

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

TRAXCELL TECHNOLOGIES, LLC.,)	
Plaintiff,)	
)	Civil Action No. 2:17-cv-00041
v.)	
)	
ALE USA INC., d/b/a)	JURY TRIAL DEMANDED
ALCATEL-LUCENT ENTERPRISE)	
USA INC.)	
Defendant.)	

PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Traxcell Technologies, LLC. (“Traxcell”) files this First Amended Complaint and demand for jury trial seeking relief from patent infringement by ALE USA Inc. d/b/a Alcatel-Lucent Enterprise USA Inc. (hereafter at times referred to as “ALE USA”), pursuant to Rule 15 of the Federal Rules of Civil Procedure, alleging as follows:

I. THE PARTIES

1. Plaintiff Traxcell is a Texas Limited Liability Company, with its principal place of business located 1405 Municipal Ave., Suite 2305, Plano, TX 75074.

2. On information and belief, ALE USA Inc. d/b/a Alcatel-Lucent Enterprise USA Inc., is a corporation with its principal place of business located at 6300 Legacy Drive, Suite 100, Plano, TX 75024 and may be served with process at Corporation Service Company d/b/a CSC Lawyers Incorporating Service Company, 211 East 7th Street, Suite 620, Austin, TX 78701. On information and belief, ALE USA sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in Texas and this judicial district.

II. JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the U.S., 35 U.S.C. §§ 1 et. seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant ALE USA because: ALE USA is present within or has minimum contacts within the State of Texas and this judicial district; Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; Defendant regularly conducts business within the State of Texas and within this judicial district; and Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b). On information and belief, Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas.

III. INFRINGEMENT ('320 Patent (attached as Exhibit A))

6. On November 29, 2016, U.S. Patent No. 9,510,320 ("the '320 patent") entitled "Machine for Providing a Dynamic Database of Geographic Location Information for a Plurality of Wireless Devices and Process for Making Same" was duly and legally issued by the U.S. Patent and Trademark Office. Traxcell owns the '320 patent by assignment.

7. The '320 Patent's Abstract states, "For a wireless network, a tuning system in which mobile phones using the network are routinely located. With the location of the mobile phones identified, load adjustments for the system are easily accomplished so that the wireless network is not subject

to an overload situation. Ideally the location of the mobile phones is accomplished whether the mobile phones are transmitting voice data or not.”

8. ALE USA makes, uses, offers to sell, or sells within or imports into the U.S. wireless networks, wireless-network components, and related services that use identified locations of wireless devices to perform adjustments such that ALE USA infringes claims 1–6 of the ’320 patent, literally or under the doctrine of equivalents. Some examples of the wireless-network components are Control systems such as OmniSwitch Model products; OmniAccess Model products; 7450 Ethernet Service Switch; 7750 SR series; 7750 SR-e series; 7750 SR-a series; 7705 Service Aggregation Router; ClearPass Policy; Management System; OmniAccess Model products; Wireless Base Software RELEASE 6.1; Wireless RFprotect Module; ESR WWAN ENABLER; OmniVista Mode products; ARUBA CLEARPASS ONGUARD; OXO CONNECT; SMALL AND MEDIUM BUSINESSES control products; OMNISWITCH 6450 SCS SMALL CELL GIGABIT products; 4059 EXTENDED EDITION ATTENDANT CONSOL; "PROACTIVE LIFECYCLE MANAGEMENT" products; LGS CODEGUARDIAN; 4000 SERIES CONTROLLER; 4X50 SERIES CONTROLLERS NEXT-GENERATION WIRELESS; OMNIVISTA 8770 NETWORK MANAGEMENT SYSTEM and/or the like, directly or contributorily infringe when used alone or with a WCD or handset such as Premium DeskPhones; DeskPhones; 4008 IPTouch phone - 8 Series IP Touch Models; 4018 IPTouch phone - 8 Series IP Touch Models; 4028 IPTouch phone - 8 Series IP Touch Models; 4038 IPTouch phone - 8 Series IP Touch Models; 4068 IPTouch phone - 8 Series IP Touch Models; 4135 IP Conference phone; 4019 Digital Phone – 9 Series Digital Phones; 4029 Digital Phone – 9 Series Digital Phones; 4039 Digital Phone – 9 Series Digital Phones; Industrial DECT Handsets; Business DECT Handsets; WLAN Handsets - OmniTouch™ 8118/8128; 8262/8262Ex DECT Handset; 500/500EX DECT

