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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

SPH AMERICA, LLC,  
  
Plaintiff,  
  
vs.

HUAWEI TECHNOLOGIES, CO.,  
LTD., FUTUREWEI  
TECHNOLOGIES, INC., HUAWEI  
DEVICE USA, INC.,  
  
Defendants.

Case No. 13-CV-2323-CAB-NLS

**SUPPLEMENTAL FIRST  
AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

**Jury Trial Demanded**

RUSS, AUGUST & KABAT

1 This is an action for patent infringement arising under the Patent Laws of the  
2 United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff SPH America,  
3 LLC (“SPH” or “Plaintiff”) makes the following allegations against Defendants  
4 Huawei Technologies, Co., Ltd., Futurewei Technologies, Inc., and Huawei Device  
5 USA, Inc. (collectively “Huawei” or “Defendants”).

6 **I. PARTIES**

7 1. Plaintiff SPH America, LLC is a Virginia limited liability company  
8 having a principal place of business at 8133 Leesburg Pike, Suite 310, Vienna,  
9 Virginia 22182.

10 2. On information and belief, Defendant Huawei Technologies, Co., Ltd.  
11 is a Chinese corporation with its principal place of business in Shenzhen, China.  
12 On information and belief, Defendant Futurewei Technologies, Inc. is a Delaware  
13 corporation with its principal place of business at 5700 Tennyson Parkway, Suite  
14 #500, Plano, Texas, 75024. On information and belief, Defendant Huawei Device  
15 USA, Inc. is a Texas corporation with its principal place of business at 5700  
16 Tennyson Parkway, Suite #600, Plano, Texas 75024. On information and belief,  
17 all three defendants are wholly-owned subsidiaries of Huawei Investment &  
18 Holding Co., Ltd.

19 **II. JURISDICTION AND VENUE**

20 3. This action arises under the patent laws of the United States, Title 35  
21 of the United States Code. This Court has original subject matter jurisdiction  
22 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

23 4. On information and belief, Defendants are subject to this Court's  
24 specific and general personal jurisdiction pursuant to due process and/or the  
25 California Long Arm Statute, due to having availed themselves of the rights and  
26 benefits of California by engaging in activities, including: (i) conducting  
27 substantial business in this forum; and (ii) engaging in other persistent courses of  
28

1 conduct, and/or deriving substantial revenue from goods and services provided to  
2 individuals in California and in this Judicial District.

3 5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c)  
4 and 1400(b). On information and belief, Defendants have engaged in activities  
5 including: transacting business in this district and purposefully directing its  
6 business activities, including the sale of infringing goods, to this district.

7 **COUNT I**

8 **INFRINGEMENT OF U.S. PATENT NO. RE 40,385**

9 6. Plaintiff SPH realleges and incorporates by reference paragraphs 1-5  
10 above, as if fully set forth herein.

11 7. Plaintiff SPH is the exclusive licensee of United States Patent No. RE  
12 40,385 (“the ‘385 patent”) titled “Orthogonal Complex Spreading Method For  
13 Multichannel And Apparatus Thereof.” The ‘385 patent was duly and legally  
14 issued by the United States Patent and Trademark Office on June 17, 2008. SPH is  
15 the exclusive licensee, possessing all substantial rights, to the ‘385 patent pursuant  
16 to a license from the Electronics and Telecommunications Research Institute, a  
17 South Korean non-profit research organization, the owner of the ‘385 patent.

18 8. On information and belief, Huawei makes and sells mobile handsets  
19 for use on a wireless network.

20 9. On information and belief, Huawei has infringed and continues to  
21 infringe the ‘385 patent by, among other things, making, using, offering for sale,  
22 and/or selling unlicensed systems, and products and/or services related thereto,  
23 covered by one or more claims of the ‘385 patent. Such unlicensed products  
24 include, by way of example and without limitation, the T-Mobile Prism II, the  
25 Premia 4G, and the Pinnacle 2 devices, all of which are covered by one or more  
26 claims of the ‘385 patent, including but not limited to claim 31. By making, using,  
27 offering for sale, and/or selling such systems, and products and/or services related  
28 thereto, covered by one or more claims of the ‘385 patent, Huawei has injured SPH

1 and is liable to SPH for infringement of the '385 patent pursuant to 35 U.S.C. §  
2 271.

3 10. Huawei was placed on notice of its infringement of the '385 Patent no  
4 later than approximately July 2009 as a result of a complaint filed by SPH alleging  
5 infringement of the '385 patent by Huawei. Though that action was subsequently  
6 dismissed without prejudice as to Huawei, it placed Huawei on notice of its  
7 infringing activities.

8 11. On information and belief, Huawei has also infringed the '385 patent  
9 by inducing others, including users of its wireless handsets, to infringe one or more  
10 claims of the '385 patent in violation of 35 U.S.C. § 271(b).

11 12. On information and belief, Huawei takes active steps to induce its  
12 customers to infringe the '385 patent by taking affirmative steps to encourage and  
13 facilitate direct infringement by others with knowledge of that infringement, such  
14 as, upon information and belief, by importing, offering for sale, and/or selling  
15 products and/or services that when used as intended infringe the '385 patent. For  
16 example, and without limitation, on information and belief, Huawei advertises that  
17 customers can utilize mobile devices to communicate using its network services for  
18 3G communications enabled pursuant to CDMA2000 technology or WCDMA  
19 technology. Since at least the time of prior complaint in July 2009, Huawei has  
20 had actual knowledge of the '385 patent and that the use of products and services  
21 by its customers constituted direct infringement of the '385 patent. Despite this  
22 knowledge, Huawei has continued to offer its infringing products, to facilitate and  
23 encourage infringing use of its products, and to encourage its customers to use its  
24 products and services in a manner that infringes the '385 patent.

