defendants' acts complained of herein have damaged and will continue to damage Freedom irreparably. Freedom has no adequate remedy at law for these wrongs and injuries. Freedom is therefore entitled to an injunction restraining and enjoining defendants and their agents, servants, and employees, and all persons acting thereunder, in concert with, or on their behalf, from infringing the claims of the '067 patent.

28. Upon information and belief, defendants' infringement has been and continues to be willful.

**SECOND CLAIM FOR RELIEF**

**(Patent Infringement -- 35 U.S.C. § 271(a)-(c))**

**(Against Defendants BCGI, AT&T Wireless, AirTouch, Alltel,**

**BellSouth Cellular, BellSouth Mobility, CMT Partners,**

**Cellco, Cingular, Rogers, Southwestern Bell and Western Wireless)**

29. Freedom realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 28 above, as though set forth at length.

30. Freedom is the assignee and owner of United States Patent No. 6,157,823 (the "'823 patent") entitled "Security Cellular Telecommunications System," a copy of which is attached to this Complaint as Exhibit 2. The '823 patent was duly and legally issued by the United States Patent and Trademark Office on December 5, 2000.

31. The '823 patent relates to, among other things, a novel cellular telecommunications system that allows pre-paid users to complete cellular telephone calls

without the necessity of entering additional account codes and further allows account usage to be monitored in real time so that usage may be terminated upon exhaustion of a pre-paid account. In addition, certain claims in the '823 patent are directed to additional aspects of the inventions described in the '067 patent, including without limitation, techniques for processing incoming calls to a subscriber to a pre-paid cellular service.

32. On information and belief, the market for such pre-paid cellular telecommunications systems and services will be in excess of \$20 billion.

33. Defendants are not licensed or otherwise authorized by Freedom to make, use, offer for sale, or sell any telecommunications system or method claimed in the '823 patent.

34. Upon information and belief, defendants have been and are infringing the '823 patent by making, using, offering for sale, and selling in the District of Massachusetts and elsewhere pre-paid cellular programs and systems that utilize telecommunications systems and methods claimed in the '823 patent, including the Boston Communications Group C2C Wireless Prepaid System.

35. Upon information and belief, defendants are aiding and abetting, and actively inducing and contributing to infringement of the '823 patent by each other defendant and by nonparties.

36. By reason of defendants' infringing activities, Freedom has suffered, and will continue to suffer, substantial damages, in an amount to be proven at trial.

37. Defendants' acts complained of herein have damaged and will continue to damage Freedom irreparably. Freedom has no adequate remedy at law for these wrongs and injuries. Freedom is therefore entitled to an injunction restraining and enjoining defendants and their



agents, servants, and employees, and all persons acting thereunder, in concert with, or on their behalf, from infringing the claims of the '823 patent.

38. Upon information and belief, defendants' infringement has been and continues to be willful.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Freedom prays for judgment in favor of plaintiff and against defendants as follows:

- A. That United States Patent No. 5,722,067 is valid and enforceable;
- B. That United States Patent No. 6,157,823 is valid and enforceable;
- C. That defendants have infringed and are infringing United States Patent No. 5,722,067 and that such infringement is willful;
- D. That defendants have infringed and are infringing United States Patent No. 6,157,823 and that such infringement is willful;
- E. That defendants and their officers, agents, representatives, servants, and employees and all persons in active concert or participation with them be enjoined from continued infringement of United States Patent 5,722,067;
- F. That defendants and their officers, agents, representatives, servants, and employees and all persons in active concert or participation with them be enjoined from continued infringement of United States Patent 6,157,823;
- G. That defendants be ordered to pay Freedom its damages caused by defendants' infringement of United States Patent No. 5,722,067, and that such damages be trebled, together with interest thereon;

H. That defendants be ordered to pay Freedom its damages caused by defendants' infringement of United States Patent No. 6,157,823, and that such damages be trebled, together with interest thereon;

I. That this case be declared exceptional pursuant to 35 U.S.C. § 285 and that Freedom be awarded its reasonable attorneys' fees and costs; and

J. That Freedom have such other and further relief as the Court deems just and proper.

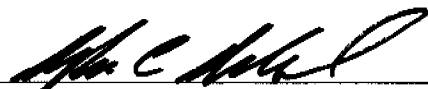
### **JURY TRIAL DEMAND**

Freedom demands a trial by jury on all issues so triable raised herein.

FREEDOM WIRELESS, INC.,

By its attorneys,

Dated: March 1, 2001

  
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