

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

KONINKLIJKE KPN N.V.,)	
)	
Plaintiff,)	
)	C.A. No. 17-cv-92-LPS-CJB
v.)	
)	
TELIT WIRELESS SOLUTIONS, INC.)	
)	<u>JURY TRIAL DEMANDED</u>
Defendant.)	
_____)	

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Plaintiff Koninklijke KPN N.V. (hereafter “KPN” or “Plaintiff”) makes the following allegations against Telit Wireless Solutions, Inc. (“Telit” or “Defendant”):

BACKGROUND

1. KPN’s extensive research and development efforts have led to hundreds of issued patents in the United States and across the world. These patents have in turn been licensed by leading global telecommunications companies, including many of Telit’s mobile technology competitors.

2. KPN has made its patents available for license on an individual basis through bilateral negotiations and, at the licensor’s option, collectively through joint licensing or patent pool licensing arrangements.

3. The patent asserted here was previously the subject of a lawsuit that was pending, until its resolution shortly before trial, in the Eastern District of Texas. During that litigation the court construed many disputed claim terms and the Patent Trial and Appeal Board largely declined to

institute a Petition for *Inter Partes* Review of the asserted claims finding “no reasonable likelihood” that several of the asserted claims were invalid in light of the grounds raised.

4. Upon information and belief, despite lengthy negotiations involving senior members of the parties, Telit has refused to license, on mutually agreeable terms, the patents described herein. Plaintiff therefore files this suit against Telit seeking the Court’s protection of its valuable intellectual property rights.

PARTIES

5. Plaintiff KPN is a telecommunications (including fixed, mobile, television and internet) and ICT solution provider headquartered at Maanplein 55, NL-2516 CK, The Hague, The Netherlands.

6. Upon information and belief, Defendant Telit Wireless Solutions, Inc. is a corporation organized under the laws of Delaware, having a principal place of business at 3131 RDU Center Drive, Suite 135, Morrisville, NC 27560-7687. Telit Wireless Solutions, Inc. may be served through its registered agent for service of process – Michael Ueland, 3131 RDU Center Drive, Suite 135, Morrisville, NC 27560-7687. On information and belief, Telit Wireless Solutions, Inc. is a subsidiary of Telit Communications PLC.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, Title 35 of the United States Code.

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendant because Defendant has, directly or through intermediaries, committed acts within Delaware giving rise to this action and/or have established minimum contacts with Delaware such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

10. Defendant has placed, and are continuing to place, infringing products into the stream of commerce, via an established distribution channel, with the knowledge and/or understanding that such products are sold in the State of Delaware, including in this District.

11. Upon information and belief, Defendant has derived substantial revenues from its infringing acts occurring within the State of Delaware and within this District. In addition, Defendant has, and continues to, knowingly induce infringement within this District by advertising, marketing, offering for sale and/or selling devices containing infringing functionality within this District, to consumers, customers, manufacturers, distributors, resellers, partners, and/or end users, and providing instructions, user manuals, advertising, and/or marketing materials which facilitate, direct or encourage the use of infringing functionality with knowledge thereof.

12. Venue is proper under 28 U.S.C. §§ 1391(b) and (c), and 1400.

THE ASSERTED PATENT

13. This lawsuit asserts causes of action for infringement of United States Patent No. 6,212,662 (“’662 patent” or the “Asserted Patent”).

14. The ’662 patent was previously the subject of litigation captioned *Koninklijke KPN N.V., v. Samsung Electronics Co., Ltd., et al.*, Civil Action No. 2:14-cv-1165 (E.D. Tex.).

15. On July 8, 2016, the United States Patent and Trademark Office, Patent Trial and Appeal Board (PTAB) largely declined to institute *inter partes* review of the '662 patent, finding “no reasonable likelihood of prevailing” on the majority of the invalidity contentions raised by in the Petition, including all invalidity contentions affecting claims 3 and 4 of the '662 patent. On September 21, 2016, on the eve of the appointed trial date, the parties filed a “Joint Stipulation to Dismiss” that lawsuit.

16. Defendant has been on notice of the asserted patent, was invited to take a license to the asserted patent, and has declined to license the asserted patent.

COUNT 1

INFRINGEMENT OF U.S. PATENT NO. 6,212,662

17. On April 3, 2001, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,212,662 entitled, “Method and Devices for the Transmission of Data With the Transmission Error Checking.” KPN is the owner by assignment of the '662 patent and holds all right, title and interest to the '662 patent. A true and correct copy of the '662 patent is attached as Exhibit A.

18. Plaintiff repeats and incorporates the allegations set forth in paragraph 16.

19. Telit has infringed and continues to infringe the '662 Patent under 35 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, infringing products without authorization.

20. Telit directly infringed and continues to directly infringe claims 1, 2, 3, and 4 of the '662 Patent by making, selling, using, importing, or offering to sell products or methods that infringe the '662 Patent, including but not limited to the Telit LE910- family and related or similar

communication devices, as well as technology or infrastructure making use of or incorporating the same or similar error checking technology described in Ex. A (hereafter “the ‘662 Accused Products”).

