

registered agent, Bernard Egozi, Egozi & Bennett, P.A., 2999 NE 191ST St., Suite 407, Aventura, FL 33180.

JURISDICTION AND VENUE

4. This is a patent suit brought under the United States Patent Act, namely 35 U.S.C. §§ 271, 281, and 284-285, among other laws. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). BLU does business in this judicial district, selling in and delivering mobile phone products into this judicial district, advertising products for sale to potential customers in this district, and instructing end users how to use BLU products in this judicial district. BLU has committed acts of infringement in this judicial district and has purposely transacted business in this judicial district involving the accused products.

6. BLU markets phones through retail outlets including Best Buy, Staples, Office Depot, Wal-Mart, and Amazon.com.

7. BLU is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long-Arm Statute, due at least to its substantial business in this State and judicial district, including at least part of its infringing activities and regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents.

8. BLU was served with Blue Sky's Original Complaint on February 27, 2017.

BLUE SKY PATENTS

9. Blue Sky is the owner by assignment of all right, title, and interest in and to the asserted patents:

- U.S. Patent No. 6,088,398 (the “’398 Patent”);
- U.S. Patent No. 6,484,027 (the “’027 Patent”);
- U.S. Patent No. 6,865,372 (the “’372 Patent”);
- U.S. Patent No. 7,693,542 (the “’542 Patent”);
- U.S. Patent No. 7,885,684 (the “’684 Patent”);
- U.S. Patent No. 8,019,381 (the “’381 Patent”);
- U.S. Patent No. 8,265,691 (the “’691 Patent”); and
- U.S. Patent No. 8,346,169 (the “’169 Patent”).

10. Blue Sky possesses all rights of recovery under the Asserted Patents.

The ’398 OFDM Patent

11. Mattias Wahlqvist, Roger Larsson, and Christer Östberg invented the claimed subject matter of the ’398 Patent while working for Telia Research, a technology research arm of Telia Company AB, which dates to 1853 and is the largest mobile network operator in Sweden.

12. The ’398 Patent, as its title indicates, relates to “Orthogonal Frequency Division Multiplex Systems.” OFDM is a modulation format used in many of the latest wireless telecommunication systems and standards including LTE.

13. By using closely spaced carrier signals, OFDM signals are capable of high

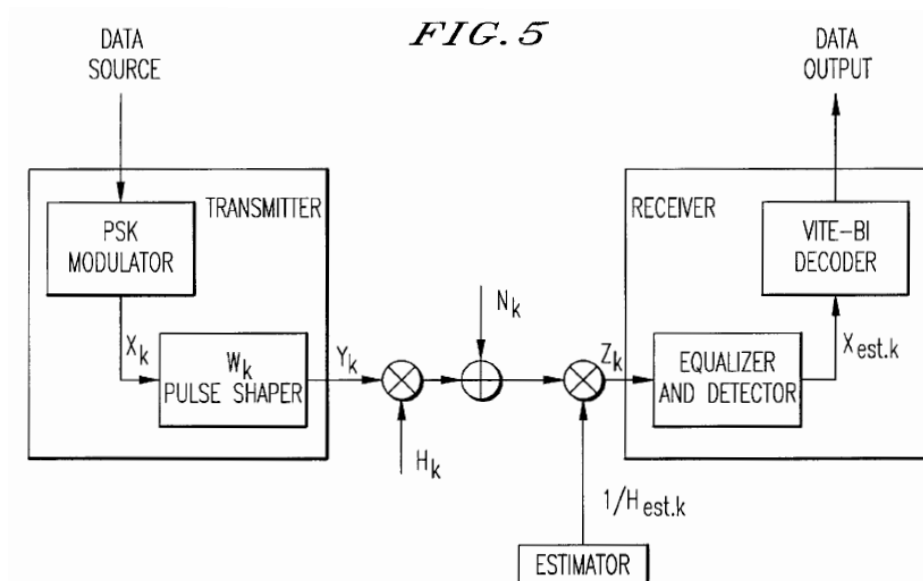
data rates. A related advantage of OFDM is minimization of interference between closely spaced carriers due to their orthogonality.

14. In OFDM systems, the signal is pulse-shaped to suppress side lobes in order to reduce guard bands and the space between carriers.

15. Recognizing the fact that pulse shaping breaks orthogonality and results in inter-symbol interference (ISI), the inventors introduced equalization to compensate for ISI.

16. In allowing the claims of the '398 Patent, the Examiner noted the absence in the prior art of "the receiver for the OFDM signals subjected to pulse shaping and every other subcarrier omitted, which receiver can recover data at a rate better than one-half the rate of an ordinary OFDM receiver with half the subcarriers absent due to an equalizer and the reduction of guard bands."

17. Figure 5 from the '398 Patent depicts schematically an OFDM system employing the claimed subject matter:



18. In operation, receivers in mobile devices utilizing OFDM modulation and implementing the claimed subject matter equalize channels to maintain orthogonality so the received signal can be correctly decoded.

19. The United States Patent and Trademark Office issued the '398 Patent on July 11, 2000, after a complete examination and upon finding the claimed subject matter novel and the application meeting all requirements for patentability.

20. The '398 Patent is valid and enforceable.

21. A copy of the '398 Patent is attached at Exhibit A.

The Enhanced Handset Patents

22. Dan Mauney, Marc Sullivan, Charles Green, and Steve Harbin invented the claimed subject matter of the '027, '372, '542, '684, '381, '691, and '169 Patents (the "Enhanced Handset Patents") while working for SBC Technology Resources, Inc. in Austin, Texas. SBC Technology Resources, later renamed SBC Laboratories in 2003, was the research and development arm of SBC Communications Inc., which acquired AT&T in 2005.

23. The Enhanced Handset Patents, titled "Enhanced Wireless Handset, Including Direct Handset-to-Handset Communication Mode, were duly and legally issued by the United States Patent and Trademark Office after full and complete examinations of each.

24. The Patent Examiner found each set of allowed claims to recite patentable subject matter and each respective application meeting all requirements for patentability.

25. In allowing the claims of the '381 Patent, for example, the Examiner found

that “[n]one of the cited prior art of record teaches an apparatus and method for short-range wireless communication between an object and an apparatus comprising transmitting step and detecting step as specified in claims (i.e., claims 17 and 37).”

26. The Asserted Patents are directed to wireless handset and mobile devices for operation on a wireless network (e.g., a cellular, PCS, or WiFi network) and wireless short-range direct communication with other wireless handsets (i.e., direct handset-to-handset communication), paging devices, and other communication devices.

27. To facilitate set-up, the Asserted Patents describe find features (e.g., that assist a handset operator in determining what objects, including other handset users, are located within the handset’s operating range), memory for maintaining a list of available devices for communicating via the short-range wireless network, and short-range messaging.

28. In operation, handsets described in the Asserted Patents scan, find, register, and communicate with available devices and may present to a user a list from which the user may select devices to pair with a handset to enable two-way communication via the short-range wireless network independent of a cellular or other wireless network.

29. The Asserted Patents further describe how embodying handsets may simultaneously communicate on short range wireless network(s) and a wide-area wireless network such as cellular or PCS systems.

A. United States Patent No. 6,484,027

30. The United States Patent and Trademark Office issued the ’027 Patent on November 19, 2002, after a complete examination and upon finding the claimed subject

matter novel and the application meeting all requirements for patentability.

31. The '027 Patent is valid and enforceable.

32. A copy of the '027 Patent is attached at Exhibit B.

B. United States Patent No. 6,865,372

33. The United States Patent and Trademark Office issued the '372 Patent on March 8, 2005, after a complete examination and upon finding the claimed subject matter novel and the application meeting all requirements for patentability.

34. The '372 Patent issued from a division of application No. 09/094,600 from which the '027 Patent issued.

35. The '372 Patent is valid and enforceable.

36. A copy of the '372 Patent is attached at Exhibit C.

C. United States Patent No. 7,693,542

37. The United States Patent and Trademark Office issued the '542 Patent on April 6, 2010, after a complete examination and upon finding the claimed subject matter novel and the application meeting all requirements for patentability.

38. The '372 Patent issued from a continuation of the application that issued as the '372 Patent, which was a division of application No. 09/094,600 from which the '027 Patent issued.

39. The '542 Patent is valid and enforceable.

40. A copy of the '542 Patent is attached at Exhibit D.

D. United States Patent No. 7,885,684

41. The United States Patent and Trademark Office issued the '684 Patent on

February 8, 2011, after a complete examination and upon finding the claimed subject matter novel and the application meeting all requirements for patentability.