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Extended Edition Attendant Console; Emergency Notification Server; Mobile Guest Softphone; OpenTouch Notification Service; OpenTouch Customer Service; OmniPCX Record Suite; OmniTouch 4625 Interactive Voice Response; Smart Guest Applications; Soft Panel Manager; Genesys Suite; OpenTouch Conversation for MLE; IP Desktop Softphone; 8115/8125 Audiooffice; OPENTOUCH CONVERSATION FOR iPad; OPENTOUCH CONVERSATION FOR IPHONE AND ANDROID SMARTPHONE; 8115 AUDIOFFICE; PC BASED TELEPHONY FOR WINDOWS; PC TELEPHONY; ARUBA CLEARPASS POLICY MANAGER; UNIFIED MESSAGING APPLICATION; and/or the like, and related servers, computers, storage devices, and wireless-network components. Defendant put the inventions claimed by the '320 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant obtaining monetary and commercial benefit from it.

9. ALE USA has and continues to induce infringement. ALE USA has actively encouraged or instructed others (e.g., its customers), and continues to do so, on how to use its products and services (e.g., U.S. wireless networks, wireless-network components [e.g., Control systems such as OmniSwitch Model products; OmniAccess Model products; 7450 Ethernet Service Switch; 7750 SR series; 7750 SR-e series; 7750 SR-a series; 7705 Service Aggregation Router; ClearPass Policy; Management System; OmniAccess Model products; Wireless Base Software RELEASE 6.1; Wireless RFprotect Module; ESR WWAN ENABLER; OmniVista Mode products; ARUBA CLEARPASS ONGUARD; OXO CONNECT; SMALL AND MEDIUM BUSINESSES control products; OMNISWITCH 6450 SCS SMALL CELL GIGABIT products; 4059 EXTENDED EDITION ATTENDANT CONSOL; "PROACTIVE LIFECYCLE MANAGEMENT" products;

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post-suit filing. Further, evidence exists that shows ALE USA knew of the published patent Application, 20080045234, since at least May of 2013 when it was cited against a patent application assigned to ALE USA, USSN 13/389,495. Further, other evidence exists in the record the Reed published application was cited against ALE USA applications on multiple occasions.

10. ALE USA has caused and will continue to cause Traxcell damage by infringing (including inducing infringement of) the '320 patent.

IV. INFRINGEMENT ('284 Patent (attached as Exhibit B))

11. On March 10, 2015, U.S. Patent No. 8,977,284 (“the '284 patent”) entitled “Machine for Providing a Dynamic Database of Geographic Location Information for a Plurality of Wireless Devices and Process for Making Same” was duly and legally issued by the U.S. Patent and Trademark Office. Traxcell owns the '284 patent by assignment.

12. The '284 Patent's Abstract states, “For a wireless network, a tuning system in which mobile phones using the network are routinely located. With the location of the mobile phones identified, load adjustments for the system are easily accomplished so that the wireless network is not subject to an overload situation. Ideally the location of the mobile phones is accomplished whether the mobile phones are transmitting voice data or not.”

13. ALE USA makes, uses, offers to sell, or sells within or imports into the U.S. wireless networks, wireless-network components, and related services that use identified locations of wireless devices to perform adjustments such that ALE USA infringes one or more claims of the '284 patent, including—for example—Claims 1 and 4, literally or under the doctrine of equivalents. Some examples of the wireless-network components are Control systems such as OmniSwitch Model products; OmniAccess Model products; 7450 Ethernet Service Switch; 7750 SR series; 7750 SR-e series; 7750 SR-a series; 7705 Service Aggregation Router; ClearPass

Policy; Management System; OmniAccess Model products; Wireless Base Software RELEASE 6.1; Wireless RFprotect Module; ESR WWAN ENABLER; OmniVista Mode products; ARUBA CLEARPASS ONGUARD; OXO CONNECT; SMALL AND MEDIUM BUSINESSES control products; OMNISWITCH 6450 SCS SMALL CELL GIGABIT products; 4059 EXTENDED EDITION ATTENDANT CONSOL; "PROACTIVE LIFECYCLE MANAGEMENT" products; LGS CODEGUARDIAN; 4000 SERIES CONTROLLER; 4X50 SERIES CONTROLLERS NEXT-GENERATION WIRELESS; OMNIVISTA 8770 NETWORK MANAGEMENT SYSTEM and/or the like, directly or contributorily infringe when used alone or with

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and wireless-network components. Defendant put the inventions claimed by the '284 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant obtaining monetary and commercial benefit from it.

