

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

ADAPTIX, INC.,

Plaintiff,

v.

ALCATEL-LUCENT USA, INC., et al.,

Defendants.

Civil Action No. 6:12-cv-0022

CONSOLIDATED LEAD CASE

ADAPTIX, INC.,

Plaintiff,

v.

ALCATEL-LUCENT USA, INC., and
CELLCO PARTNERSHIP d/b/a
VERIZON WIRELESS,

Defendants.

Civil Action No. 6:12-cv-0122

ADMINISTRATIVELY CLOSED AND
CONSOLIDATED FOR ALL PURPOSES
WITH LEAD CASE

JURY TRIAL DEMANDED

NOTICE OF CROSS-APPEAL
BY CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS

On April 20, 2016, Plaintiff Adaptix, Inc. filed its Notice of Appeal to the United States Court of Appeals for the Federal Circuit in the above-captioned consolidated lead case (Dkt. 672). Notice is hereby given that Defendant Cellco Partnership d/b/a Verizon Wireless (“Verizon”) cross-appeals to the United States Court of Appeals for the Federal Circuit from the Final Judgment entered in this case on March 30, 2016 (Dkt. 668), and from any and all other orders, ruling, findings and/or conclusions decided adversely to Verizon, in whole or in part, including without limitation the March 30, 2016 Order granting-in-part Adaptix’s Motion for Judgment as a Matter of Law that the Asserted Claims are Not Invalid as to written description (Dkt. 667).

Verizon contends that, even without a cross-appeal, the United States Court of Appeals for the Federal Circuit can affirm the Final Judgment in this case on the additional ground that Claims 1, 2, and 4 of U.S. Patent No. 6,870,808 are invalid due to inadequate written description, as the jury unanimously found (Dkt. 597). However, out of an abundance of caution in light of *Minnesota Min. & Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1308-09 (Fed. Cir. 2002), Verizon files this Notice of Cross-Appeal to avoid any argument that Verizon waived its right to appeal as to written description.

Payment in the amount of \$505, representing the \$500 docketing fee required by 28 U.S.C. § 1913 and the \$5 fee required by 28 U.S.C. § 1917, will accompany this Notice of Cross-Appeal.

Dated: May 3, 2016

Respectfully submitted,

By: /s/ Geoffrey M. Godfrey

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*Attorneys for Defendant and
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on May 3, 2016.

Dated: May 3, 2016

/s/ Geoffrey M. Godfrey

Geoffrey M. Godfrey