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ATTORNEYS FOR *Plaintiff High Point SARL*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

HIGH POINT SARL,

Plaintiff,

v.

T-MOBILE USA INC.

Defendant.

C.A. No.: _____

DEMAND FOR JURY TRIAL

COMPLAINT

For its Complaint, Plaintiff High Point SARL, through its undersigned counsel, hereby alleges as follows:

THE PARTIES

1. Plaintiff High Point SARL (“High Point”) is a corporation organized and existing under the laws of Luxembourg having a principal place of business at 65, Boulevard Grande-Duchesse Charlotte, L-1331, Luxembourg.

2. On information and belief, Defendant T-Mobile USA Inc. (“T-Mobile”) has its headquarters in Bellevue, Washington and is a corporation organized and existing under the laws of the State of Delaware.

3. T-Mobile is a wireless network communications services provider that provides mobile wireless telecommunications services in 48 states, including New Jersey. T-Mobile provides approximately 33.6 million connections to mobile wireless devices and, in 2010, generated approximately \$18.7 billion in revenue. T-Mobile is a wholly owned subsidiary of Deutsche Telekom AG.

4. T-Mobile is registered to do business in New Jersey and is doing business in New Jersey, including via numerous T-Mobile stores located throughout the State, via its products being on sale at hundreds of retail locations in the State, via the provision of cellular services to many thousands of wireless telephone customers throughout the State, and via the use and operation of extensive cellular network infrastructure equipment at cell sites and/or switching stations located in the State. T-Mobile has designated Corporation Service Company (830 Bear Tavern Road, West Trenton, NJ 08628) as its agent for service of process in New Jersey

5. On information and belief, T-Mobile, either directly or indirectly through its agents, subsidiaries, and affiliates, assembles, uses and operates a wireless network throughout the United States and in this judicial district. T-Mobile controls and directs the activities of its agents, subsidiaries, and affiliates in making, using, and operating its wireless network.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this patent infringement action under 28 U.S.C. §§ 1331 and 1338, and pursuant to the patent laws of the United States, 35 U.S.C. § 100 et seq.

7. This Court has personal jurisdiction over T-Mobile because: (a) it has consented to personal jurisdiction in New Jersey by registering to do business in New Jersey and designating an agent for service of process in New Jersey, (b) it has engaged in substantial, continuous, and systematic activities in New Jersey, including doing business in New Jersey, and/or (c) it has engaged in conduct in New Jersey, including making and operating a wireless network and providing related wireless services in New Jersey, that has caused the tortious injury in this district that gives rise to the claims asserted in this action.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

THE PATENTS AT ISSUE

9. The United States Patent and Trademark Office duly and legally issued United States Patent No. 5,195,090 (the “ ‘090 patent”) entitled, “Wireless Access Telephone-to-telephone Network Interface Architecture” on March 16, 1993. The ‘090 patent generally discloses and recites, *inter alia*, methods for transporting wireless-call traffic in a wireless-access communications system. The ‘090 patent is attached as Exhibit A to this Complaint. High Point is the assignee of the ‘090 patent.

10. The United States Patent and Trademark Office duly and legally issued United States Patent No. 5,305,308 (the “ ‘308 patent”) entitled, “Wireless Access Telephone-to-telephone Network Interface Architecture” on April 19, 1994. The ‘308 patent generally discloses and recites, *inter alia*, methods for switching wireless-call traffic in a wireless-access communication system. The ‘308 patent is attached as

Exhibit B to this Complaint. High Point is the assignee of the '308 patent.

11. The United States Patent and Trademark Office duly and legally issued United States Patent No. 5,184,347 (the " '347 patent") entitled, "Adaptive Synchronization Arrangement" on February 2, 1993. The '347 patent generally discloses and recites, *inter alia*, methods for operating a communications system. The '347 patent is attached as Exhibit C to this Complaint. High Point is the assignee of the '347 patent.

12. The United States Patent and Trademark Office duly and legally issued United States Patent No. 5,195,091 (the " '091 patent") titled, "Adaptive Synchronization Arrangement" on March 16, 1993. The '091 patent generally discloses and recites, *inter alia*, methods for operating a communications system. The '091 patent is attached as Exhibit D to this Complaint. High Point is the assignee of the '091 patent.