14. ALE USA has and continues to induce infringement. ALE USA has actively encouraged or instructed others (e.g., its customers), and continues to do so, on how to use its products and services (e.g., U.S. wireless networks, wireless-network components [e.g., Control systems such as OmniSwitch Model products; OmniAccess Model products; 7450 Ethernet Service Switch; 7750 SR series; 7750 SR-e series; 7750 SR-a series; 7705 Service Aggregation Router; ClearPass Policy; Management System; OmniAccess Model products; Wireless Base Software RELEASE 6.1; Wireless RFprotect Module; ESR WWAN ENABLER; OmniVista Mode products; ARUBA CLEARPASS ONGUARD; OXO CONNECT; SMALL AND MEDIUM BUSINESSES control products; OMNISWITCH 6450 SCS SMALL CELL GIGABIT products; 4059 EXTENDED EDITION ATTENDANT CONSOL; "PROACTIVE LIFECYCLE MANAGEMENT" products; LGS CODEGUARDIAN; 4000 SERIES CONTROLLER; 4X50 SERIES CONTROLLERS NEXT-GENERATION WIRELESS; OMNIVISTA 8770 NETWORK MANAGEMENT SYSTEM and/or the like, directly or contributorily infringe when used alone or with

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15. ALE USA has caused and will continue to cause Traxcell damage by infringing (including inducing infringement of) the '284 patent.

V.INFRINGEMENT ('024 Patent (attached as Exhibit C))

16. On May 2, 2017, U.S. Patent No. 9,642,024 (“the '024 patent”) entitled “Machine for Providing a Dynamic Database of Geographic Location Information for a Plurality of Wireless Devices and Process for Making Same” was duly and legally issued by the U.S. Patent and Trademark Office. Traxcell owns the '024 patent by assignment.

17. The '024 Patent’s Abstract states, “For a wireless network, a tuning system in which mobile phones using the network are routinely located. With the location of the mobile phones identified, load adjustments for the system are easily accomplished so that the wireless network is not subject to an overload situation. Ideally the location of the mobile phones is accomplished whether the mobile phones are transmitting voice data or not.”

18. ALE makes, uses, offers to sell, or sells within or imports into the U.S. wireless networks, wireless-network components, and related services that use identified locations of wireless devices to perform adjustments such that Motorola Solutions infringes one or more claims of the '024 patent, including—for example—Claims 1, 6, 11, and 17, literally or under the doctrine of equivalents. Examples of products and systems accused of infringing include Control systems such as OmniSwitch Model products; OmniAccess Model products; 7450 Ethernet Service Switch; 7750 SR series; 7750 SR-e series; 7750 SR-a series; 7705 Service Aggregation Router; ClearPass Policy; Management System; OmniAccess Model products; Wireless Base Software RELEASE 6.1; Wireless RFprotect Module; ESR WWAN ENABLER; OmniVista Mode products; ARUBA CLEARPASS ONGUARD; OXO CONNECT; SMALL AND MEDIUM BUSINESSES control products; OMNISWITCH 6450 SCS SMALL CELL GIGABIT products; 4059 EXTENDED