42. The '684 Patent issued from a continuation of the application that issued as the '542 Patent and is, therefore, related to the '372 and '027 Patents.

43. The '684 Patent is valid and enforceable.

44. A copy of the '684 Patent is attached at Exhibit E.

E. United States Patent No. 8,019,381

45. The United States Patent and Trademark Office issued the '381 Patent on September 13, 2011, after a complete examination and upon finding the claimed subject matter novel and the application meeting all requirements for patentability.

46. The '381 Patent issued from a continuation of the application that issued as the '684 Patent and is, therefore, related to the '372, '027, and '542 Patents.

47. The '381 Patent is valid and enforceable.

48. A copy of the '381 Patent is attached at Exhibit F.

F. United States Patent No. 8,265,691

49. The United States Patent and Trademark Office issued the '691 Patent on September 11, 2012, after a complete examination and upon finding the claimed subject matter novel and the application meeting all requirements for patentability.

50. The '691 Patent issued from a continuation of the application that issued as the '381 Patent and is, therefore, related to the '372, '027, '542, and '684 Patents.

51. The '691 Patent is valid and enforceable.

52. A copy of the '691 Patent is attached at Exhibit G.

G. United States Patent No. 8,346,169

53. The United States Patent and Trademark Office issued the '169 Patent on January 1, 2013, after a complete examination and upon finding the claimed subject matter novel and the application meeting all requirements for patentability.

54. The '169 Patent is related to the other Asserted Patents.

55. The '169 Patent is valid and enforceable.

56. A copy of the '169 Patent is attached at Exhibit H.

**COUNT I
INFRINGEMENT OF U.S. PATENT NO. 6,088,398**

57. Blue Sky incorporates by reference paragraphs 1-56 and re-alleges them as if stated here.

58. BLU directly and/or indirectly infringes at least claim 13 of the '398 Patent.

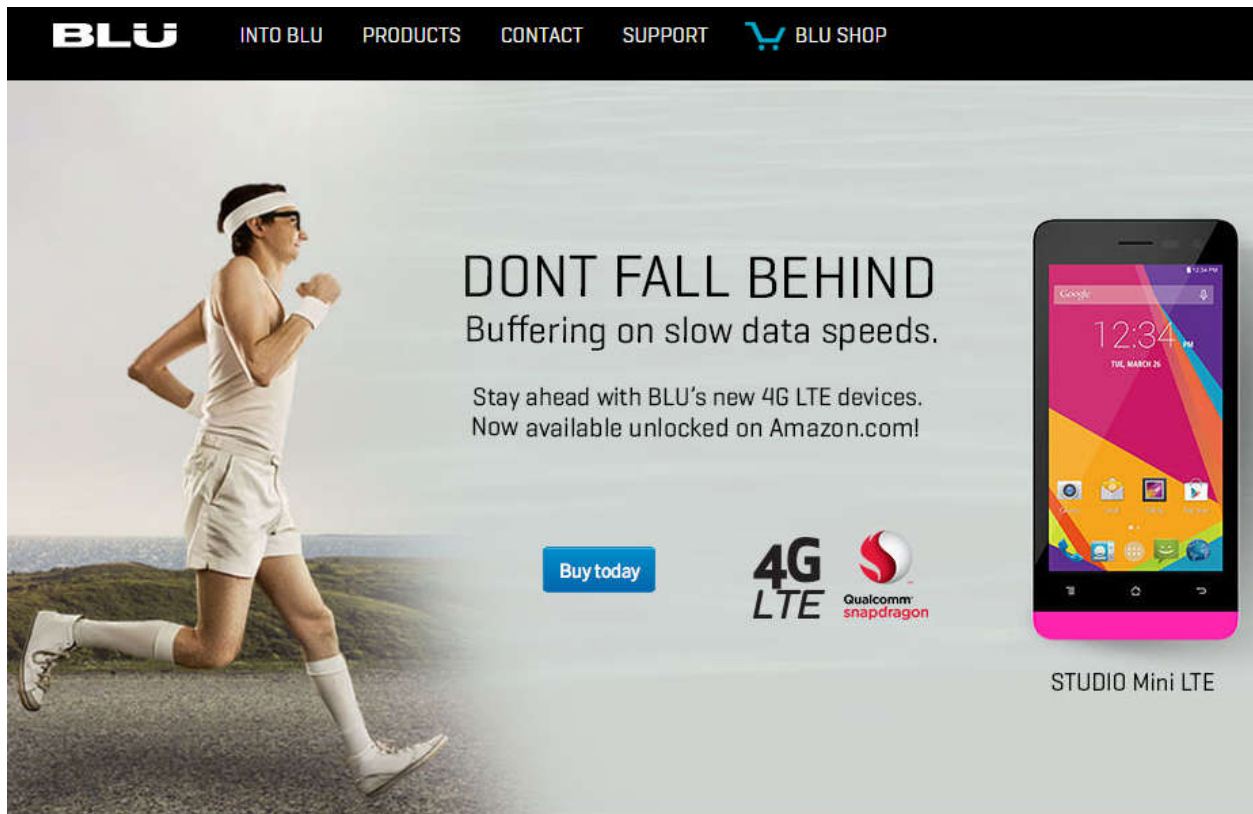
59. BLU makes, uses, sells, offers for sale, and imports mobile phones/devices including the following series: Dash, Advance, Vivo, Studio, Blu Studio X, Studio X, Studio G, Life, Touchbook, Pure, R1HD, Neo, Neo X and XL ("Accused Phones").

60. BLU makes, uses, sells, offers for sale, and imports Accused Phones that comply with the LTE telecommunications standard including the Studio Mini LTE, Studio 5.0 LTE, Studio 5.0 HD LTE, Studio 6.0 LTE, Life One XL, Win HD LTE, and Win JR LTE.

61. BLU markets LTE-compliant Accused Phones through the BLU Products website.

62. The graphic below shows a BLU Products webpage that has been available

at <http://www.bluproducts.com/index.php/4g-lte-phones>:



63. BLU LTE-compliant Accused Phones (and other LTE-compliant devices) embody claim 13 of the '398 Patent and are designed and intended to operate on OFDM systems as recited, for example, in claim 1.

64. Each BLU LTE-compliant Accused Phone has a receiver.

65. The receiver in each BLU LTE-compliant Accused Phone includes or operates with an equalizer that compensates for loss of orthogonality cause by pulse-shaping.

66. BLU LTE-compliant Accused Phones perform synchronization procedures including cell search by which the device acquires time and frequency synchronization with a base station in the cell.

67. An equalizer in each BLU LTE-compliant Accused Phone corrects frequency error to ensure orthogonality so the received signal is correctly decoded.

68. BLU instructs end users to use LTE-complaint device communication systems to send and receive OFDM data.

69. BLU tests LTE-compliant Accused Phones to ensure interoperability and compliance with the LTE standard.

70. BLU encourages, aids, and directs end users of BLU LTE-compliant Accused Phones to use and operate them on LTE mobile networks.

71. BLU is on notice of the infringing products, features, and how end users of BLU LTE-compliant devices operate them on LTE networks and use the claimed apparatus.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 6,484,027

72. Blue Sky incorporates by reference paragraphs 1-71 and re-alleges them as if stated here.

73. BLU directly and indirectly infringes at least claims 5, 6, 7, and 8 of the '027 Patent.

74. BLU makes, uses, sells, offers for sale, and imports mobile phones including the following series: Dash, Advance, Vivo, Studio, Blu Studio X, Studio X, Studio G, Life, Touchbook, Pure, R1HD, Neo, Neo X and XL (“Accused Phones”). The Accused Phones embody the claims of the U.S. Patent No. 6,484,027 including representative claim 5.

75. Accused Phones are wireless handsets with enhanced operating features including the ability to locate other devices within range.

76. In normal operation, the Accused Phones initiate a find feature to discover any Bluetooth enabled devices (e.g., peripherals, phones, computers, etc.) within range of the Accused Phone.