25 13. On information and belief, Huawei has also infringed the '385 patent  
26 by contributing to the infringement of others, including users of its handsets, to  
27 infringe one or more claims of the '385 patent in violation of 35 U.S.C. § 271(c).  
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1           14. On information and belief, Huawei sells devices that are a component  
2 of the patented invention of the '385 patent or an apparatus for use in practicing a  
3 patented process of the '385 patent and they are especially made or especially  
4 adapted for use in infringement of the '385 patent. In particular, the mobile  
5 handsets sold and offered for sale by Huawei are apparatus for use in practicing  
6 one or more claimed processes of the '385 patent and are especially made or  
7 especially adapted for use in practicing one or more claimed processes of the '385  
8 patent, including through use in communications using CDMA2000 technology or  
9 WCDMA technology. Huawei sold these devices despite its knowledge that they  
10 were especially made or especially adapted for use in infringement of the '385  
11 patent. Huawei was put on notice of the infringing nature of these goods since at  
12 least the time of SPH's prior complaint in July 2009.

13           15. Huawei undertook its actions of, *inter alia*, making, using, offering for  
14 sale, and/or selling unlicensed systems, and products and/or services related thereto  
15 despite an objectively high likelihood that such activities infringed the '385 patent,  
16 which has been duly issued by the United States Patent and Trademark Office, and  
17 is presumed valid. Since at least the time of the 2009 complaint, Huawei has been  
18 aware of an objectively high likelihood that its actions constituted, and continue to  
19 constitute, infringement of the '385 patent and that the '385 patent is valid.  
20 Despite that knowledge, on information and belief, Huawei has continued its  
21 infringing activities. As such, Huawei willfully infringed the '385 patent.

22           16. As a result of Huawei's infringement of the '385 patent, Plaintiff SPH  
23 has suffered monetary damages and is entitled to a money judgment in an amount  
24 adequate to compensate for Huawei's infringement, but in no event less than a  
25 reasonable royalty for the use made of the invention by Huawei, enhancement of  
26 damages due to Huawei's willful infringement, and interest and costs as fixed by  
27 the Court.  
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**COUNT II****INFRINGEMENT OF U.S. PATENT NO. RE 40,253**

17. Plaintiff SPH realleges and incorporates by reference paragraphs 1-16 above, as if fully set forth herein.

18. Plaintiff SPH is the exclusive licensee of United States Patent No. RE 40,253 (“the ‘253 patent”) titled “Apparatus For Making A Random Access To the Reverse Common Channel Of A Base Station In CDMA And Method Therefor.” The ‘253 patent was duly and legally issued by the United States Patent and Trademark Office on April 22, 2008. SPH is the exclusive licensee, possessing all substantial rights, to the ‘253 patent pursuant to a license from the Electronics and Telecommunications Research Institute, a South Korean non-profit research organization, the owner of the ‘253 patent.

19. On information and belief, Huawei makes and sells mobile handsets for use on a wireless network.

20. On information and belief, Huawei has infringed and continues to infringe the ‘253 patent by, among other things, making, using, offering for sale, and/or selling unlicensed systems, and products and/or services related thereto, covered by one or more claims of the ‘253 patent. Such unlicensed products include, by way of example and without limitation, the T-Mobile Prism II, the Premia 4G, and the Pinnacle 2 devices, which are covered by one or more claims of the ‘253 patent, including but not limited to claim 34. By making, using, offering for sale, and/or selling such systems, and products and/or services related thereto, covered by one or more claims of the ‘253 patent, Huawei has injured SPH and is liable to SPH for infringement of the ‘253 patent pursuant to 35 U.S.C. § 271.

21. Huawei was placed on notice of its infringement of the ‘253 Patent no later than approximately July 2009 as a result of a complaint filed by SPH alleging infringement of the ‘253 patent by Huawei. Though that action was subsequently

1 dismissed without prejudice as to Huawei, it placed Huawei on notice of its  
2 infringing activities.

3 22. On information and belief, Huawei has also infringed the ‘253 patent  
4 by inducing others, including users of its wireless handsets, to infringe one or more  
5 claims of the ‘253 patent in violation of 35 U.S.C. § 271(b).

6 23. On information and belief, Huawei takes active steps to induce its  
7 customers to infringe the ‘253 patent by taking affirmative steps to encourage and  
8 facilitate direct infringement by others with knowledge of that infringement, such  
9 as, upon information and belief, by importing, offering for sale, and/or selling  
10 products and/or services that when used as intended infringe the ‘253 patent. For  
11 example, and without limitation, on information and belief, Huawei advertises that  
12 customers can utilize its mobile devices for 3G communications enabled pursuant  
13 to WCDMA technology. Since at least the time of SPH’s prior complaint in July  
14 2009, Huawei has had actual knowledge of the ‘253 patent and that the use of  
15 products and services by its customers constituted direct infringement of the ‘253  
16 patent. Despite this knowledge, Huawei has continued to offer its infringing  
17 products, to facilitate and encourage infringing use of its products, and to  
18 encourage its customers to use its products and services in a manner that infringes  
19 the ‘253 patent.

20 24. On information and belief, Huawei has also infringed the ‘253 patent  
21 by contributing to the infringement of others, including users of its wireless  
22 handsets, to infringe one or more claims of the ‘253 patent in violation of 35  
23 U.S.C. § 271(c).

24 25. On information and belief, Huawei sells devices that are a component  
25 of the patented invention of the ‘253 patent or an apparatus for use in practicing a  
26 patented process of the ‘253 patent and they are especially made or especially  
27 adapted for use in infringement of the ‘253 patent. In particular, the mobile  
28 handsets sold and offered for sale by Huawei are apparatus for use in practicing



1 one or more claimed processes of the ‘253 patent and are especially made or  
2 especially adapted for use in practicing one or more claimed processes of the ‘253  
3 patent, including through use in communications using WCDMA technology.  
4 Huawei sold these unlicensed devices despite its knowledge that they were  
5 especially made or especially adapted for use in infringement of the ‘253 patent.  
6 Huawei was put on notice of the infringing nature of these goods since at least the  
7 time of SPH’s prior complaint in July 2009.