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(I)AP320 Series - OAW-IAP325-US; OmniAccess (I)AP330 Series - OAW-IAP334-US; OmniAccess (I)AP330 Series - OAW-IAP335-US; OmniAccess (I)AP360 Series - OAW-AP365-US; OmniAccess (I)AP360 Series - OAW-AP367-US; OmniAccess RAP108/109; OmniAccess RAP155; OmniAccess RAP3WN/RAP3WNP

and

a second computer coupled to the first computer with an access flag such as with voice-over-LTE or product such as OpenTouch Business Edition; OpenTouch Multimedia Services; OpenTouch Session Border Controller; OpenTouch Enterprise Cloud; OmniPCX Enterprise Communication Server; Security Modules; Voice Messaging Services; DECT Infrastructure; Rainbow; Unified Messaging; OpenTouch Fax Center; XML Web Services & API's; OpenTouch Conference; OpenTouch TeamShare; OmniTouch Contact Center Standard Edition; 4059 Extended Edition Attendant Console; Emergency Notification Server; Mobile Guest Softphone; OpenTouch Notification Service; OpenTouch Customer Service; OmniPCX Record Suite; OmniTouch 4625 Interactive Voice Response; Smart Guest Applications; Soft Panel Manager; Genesys Suite; OpenTouch Conversation for MLE; IP Desktop Softphone; 8115/8125 Audiooffice; OPENTOUCH CONVERSATION FOR iPad; OPENTOUCH CONVERSATION FOR IPHONE AND ANDROID SMARTPHONE; 8115 AUDIOFFICE; PC BASED TELEPHONY FOR WINDOWS; PC TELEPHONY; ARUBA CLEARPASS POLICY MANAGER; UNIFIED MESSAGING APPLICATION; and/or the like, and related servers, computers, storage devices, and wireless-network components. Defendant put the inventions claimed by the '024 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's

acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant obtaining monetary and commercial benefit from it.

19. ALE has and continues to induce infringement. ALE has actively encouraged or instructed others (e.g., its customers), and continues to do so, on how to use its products and services (e.g., U.S. wireless networks, wireless-network components [e.g., Control systems such as OmniSwitch Model products; OmniAccess Model products; 7450 Ethernet Service Switch; 7750 SR series; 7750 SR-e series; 7750 SR-a series; 7705 Service Aggregation Router; ClearPass Policy; Management System; OmniAccess Model products; Wireless Base Software RELEASE 6.1; Wireless RFprotect Module; ESR WWAN ENABLER; OmniVista Mode products; ARUBA CLEARPASS ONGUARD; OXO CONNECT; SMALL AND MEDIUM BUSINESSES control products; OMNISWITCH 6450 SCS SMALL CELL GIGABIT products; 4059 EXTENDED EDITION ATTENDANT CONSOL; "PROACTIVE LIFECYCLE MANAGEMENT" products; LGS CODEGUARDIAN; 4000 SERIES CONTROLLER; 4X50 SERIES CONTROLLERS NEXT-GENERATION WIRELESS; OMNIVISTA 8770 NETWORK MANAGEMENT SYSTEM and/or the like, directly or contributorily infringe when used alone or with

a WCD or handset such as Premium DeskPhones; DeskPhones; 4008 IPTouch phone - 8 Series IP Touch Models; 4018 IPTouch phone - 8 Series IP Touch Models; 4028 IPTouch phone - 8 Series IP Touch Models; 4038 IPTouch phone - 8 Series IP Touch Models; 4068 IPTouch phone - 8 Series IP Touch Models; 4135 IP Conference phone; 4019 Digital Phone – 9 Series Digital Phones; 4029 Digital Phone – 9 Series Digital Phones; 4039 Digital Phone – 9 Series Digital Phones; Industrial DECT Handsets; Business DECT Handsets; WLAN Handsets - OmniTouch™ 8118/8128; 8262/8262Ex DECT Handset; 500/500EX DECT HANDSET; IP TOUCH 4008/4018 EXTENDED EDITION PHONES; IP Desktop Softphone; 8078s-8068s-

8058s-8028s Premium DeskPhone s Series; 8029-8039 PREMIUM DESKPHONES; OmniTouch 8118/8128 WLAN Handsets and/or the like when used alone or when using with

