

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

ENTERPRISE SYSTEMS TECHNOLOGIES  
S.a.r.l.,

Plaintiff,

V.

AMAZON.COM INC., ET AL.,  
Defendants.

Case No. 6:14-cv-00553  
CONSOLIDATED ACTION

## Jury Trial Demanded

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**  
**AGAINST THE MOTOROLA DEFENDANTS**

Enterprise Systems Technologies S.a.r.l. (“Enterprise” or “Plaintiff”), for its First Amended Complaint against Motorola Mobility Holdings Inc. and Motorola Mobility LLC (collectively, “Motorola” or “Defendant”), hereby alleges as follows:

## THE PARTIES

1. Enterprise is a foreign corporation organized under the laws of Luxembourg, located at 296-298 route de Longwy, Grand-Duche de Luxembourg.

2. Motorola Mobility Holdings Inc. is a Delaware corporation headquartered at 600 N. U.S. Highway 45, Libertyville, IL 60048. Motorola Mobility Holdings Inc. is in the business of directly or indirectly designing, making, selling in the United States, selling in the United States after importation and importing into the United States a variety of communications or computing devices and messaging and telephony devices that are manufactured outside of the United States including, but not limited to, mobile telephone handsets, media players and tablet computers and components thereof. Motorola Mobility Holdings Inc. is the parent corporation of Motorola Mobility LLC.

3. Motorola Mobility LLC is a Delaware limited liability corporation headquartered at 600 N. U.S. Highway 45, Libertyville, IL 60048. Motorola Mobility LLC is a wholly owned subsidiary of Motorola Mobility Holdings Inc., and is in the business of directly or indirectly designing, making, selling in the United States, selling in the United States after importation, importing into the United States, and instructing purchasers on the use of a variety of communications or computing devices that are manufactured outside of the United States including, but not limited to, mobile telephone handsets and components thereof. On information and belief, Motorola Mobility LLC provides a variety of these products to customers throughout North America.

#### **NATURE OF THE ACTION**

4. This is a civil action for the infringement of United States Patent No. 5,870,610 (the “’610 Patent”)(attached as Exhibit A) entitled “Autoconfigurable method and system having automated downloading”; United States Patent No. 7,454,201 (the “’201 Patent”)(attached as Exhibit B) entitled “System for providing message services through a private network and mobile station”; United States Patent No. 6,691,302 (“the ’302 Patent”) (attached as Exhibit C) entitled “Interfacing a Service Component to a Native API”; and United States Patent No. 5,995,594 (“the ’594 Patent”) (attached as Exhibit D) entitled “System and method for message notification in a multimedia messaging system” (collectively, the “Patents-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1, *et. seq.*

5. Enterprise is the lawful assignee and owner of all right, title and interest in and to the Patents-in-Suit.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 1338(a) because this lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101, *et seq.*

7. This Court has personal jurisdiction over Motorola Mobility Holdings Inc. because, upon information and belief, Motorola Mobility Holdings Inc. has committed acts within the Eastern District of Texas giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Motorola Mobility Holdings Inc. would not offend traditional notions of fair play and substantial justice. Motorola Mobility Holdings Inc., directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has committed and continues to commit acts of infringement in this District by among other things offering to sell and selling products that infringe the asserted patents.

8. This Court has personal jurisdiction over Motorola Mobility LLC because, upon information and belief, Motorola Mobility LLC has committed acts within the Eastern District of Texas giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Motorola Mobility LLC would not offend traditional notions of fair play and substantial justice. Motorola Mobility LLC, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has committed and continues to commit acts of infringement in this District by among other things offering to sell and selling products that infringe the asserted patents.

9. Venue in this district is proper under 28 U.S.C. §§ 1400(b) and 1391(b) and (c), because Motorola is subject to personal jurisdiction in this district and has committed acts of infringement in this District. Motorola makes, uses, and/or sells infringing products within the

Eastern District of Texas, has continuing presence within the District, and has the requisite minimum contacts with the District such that this venue is a fair and reasonable one. Upon information and belief, Motorola has transacted and, at the time of the filing of this First Amended Complaint, is continuing to transact business within the District.