13. T-Mobile has had notice of the patents-in-suit since at least March 2008. In particular, by letter dated March 17, 2008, High Point provided T-Mobile with actual notice of the patents-in-suit. After it received no response from T-Mobile, High Point provided further notice to Sprint of the patents-in-suit by letter dated May 28, 2008.

COUNT I
(Infringement of the '090 Patent)

14. High Point hereby incorporates paragraphs 1 to 12 above as if fully set forth herein.

15. T-Mobile has infringed the '090 patent by assembling, using and putting into service in the United States certain wireless telecommunications networks and services, including without limitation, by operating those networks and providing those services as taught and claimed in the '090 patent.

16. T-Mobile's infringement of the '090 patent has damaged High Point.

17. High Point provided notice of infringement of the '090 patent to T-Mobile. Thereafter, T-Mobile continued to infringe the '090 patent. On information and belief, T-Mobile's infringement of the '090 patent has been willful.

COUNT II
(Infringement of the '308 Patent)

18. High Point hereby incorporates paragraphs 1 to 16 above as if fully set forth herein.

19. T-Mobile has infringed the '308 patent by assembling, using and putting into service in the United States certain wireless networks and services, including without limitation, by operating those networks and providing those services as taught and claimed in the '308 patent.

20. T-Mobile's infringement of the '308 patent has damaged High Point.

21. High Point provided notice of infringement of the '308 patent to T-Mobile. Thereafter, T-Mobile continued to infringe the '308 patent. On information and belief, T-Mobile's infringement of the '308 patent has been willful.

COUNT III
(Infringement of the '347 Patent)

22. High Point hereby incorporates paragraphs 1 to 20 above as if fully set forth herein.

23. T-Mobile has infringed the '347 patent by assembling, using and putting into service in the United States certain wireless networks and services, including without limitation, by operating those networks and providing those services as taught and

claimed in the '347 patent.

24. T-Mobile's infringement of the '347 patent has damaged High Point.

25. High Point provided notice of infringement of the '347 patent to T-Mobile. Thereafter, T-Mobile continued to infringe the '347 patent. On information and belief, T-Mobile's infringement of the '347 patent has been willful.

**COUNT IV
(Infringement of the '091 Patent)**

26. High Point hereby incorporates paragraphs 1 to 24 above as if fully set forth herein.

27. T-Mobile has infringed the '091 patent by assembling, using and putting into service in the United States certain wireless networks and services, including without limitation, by operating those networks and providing those services as taught and claimed in the '091 patent.

28. T-Mobile's infringement of the '091 patent has damaged High Point.

29. High Point provided notice of infringement of the '091 patent to T-Mobile. Thereafter, T-Mobile continued to infringe the '091 patent. On information and belief, T-Mobile's infringement of the '091 patent has been and continues to be willful.

PRAYER FOR RELIEF

30. Plaintiff High Point respectfully requests that the Court enter judgment in its favor and against T-Mobile, and that the Court grant High Point the following specific forms of relief:

a. a declaration that T-Mobile has infringed the '090, '308, '347, and '091 patents;

- b. actual damages for all infringing activities occurring in the six years prior to the filing of this complaint, in an amount not less than a reasonable royalty under 35 U.S.C. § 284;
- c. treble damages under 35 U.S.C. § 284;
- d. interest and costs under 35 U.S.C. § 284;
- e. a declaration that this is an exceptional case under 35 U.S.C. § 285 and an award of attorneys' fees; and
- f. all such other and further relief as the Court deems appropriate under law, based on the facts complained of herein, and as determined by the Court.

DEMAND FOR JURY TRIAL

31. High Point hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

DECHERT LLP

s/ Robert D. Rhoad

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Dated: March 8, 2012

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

Pursuant to L. Civ. R. 11.2, I hereby certify that, to the best of my knowledge, information and belief, the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding. I do note, however, that the Plaintiff in this action is also the plaintiff in a civil action encaptioned *High Point SARL v. Sprint Nextel Corporation, et al.*, C.A. 09-cv-02269-CM-DJW, pending in the United States District Court for the District of Kansas, which involves claims of patent infringement against unrelated third parties with respect to the same patents that are at issue in this action.

Date: March 8, 2012

By: _____ s/ Robert D. Rhoad