8 26. Huawei undertook its actions of, *inter alia*, making, using, offering for  
9 sale, and/or selling unlicensed systems, and products and/or services related thereto  
10 despite an objectively high likelihood that such activities infringed the ‘253 patent,  
11 which has been duly issued by the United States Patent and Trademark Office, and  
12 is presumed valid. Since at least the time of SPH’s prior complaint in July 2009,  
13 Huawei has been aware of an objectively high likelihood that its actions  
14 constituted, and continue to constitute, infringement of the ‘253 patent and that the  
15 ‘253 patent is valid. Despite that knowledge, on information and belief, Huawei  
16 has continued its infringing activities. As such, Huawei willfully infringed the  
17 ‘253 patent.

18 27. As a result of Huawei’s infringement of the ‘253 patent, Plaintiff SPH  
19 has suffered monetary damages and is entitled to a money judgment in an amount  
20 adequate to compensate for Huawei’s infringement, but in no event less than a  
21 reasonable royalty for the use made of the invention by Huawei, enhancement of  
22 damages due to Huawei’s willful infringement, and interest and costs as fixed by  
23 the Court.

### 24 COUNT III

#### 25 INFRINGEMENT OF U.S. PATENT NO. 7,443,906

26 28. Plaintiff SPH realleges and incorporates by reference paragraphs 1-27  
27 above, as if fully set forth herein.  
28



29. Plaintiff SPH is the exclusive licensee of United States Patent No. 7,443,906 (“the ‘906 patent”) titled “Apparatus and Method For Modulating Data Message by Employing Orthogonal Variable Spreading Factor (OVSF) Codes In Mobile Communication System.” The ‘906 patent was duly and legally issued by the United States Patent and Trademark Office on October 28, 2008. SPH is the exclusive licensee, possessing all substantial rights, to the ‘906 patent pursuant to a license from the Electronics and Telecommunications Research Institute, a South Korean non-profit research organization, the owner of the ‘906 patent.

30. On information and belief, Huawei makes and sells mobile handsets for use on a wireless network.

31. On information and belief, Huawei has infringed and continues to infringe the ‘906 patent by, among other things, making, using, offering for sale, and/or selling unlicensed systems, and products and/or services related thereto, covered by one or more claims of the ‘906 patent. Such unlicensed products include, by way of example and without limitation, the T-Mobile Prism II, the Premia 4G, and the Pinnacle 2 devices, which are covered by one or more claims of the ‘906 patent, including but not limited to claim 14. By making, using, offering for sale, and/or selling such systems, and products and/or services related thereto, covered by one or more claims of the ‘906 patent, Huawei has injured SPH and is liable to SPH for infringement of the ‘906 patent pursuant to 35 U.S.C. § 271.

32. Huawei was placed on notice of its infringement of the ‘906 Patent no later than approximately July 2009 as a result of a complaint filed by SPH alleging infringement of the ‘906 patent by Huawei. Though that action was subsequently dismissed without prejudice as to Huawei, it placed Huawei on notice of its infringing activities.

1           33. On information and belief, Huawei has also infringed the ‘906 patent  
2 by inducing others, including users of its wireless handsets to infringe one or more  
3 claims of the ‘906 patent in violation of 35 U.S.C. § 271(b).

4           34. On information and belief, Huawei takes active steps to induce its  
5 customers to infringe the ‘906 patent by taking affirmative steps to encourage and  
6 facilitate direct infringement by others with knowledge of that infringement, such  
7 as, upon information and belief, by importing, offering for sale, and/or selling  
8 products and/or services that when used as intended infringe the ‘906 patent. For  
9 example, and without limitation, on information and belief, Huawei advertises that  
10 customers can utilize its mobile devices to communicate using 3G communications  
11 enabled pursuant to WCDMA technology. Since at least the time of SPH’s prior  
12 complaint in July 2009, Huawei has had actual knowledge of the ‘906 patent and  
13 that the use of products and services by its customers constituted direct  
14 infringement of the ‘906 patent. Despite this knowledge, Huawei has continued to  
15 offer its infringing products, to facilitate and encourage infringing use of its  
16 products, and to encourage its customers to use its products and services in a  
17 manner that infringes the ‘906 patent.

18           35. On information and belief, Huawei has also infringed the ‘906 patent  
19 by contributing to the infringement of others, including users of its wireless  
20 handsets, to infringe one or more claims of the ‘906 patent in violation of 35  
21 U.S.C. § 271(c).

22           36. On information and belief, Huawei sells devices that are a component  
23 of the patented invention of the ‘906 patent or an apparatus for use in practicing a  
24 patented process of the ‘906 patent and they are especially made or especially  
25 adapted for use in infringement of the ‘906 patent. In particular, the unlicensed  
26 mobile handsets sold and offered for sale by Huawei are apparatus for use in  
27 practicing one or more claimed processes of the ‘906 patent and are especially  
28 made or especially adapted for use in practicing one or more claimed processes of

1 the '906 patent, including through use in communications using WCDMA  
2 technology. Huawei sold these unlicensed devices despite its knowledge that they  
3 were especially made or especially adapted for use in infringement of the '906  
4 patent. Huawei was put on notice of the infringing nature of these goods since at  
5 least the time of SPH's prior complaint in July 2009.

6 37. Huawei undertook its actions of, *inter alia*, making, using, offering for  
7 sale, and/or selling unlicensed systems, and products and/or services related thereto  
8 despite an objectively high likelihood that such activities infringed the '906 patent,  
9 which has been duly issued by the United States Patent and Trademark Office, and  
10 is presumed valid. Since at least the time of SPH's prior complaint in July 2009,  
11 Huawei has been aware of an objectively high likelihood that its actions  
12 constituted, and continue to constitute, infringement of the '906 patent and that the  
13 '906 patent is valid. Despite that knowledge, on information and belief, Huawei  
14 has continued its infringing activities. As such, Huawei willfully infringed the  
15 '906 patent.

16 38. As a result of Huawei's infringement of the '906 patent, Plaintiff SPH  
17 has suffered monetary damages and is entitled to a money judgment in an amount  
18 adequate to compensate for Huawei's infringement, but in no event less than a  
19 reasonable royalty for the use made of the invention by Huawei, enhancement of  
20 damages due to Huawei's willful infringement, and interest and costs as fixed by  
21 the Court.