**COUNT I**  
**(Motorola's Infringement of the '610 Patent)**

10. Paragraphs 1 through 9 are incorporated by reference as if fully restated herein.

11. Enterprise is the assignee and lawful owner of all right, title and interest in and to the '610 Patent.

12. The '610 Patent is valid and enforceable.

13. Motorola makes, uses, sells, offers to sell, and/or imports into the United States for subsequent sale or use products, services, methods, or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or which employ systems, components, and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '610 Patent. Such devices are communications or computing devices, or components thereof, including but not limited to smartphone handsets, tablet computers, laptop computers, and other communication- and/or computing-capable consumer electronic devices and components thereof, such as Motorola's Moto G device and other similar devices embodying the '610 Patent.

14. Motorola actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce infringement of the '610 Patent by making, using, offering for sale, importing, and selling infringing communications or computing devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing communications or computing devices, all with knowledge of the '610 Patent and its claims;

with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing communications or computing devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing communications or computing devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

15. Motorola has also contributed to the infringement of others, including the end users of infringing communications or computing devices, and continues to contribute to infringement by others, by selling, offering to sell, and importing the infringing communications or computing devices into the United States, knowing that those products constitute a material part of the inventions of the '610 Patent, knowing those products to be especially made or adapted to infringe the '610 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. For example, Motorola employs autoconfiguration means in its communications or computing devices, which are components of a device covered by one or more claims of the '610 Patent, constitute a material part of the invention, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

16. Motorola has had knowledge of and notice of the '610 Patent and its infringement since at least, and through, the filing and service of the original Complaint.

17. Motorola has continues to infringe one or more of the claims of the '610 Patent through the aforesaid acts.

18. Enterprise is entitled to recover damages adequate to compensate for Motorola's infringement.

**COUNT II**  
**(Motorola's Infringement of the '201 Patent)**

19. Paragraphs 1 through 18 are incorporated by reference as if fully restated herein.

20. Enterprise is the assignee and lawful owner of all right, title and interest in and to the '201 Patent.

21. The '201 Patent is valid and enforceable.

22. Motorola makes, uses, sells, offers to sell, and/or imports into the United States for subsequent sale or use products, services, methods, or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or which employ systems, components, and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '201 Patent. Such devices are communications or computing devices, or components thereof, including for example but without limitation, smartphone handsets, tablet computers, laptop computers, and other communication- and/or computing-capable consumer electronic devices, such as Motorola's Moto G device and other similar devices embodying the '201 Patent.

23. Motorola actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce infringement of the '201 Patent by making, using, offering for sale, importing, and selling infringing communications or computing devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing communications or computing devices, all with knowledge of the '201 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing communications or computing devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing communications or

computing devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

24. Motorola has also contributed to the infringement of others, including the end users of infringing communications or computing devices, and continues to contribute to infringement by others, by selling, offering to sell, and importing the infringing communications or computing devices into the United States, knowing that those products constitute a material part of the inventions of the '201 Patent, knowing those products to be especially made or adapted to infringe the '201 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. For example, Motorola employs user identifiers in its communications or computing devices, which are components of a device covered by one or more claims of the '201 Patent, constitute a material part of the invention, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

25. Motorola has had knowledge of and notice of the '201 Patent and its infringement since at least, and through, the filing and service of the original Complaint.

26. Motorola has and continues to infringe one or more of the claims of the '201 Patent through the aforesaid acts.

27. Enterprise is entitled to recover damages adequate to compensate for Motorola's infringement.

**COUNT III**  
**(Motorola's Infringement of the '302 Patent)**

28. Paragraphs 1 through 27 are incorporated by reference as if fully restated herein.

29. Enterprise is the assignee and lawful owner of all right, title and interest in and to the '302 Patent.

30. The '302 Patent is valid and enforceable.

31. Motorola makes, uses, sells, offers to sell, and/or imports into the United States for subsequent sale or use products, services, methods, or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or which employ systems, components, and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '302 Patent. Such devices are communications or computing devices, or components thereof, including for example but without limitation, smartphone handsets, tablet computers, laptop computers, and other communication- and/or computing-capable consumer electronic devices, such as Motorola's Moto G device and other similar devices embodying the '302 Patent.

