

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

ADAPTIX, INC.,

v.

ALCATEL-LUCENT USA, INC., ET AL.

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**CASE NO. 6:12-cv-22
LEAD CASE**

**DEFENDANT AT&T MOBILITY’S
NOTICE OF CROSS-APPEAL**

Notice is hereby given that AT&T Mobility LLC (“AT&T”), a defendant in the above-named case, hereby cross-appeals to the United States Court of Appeals for the Federal Circuit the Final Judgment (Dkt. No. 668) entered on March 30, 2016, in the above-captioned case in view of the Notice of Appeal (Dkt. No. 672) filed by Plaintiff Adaptix, Inc. (“Adaptix”) on April 20, 2016. AT&T also cross-appeals any adverse orders, rulings, findings, stipulations, and conclusions merged into the Final Judgment.

Although the Final Judgment under Federal Rule of Civil Procedure 58 set forth that AT&T does not infringe Claims 1, 2, and 4 of U.S. Patent No. 6,870,808 (“’808 Patent”) and that those claims are invalid due to anticipation and obviousness, the Court did not enter judgment of invalidity based on the jury’s unanimous verdict finding that Claims 1, 2, and 4 of the ’808 Patent are invalid due to lack of written description.

It is the position of AT&T that, even in the absence of a cross-appeal, the United States Court of Appeals for the Federal Circuit can affirm the judgment of invalidity on the basis that the District Court erred in overturning the jury verdict and granting judgment as a matter of law in favor of Adaptix on the written description defense. However, to preserve AT&T’s rights in

the event it is determined that a cross-appeal is necessary to argue that the District Court's ruling on written description was in error, AT&T files this Notice of Cross-Appeal. *See, e.g., Minnesota Min. & Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1309 (Fed. Cir. 2002).

Dated: May 3, 2016

Respectfully submitted,

/s/ Douglas M. Kubehl
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LLC*

CERTIFICATE OF SERVICE

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

/s/ Douglas M. Kubehl
Douglas M. Kubehl