#### 22 COUNT IV

#### 23 INFRINGEMENT OF U.S. PATENT NO. 5,960,029

24 39. Plaintiff SPH realleges and incorporates by reference paragraphs 1-38  
25 above, as if fully set forth herein.

26 40. Plaintiff SPH is the exclusive licensee of United States Patent No.  
27 5,960,029 ("the '029 patent") titled "Coherent Dual-Channel QPSK  
28 Modulator/Demodulator For CDMA Systems, And Modulating/Demodulating

1 Methods Therefor.” The ‘029 patent was duly and legally issued by the United  
2 States Patent and Trademark Office on September 28, 1999. SPH is the exclusive  
3 licensee, possessing all substantial rights, to the ‘029 patent pursuant to a license  
4 from the Electronics and Telecommunications Research Institute, a South Korean  
5 non-profit research organization, the owner of the ‘029 patent.

6 41. On information and belief, Huawei makes and sells mobile handsets  
7 for use on a wireless network.

8 42. On information and belief, Huawei has infringed and continues to  
9 infringe the ‘029 patent by, among other things, making, using, offering for sale,  
10 and/or selling unlicensed systems, and products and/or services related thereto,  
11 covered by one or more claims of the ‘029 patent. Such unlicensed products  
12 include, by way of example and without limitation, the T-Mobile Prism II, the  
13 Premia 4G, and the Pinnacle 2 devices, all of which are covered by one or more  
14 claims of the ‘029 patent, including but not limited to claim 1. By making, using,  
15 offering for sale, and/or selling such systems, and products and/or services related  
16 thereto, covered by one or more claims of the ‘029 patent, Huawei has injured SPH  
17 and is liable to SPH for infringement of the ‘029 patent pursuant to 35 U.S.C. §  
18 271.

19 43. Huawei was placed on notice of its infringement of the ‘029 Patent no  
20 later than approximately July 2009 as a result of a complaint filed by SPH alleging  
21 infringement of the ‘029 patent by Huawei. Though that action was subsequently  
22 dismissed without prejudice as to Huawei, it placed Huawei on notice of its  
23 infringing activities.

24 44. On information and belief, Huawei has also infringed the ‘029 patent  
25 by inducing others, including users of its wireless handsets to infringe one or more  
26 claims of the ‘029 patent in violation of 35 U.S.C. § 271(b).

27 45. On information and belief, Huawei takes active steps to induce its  
28 customers to infringe the ‘029 patent by taking affirmative steps to encourage and

1 facilitate direct infringement by others with knowledge of that infringement, such  
2 as, upon information and belief, by importing, offering for sale, and/or selling  
3 products and/or services that when used as intended infringe the '029 patent. For  
4 example, and without limitation, on information and belief, Huawei advertises that  
5 customers can utilize its mobile devices to communicate using 3G communications  
6 enabled pursuant to CDMA 2000 technology or WCDMA technology. Since at  
7 least time of SPH's prior complaint in July 2009, Huawei has had actual  
8 knowledge of the '029 patent and that the use of products and services by its  
9 customers constituted direct infringement of the '029 patent. Despite this  
10 knowledge, Huawei has continued to offer its infringing products, to facilitate and  
11 encourage infringing use of its products, and to encourage its customers to use its  
12 products and services in a manner that infringes the '029 patent.

13 46. On information and belief, Huawei has also infringed the '029 patent  
14 by contributing to the infringement of others, including users of unlicensed  
15 wireless handsets, to infringe one or more claims of the '029 patent in violation of  
16 35 U.S.C. § 271(c).

17 47. On information and belief, Huawei sells devices that are a component  
18 of the patented invention of the '029 patent or an apparatus for use in practicing a  
19 patented process of the '029 patent and they are especially made or especially  
20 adapted for use in infringement of the '029 patent. In particular, the unlicensed  
21 mobile handsets sold and offered for sale by Huawei are apparatus for use in  
22 practicing one or more claimed processes of the '029 patent and are especially  
23 made or especially adapted for use in practicing one or more claimed processes of  
24 the '029 patent, including through use in communications using CDMA2000  
25 technology or WCDMA technology. Huawei sold these unlicensed devices despite  
26 its knowledge that they were especially made or especially adapted for use in  
27 infringement of the '029 patent. Huawei was put on notice of the infringing nature  
28 of these goods since at least the time of SPH's prior complaint in July 2009.

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1           52. On information and belief, Huawei makes and sells mobile handsets  
2 for use on a wireless network.

3           53. On information and belief, Huawei has infringed and continues to  
4 infringe the '173 patent by, among other things, making, using, offering for sale,  
5 and/or selling unlicensed systems, and products and/or services related thereto,  
6 covered by one or more claims of the '173 patent. Such unlicensed products  
7 include, by way of example and without limitation, the T-Mobile Prism II, the  
8 Premia 4G, and the Pinnacle 2 devices, which are covered by one or more claims  
9 of the '173 patent, including but not limited to claim 1. By making, using, offering  
10 for sale, and/or selling such systems, and products and/or services related thereto,  
11 covered by one or more claims of the '173 patent, Huawei has injured SPH and is  
12 liable to SPH for infringement of the '173 patent pursuant to 35 U.S.C. § 271.

13           54. As a result of Huawei's infringement of the '173 patent, Plaintiff SPH  
14 has suffered monetary damages and is entitled to a money judgment in an amount  
15 adequate to compensate for Huawei's infringement, but in no event less than a  
16 reasonable royalty for the use made of the invention by Huawei, and interest and  
17 costs as fixed by the Court.

18           55. Huawei was placed on notice of its infringement of the '173 Patent no  
19 later than the filing of the initial complaint in this matter specifically identifying  
20 the '173 Patent and informing Huawei of its infringing conduct.