a transceiver with an antennae, such as, with one or more of, OmniAccess AP1101; OmniAccess (I)AP103 Series; OmniAccess AP103H; OmniAccess (I)AP200 Series - OAW-IAP204-US; OmniAccess (I)AP200 Series - OAW-IAP205-US; OmniAccess (I)AP205H Series; OmniAccess (I)AP207 Series; OmniAccess (I)AP210 Series - OAW-IAP214-US; OmniAccess (I)AP210 Series - OAW-IAP215-US; OmniAccess (I)AP220 Series - OAW-IAP224-US; OmniAccess (I)AP220 Series - OAW-IAP225-US; OmniAccess (I)AP228 Series; OmniAccess (I)AP270 Series; OmniAccess (I)AP300 Series - OAW-IAP304-US; OmniAccess (I)AP300 Series - OAW-IAP305-US; OmniAccess (I)AP310 Series - OAW-IAP314-US; OmniAccess (I)AP310 Series - OAW-IAP315-US; OmniAccess (I)AP320 Series - OAW-IAP324-US; OmniAccess (I)AP320 Series - OAW-IAP325-US; OmniAccess (I)AP330 Series - OAW-IAP334-US; OmniAccess (I)AP330 Series - OAW-IAP335-US; OmniAccess (I)AP360 Series - OAW-AP365-US; OmniAccess (I)AP360 Series - OAW-AP367-US; OmniAccess RAP108/109; OmniAccess RAP155; OmniAccess RAP3WN/RAP3WNP

and

a second computer coupled to the first computer with an access flag such as with voice-over-LTE or product such as OpenTouch Business Edition; OpenTouch Multimedia Services; OpenTouch Session Border Controller; OpenTouch Enterprise Cloud; OmniPCX Enterprise Communication Server; Security Modules; Voice Messaging Services; DECT Infrastructure; Rainbow; Unified Messaging; OpenTouch Fax Center; XML Web Services & API's; OpenTouch Conference; OpenTouch TeamShare; OmniTouch Contact Center Standard Edition; 4059 Extended Edition Attendant Console; Emergency Notification Server; Mobile Guest Softphone;

OpenTouch Notification Service; OpenTouch Customer Service; OmniPCX Record Suite; OmniTouch 4625 Interactive Voice Response; Smart Guest Applications; Soft Panel Manager; Genesys Suite; OpenTouch Conversation for MLE; IP Desktop Softphone; 8115/8125 Audiooffice; OPENTOUCH CONVERSATION FOR iPad; OPENTOUCH CONVERSATION FOR IPHONE AND ANDROID SMARTPHONE; 8115 AUDIOFFICE; PC BASED TELEPHONY FOR WINDOWS; PC TELEPHONY; ARUBA CLEARPASS POLICY MANAGER; UNIFIED MESSAGING APPLICATION; and/or the like, and related servers, computers, storage devices, and wireless-network components.], and related services that use identified locations of wireless devices to perform adjustments such to cause infringement one or more claims of the '024 patent, including—for example—Claims 1, 6, 11 and 17, literally or under the doctrine of equivalents.

20. Moreover, ALE USA has known and should have known of the '024 patent, by at least by the date of the patent's issuance, which followed the date that a family-related patent's underlying application was cited to ALE USA by the U.S. Patent and Trademark Office during prosecution of one of ALE USA's patent applications, such that ALE USA knew and should have known that it was and would be inducing infringement. Further, evidence exists that shows ALE USA knew of the published patent Application, 20080045234, since at least May of 2013 when it was cited against a patent application assigned to ALE USA, USSN 13/389,495. Further, other evidence exists in the record the Reed published application was cited against ALE USA applications on multiple occasions.

21. ALE has caused and will continue to cause Traxcell damage by infringing (including inducing infringement of) the '024 patent.

PRAYER FOR RELIEF

WHEREFORE, Traxcell respectfully requests that this Court:

- i. enter judgment that ALE USA has infringed the '284, '320, and '024 patents;
- ii. award Traxcell damages in an amount sufficient to compensate it for ALE USA's infringement of the '284, '320, and '024 patents, in an amount for infringement of each patent of no less than a reasonable royalty, together with prejudgment and post-judgment interest and costs under 35 U.S.C. § 284;
- iii. award Traxcell an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- iv. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Traxcell its attorneys' fees, expenses, and costs incurred in this action; and
- v. award Traxcell such other and further relief as this Court deems just and proper.

JURY DEMAND

Traxcell hereby requests a trial by jury on issues so triable by right.

Respectfully submitted,

Ramey & Schwaller, LLP

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Attorneys for Traxcell

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5, I hereby certify that all counsel of record who have appeared in this case are being served today, May 2, 2017, with a copy of the foregoing via the Court's CM/ECF system.

/s/ William P. Ramey, III

William P. Ramey, III