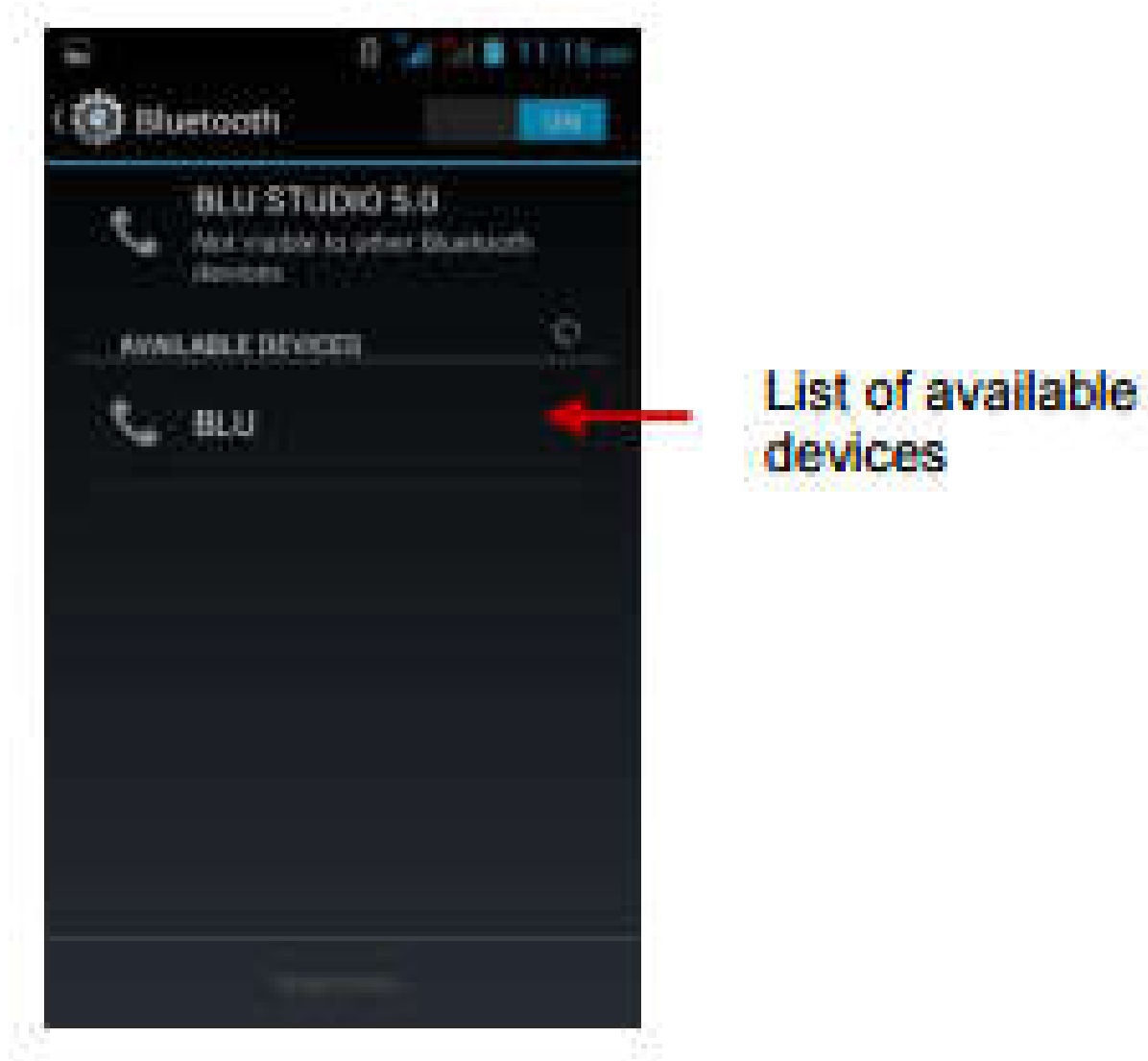
77. In an Accused Phone that operates using Bluetooth BR/EDR, the Accused Phone enters the page sub-state to determine whether available devices are within range, and the Accused Phone may transmit a train of page messages until a response is received from a potential target device.

78. An Accused Phone in turn detects any response messages from available Bluetooth devices (e.g., a Bluetooth headset or speaker). The Accused Phone collects and stores information received within the inquiry response messages and uses that information to compile a list of discovered or available Bluetooth devices.

79. When a connectable device receives a page request on its page scan channel from an Accused Phone, it enters into a sequence of exchanges with the Accused Phone, which enters into a master response routine.

80. A link key is created and exchanged during the pairing process. Once an Accused Phone is paired with a connectable device, higher level initialization procedures are invoked to update a stored list of paired devices.

81. An Accused Phone lists “available” devices that are detected to be within range.



82. The user selects an “available” device for connection.

83. Once the device is connected to the Accused Phone, it is designated as a “paired” device.

84. BLU instructs end users to use the phone’s Bluetooth capability to infringe the asserted claims.

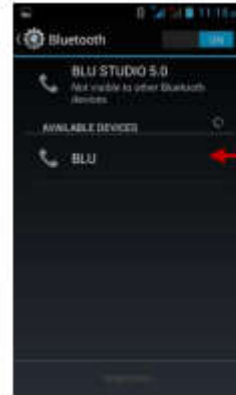
85. The instructions reproduced below are provided by BLU to end users through BLU's online support site:

Bluetooth

Bluetooth is a short-range wireless communications technology that devices can use to exchange information and connect to different types of devices which include headsets, car kits, and other devices.

Power on Bluetooth

- 1) Settings » Wireless & Networks » Bluetooth and select to power on Bluetooth.
 - 2) The Bluetooth icon will appear grey in the notification bar. Click "scan for devices" and the phone will start to scan for all devices within range.
 - 3) In Bluetooth settings all the devices found will displayed in the list under the icon.
- Important: The maximum detecting time of the phone is 2 minutes.



List of available devices

86. BLU encourages, aids, and directs end users of the Accused Phones to use and operate them, consistent with BLU's instructions, to perform the asserted method claims.

87. BLU has been on notice of the infringing products, features, and how end users of the Accused Phones operate them to perform the claimed methods and use the claimed apparatuses.

88. Since BLU became aware of the '027 Patent, and since Blue Sky filed its original complaint, BLU has made no effort to modify the accused products in a way that would avoid infringement or deactivate infringing features.

89. Since learning about the '027 Patent and Blue Sky's infringement allegations and the specific acts accused of infringement, BLU has made no effort to modify its instructions or the Accused Phones to avoid infringement.

90. BLU has not deactivated the functionality of the Accused Phones identified in Blue Sky's Complaint as infringing the '027 Patent.

91. BLU has provided no instructions to end users about how to avoid infringing the '027 Patent.

92. BLU's knowledge of the '027 Patent and Blue Sky's infringement allegations combined with its knowledge of the Accused Phones and how they are used to infringe the '027 Patent, consistent with BLU's instructions, demonstrate BLU's specific intent to induce end users to infringe the '027 Patent.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 6,865,372

93. Blue Sky incorporates by reference paragraphs 1-92 and re-alleges them as if stated here.

94. BLU directly and indirectly infringes at least claims 1, 3, 6, 8, 11, 13, 16, and 18 of the '372 Patent.

95. BLU makes, uses, sells, offers for sale, and imports mobile phones including the following series: Dash, Advance, Vivo, Studio, Blu Studio X, Studio X, Studio G, Life, Touchbook, Pure, R1HD, Neo, Neo X and XL ("Accused Phones"). The Accused Phones embody the claims of the U.S. Patent No. 6,865,372 including representative claim 1.

96. Accused Phones communicate with peripherals using relevant short-range technologies including but not limited to Bluetooth BR/EDR.

97. In accordance with recitations of claim 1 of the 372 Patent, an Accused Phone is enabled to pair or communicate with at least two distinct Bluetooth peripherals using two frequency channels. The Accused Phone receives an identifier (e.g., name) from each paired (or available) peripheral. The Accused Phone displays the identifier in a list of

paired or available devices.

98. Accused Phones contain short-range wireless transmitters for short-range communications.

99. Accused Phones enter into the inquiry substate and transmit inquiry messages (e.g., inquiry data packets) as part of the discovery and pairing process with nearby compatible Bluetooth devices (e.g., wireless headset, Bluetooth speaker, etc.).

100. An Accused Phone that embodies at least claim 1 of the '372 Patent consecutively transmits, to two Bluetooth peripherals, inquiry messages over at least two frequency channels. Based on Bluetooth protocols, the Accused Phone may determine the frequency channels by an inquiry hopping sequence.

101. If discoverable, the peripherals receive the inquiry messages and in turn generate responses. Accordingly, an Accused Phone contains a receiver to receive the inquiry response messages from Bluetooth peripherals within range of the Accused Phone.