21           56. On information and belief, Huawei has also infringed the '173 patent  
22 by inducing others, including users of its wireless handsets, to infringe one or more  
23 claims of the '173 patent in violation of 35 U.S.C. § 271(b).

24           57. On information and belief, Huawei takes active steps to induce its  
25 customers and network users to infringe the '173 patent by taking affirmative steps  
26 to encourage and facilitate direct infringement by others with knowledge of that  
27 infringement, such as, upon information and belief, by importing, offering for sale,  
28 and/or selling products and/or services that when used as intended infringe the



1 ‘173 patent. For example, and without limitation, on information and belief,  
2 Huawei advertises that customers can utilize its mobile devices to communicate  
3 using 3G communications enabled pursuant to WCDMA technology. Since at  
4 least the filing of the initial complaint in this matter, Huawei has had actual  
5 knowledge of the ‘173 patent and that the use of products and services by its  
6 customers constituted direct infringement of the ‘173 patent. Despite this  
7 knowledge, Huawei has continued to offer these services, to facilitate and  
8 encourage infringing use of its services, and to encourage its customers to use  
9 products and services from Huawei in a manner that infringes the ‘173 patent.

10 58. On information and belief, Huawei has also infringed the ‘173 patent  
11 by contributing to the infringement of others, including users of its wireless  
12 handsets, to infringe one or more claims of the ‘173 patent in violation of 35  
13 U.S.C. § 271(c).

14 59. On information and belief, Huawei sells devices that are a component  
15 of the patented invention of the ‘173 patent or an apparatus for use in practicing a  
16 patented process of the ‘173 patent and they are especially made or especially  
17 adapted for use in infringement of the ‘173 patent. In particular, the unlicensed  
18 mobile handsets sold and offered for sale by Huawei are apparatus for use in  
19 practicing one or more claimed processes of the ‘173 patent and are especially  
20 made or especially adapted for use in practicing one or more claimed processes of  
21 the ‘173 patent, including through use in communications using WCDMA  
22 technology. Huawei sold these unlicensed devices despite its knowledge that they  
23 were especially made or especially adapted for use in infringement of the ‘173  
24 patent. Huawei was put on notice of the infringing nature of these goods since at  
25 least the time of the filing of the initial complaint in this matter.

26 60. Huawei undertook its actions of, *inter alia*, making, using, offering for  
27 sale, and/or selling unlicensed systems, and products and/or services related thereto  
28 despite an objectively high likelihood that such activities infringed the ‘173 patent,

1 which has been duly issued by the United States Patent and Trademark Office, and  
 2 is presumed valid. Since at least the time of the initial filing of this action, Huawei  
 3 has been aware of an objectively high likelihood that its actions constituted, and  
 4 continue to constitute, infringement of the ‘173 patent and that the ‘173 patent is  
 5 valid. Despite that knowledge, on information and belief, Huawei has continued  
 6 its infringing activities. As such, Huawei willfully infringed the ‘173 patent.

7 61. As a result of Huawei’s indirect infringement of the ‘173 patent,  
 8 Plaintiff SPH has suffered monetary damages and is entitled to a money judgment  
 9 in an amount adequate to compensate for Huawei’s infringement, but in no event  
 10 less than a reasonable royalty for the use made of the invention by Huawei,  
 11 enhancement of damages due to Huawei’s willful infringement, and interest and  
 12 costs as fixed by the Court.

### 13 **COUNT VI**

#### 14 **INFRINGEMENT OF U.S. PATENT NO. RE 44,507**

15 62. Plaintiff SPH realleges and incorporates by reference paragraphs 1-61  
 16 above, as if fully set forth herein.

17 63. Plaintiff SPH is the exclusive licensee of United States Patent No. RE  
 18 44,507 (“the ‘507 patent”) titled “Orthogonal Complex Spreading Method for  
 19 Multichannel and Apparatus Thereof.” The ‘507 patent was duly and legally  
 20 issued by the United States Patent and Trademark Office on September 24, 2013.  
 21 SPH is the exclusive licensee, possessing all substantial rights, to the ‘507 patent  
 22 pursuant to a license from the Electronics and Telecommunications Research  
 23 Institute, a South Korean non-profit research organization, the owner of the ‘507  
 24 patent.

25 64. On information and belief, Huawei makes and sells mobile handsets  
 26 for use on a wireless network.

27 65. On information and belief, Huawei has infringed and continues to  
 28 infringe the ‘507 patent by, among other things, making, using, offering for sale,

1 and/or selling unlicensed systems, and products and/or services related thereto,  
2 covered by one or more claims of the ‘507 patent. Such unlicensed products  
3 include, by way of example and without limitation, the T-Mobile Prism II, the  
4 Premia 4G, and the Pinnacle 2 devices, all of which are covered by one or more  
5 claims of the ‘507 patent, including but not limited to claim 104. By making,  
6 using, offering for sale, and/or selling such systems, and products and/or services  
7 related thereto, covered by one or more claims of the ‘507 patent, Huawei has  
8 injured SPH and is liable to SPH for infringement of the ‘507 patent pursuant to 35  
9 U.S.C. § 271.

10 66. As a result of Huawei’s infringement of the ‘507 patent, Plaintiff SPH  
11 has suffered monetary damages and is entitled to a money judgment in an amount  
12 adequate to compensate for Huawei’s infringement, but in no event less than a  
13 reasonable royalty for the use made of the invention by Huawei, and interests and  
14 costs as fixed by the Court.

15 67. Huawei was placed on notice of its infringement of the ‘507 Patent no  
16 later than the filing of the first amended complaint in this matter specifically  
17 identifying the ‘507 Patent and informing Huawei of its infringing conduct.

18 68. On information and belief, Huawei has also infringed the ‘507 patent  
19 by inducing others, including users of its wireless handsets, to infringe one or more  
20 claims of the ‘507 patent in violation of 35 U.S.C. § 271(b).