32. Motorola actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce infringement of the '302 Patent by making, using, offering for sale, importing, and selling infringing communications or computing devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing communications or computing devices, all with knowledge of the '302 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing communications or computing devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing communications or computing devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

33. Motorola has also contributed to the infringement of others, including the end users of infringing communications or computing devices, and continues to contribute to infringement by others, by selling, offering to sell, and importing the infringing communications

or computing devices into the United States, knowing that those products constitute a material part of the inventions of the '302 Patent, knowing those products to be especially made or adapted to infringe the '302 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. For example, Motorola employs configured interface modules in its communications or computing devices, which are components of a device covered by one or more claims of the '302 Patent, constitute a material part of the invention, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

34. Motorola has had knowledge of and notice of the '302 Patent and its infringement since at least, and through, the filing and service of the original Complaint.

35. Motorola has and continues to infringe one or more of the claims of the '302 Patent through the aforesaid acts.

36. Enterprise is entitled to recover damages adequate to compensate for Motorola's infringement.

**COUNT IV**  
**(Motorola's Infringement of the '594 Patent)**

37. Paragraphs 1 through 36 are incorporated by reference as if fully restated herein.

38. Enterprise is the assignee and lawful owner of all right, title and interest in and to the '594 Patent.

39. The '594 Patent is valid and enforceable.

40. Motorola makes, uses, sells, offers to sell, and/or imports into the United States for subsequent sale or use products, services, methods, or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or which employ systems, components, and/or processes that make use of systems or processes that directly and/or

indirectly infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '594 Patent. Such devices are communications or computing devices, or components thereof, including for example but without limitation, smartphone handsets, tablet computers, e-readers, media players, laptop computers, and other communication- and/or computing-capable consumer electronic devices, such as Motorola's Moto X device and other similar devices embodying the '594 Patent.

41. Motorola actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce infringement of the '594 Patent by making, using, offering for sale, importing, and selling infringing communications or computing devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing communications or computing devices, all with knowledge of the '594 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing communications or computing devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing communications or computing devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

42. Motorola has also contributed to the infringement of others, including the end users of infringing communications or computing devices, and continues to contribute to infringement by others, by selling, offering to sell, and importing the infringing communications or computing devices into the United States, knowing that those products constitute a material part of the inventions of the '594 Patent, knowing those products to be especially made or adapted to infringe the '594 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. For example, Motorola

employs repeating notification methods in its communications or computing devices, which are components of a device covered by one or more claims of the '594 Patent, constitute a material part of the invention, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

43. Motorola has had knowledge of and notice of the '594 Patent and its infringement since at least, and through, the filing and service of the Complaint.

44. Motorola has and continues to infringe one or more of the claims of the '594 Patent through the aforesaid acts.

45. Enterprise is entitled to recover damages adequate to compensate for Motorola's infringement.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

- a) A judgment that the '610 Patent, the '201 Patent, the '302 Patent, and the '594 Patent are valid and enforceable.
- b) A judgment that Defendant has infringed, contributorily infringed, and/or induced infringement of one or more claims of the '610 Patent;
- c) A judgment that Defendant has infringed, contributorily infringed, and/or induced infringement of one or more claims of the '201 Patent;
- d) A judgment that Defendant has infringed, contributorily infringed, and/or induced infringement of one or more claims of the '302 Patent;
- e) A judgment that Defendant has infringed, contributorily infringed, and/or induced infringement of one or more claims of the '594 Patent; and

f) A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendant's past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Plaintiff for Defendant's infringement, an accounting:

- i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Plaintiff be awarded its reasonable attorneys' fees against Defendant that it incurs in prosecuting this action;
- ii. that Plaintiff be awarded costs, and expenses that it incurs in prosecuting this action; and
- iii. that Plaintiff be awarded such further relief at law or in equity as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands trial by jury on all claims and issues so triable.

DATED: July 24, 2014

Respectfully submitted,

/s/ James M. Wodarski (w/permission Claire  
A. Henry)

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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email on this the 24th day of July, 2014.

/s/ Claire A. Henry