102. According to Bluetooth protocols, a peripheral's response message may contain information including device address, clock, class of device, and device name for each respective peripheral.

103. After receiving the response messages, an Accused Phone dynamically creates and updates a list of detected peripherals within range of the Accused Phone. The list includes identifiers (e.g., names) for detected (e.g., available or paired) objects. The list includes the first object identifier and the second object identifier (e.g., two device names) for cases in which inquiry packets are sent over two frequency channels to two separate peripherals, and the two peripherals send response data packets including

corresponding object identifiers (e.g., a device name for each peripheral).

104. BLU instructs end users to use the phone's Bluetooth capability to infringe the asserted claims.

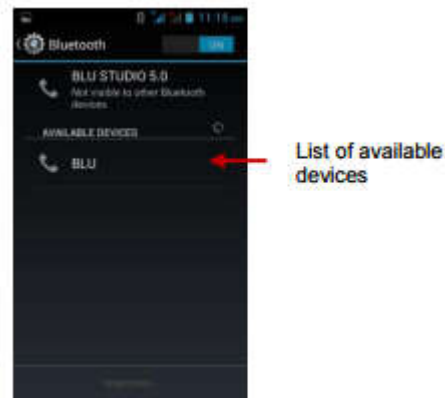
105. The instructions reproduced below are provided by BLU to end users through BLU's online support site:

Bluetooth

Bluetooth is a short-range wireless communications technology that devices can use to exchange information and connect to different types of devices which include headsets, car kits, and other devices.

Power on Bluetooth

- 1) Settings » Wireless & Networks » Bluetooth and select to power on Bluetooth.
 - 2) The Bluetooth icon will appear grey in the notification bar. Click "scan for devices" and the phone will start to scan for all devices within range.
 - 3) In Bluetooth settings all the devices found will displayed in the list under the icon.
- Important: The maximum detecting time of the phone is 2 minutes.



106. BLU encourages, aids, and directs end users of the Accused Phones to use and operate them, consistent with BLU's instructions, to perform the asserted method claims.

107. BLU has been on notice of the infringing products, features, and how end users of the Accused Phones operate them to perform the claimed methods and use the claimed apparatuses.

108. Since BLU became aware of the '372 Patent, and since Blue Sky filed its original complaint, BLU has made no effort to modify the accused products in a way that would avoid infringement or deactivate infringing features.

109. Since learning about the '372 Patent and Blue Sky's infringement allegations and the specific acts accused of infringement, BLU has made no effort to modify its

instructions or the Accused Phones to avoid infringement.

110. BLU has not deactivated the functionality of the Accused Phones identified in Blue Sky's Complaint as infringing the '372 Patent.

111. BLU has provided no instructions to end users about how to avoid infringing the '372 Patent.

112. BLU's knowledge of the '372 Patent and Blue Sky's infringement allegations combined with its knowledge of the Accused Phones and how they are used to infringe the '372 Patent, consistent with BLU's instructions, demonstrate BLU's specific intent to induce end users to infringe the '372 Patent.

COUNT IV
INFRINGEMENT OF U.S. PATENT NO. 7,693,542

113. Blue Sky incorporates by reference paragraphs 1-112 and re-alleges them as if stated here.

114. BLU directly and indirectly infringes at least claims 1, 2, 3, 8, 9, 1000, 11, 12, 17, and 18 of the '542 Patent.

115. BLU makes, uses, sells, offers for sale, and imports mobile phones including the following series: Dash, Advance, Vivo, Studio, Blu Studio X, Studio X, Studio G, Life, Touchbook, Pure, R1HD, Neo, Neo X and XL ("Accused Phones"). The Accused Phones embody the claims of the '542 Patent including representative claim 10.

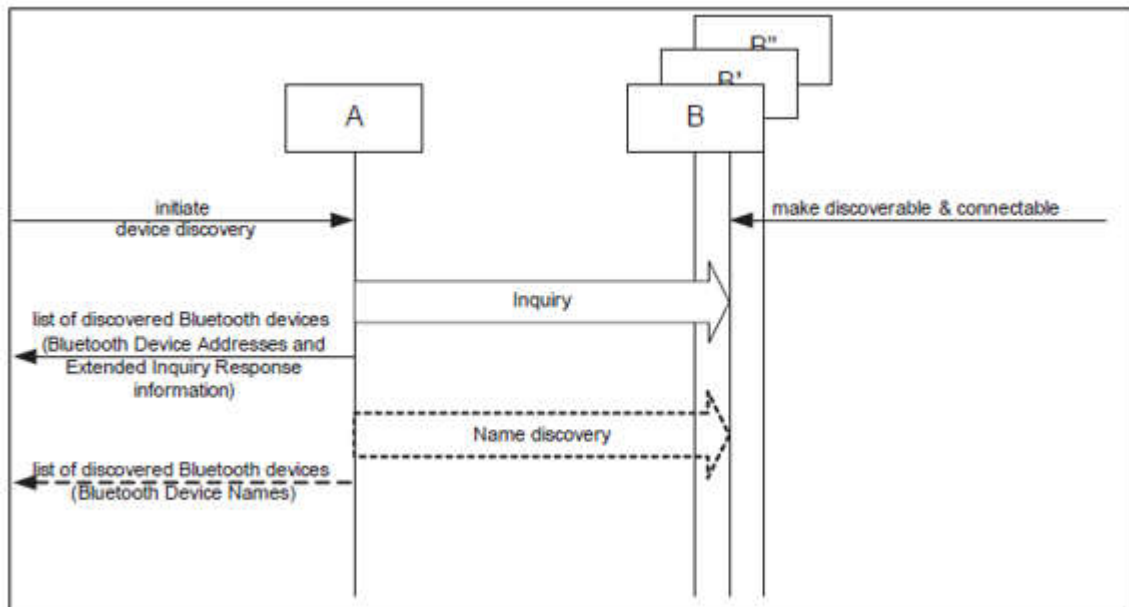
116. Accused Phones communicate with peripherals using relevant short-range technologies including but not limited to Bluetooth Basic Rate/Enhanced Data Rate (BR/EDR).

117. In accordance with claim 10, an Accused Phone is enabled to pair with third-party peripherals over a first network (e.g., a Bluetooth network) while the Accused Phone maintains a telephone call over a second network (e.g., cellular network).

118. By way of example, in one scenario an Accused Phone that is conducting a call over a 4G, 3G, LTE, or Wi-Fi network sends a query message (e.g., an inquiry data packet) to a Bluetooth peripheral (e.g., a hands-free headset) to determine whether the peripheral is present and within range. If the peripheral is in a discoverable mode (e.g., general discoverable mode), the Accused Phone receives a response (e.g., inquiry response message) from the Bluetooth peripheral.

119. In the Accused Phones, two discoverability modes are defined: limited discoverable mode and general discoverable mode.

120. The following diagram illustrates the discovery procedure carried out by the Accused Phones:



121. The response to the Accused Phone may include the peripheral's name, address, clock information, or class of device.

122. After receiving a response from a peripheral, the Accused Phone generates and displays a list of discovered devices.

123. The list of available, discovered devices is displayed to the user of the Accused Phone on the screen via the BLU user interface.

124. BLU encourages, aids, and directs end users of the Accused Phones to use and operate them, consistent with BLU's instructions, to perform the asserted method claims.

125. BLU instructs end users to use the phone's Bluetooth capability to infringe the asserted claims.

126. BLU has been on notice of the infringing products, features, and how end users of the Accused Phones operate them to perform the claimed methods and use the claimed apparatuses.

127. Since BLU became aware of the '542 Patent, and since Blue Sky filed its original complaint, BLU has made no effort to modify the accused products in a way that would avoid infringement or deactivate infringing features.

128. Since learning about the '542 Patent and Blue Sky's infringement allegations and the specific acts accused of infringement, BLU has made no effort to modify its instructions or the Accused Phones to avoid infringement.

129. BLU has not deactivated the functionality of the Accused Phones identified in Blue Sky's Complaint as infringing the '542 Patent.

130. BLU has provided no instructions to end users about how to avoid infringing the '542 Patent.

131. BLU's knowledge of the '542 Patent and Blue Sky's infringement allegations combined with its knowledge of the Accused Phones and how they are used to infringe the '542 Patent, consistent with BLU's instructions, demonstrate BLU's specific intent to induce end users to infringe the '542 Patent.