21. The asserted claims include claims 1-4 of the ‘662 patent. The ‘662 Accused Products include but are not limited to at least the following additional products: Telit LE910-SVG, LE-910-NA2 V2, LE910-SV V2, LE910B4-NA, LE910-SV1, LE910-SVL, LE910-NA1, LE910B1-NA, LE910B1-SA, LE910C1-NA, LE910C1-NS, ME910C1, LE866-SV1, LE8661-NA, ME866A1, LN930, LE910 V2 Mini PCIe, LE910 Mini PCIe, HE910-G, HE910-DG, HE910-D, HE910-GL, HE910-NAR, HE910-NAD, HE910-NAG, UE910-NAR, UE910-NAD, UE910-N3G, DE910-DUAL, UL865-NAR, UL865-NAD, UL865-N3G, HS3002-NA, UE866-N3G, HE910 Mini PCIe, DE910 Mini PCIe, CE910-DUAL, GE910-GNSS, GE910-QUAD, GE910-QUAD V3, CL865-DUAL (NRND), GL865-QUAD, GL865-QUAD V3, GL865 V3.1, HS3001, GE866-QUAD, GE864-QUAD V2, GE846-GPS, GE846-QUAD AUTO V2, GE865, LE920A4-NA, LE920-NAG, HE920, GE910-QUAD AUTO, GE864-QUAD AUTO V2, ATOP 3.5G, and ATOP 2.5G (NRND) Cellular Modules, and the WE922-3GR, and HE922-3GR Hybrid Modules, as well as products incorporating or making use of the same or similar error checking technology described in Ex. A (‘662 patent), as further described in the following paragraphs.

22. The devices claimed in the ‘662 patent have proved to be of great importance to the field of error detection and correction. For example, in 2011 Sisvel declared claims 1-3 of the ‘662 patent to be essential to §§ 5, 5.1, 5.1.1, 5.1.2, 5.1.3, 5.1.3.2, 5.1.3.2.1, and 5.1.3.2.3, including Figure 5.1.3-2, Tables 5.1.3-1 and 5.1.3-3, of 3GPP TS 36.212. Shortly thereafter, the International Patent Evaluation Committee declared claims 1-4 of that patent to be essential to §§

1, 4.1, 4.2.2.2, 4.2.3, 4.2.3.2.1, 4.2.3.2.3, 4.2.3.2.3.1, and 4.2.3.2.3.2, including Figure 4 and Tables 1, 29 and 20, of 3GPP TS 25.212. The '662 patent also has been treated as essential to various telecommunications standards by both Sisvel International, which manages the LTE/LTE-A mobile communications patent pool, and Sipro Lab Telecom, Inc., which manages the pool of those telecommunications patents essential to the W-CDMA FDD 3GPP Standard.

23. On information and belief, Telit advertises, states, or otherwise informs customers, users, and others that the '662 Accused Products comply and/or interoperate with at least the CDMA, UMTS, and/or LTE telecommunications standards.

24. On information and belief, the Telit LE910 family includes functionality that allows it to receive data that is transmitted over CDMA, UMTS, and/or LTE networks in the form of blocks comprised of plural bits in a particular sequence, which can be used to generate data for error checking.

25. On information and belief, the Telit LE910 family includes a device which generates supplementary data for use in checking for errors related to LTE, UMTS, and/or CDMA communications.

26. On information and belief, the Telit LE910 family further includes a varying device configured to vary the original data prior to supplying the original data to the Telit LE910 family's generating device as varied data, either through its compliance with the CDMA, UMTS, and/or LTE standards, and/or by way of an interleaver in the Telit LE910 family that is used to reorder the bits of the original data input to it.

27. On information and belief, the varying device in the Telit LE910 family includes a permutating device configured to reorder the position of at least some of the bits in the data

blocks of the original data relative to their original position in the particular ordered sequence in which those bits were input to the varying device.

28. On information and belief, the permutating device in the Telit LE910 family includes a permutating device configured to perform a permutation of bit position relative to the particular ordered sequence for at least some of the bits in the blocks making up the original CDMA, UMTS, and/or LTE data without reordering any blocks of that original data.

29. On information and belief, the varying device in the Telit LE910 family is configured to change the reordering of the members of the given set from time to time.

30. On information and belief, the varying device in the Telit LE910 family reorders the members of the given set based on the original data.

31. On information and belief, the permutating device in the Telit LE910 family includes or makes use of data storage, like a table, in which subsequent reorderings of the members of the given set are stored.

32. In litigation captioned *Koninklijke KPN N.V., v. Samsung Electronics Co., Ltd., et al.*, Civil Action No. 2:14-cv-1165 (E.D. Tex.), the Court issued a lengthy order construing certain terms of the '662 patent. The Court's constructions of the disputed terms in that case are consistent with KPN's understanding of how the accused products operate, as set forth above.