21 69. On information and belief, Huawei takes active steps to induce its  
22 customers and network users to infringe the ‘507 patent by taking affirmative steps  
23 to encourage and facilitate direct infringement by others with knowledge of that  
24 infringement, such as, upon information and belief, by importing, offering for sale,  
25 and/or selling products and/or services that when used as intended infringe the  
26 ‘507 patent. For example, and without limitation, on information and belief,  
27 Huawei advertises that customers can utilize its mobile devices to communicate  
28 using 3G communications enabled pursuant to WCDMA technology. Since at

1 least the filing of the first amended complaint in this matter, Huawei has had actual  
2 knowledge of the '507 patent and that the use of products and services by its  
3 customers constituted direct infringement of the '507 patent. Despite this  
4 knowledge, Huawei has continued to offer these services, to facilitate and  
5 encourage infringing use of its services, and to encourage its customers to use  
6 products and services from Huawei in a manner that infringes the '507 patent.

7 70. On information and belief, Huawei has also infringed the '507 patent  
8 by contributing to the infringement of others, including users of its wireless  
9 handsets, to infringe one or more claims of the '507 patent in violation of 35  
10 U.S.C. § 271(c).

11 71. On information and belief, Huawei sells devices that are a component  
12 of the patented invention of the '507 patent or an apparatus for use in practicing a  
13 patented process of the '507 patent and they are especially made or especially  
14 adapted for use in infringement of the '507 patent. In particular, the unlicensed  
15 mobile handsets sold and offered for sale by Huawei are apparatus for use in  
16 practicing one or more claimed processes of the '507 patent and are especially  
17 made or especially adapted for use in practicing one or more claimed processes of  
18 the '507 patent, including through use in communications using WCDMA  
19 technology. Huawei sold these unlicensed devices despite its knowledge that they  
20 were especially made or especially adapted for use in infringement of the '507  
21 patent. Huawei was put on notice of the infringing nature of these goods since at  
22 least the time of the filing of the initial complaint in this matter.

23 72. Huawei undertook its actions of, *inter alia*, making, using, offering for  
24 sale, and/or selling unlicensed systems, and products and/or services related thereto  
25 despite an objectively high likelihood that such activities infringed the '507 patent,  
26 which has been duly issued by the United States Patent and Trademark Office, and  
27 is presumed valid. Since at least the time of the filing of the first amended  
28 complaint in this action, Huawei has been aware of an objectively high likelihood

1 that its actions constituted, and continue to constitute, infringement of the ‘507  
2 patent and that the ‘507 patent is valid. Despite that knowledge, on information  
3 and belief, Huawei has continued its infringing activities. As such, Huawei  
4 willfully infringed the ‘507 patent.

5 73. As a result of Huawei’s indirect infringement of the ‘507 patent,  
6 Plaintiff SPH has suffered monetary damages and is entitled to a money judgment  
7 in an amount adequate to compensate for Huawei’s infringement, but in no event  
8 less than a reasonable royalty for the use made of the invention by Huawei,  
9 enhancement of damages due to Huawei’s willful infringement, and interest and  
10 costs as fixed by the Court.

## 11 **COUNT VII**

### 12 **INFRINGEMENT OF U.S. PATENT NO. RE 44,530**

13 74. Plaintiff SPH realleges and incorporates by reference paragraphs 1-73  
14 above, as if fully set forth herein.

15 75. Plaintiff SPH is the exclusive licensee of United States Patent No. RE  
16 44,530 (“the ‘530 patent”) titled “Apparatus for Making a Random Access to the  
17 Reverse Common Channel of a Base Station in CDMA and Method Therefor.”  
18 The ‘530 patent was duly and legally issued by the United States Patent and  
19 Trademark Office on October 8, 2013. SPH is the exclusive licensee, possessing  
20 all substantial rights, to the ‘530 patent pursuant to a license from the Electronics  
21 and Telecommunications Research Institute, a South Korean non-profit research  
22 organization, the owner of the ‘530 patent.

23 76. On information and belief, Huawei makes and sells mobile handsets  
24 for use on a wireless network.

25 77. On information and belief, Huawei has infringed and continues to  
26 infringe the ‘530 patent by, among other things, making, using, offering for sale,  
27 and/or selling unlicensed systems, and products and/or services related thereto,  
28 covered by one or more claims of the ‘530 patent. Such unlicensed products

1 include, by way of example and without limitation, the T-Mobile Prism II, the  
2 Premia 4G, and the Pinnacle 2 devices, all of which are covered by one or more  
3 claims of the ‘507 patent, including but not limited to claim 222. By making,  
4 using, offering for sale, and/or selling such systems, and products and/or services  
5 related thereto, covered by one or more claims of the ‘530 patent, Huawei has  
6 injured SPH and is liable to SPH for infringement of the ‘530 patent pursuant to 35  
7 U.S.C. § 271.

8 78. As a result of Huawei’s infringement of the ‘530 patent, Plaintiff SPH  
9 has suffered monetary damages and is entitled to a money judgment in an amount  
10 adequate to compensate for Huawei’s infringement, but in no event less than a  
11 reasonable royalty for the use made of the invention by Huawei, and interests and  
12 costs as fixed by the Court.

13 79. Huawei was placed on notice of its infringement of the ‘530 Patent no  
14 later than the filing of the first amended complaint in this matter specifically  
15 identifying the ‘530 Patent and informing Huawei of its infringing conduct.

16 80. On information and belief, Huawei has also infringed the ‘530 patent  
17 by inducing others, including users of its wireless handsets to infringe one or more  
18 claims of the ‘530 patent in violation of 35 U.S.C. § 271(b).

19 81. On information and belief, Huawei takes active steps to induce its  
20 customers and network users to infringe the ‘530 patent by taking affirmative steps  
21 to encourage and facilitate direct infringement by others with knowledge of that  
22 infringement, such as, upon information and belief, by importing, offering for sale,  
23 and/or selling products and/or services that when used as intended infringe the  
24 ‘530 patent. For example, and without limitation, on information and belief,  
25 Huawei advertises that customers can utilize its mobile devices to communicate  
26 using 3G communications enabled pursuant to WCDMA technology. Since at  
27 least the filing of the first amended complaint in this matter, Huawei has had actual  
28 knowledge of the ‘530 patent and that the use of products and services by its

1 customers constituted direct infringement of the ‘530 patent. Despite this  
2 knowledge, Huawei has continued to offer these services, to facilitate and  
3 encourage infringing use of its services, and to encourage its customers to use  
4 products and services from Huawei in a manner that infringes the ‘530 patent.

