

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

IRIDESCENT NETWORKS, INC.,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 6:16-cv-1003-RWS-
v.	§	JDL
	§	
AT&T MOBILITY, LLC, et al.,	§	
	§	
Defendants.	§	Jury Trial Requested
	§	
	§	
	§	
	§	
	§	

**IRIDESCENT NETWORKS, INC.’S FIRST
AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Iridescent Networks, Inc. (“Iridescent” or “Plaintiff”) hereby brings this action against Defendant AT&T Mobility, LLC¹ (“AT&T”) for patent infringement arising out of the Patent Laws of the United States, Title 35, United States Code, and states as follows:

THE PARTIES

1. All facts herein are alleged on information and belief except those facts concerning Iridescent’s own activities.

2. Iridescent is a Texas corporation with its principal place of business at 7809 La Guardia Drive, Plano, Texas 75025. Iridescent is the owner of various patents relating to systems and methods of providing bandwidth on demand over networks, including U.S. Patent No. 8,036,119 (“the ‘119 Patent”).

¹ Iridescent’s initial complaint accused various additional AT&T entities of infringement. Dkt. No. 1. The parties subsequently entered a stipulation regarding dismissal of those entities. Dkt. No. 22. That stipulation applies equally to this amended complaint.

3. AT&T makes and operates a wireless communications system that it publicly refers to as its 4G LTE network. See <http://developer.att.com/technical-library/network-technologies/long-term-evolution>. This network complies with the specifications set forth by the Third Generation Partnership (“3GPP”). *Id.* AT&T proclaims that its 4G LTE network covers over 317 million people. www.att.com/network/en/index.html. It further boasts that its 4G LTE network is the nation’s largest, and has the fewest dropped calls. *Id.* AT&T competes intensely with other national carriers to win subscribers and requires advanced LTE capabilities and features to do so.

4. Iridescent’s patented technology covers critical features of AT&T’s 4G LTE network. AT&T infringes Iridescent’s ‘119 Patent by, *inter alia*, making and operating its 4G LTE network, which provides bandwidth on demand to AT&T’s customers.

5. AT&T Mobility, LLC, formerly named Cingular Wireless, LLC, is a Delaware limited liability company and a wholly-owned subsidiary of AT&T, with its principal place of business at 1025 Lenox Park Blvd., Atlanta, Georgia 30319. AT&T Mobility may be served with this complaint through its registered agent CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201.

JURISDICTION AND VENUE

6. This is an action for patent infringement under the Patent Act, 35 U.S.C. §271. Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over AT&T and venue is proper, in part, because AT&T and its related entities have a principal place of business in the state of Texas and AT&T, directly and/or in combination with AT&T subsidiaries and/or through its agents, does

business in this district by providing infringing services to residents of the Eastern District of Texas, by providing infringing services that it knew would be used within this district, and/or by participating in the solicitation of business from residents of this district.

8. Venue is proper in this federal district pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) because, as described above, Defendant has done business in this District, has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling Iridescent to relief. Further, Iridescent is a Texas corporation located in the Eastern District of Texas, and the invention claimed by Iridescent's patents was created and developed in the Eastern District of Texas. Iridescent's CEO and the named inventor on the patent-in-suit also resides in the Eastern District of Texas and Iridescent's relevant documents are located in the Eastern District of Texas.

