

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

ADAPTIX, INC.,  
Plaintiff,

v.

AT&T, INC. and AT&T MOBILITY, LLC  
Defendants.

Case No. 6:15-cv-00043

**AMENDED COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL REQUESTED**

**AMENDED COMPLAINT**

This is an action for patent infringement in which Plaintiff, ADAPTIX, Inc. (“ADAPTIX”), complains against Defendants, AT&T, Inc. and AT&T Mobility, LLC (together “Defendants” or “AT&T”), as follows:

**THE PARTIES**

1. ADAPTIX is a Delaware corporation with its principal place of business at 2400 Dallas Parkway, Suite 200, Plano, TX 75093.
2. AT&T, Inc. is a Delaware corporation with its principal place of business at 208 South Akard Street, Dallas, Texas 75202, and regularly does business in Texas and in this judicial district by, among other things, committing the infringing acts giving rise to this Complaint.
3. AT&T Mobility, LLC is a Delaware corporation with its principal place of business at Glenridge Highlands Two, 5565 Glenridge Connector, Atlanta, Georgia 30342, and regularly does business in this judicial district at 701 N. Central Expressway, Plano, Texas 75075 by, among other things, committing the infringing acts giving rise to this Complaint.

**JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, Title 35 of the United States Code, 35 U.S.C. §§ 101, *et seq.* This Court has subject matter jurisdiction pursuant to 28

U.S.C. §§ 1331 and 1338(a).

5. AT&T is subject to this Court's specific and general personal jurisdiction, pursuant to due process and/or the Texas Long Arm Statute.
6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b-c) and 1400(b) because AT&T, *inter alia*, regularly conducts business in and has committed the acts giving rise to this action within this judicial district.

### COUNT I

#### (INFRINGEMENT OF U.S. PATENT NO. 8,934,375)

7. ADAPTIX incorporates by reference paragraphs 1 through 6 herein.
8. This cause of action arises under the patent laws of United States of America and, in particular, 35 U.S.C. §§ 271 *et seq.*
9. ADAPTIX is the owner by assignment of United States Patent No. 8,934,375, entitled "OFDMA with Adaptive Subcarrier-Cluster Configuration and Selective Loading" ("the '375 Patent"), with ownership of all substantial rights in the '375 Patent, including the right to exclude others and to sue and recover damages for the past and future infringement thereof. A true and correct copy of the '375 Patent was attached as Exhibit A to the Original Complaint.
10. The '375 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.
11. AT&T has directly infringed and continues to directly infringe at least Claims 1 and 17 of the '375 Patent by, among other things, using, offering for sale and/or selling cellular communication devices, including without limitation the Amazon Fire Phone, Amazon Kindle Fire HD 8.9, Amazon Kindle Fire HDX 7, Apple iPad Air, Apple iPad Air 2, Apple

iPad Mini, Apple iPad Mini 3, Apple iPad Mini with Retina Display, Apple iPad with Retina Display (iPad 4), Apple iPhone 5, Apple iPhone 5c, Apple iPhone 5s, Apple iPhone 6, Apple iPhone 6 Plus, AT&T MiFi Liberate – Graphite, AT&T Z998 GoPhone, Dell Alienware Notebook M11xR3, Dell Inspiron 14Z 5423 (integrated with 5804 LTE Mobile Broadband Mini-Card, Dell Vostro Notebook V131, Dell XPS 10, HTC Desire 610, HTC Desire EYE, HTC First, HTC Jetstream (Puccini), HTC One (M7), HTC One (M8), HTC One M9, HTC One Mini, HTC One VX, HTC One X, HTC One X+ (HTC Era 42), HTC Titan II, HTC Vivid, Kyocera DuraForce, Lenovo Thinkpad Tablet 2, LG Adrenaline AD600, LG Escape P870, LG G Flex, LG G Flex 2, LG G Pad 7.0 LTE, LG G Vista, LG G2, LG G3, LG G 3 Vigor, LG Nitro HD, LG Optimus G, Novatel Wireless – MiFi Liberate (MiFi2), Panasonic Toughbook 19, Pantech Burst, Pantech Discover, Pantech Element, Pantech Flex, Sierra Wireless/Netgear AT&T Beam, Sierra Wireless/Netgear AT&T Unite, Sierra Wireless/Netgear AT&T Unite Pro, Sierra Wireless/Netgear Mobile Hotspot Elevate 4G (AirCard 754S), Sierra Wireless/Netgear Sierra Wireless – AirPrime EM7700, Sierra Wireless/Netgear USBConnect Momentum (AirCard 340U and 313U), Sonim XP6, Sony Vaio Duo 13, Sony Xperia ion, Sony Xperia TL, ZTE AT&T Velocity, ZTE Compel, ZTE Overture (Z995), and ZTE Z998 GoPhone (ZTE Unico LTE), for use on AT&T’s 4G LTE Wireless Network (“AT&T’s LTE network”), and by using its network to operate those devices. AT&T is thereby liable for infringement of the ‘375 Patent pursuant to 35 U.S.C. § 271(a).