5 82. On information and belief, Huawei has also infringed the ‘530 patent  
6 by contributing to the infringement of others, including users of its wireless  
7 handsets, to infringe one or more claims of the ‘530 patent in violation of 35  
8 U.S.C. § 271(c).

9 83. On information and belief, Huawei sells devices that are a component  
10 of the patented invention of the ‘530 patent or an apparatus for use in practicing a  
11 patented process of the ‘530 patent and they are especially made or especially  
12 adapted for use in infringement of the ‘530 patent. In particular, the unlicensed  
13 mobile handsets sold and offered for sale by Huawei are apparatus for use in  
14 practicing one or more claimed processes of the ‘530 patent and are especially  
15 made or especially adapted for use in practicing one or more claimed processes of  
16 the ‘530 patent, including through use in communications using WCDMA  
17 technology. Huawei sold these unlicensed devices despite its knowledge that they  
18 were especially made or especially adapted for use in infringement of the ‘530  
19 patent. Huawei was put on notice of the infringing nature of these goods since at  
20 least the time of the filing of the initial complaint in this matter.

21 84. Huawei undertook its actions of, *inter alia*, making, using, offering for  
22 sale, and/or selling unlicensed systems, and products and/or services related thereto  
23 despite an objectively high likelihood that such activities infringed the ‘530 patent,  
24 which has been duly issued by the United States Patent and Trademark Office, and  
25 is presumed valid. Since at least the time of the filing of the first amended  
26 complaint in this action, Huawei has been aware of an objectively high likelihood  
27 that its actions constituted, and continue to constitute, infringement of the ‘530  
28 patent and that the ‘530 patent is valid. Despite that knowledge, on information



1 and belief, Huawei has continued its infringing activities. As such, Huawei  
2 willfully infringed the ‘530 patent.

3 85. As a result of Huawei’s indirect infringement of the ‘530 patent,  
4 Plaintiff SPH has suffered monetary damages and is entitled to a money judgment  
5 in an amount adequate to compensate for Huawei’s infringement, but in no event  
6 less than a reasonable royalty for the use made of the invention by Huawei,  
7 enhancement of damages due to Huawei’s willful infringement, and interest and  
8 costs as fixed by the Court.

9 **COUNT VIII**

10 **INFRINGEMENT OF U.S. PATENT NO. 8,565,346**

11 86. Plaintiff SPH realleges and incorporates by reference paragraphs 1-85  
12 above, as if fully set forth herein.

13 87. Plaintiff SPH is the exclusive licensee of United States Patent No.  
14 8,565,346 (“the ‘346 patent”) titled “Apparatus for Transmitting and Receiving  
15 Data to Provide High-Speed Data Communication and Method Thereof.” The  
16 ‘346 patent was duly and legally issued by the United States Patent and Trademark  
17 Office on October 22, 2013. SPH is the exclusive licensee, possessing all  
18 substantial rights, to the ‘346 patent pursuant to a license from the Electronics and  
19 Telecommunications Research Institute, a South Korean non-profit research  
20 organization, the owner of the ‘346 patent.

21 88. On information and belief, Huawei makes and sells mobile handsets  
22 capable of wireless local area network connectivity.

23 89. On information and belief, Huawei has infringed and continues to  
24 infringe the ‘346 patent by, among other things, making, using, offering for sale,  
25 and/or selling unlicensed systems, and products and/or services related thereto,  
26 covered by one or more claims of the ‘346 patent. Such unlicensed products  
27 include, by way of example and without limitation, the T-Mobile Prism II and the  
28 Premia 4G devices, which are covered by one or more claims of the ‘346 patent,

1 including but not limited to claim 1. By making, using, offering for sale, and/or  
2 selling such systems, and products and/or services related thereto, covered by one  
3 or more claims of the '346 patent, Huawei has injured SPH and is liable to SPH for  
4 infringement of the '346 patent pursuant to 35 U.S.C. § 271.

5 90. As a result of Huawei's infringement of the '346 patent, Plaintiff SPH  
6 has suffered monetary damages and is entitled to a money judgment in an amount  
7 adequate to compensate for Huawei's infringement, but in no event less than a  
8 reasonable royalty for the use made of the invention by Huawei, and interests and  
9 costs as fixed by the Court.

10 91. Huawei was placed on notice of its infringement of the '346 Patent no  
11 later than the filing of the first amended complaint in this matter specifically  
12 identifying the '346 Patent and informing Huawei of its infringing conduct.

13 92. On information and belief, Huawei has also infringed the '346 patent  
14 by inducing others, including users of unlicensed wireless handsets to infringe one  
15 or more claims of the '346 patent in violation of 35 U.S.C. § 271(b).

16 93. On information and belief, Huawei takes active steps to induce its  
17 customers to infringe the '346 patent by taking affirmative steps to encourage and  
18 facilitate direct infringement by others with knowledge of that infringement, such  
19 as, upon information and belief, by importing, offering for sale, and/or selling  
20 products and/or services that when used as intended infringe the '346 patent. For  
21 example, and without limitation, on information and belief, Huawei advertises that  
22 customers can utilize mobile devices to communicate using WiFi communications  
23 protocols. Since at least the filing of the first amended complaint in this matter,  
24 Huawei has had actual knowledge of the '346 patent and that the use of products  
25 and services by its customers constituted direct infringement of the '346 patent.  
26 Despite this knowledge, Huawei has continued to offer these services, to facilitate  
27 and encourage infringing use of its services, and to encourage its customers to use  
28 products and services from Huawei in a manner that infringes the '346 patent.