COUNT V
INFRINGEMENT OF U.S. PATENT NO. 7,885,684

132. Blue Sky incorporates by reference paragraphs 1-131 and re-alleges them as if stated here.

133. BLU directly and indirectly infringes at least claims 1, 2, 3, 8, 9, 10, 14, 15, 16, 17, 18, 19, 24,25,26,29, 30, 31, and 32 of the '684 Patent.

134. BLU makes, uses, sells, offers for sale, and imports mobile phones including the following series: Dash, Advance, Vivo, Studio, Blu Studio X, Studio X, Studio G, Life, Touchbook, Pure, R1HD, Neo, Neo X and XL (the "Accused Phones"). The Accused Phones embody the claims of the '684 Patent including representative claim 17.

135. Accused Phones communicate with peripherals using relevant short-range technologies including but not limited to Bluetooth Basic Rate/Enhanced Data Rate (BR/EDR).

136. In accordance with claim 17, the Accused Phones have a transceiver configured to transmit inquiry messages to identify available communication devices.

137. Accused Phones are enabled to pair with third-party peripherals over a first

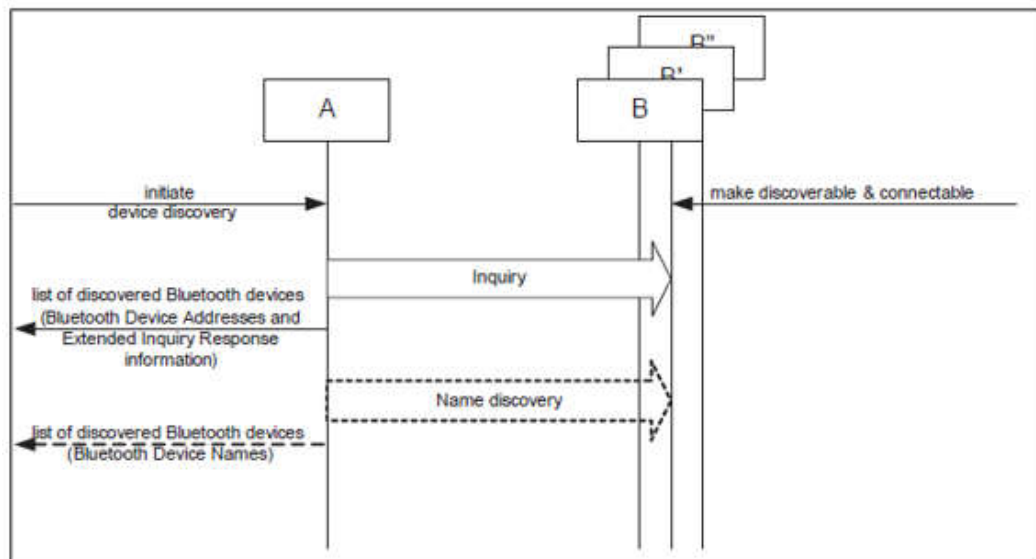
network (e.g., a Bluetooth network) while the Accused Phone maintains a telephone call over a second network (e.g., cellular network).

138. Accused Phones receive responses from available communication devices and generate a list of them that is displayed to the user.

139. By way of example, in one scenario an Accused Phone that is conducting a call over a 4G, 3G, LTE, or Wi-Fi network sends a query message (e.g., an inquiry data packet) to a Bluetooth peripheral (e.g., a hands-free headset) to determine whether the peripheral is present and within range. If the peripheral is in a discoverable mode (e.g., general discoverable mode), the Accused Phone receives a response (e.g., inquiry response message) from the Bluetooth peripheral.

140. In the Accused Phones, two discoverability modes are defined: limited discoverable mode and general discoverable mode.

141. The following diagram illustrates the discovery procedure carried out by the Accused Phones:



142. The list of available, discovered devices is displayed to the user of the Accused Phone on the screen via the BLU user interface.

143. BLU encourages, aids, and directs end users of the Accused Phones to use and operate them, consistent with BLU's instructions, to perform the asserted method claims.

144. BLU instructs end users to use the phone's Bluetooth capability to infringe the asserted claims.

145. BLU has been on notice of the infringing products, features, and how end users of the Accused Phones operate them to perform the claimed methods and use the claimed apparatuses.

146. Since BLU became aware of the '684 Patent, and since Blue Sky filed its original complaint, BLU has made no effort to modify the accused products in a way that would avoid infringement or deactivate infringing features.

147. Since learning about the '684 Patent and Blue Sky's infringement allegations and the specific acts accused of infringement, BLU has made no effort to modify its instructions or the Accused Phones to avoid infringement.

148. BLU has not deactivated the functionality of the Accused Phones identified in Blue Sky's Complaint as infringing the '684 Patent.

149. BLU has provided no instructions to end users about how to avoid infringing the '684 Patent.

150. BLU's knowledge of the '684 Patent and Blue Sky's infringement allegations combined with its knowledge of the Accused Phones and how they are used to infringe the

'684 Patent, consistent with BLU's instructions, demonstrate BLU's specific intent to induce end users to infringe the '684 Patent.

COUNT VI
INFRINGEMENT OF U.S. PATENT NO. 8,019,381

151. Blue Sky incorporates by reference paragraphs 1-150 and re-alleges them as if stated here.

152. BLU directly and indirectly infringes at least claims 1, 2, 3, 4, 6, 11, 12, 13, 16, 20, 21, 22, 23, 24, 26, 31, 32, 33, 36, 39, and 40 of the '381 Patent.

153. BLU makes, uses, sells, offers for sale, and imports mobile phones including the following series: Dash, Advance, Vivo, Studio, Blu Studio X, Studio X, Studio G, Life, Touchbook, Pure, R1HD, Neo, Neo X, and Neo XL, and Life View ("Accused Phones"). The Accused Phones embody the asserted claims of the '381 Patent including representative claim 21.

154. Accused Phones communicate with peripherals using relevant short-range technologies including but not limited to Bluetooth BR/EDR. In accordance with claim 21, an Accused Phone is enabled to pair with third-party peripherals over a first network (e.g., a Bluetooth network) while the Accused Phone maintains a communication over a second network (e.g., Wi-Fi network or cellular network).

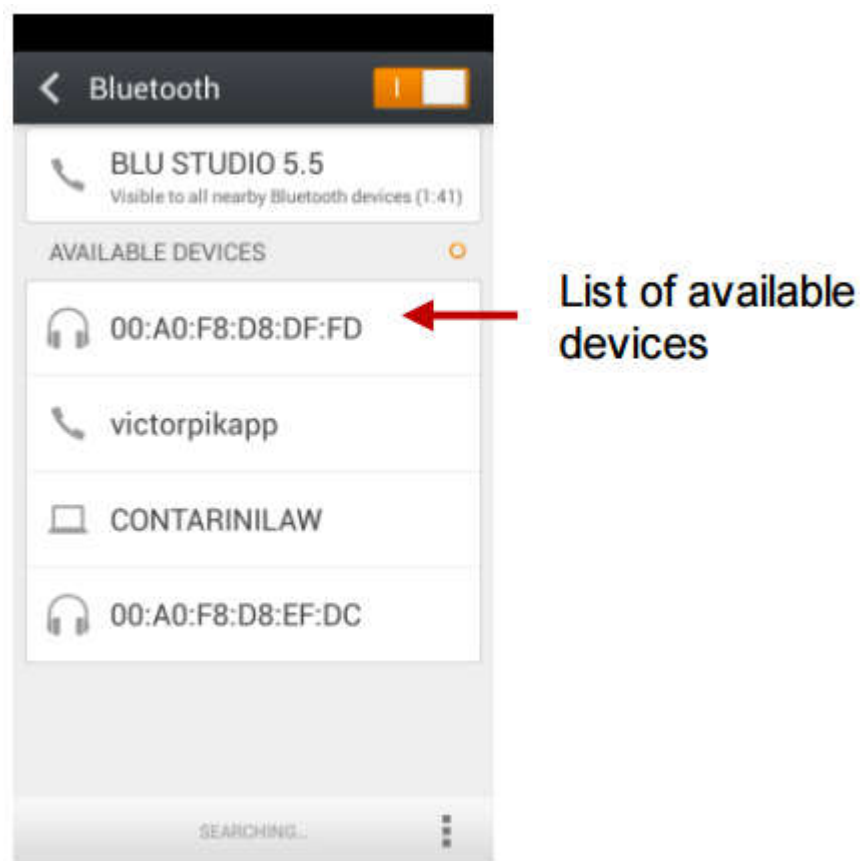
155. For example, a Accused Phone pairs with a Bluetooth-enabled headset while conducting a voice call, data download, data upload, or synchronization over a Wi-Fi or cellular (e.g., 3G, 4G, LTE) network.