12. AT&T has indirectly infringed and continues to indirectly infringe at least Claims 1 and 17 of the ‘375 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale selling, or importation of cellular

communication devices, including without limitation the devices listed in Paragraph 11 above, for use on AT&T's LTE network, and the use of those devices on its LTE network. AT&T's end users who purchase systems and components thereof and operate such systems and components in accordance with AT&T's instructions directly infringe one or more claims of the '375 Patent in violation of 35 U.S.C § 271. AT&T is thereby liable for infringement of the '375 Patent pursuant to 35 U.S.C. § 271(b).

13. AT&T has indirectly infringed and continues to indirectly infringe at least Claims 1 and 17 of the '375 Patent by, among other things, contributing to the direct infringement of others, including without limitation end users of its LTE network and cellular communication devices, including without limitation the devices listed in Paragraph 11 above, to be used on its LTE network, by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '375 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.
14. AT&T will have been on notice of the '375 Patent since, at the latest, the service of the Original Complaint. By the time of trial, AT&T will thus have known and intended (since receiving such notice), that its continued actions would actively induce and contribute to actual infringement of at least Claims 1 and 17 of the '375 Patent.
15. ADAPTIX has been reparably and irreparably damaged as a result of AT&T's infringing conduct described in this Count. AT&T is thus liable to ADAPTIX for an amount that adequately compensates ADAPTIX for AT&T's infringement, 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. Additionally, such irreparable damage will continue until AT&T is enjoined pursuant to 35 U.S.C. § 283.

**PRAYER FOR RELIEF**

Wherefore, ADAPTIX respectfully requests that this Court enter:

- A. Judgment in favor of ADAPTIX that AT&T has infringed the '375 Patent, directly and indirectly, as aforesaid;
- B. A permanent injunction enjoining AT&T, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or privity therewith from direct and/or indirect infringement of the '375 Patent pursuant to 35 U.S.C. § 283;
- C. An order requiring AT&T to pay ADAPTIX its damages with pre- and post-judgment interest thereon pursuant to 35 U.S.C. § 284;
- D. A determination that this case is exceptional pursuant to 35 U.S.C. § 285;
- E. An order awarding ADAPTIX its attorneys' fees and costs incurred herein pursuant to 35 U.S.C. § 287; and
- F. Any and all further relief to which the Court may deem ADAPTIX entitled.

**DEMAND FOR JURY TRIAL**

ADAPTIX hereby requests a trial by jury on all issues so triable by right pursuant to Fed.

R. Civ. P. 38.

Dated: June 12, 2015

Respectfully submitted,

By: /s/ Paul J. Hayes  
Paul J. Hayes  
James J. Foster  
**HAYES MESSINA GILMAN & HAYES LLC**

200 State Street, 6th Floor  
Boston, MA 02109  
Telephone: (617) 345-6900  
Facsimile: (617) 443-1999  
Email: phayes@hayesmessina.com  
Email: jfoster@hayesmessina.com

Craig Tadlock  
Texas State Bar No. 00791766  
Keith Smiley  
Texas State Bar No. 24067869  
TADLOCK LAW FIRM PLLC  
2701 Dallas Parkway, Suite 360  
Plano, Texas 75093  
Phone: (903) 730-6789  
Email: craig@tadlocklawfirm.com  
keith@tadlocklawfirm.com

**ATTORNEYS FOR THE PLAINTIFF  
ADAPTIX, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with the Local Rule CV-5 on June 12, 2015. As of this date, all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Paul J. Hayes  
Paul J. Hayes