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1           99. As a result of Huawei's infringement of the '231 patent, Plaintiff SPH  
2 has suffered monetary damages and is entitled to a money judgment in an amount  
3 adequate to compensate for Huawei's infringement, but in no event less than a  
4 reasonable royalty for the use made of the invention by Huawei, and interests and  
5 costs as fixed by the Court.

6           100. Huawei was placed on notice of its infringement of the '231 Patent no  
7 later than the filing of the first amended complaint in this matter specifically  
8 identifying the '231 Patent and informing Huawei of its infringing conduct.

9           101. On information and belief, Huawei has also infringed the '231 patent  
10 by inducing others, including users of unlicensed wireless handsets to infringe one  
11 or more claims of the '231 patent in violation of 35 U.S.C. § 271(b).

12           102. On information and belief, Huawei takes active steps to induce its  
13 customers to infringe the '231 patent by taking affirmative steps to encourage and  
14 facilitate direct infringement by others with knowledge of that infringement, such  
15 as, upon information and belief, by importing, offering for sale, and/or selling  
16 products and/or services that when used as intended infringe the '231 patent. For  
17 example, and without limitation, on information and belief, Huawei advertises that  
18 customers can utilize mobile devices to communicate using WiFi communications  
19 protocols. Since at least the filing of the first amended complaint in this matter,  
20 Huawei has had actual knowledge of the '231 patent and that the use of products  
21 and services by its customers constituted direct infringement of the '231 patent.  
22 Despite this knowledge, Huawei has continued to offer these services, to facilitate  
23 and encourage infringing use of its services, and to encourage its customers to use  
24 products and services from Huawei in a manner that infringes the '231 patent.

25           103. On information and belief, Huawei has also infringed the '231 patent  
26 by contributing to the infringement of others, including users of unlicensed  
27 wireless handsets, to infringe one or more claims of the '231 patent in violation of  
28 35 U.S.C. § 271(c).

1           104. On information and belief, Huawei sells devices that are a component  
2 of the patented invention of the ‘231 patent or an apparatus for use in practicing a  
3 patented process of the ‘231 patent and they are especially made or especially  
4 adapted for use in infringement of the ‘231 patent. In particular, the unlicensed  
5 mobile handsets sold and offered for sale by Huawei are apparatus for use in  
6 practicing one or more claimed processes of the ‘231 patent and are especially  
7 made or especially adapted for use in practicing one or more claimed processes of  
8 the ‘231 patent, including through use in communications using WiFi  
9 communications protocols. Huawei sold these unlicensed devices despite its  
10 knowledge that they were especially made or especially adapted for use in  
11 infringement of the ‘231 patent. Huawei was put on notice of the infringing nature  
12 of these goods since at least the time of the filing of the initial complaint in this  
13 matter.

14           105. Huawei undertook its actions of, *inter alia*, making, using, offering for  
15 sale, and/or selling unlicensed systems, and products and/or services related thereto  
16 despite an objectively high likelihood that such activities infringed the ‘231 patent,  
17 which has been duly issued by the United States Patent and Trademark Office, and  
18 is presumed valid. Since at least the time of the filing of the first amended  
19 complaint in this action, Huawei has been aware of an objectively high likelihood  
20 that its actions constituted, and continue to constitute, infringement of the ‘231  
21 patent and that the ‘231 patent is valid. Despite that knowledge, on information  
22 and belief, Huawei has continued its infringing activities. As such, Huawei  
23 willfully infringed the ‘231 patent.

24           106. As a result of Huawei’s indirect infringement of the ‘231 patent,  
25 Plaintiff SPH has suffered monetary damages and is entitled to a money judgment  
26 in an amount adequate to compensate for Huawei’s infringement, but in no event  
27 less than a reasonable royalty for the use made of the invention by Huawei,  
28

enhancement of damages due to Huawei's willful infringement, and interest and costs as fixed by the Court.

### III. PRAYER FOR RELIEF

WHEREFORE, Plaintiff SPH respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff SPH that Huawei has infringed, either literally and/or under the doctrine of equivalents, the '385 patent, the '253 patent, the '906 patent, the '029 patent, the '173 patent, the '507 patent, the '530 patent, the '346 patent, and the '231 patent;

2. A judgment in favor of Plaintiff SPH that Huawei has induced infringement of the '385 patent, the '253 patent, the '906 patent, the '029 patent, the '173 patent, the '507 patent, the '530 patent, the '346 patent, and the '231 patent;

3. A judgment in favor of Plaintiff SPH that Huawei has contributed to the infringement of the '385 patent, the '253 patent, the '906 patent, the '029 patent, the '173 patent, the '507 patent, the '530 patent, the '346 patent, and the '231 patent;

4. A judgment in favor of Plaintiff SPH that Huawei has willfully infringed the '385 patent, the '253 patent, the '906 patent, the '029 patent, the '173 patent, the '507 patent, the '530 patent, the '346 patent, and the '231 patent;

5. A judgment and order requiring Huawei to pay Plaintiff SPH its damages, costs, expenses, and pre-judgment and post-judgment interest as provided under 35 U.S.C. § 284 for Huawei's infringement of the '385 patent, the '253 patent, the '906 patent, the '029 patent, the '173 patent, the '507 patent, the '530 patent, the '346 patent, and the '231 patent;

6. A judgment and order for treble damages pursuant to 35 U.S.C. § 284;

7. A judgment and order that this case is exceptional and requiring Huawei to pay Plaintiff SPH reasonable experts' fees and attorneys' fees pursuant to 35 U.S.C. § 285; and

8. Any and all other relief as the Court may deem appropriate and just under the circumstances.

**IV. DEMAND FOR JURY TRIAL**

Plaintiff SPH requests a trial by jury of any issues so triable.

DATED: June 27, 2014

RUSS, AUGUST & KABAT  
Larry C. Russ  
Marc A. Fenster  
Brian D. Ledahl  
Alexander C.D. Giza  
J. Power Hely VI

By: /s/ J. Power Hely VI  
J. Power Hely VI  
Attorneys for Plaintiff  
SPH America, LLC

RUSS, AUGUST & KABAT