156. In normal operation, the Accused Phones transmit an inquiry message (e.g.,

an inquiry data packet) to a Bluetooth peripheral (e.g., a hands-free headset) to determine whether the peripheral is within range.

157. If the peripheral is in a discoverable mode (e.g., general discoverable mode), the Accused Phone receives a response (e.g., inquiry response message) from the Bluetooth peripheral.

158. In some cases, the response includes the peripheral's name, address, clock information, and class of device. After receiving a response from a peripheral, the Accused Phone generates and displays a list of discovered or available devices as shown below.



159. BLU encourages, aids, and directs end users of the Accused Phones to use and operate them, consistent with BLU's instructions, to perform the asserted method

claims.

160. BLU instructs end users to use the phone's Bluetooth capability to infringe the asserted claims.

161. The instructions reproduced below are provided by BLU to end users through BLU's online support site:

Bluetooth & Wi-Fi

Bluetooth is a short-range wireless communications technology that devices can use to exchange information and connect to different types of devices which include headsets, car kits, and other devices.

Power on Bluetooth

- 1) Settings » Bluetooth and select ON to power on Bluetooth.
- 2) The Bluetooth icon will appear in the in the notification bar. Click "scan for devices" and the tablet will start to scan for all devices within range.
- 3) In Bluetooth settings all the devices found will displayed in the list under the icon.

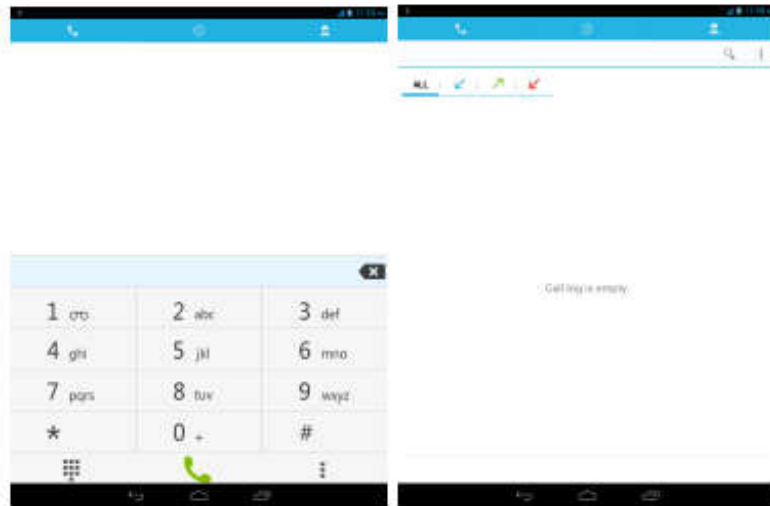
Note: *The maximum detecting time is 2 minutes.*

162. BLU instructs and encourages users to make voice calls with Bluetooth headsets to which voice communications in the form of digital data are conveyed.

163. The instructions reproduced below are provided by BLU to end users through BLU’s online support site:

Call Functions

At the dial keyboard, enter the phone number and then click the dial key. If dialing an extension, you may click the dial pad icon in the bottom of the screen to open the interface and enter the number of the extension. You may also enter an input number and call contacts through speed dial.



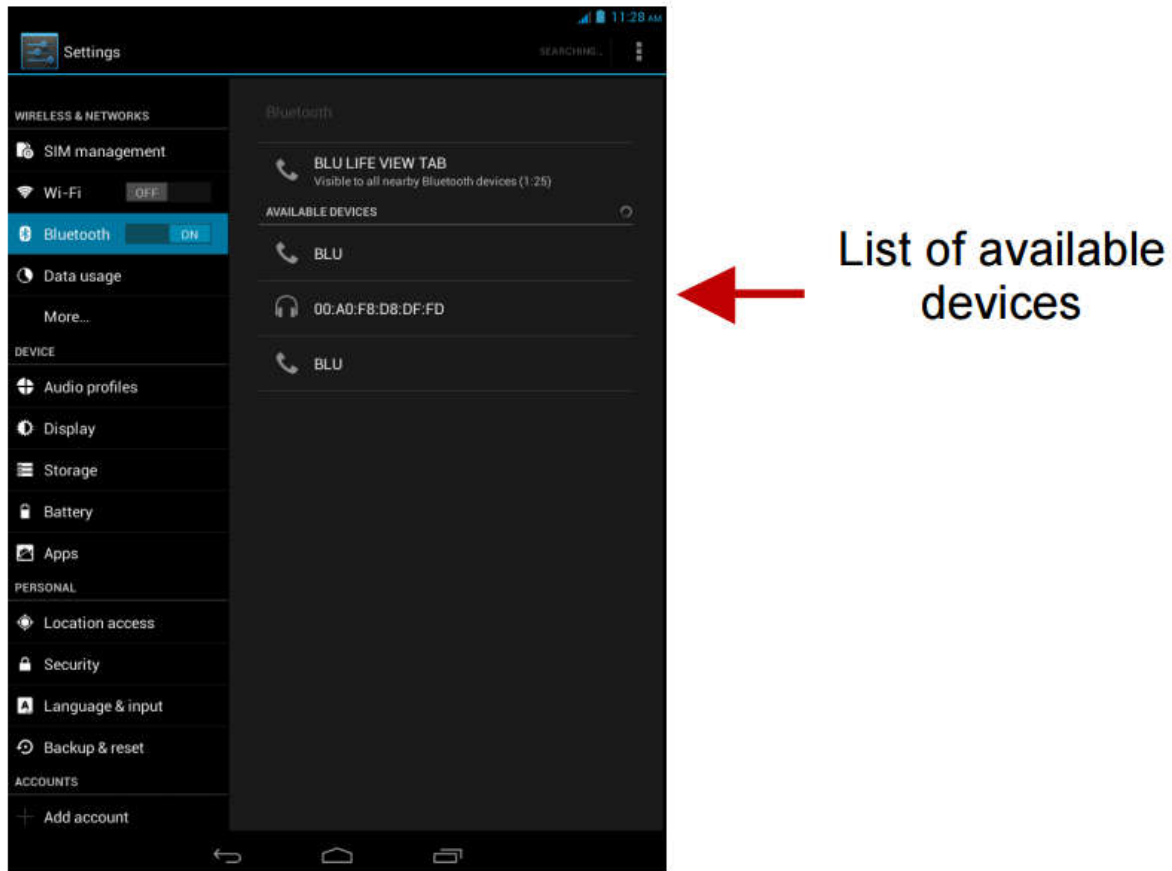
Call Logs

Every number called and received will be saved in the call log. All numbers in the call log can be dialed directly by clicking the dial icon on the right side of the screen. When the number appears on the list, click it to view details.

Placing a Call

Please keep in mind that while the tablet has SIM capabilities to place phone calls, it does not work as a traditional handset. In order to make calls, you will need to place the call on speaker or use a Bluetooth headset.

164. The Accused Phones provide a user a list of available devices as shown below from BLU's instructional materials:



165. BLU has been on notice of the infringing products, features, and how end users of the Accused Phones operate them to perform the claimed methods and use the claimed apparatuses.

166. Since BLU became aware of the '381 Patent, and since Blue Sky filed its original complaint, BLU has made no effort to modify the accused products in a way that would avoid infringement or deactivate infringing features.

167. Since learning about the '381 Patent and Blue Sky's infringement allegations and the specific acts accused of infringement, BLU has made no effort to modify its

instructions or the Accused Phones to avoid infringement.

168. BLU has not deactivated the functionality of the Accused Phones identified in Blue Sky's Complaint as infringing the '381 Patent.

169. BLU has provided no instructions to end users about how to avoid infringing the '381 Patent.

170. BLU's knowledge of the '381 Patent and Blue Sky's infringement allegations combined with its knowledge of the Accused Phones and how they are used to infringe the '381 Patent, consistent with BLU's instructions, demonstrate BLU's specific intent to induce end users to infringe the '381 Patent.

