

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FREQUENCY SYSTEMS, LLC,

Plaintiff,

v.

ZYXEL COMMUNICATIONS INC. &

ZYXEL COMMUNICATIONS CORPORATION,

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Frequency Systems, LLC (“Frequency” or “Plaintiff”) makes the following allegations against ZyXEL Communications Inc. and ZyXEL Communications Corporation (collectively “Defendants”).

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendants’ infringement of United States Patent No. 8,417,205 (the “205 Patent”) (“the Patent-in-Suit”).

PARTIES

1. Plaintiff Frequency is a Texas limited liability company with its principal place of business at 211 East Tyler Street, Suite 600-A, Longview, Texas 75601.

2. On information and belief, Defendant ZyXEL Communications Inc. is a California corporation with its principal place of business at 1130 North Miller Street, Anaheim, California 92806. On information and belief, ZyXEL Communications Inc. may be served with process 1130 North Miller Street, Anaheim, California 92806.

3. On information and belief, Defendant ZyXEL Communications Corporation is a corporation organized and existing under the laws of Taiwan, with its principal place of business at No.6 Innovation Road II, Science Park, Hsin-Chu,Taiwan (R.O.C.). Upon information and belief, ZyXEL Communications Corporation may be served with process at No.6 Innovation Road II, Science Park, Hsin-Chu,Taiwan (R.O.C.).

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over Defendants, including because Defendants have minimum contacts within the State of Texas and the Eastern District of Texas; Defendants have purposely availed themselves of the privileges of conducting business in the State of Texas and the Eastern District of Texas; Defendants regularly conduct business within the State of Texas and the Eastern District of Texas; and Plaintiff's cause of action arises directly from Defendants' business contacts and other activities in the State of Texas and the Eastern District of Texas.

6. On information and belief, within the State of Texas and the Eastern District of Texas, Defendants have made and/or used the patented invention with the wireless transceiver products identified herein below. In addition, on information and belief, Defendants have derived substantial revenues from their infringing activities within the State of Texas and the Eastern District of Texas.

7. More specifically, Defendants, directly and/or through intermediaries, make, distribute, import, offer for sale, sell, advertise, and/or use, wireless transceivers, including wireless access point or routing devices, including the accused products identified herein in the State of Texas and the Eastern District of Texas. Defendants have committed patent infringement in the State of Texas and the Eastern District of Texas, and/or have induced others to commit and/or have contributed to patent infringement in the State of Texas and the Eastern District of Texas. Defendants solicit customers in the State of Texas and the Eastern District of Texas. Defendants have paying customers who are residents of the State of Texas and the Eastern District of Texas and who purchase and/or use Defendants' infringing products and services in the State of Texas and the Eastern District of Texas.

8. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants have transacted business in this district, and have committed acts of patent infringement in this district.

COUNT 1: INFRINGEMENT OF U.S. PATENT NO. 8,417,205

9. Plaintiff is the owner by assignment of the '205 Patent entitled "Antenna Selection Scheme for Multiple Antennae" – including all rights to recover for past and future acts of infringement. The '205 Patent was issued on April 9, 2013. A true and correct copy of the '205 Patent is attached as Exhibit A.

10. On information and belief, Defendants have been and now are directly infringing the '205 Patent in this judicial district and elsewhere in the United States. Infringement by Defendants includes, without limitation, making, distributing, selling, advertising and/or using one or more wireless transceivers that, in order to mitigate signal deterioration during wireless communications, utilize a plurality of antennae from which an antenna or set of antennae

functioning as one must be selected to perform the wireless communication, using at least one quality indicator to determine which antenna(e) to utilize, including, without limitation, Defendants' wireless routing product families ("Accused Products"), infringing at least claim 1 of the '205 Patent. Defendants are thus liable for infringement of the '205 Patent under 35 U.S.C. § 271.

11. Each of Defendants' aforesaid activities has been without authority and/or license from Plaintiff.

12. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of Defendants' wrongful acts in an amount subject to proof at trial, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this court under 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

1. In favor of Plaintiff that Defendants have infringed the '205 Patent;
2. Requiring Defendants to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '205 Patent as provided under 35 U.S.C. § 284; and
3. Granting Plaintiff any and all other relief to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: May 8, 2015

Respectfully submitted,

By: /s/ Andrew W. Spangler
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