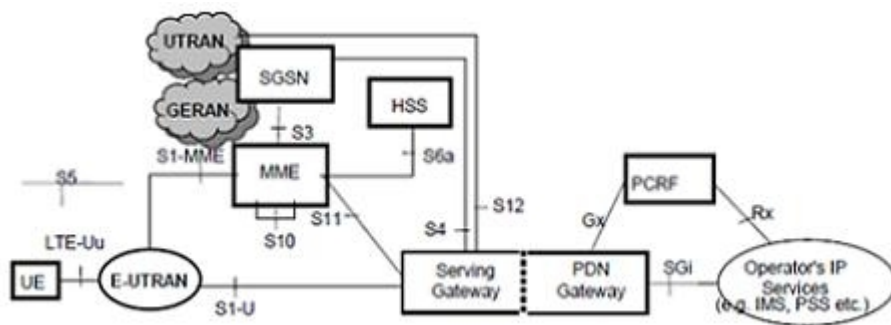
FACTUAL BACKGROUND

9. Iridescent was formed in 2006 to produce advanced communications systems that provide guaranteed on-demand bandwidth to network devices. Iridescent's founder and CEO, Kathy McEwen, recognized at that time that existing networks could not adequately service the high-bandwidth needs of modern communication devices. Accordingly, Ms. McEwen filed a patent application on May 2, 2006 that disclosed a solution to this problem. Ms. McEwen's patented solution involved a distributed approach to handling network traffic, with a physically separated controller and managed portal platform. In this distributed approach, the controller handles signaling, routing, dynamic bandwidth admission control, end-to-end quality assurance, session management, subscriber data, billing, provisioning and associated operational functions, while the portal handles the packet bearer transport with the admission control and routing instructions given by the separate physical controller. By separating the control plane from the

data plane, the network was able to provide the guaranteed on-demand bandwidth required for modern networks. The United States Patent Office subsequently issued Ms. McEwen two patents for her inventions: U.S. Patent No. 7,639,612 (“the ‘612 Patent”) in December 2009 and the ‘119 Patent in October 2011.

10. Iridescent developed products concerning its patented technology. To finance this product development, Iridescent sought funding from various entities. The State of Texas saw such promise in Iridescent’s patented technology that it invested hundreds of thousands of dollars in Iridescent via the Texas Emerging Technology Fund. When announcing the investment, Texas Governor Rick Perry noted that Iridescent’s “proprietary technology is improving the way that video is delivered to hand-held devices.” https://www.youtube.com/watch?feature=player_embedded&v=fbOtHDshfj4#t=451. Iridescent used the State of Texas’s investment (along with other private funds) to develop a prototype for the University of Texas at Dallas and later an “alpha” product for BBC, the British Broadcasting Company.

11. Starting in September 2013, AT&T has provided a 4G LTE Network to its customers. AT&T provides this picture to illustrate its 4G LTE Network architecture:



<http://developer.att.com/technical-library/network-technologies/long-term-evolution>. Following the teachings of Iridescent’s patents, AT&T acknowledges that “the EUTRAN separates the

control and user plane traffic and delivers them to the MME and S-GW over the S1 interface.”

Id. This separation of the control and user planes provides many benefits, including “higher bandwidth” and “prioritized Quality of Service.” <http://developer.att.com/static-assets/documents/library/best-practices-3g-4g-app-development.pdf>.

12. AT&T has a long history with Iridescent and its patents. Beginning in July 2008, Mr. Eric Small, a Vice President at AT&T, met with Iridescent to discuss its patented technology. The next year, AT&T mergers and acquisitions attorney Wesley Glenn Terrell evaluated Iridescent’s business proposal—which specifically mentioned Iridescent’s patents and patent applications—in conjunction with the Texas Emerging Technology Fund. On June 17, 2011, the Patent Office brought Iridescent’s ‘612 Patent (which shares a common disclosure with Iridescent’s ‘119 Patent) to AT&T’s attention during prosecution of AT&T’s U.S. Patent No. 8,184,538. Two years later, in September 2013, Iridescent sent Mr. Faraz Hoodboy, AT&T’s Director of Outreach for Ecosystem and Innovation, a presentation explaining Iridescent’s patented technology and explicitly mentioning Iridescent’s patents. The next month, Iridescent met with Ms. Suja John, AT&T’s Director of New Technology Product Development, and presented her with a presentation highlighting Iridescent’s patents and technology. A few months later, in early 2014, Iridescent offered Andy Geisse, CEO of AT&T Business Solutions, “an opportunity to evaluate the Iridescent Networks package.” At Mr. Geisse’s request that Iridescent follow-up with Mr. Hoodboy, Iridescent explained to Mr. Hoodboy on March 31, 2014, “that technology and services defined by AT&T depends upon Iridescent Networks intellectual property and patents” and offered to license Iridescent’s intellectual property to AT&T. And in April 2014, Iridescent informed Mr. Hoodboy that AT&T’s 4G LTE Network

infringed Iridescent's patents. AT&T never substantively responded. Left with no other recourse, Iridescent was forced to file this lawsuit against AT&T.