COUNT VII
INFRINGEMENT OF U.S. PATENT NO. 8,265,691

171. Blue Sky incorporates by reference paragraphs 1-170 and re-alleges them as if stated here.

172. BLU directly and indirectly infringes at least claims 1, 2, 3, 7, 8, 11, 12, 13, 17, and 18 of the '691 Patent.

173. BLU makes, uses, sells, offers for sale, and imports mobile phones including the following series: Dash, Advance, Vivo, Studio, Blu Studio X, Studio X, Studio G, Life, Touchbook, Pure, R1HD, Neo, Neo X, and Neo XL, and Life View ("Accused Phones"). The Accused Phones embody the asserted claims of the '691 Patent including representative claim 11.

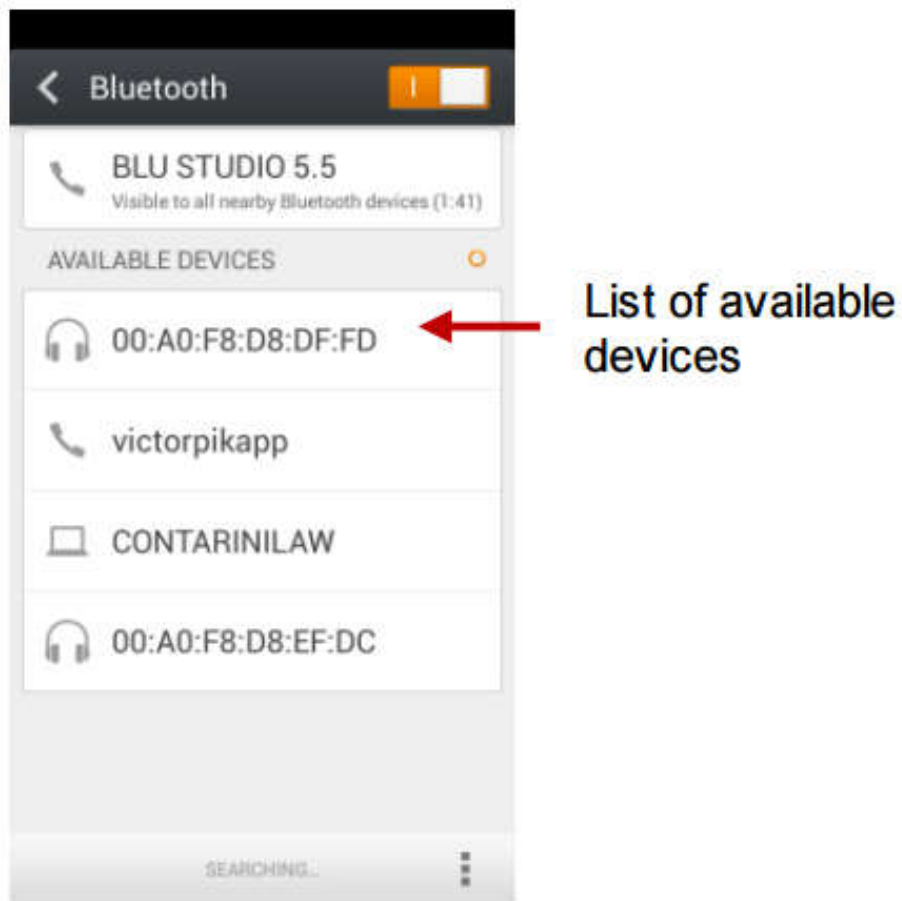
174. Accused Phones communicate with peripherals using relevant short-range technologies including but not limited to Bluetooth BR/EDR using transceivers in the

Accused Phones.

175. In normal operation, the Accused Phones transmit an inquiry message (e.g., an inquiry data packet) to a Bluetooth peripheral (e.g., a hands-free headset) to determine whether the peripheral is within range.

176. If the peripheral is in a discoverable mode (e.g., general discoverable mode), the Accused Phone receives a response (e.g., inquiry response message) from the Bluetooth peripheral.

177. After receiving a response from a peripheral, the Accused Phone generates and displays a list of discovered or available devices as shown below.



178. Once paired, Accused Phones operate in the connected state and exchange messages over one of two channels reserved for communication between them.

179. The physical channel is subdivided into time units known as slots, and data is transmitted between Bluetooth devices in packets positioned in these slots.

180. Other BR/EDR physical channels are used for discovering other Bluetooth devices.

181. In order support multiple concurrent communication sessions, the Accused Phones use time division multiplexing between channels.

182. BLU encourages, aids, and directs end users of the Accused Phones to use and operate them, consistent with BLU's instructions, to perform the asserted method claims.

183. BLU instructs end users to use the phone's Bluetooth capability to infringe the asserted claims.

184. The instructions reproduced below are provided by BLU to end users through BLU’s online support site:

Bluetooth & Wi-Fi

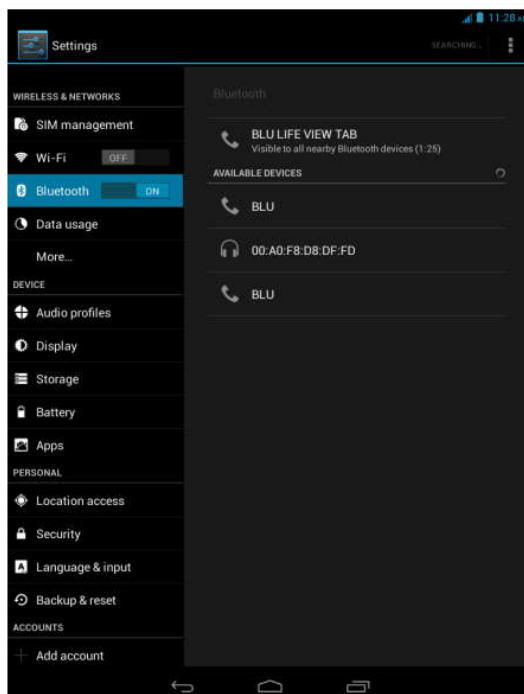
Bluetooth is a short-range wireless communications technology that devices can use to exchange information and connect to different types of devices which include headsets, car kits, and other devices.

Power on Bluetooth

- 1) Settings » Bluetooth and select ON to power on Bluetooth.
- 2) The Bluetooth icon will appear in the in the notification bar. Click “scan for devices” and the tablet will start to scan for all devices within range.
- 3) In Bluetooth settings all the devices found will displayed in the list under the icon.

Note: *The maximum detecting time is 2 minutes.*

185. The Accused Phones provide a user a list of available devices as shown below from BLU’s instructional materials:



List of available devices

186. BLU has been on notice of the infringing products, features, and how end users of the Accused Phones operate them to perform the claimed methods and use the claimed apparatuses.

187. Since BLU became aware of the '691 Patent, and since Blue Sky filed its original complaint, BLU has made no effort to modify the accused products in a way that would avoid infringement or deactivate infringing features.

188. Since learning about the '691 Patent and Blue Sky's infringement allegations and the specific acts accused of infringement, BLU has made no effort to modify its instructions or the Accused Phones to avoid infringement.

189. BLU has not deactivated the functionality of the Accused Phones identified in Blue Sky's Complaint as infringing the '691 Patent.

190. BLU has provided no instructions to end users about how to avoid infringing the '691 Patent.

191. BLU's knowledge of the '691 Patent and Blue Sky's infringement allegations combined with its knowledge of the Accused Phones and how they are used to infringe the '691 Patent, consistent with BLU's instructions, demonstrate BLU's specific intent to induce end users to infringe the '691 Patent.

COUNT VIII
INFRINGEMENT OF U.S. PATENT NO. 8,346,169

192. Blue Sky incorporates by reference and re-alleges them as if stated here paragraphs 1-191.

193. BLU directly infringes at least claims 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, and 15 of

U.S. Patent No. 8,346,169.

194. BLU makes, uses, sells, offers for sale, and imports mobile phones including the following series: Dash, Advance, Vivo, Studio, Blu Studio X, Studio X, Studio G, Life, Touchbook, Pure, R1HD, Neo, Neo X, and Neo XL (the “Accused Phones”). The Accused Phones embody the claims of the ’169 Patent including representative claim 8.

195. Accused Phones communicate using relevant short-range technologies including but not limited to Bluetooth Basic Rate/Enhanced Data Rate (BR/EDR). In accordance with recitations of claim 8, Accused Phones pair with third-party peripherals and add selected peripherals to a list of paired devices stored on the Accused Phones.