33. After a full year of litigation, the Samsung entities filed a lengthy request for *inter partes* review raising claims based on anticipation, obviousness and multiple prior art references and invalidity defenses, separately charted for each of claims 1-4 of the '662 patent.

34. After thorough consideration, and in a lengthy decision, the Patent Trial and Appeals Board declined entirely to institute *inter partes* review as to claims 3 and 4 of the '662 patent. The PTAB concluded on the lengthy record before it that there was not even a

“reasonable likelihood” of prevailing as to invalidity with respect to asserted claims 3 and 4. The PTAB further concluded that as to the remaining claims 1-2, Samsung had also not demonstrated a reasonable likelihood of prevailing as to invalidity by anticipation. Samsung subsequently filed a Petition for Rehearing of the Board’s decision declining to institute *inter partes* review of the ‘662 patent. The PTAB issued another lengthy decision denying the petition for rehearing. None of the asserted claims have been declared invalid by the PTAB. The manner in which the accused products infringe the asserted claims of the ‘662 patent is consistent with the PTAB’s description of those claims, and on information and belief each of the ‘662 Accused Products directly infringes the ‘662 patent in a similar manner as described above with respect to the LE910 family.

35. In addition to the foregoing and/or in the alternative, Telit indirectly infringes the ‘662 Patent by inducing and contributing to infringement by others, including but not limited to OEMs, partners, service providers, manufacturers, importers, resellers, customers, and/or end users, in accordance with 35 U.S.C. § 271(b), in this District and elsewhere in the United States. Telit is actively, knowingly, and intentionally inducing infringement of the ‘662 Patent by practicing the methods set forth therein and by selling, offering to sell and/or importing into the United States the ‘662 Accused Products; with the knowledge and specific intent that third parties, such as those described above, will continue to, either alone or in combination with Telit, practice the patented methods, and use, sell, offer for sale, and/or import the ‘662 Accused Products supplied by Telit to infringe the ‘662 Patent; and with the knowledge and specific intent to encourage and facilitate the infringement through the dissemination of the ‘662 Accused Products and/or the creation and dissemination of promotional and marketing materials,

supporting materials, instructions, product manuals, and/or technical information relating to the '662 Accused Products and infringing uses thereof.

36. In addition to the foregoing and/or in the alternative, Telit has knowingly contributed to the infringement of the '662 Patent under 35 U.S.C. § 271(c). Telit is actively, knowingly and intentionally contributing to the infringement of the '662 Patent by selling, offering to sell, and/or importing into the United States, the '662 Accused Products, with the knowledge that they are especially designed or adapted to operate in a manner that infringes the '662 Patent; with the knowledge that third parties, including those set forth above, will continue to, either alone or in combination with Telit, infringe the claims of the '662 patent, and with the knowledge that the infringing technology in the '662 Accused Products is not a staple article of commerce suitable for substantial non-infringing use. In addition to the foregoing, Telit had pre-suit knowledge of the '662 patent and has knowingly made, used, offered to sell, sold, and/or imported into the United States the '662 Accused Products that infringed and continue to infringe the '662 patent under 35 U.S.C. § 271. Because Telit did so with knowledge of the '662 patent, Telit is liable for willful infringement.

37. Telit's acts of infringement have caused damage to KPN, and KPN is entitled to recover from Telit the damages it has sustained as a result of Telit's wrongful acts in an amount subject to proof at trial.

DEMAND FOR JURY TRIAL

38. Plaintiff hereby demands a jury trial for all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- A. Declaring that Telit has infringed the Asserted Patent, contributed to infringement

of the Asserted Patent, and/or induced infringement of the Asserted Patent;

B. Awarding damages arising out of Telit's infringement of the Asserted Patent, including enhanced damages pursuant to 35 U.S.C. § 284, to Plaintiff, together with prejudgment and post-judgment interest, in an amount according to proof;

C. Awarding attorneys' fees to Plaintiff pursuant to 35 U.S.C. § 285 or as otherwise permitted by law;

D. Awarding such other costs and further relief as the Court may deem just and proper.

Dated: May 1, 2017

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

Joseph J. Farnan, Jr. (Bar No. 100245)

Brian E. Farnan (Bar No. 4089)

Michael J. Farnan (Bar No. 5165)

919 N. Market St., 12th Floor

Wilmington, DE 19801

Tel: (302) 777-0300

Fax: (302) 777-0301

farnan@farnanlaw.com

bfarnan@farnanlaw.com

mfarnan@farnanlaw.com

Lexie G. White (admitted *pro hac vice*)

Rocco Magni (admitted *pro hac vice*)

Jeffrey S. David (admitted *pro hac vice*)

SUSMAN GODFREY, L.L.P.

1000 Louisiana Street, Suite 5100

Houston, Texas 77002

Telephone: (713) 651-9366

Facsimile: (713) 654-6666

lwhite@susmangodfrey.com

rmagni@susmangodfrey.com

jdavid@susmangodfrey.com

Attorneys for Plaintiff