INFRINGEMENT OF U.S. PATENT NO. 8,036,119

13. On October 11, 2011, United States Patent No. 8,036,119 was duly and legally issued for inventions entitled "System and Method of Providing Bandwidth On Demand." Iridescent was assigned the '119 Patent and continues to hold all rights and interest in the '119 Patent. A true and correct copy of the '119 Patent is attached hereto as Exhibit 1.

14. AT&T directly infringes under 35 U.S.C. § 271(a) at least claims 1, 3, 4, 7 and 11 of the '119 Patent by making, using, selling, offering for sale and/or importing its infringing devices within the United States. Additional details of AT&T's direct infringement are set forth in Iridescent's infringement contentions, attached as Exhibit 2 to this Amended Complaint.

15. AT&T also indirectly infringes at least claims 1, 3, 4, 7 and 11 of the '119 Patent by active inducement under 35 U.S.C. § 271(b) and contributory infringement under 35 U.S.C. § 271(c). AT&T knew of the '119 Patent by at least its issuance in October 2011, and certainly since at least as of the filing of this complaint. AT&T has actively and knowingly induced infringement and/or actively and knowingly contributed to acts of infringement of one or more claims of the '119 Patent by selling communication services to customers that require the use of AT&T's infringing 4G LTE wireless communications systems and require that infringing methods be performed using those LTE wireless communication systems. AT&T knows that the use of its LTE wireless communication systems is an act of direct infringement of the '119 Patent, and encourages those acts, by requiring devices using its LTE network to operate in a specific way, as well as through the marketing, promoting, and advertising the use of its LTE network, with the specific intent to infringe the '119 Patent. Alternatively, AT&T knows

there is a high probability that the use of its LTE wireless communication systems constitutes direct infringement of the '119 Patent, but has taken deliberate actions to avoid learning of the facts constituting direct infringement. In addition, AT&T knows that its LTE wireless communication systems are adapted for use in a manner that infringes the '119 Patent. AT&T also knows there is a high probability that its LTE wireless communication systems are not staple articles or commodities of commerce suitable for substantial non-infringing use.

16. The acts of infringement by AT&T have caused damage to Iridescent, and Iridescent is entitled to recover from AT&T the damages sustained by Iridescent as a result of AT&T's wrongful acts in an amount subject to proof at trial. AT&T's infringement of Iridescent's exclusive rights under the '119 Patent has damaged and will continue to damage Iridescent, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

17. For at least the facts set forth above, since at least 2014, and certainly at least as of the filing of this lawsuit, AT&T's aforementioned actions have been, and continue to be, committed in a knowing and willful manner and constitute willful infringement of the '119 Patent.

JURY DEMAND

18. Iridescent hereby demands a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Iridescent requests entry of judgment in its favor and against AT&T as follows:

- a) A judgment that AT&T has infringed and is infringing the '119 Patent;
- b) A judgment that AT&T's infringement was willful;

- c) A judgment that the '119 Patent is valid and enforceable;
- d) A permanent injunction enjoining AT&T, its respective officers, agents, servants, employees, and those acting in privity with it, from further infringing the '119 Patent;
- e) An award of damages to Iridescent arising out of AT&T's infringement of the '119 Patent, including enhanced damages pursuant to 35 U.S.C. § 284, together with prejudgment and post-judgment interest, in an amount according to proof;
- f) A declaration that this case is exceptional pursuant to 35 U.S.C. § 285, and awarding Iridescent its attorneys' fees;
- g) Granting Iridescent its costs; and
- h) Awarding to Iridescent such other and further relief as the Court may deem just and proper.

Dated: December 5, 2016

Respectfully submitted,

/s/ Alden G. Harris

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Attorneys for IRIDESCENT NETWORKS, INC.

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 5th day of December, 2016, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Alden G. Harris _____
Alden G. Harris