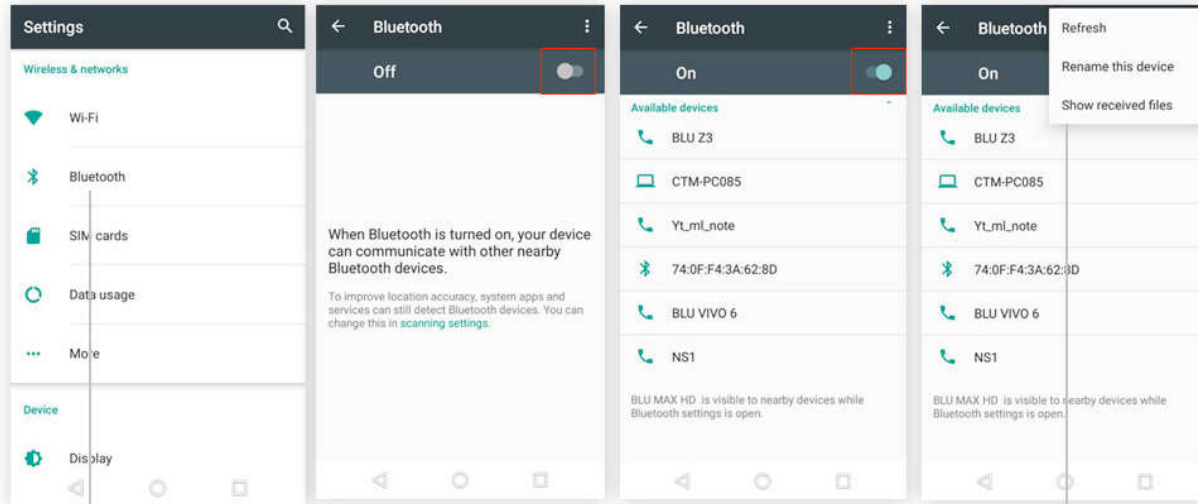
196. By way of example, in one scenario a user presses and temporarily holds a button (e.g., the call control/power button on a Bluetooth headset) to initiate pairing with an Accused Phone. In response, an Accused Phone receives a pair request message (e.g., a paging message request) over a channel shared with other Bluetooth devices (e.g., a time-division multiplexed channel). In response to the pair request, the Accused Phone prompts a user to add the Bluetooth peripheral to a list of authorized devices. If the user approves pairing the Accused Phone with the peripheral, the user selects on the Accused Phone to accept the pair request and add the peripheral to a list of authorized devices on the Accused Phone.

197. The instructions reproduced below are provided by BLU to end users of the R1HD:

Bluetooth Devices

Managing your wireless connections

- There is a huge selection of different Bluetooth devices that can connect with your device wirelessly.
- Ranging from headsets, your car radio, or even other devices, bluetooth can be used to not only stream your media, but also a great way to share pictures, video, or any other file you may have on your device.



Just open your settings menu, and open the Bluetooth options

From this overflow menu, you can refresh the Bluetooth devices available, or even rename your own device!

198. BLU encourages, aids, and directs end users of the Accused Phones to use and operate them, consistent with BLU’s instructions, to perform the asserted method claims.

199. BLU instructs end users to use the phone’s Bluetooth capability to infringe the asserted claims:

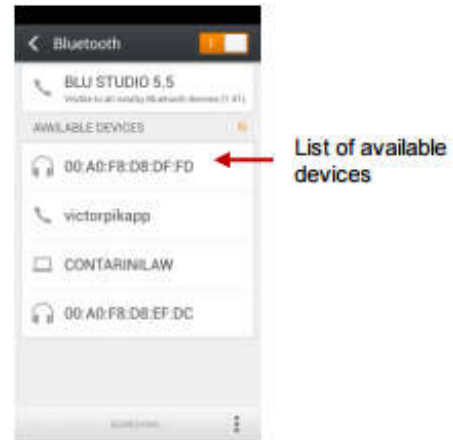
Bluetooth

Bluetooth is a short-range wireless communications technology that devices can use to exchange information and connect to different types of devices which include headsets, car kits, and other devices.

Power on Bluetooth

- 1) Settings » Wireless & Netw orks » Bluetooth and select to power on Bluetooth.
- 2) The Bluetooth icon w ill appear grey in the notification bar. Click "scan for devices" and the phone w ill start to scan for all devices w ithin range.
- 3) In Bluetooth settings all the devices found will displayed in the list under the icon.

Note: The maximum detecting time of the phone is 2 minutes.



200. BLU has been on notice of the infringing products, features, and how end users of the Accused Phones operate them to perform the claimed methods and use the claimed apparatuses.

201. Since BLU became aware of the '169 Patent, and since Blue Sky filed its original complaint, BLU has made no effort to modify the accused products in a way that would avoid infringement or deactivate infringing features.

202. Since learning about the '169 Patent and Blue Sky's infringement allegations and the specific acts accused of infringement, BLU has made no effort to modify its instructions or the Accused Phones to avoid infringement.

203. BLU has not deactivated the functionality of the Accused Phones identified in Blue Sky's Complaint as infringing the '169 Patent.

204. BLU has provided no instructions to end users about how to avoid infringing the '169 Patent.

205. BLU's knowledge of the '169 Patent and Blue Sky's infringement allegations combined with its knowledge of the Accused Phones and how they are used to infringe the

'169 Patent, consistent with BLU's instructions, demonstrate BLU's specific intent to induce end users to infringe the '169 Patent.

NOTICE OF REQUIREMENT OF LITIGATION HOLD

206. Defendant is hereby notified it is legally obligated to locate, preserve, and maintain all records, notes, drawings, documents, data, communications, materials, electronic recordings, audio/video/photographic recordings, and digital files, including edited and unedited or "raw" source material, and other information and tangible things that Defendant knows, or reasonably should know, may be relevant to actual or potential claims, counterclaims, defenses, and/or damages by any party or potential party in this lawsuit, whether created or residing in hard copy form or in the form of electronically stored information (hereafter collectively referred to as "Potential Evidence").

207. As used above, the phrase "electronically stored information" includes without limitation: computer files (and file fragments), e-mail (both sent and received, whether internally or externally), information concerning e-mail (including but not limited to logs of e-mail history and usage, header information, and deleted but recoverable e-mails), text files (including drafts, revisions, and active or deleted word processing documents), instant messages, audio recordings and files, video footage and files, audio files, photographic footage and files, spreadsheets, databases, calendars, telephone logs, contact manager information, internet usage files, and all other information created, received, or maintained on any and all electronic and/or digital forms, sources and media, including, without limitation, any and all hard disks, removable media, peripheral computer or electronic storage devices, laptop computers, mobile phones, personal data assistant

devices, Blackberry devices, iPhones, video cameras and still cameras, and any and all other locations where electronic data is stored. These sources may also include any personal electronic, digital, and storage devices of any and all of Defendant's agents, resellers, or employees if Defendant's electronically stored information resides there.

208. Defendant is hereby further notified and forewarned that any alteration, destruction, negligent loss, or unavailability, by act or omission, of any Potential Evidence may result in damages or a legal presumption by the Court and/or jury that the Potential Evidence is not favorable to Defendant's claims and/or defenses. To avoid such a result, Defendant's preservation duties include, but are not limited to, the requirement that Defendant immediately notifies its agents and employees to halt and/or supervise the auto-delete functions of Defendant's electronic systems and refrains from deleting Potential Evidence, either manually or through a policy of periodic deletion.

NOTICE

209. Blue Sky does not currently distribute, sell, offer for sale, or make products embodying the asserted Patents.

210. Blue Sky has undertaken reasonable efforts as required to comply with the notice requirements of 35 U.S.C. § 287.

JURY DEMAND

Blue Sky hereby demands a trial by jury on all claims, issues, and damages so triable.

PRAYER FOR RELIEF

Blue Sky prays for the following relief:

BLUE SKY NETWORKS, LLC v. BLU PRODUCTS, INC.

- a. That BLU Products, Inc. be summoned to appear and answer;
- b. That the Court enter judgement in favor of Plaintiff that BLU Products has infringed each and every one of the Asserted Patents;
- c. That this is an exceptional case under 35 U.S.C. §285;
- d. That the Court grant Blue Sky judgment against BLU Products for all actual, consequential, special, punitive, exemplary, increased, and/or statutory damages, including if necessary, an accounting of all damages; pre and post-judgment interest as allowed by law; and reasonable attorney's fees, costs, and expenses incurred in this action; and
- e. That Blue Sky be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: March 17, 2017

Respectfully submitted,

TAYLOR DUNHAM AND RODRIGUEZ LLP
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512.478.4409 Facsimile

By: 

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Texas Bar No. 24046950
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5 this 17th day of March, 2017.



Cabrach J. Connor