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11 MODERN TELECOM SYSTEMS, LLC

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

14
15 MODERN TELECOM SYSTEMS, LLC,
a Delaware corporation,

16
17 Plaintiff,

18 vs.

19 D-LINK SYSTEMS, INC., a California
corporation,

20 Defendant.
21

Case No. 8:18-cv-01982

**COMPLAINT FOR PATENT
INFRINGEMENT**

Trial Date: None Set

JURY TRIAL DEMANDED

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1 Plaintiff Modern Telecom Systems, LLC (“MTS” or “Plaintiff”), for its
2 Complaint against D-LINK SYSTEMS, INC. (“D-Link” or “Defendant”), alleges the
3 following:

4 **NATURE OF THE ACTION**

5 1. This is an action for patent infringement arising under the Patent Laws of
6 the United States, 35 U.S.C. § 1 *et seq.*

7 **THE PARTIES**

8 2. Plaintiff is a limited liability company organized under the laws of the
9 State of Delaware with a place of business at 913 N. Market Street, Suite 200,
10 Wilmington, DE 19801.

11 3. On information and belief, Defendant is a corporation organized under the
12 laws of California with a place of business at 17595 Mt. Hermann St., Fountain Valley,
13 California 92708. The website for the California Secretary of State identifies
14 Defendant’s agent for service of process as Brett Adair, 17595 Mt. Hermann St.,
15 Fountain Valley, California 92708.

16 4. On information and belief, Defendant sells and offers to sell products and
17 services throughout the United States, including in this District, and introduces products
18 and services into the stream of commerce and that incorporate infringing technology
19 knowing that such products and services would be sold in this District and elsewhere in
20 the United States.

21 5. On information and belief, Defendant conducts a significant, persistent and
22 regular amount of business in this District through product sales by its distributors and
23 resellers and through online marketing, and derives substantial revenue from such
24 business.

25 **JURISDICTION AND VENUE**

26 6. This is an action for patent infringement arising under the Patent Laws of
27 the United States, Title 35 of the United States Code.

28 7. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and

1 1338(a).

2 8. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c) and/or
3 1400(b). On information and belief, Defendant has placed, and is continuing to place,
4 infringing products into the stream of commerce, via an established distribution
5 channel, with the knowledge and/or understanding that such products are sold in this
6 District. Defendant, directly or through intermediaries, conducts business in this
7 District, and at least a portion of the acts of infringement and claims alleged in this
8 Complaint have taken place and are continuing to take place in this District.

9 9. On information and belief, this Court has personal jurisdiction over
10 Defendant because it is incorporated in California and has purposefully availed itself of
11 the privileges and benefits of the laws of the State of California. Further, Defendant is
12 subject to this Court’s general and specific personal jurisdiction because Defendant has
13 sufficient minimum contacts in the State of California and within this District, pursuant
14 to due process and/or the California Long Arm Statute. Jurisdiction is proper because
15 Defendant purposefully availed itself of the privileges of conducting business in the
16 State of California and in this District, and because Plaintiff’s causes of action arise
17 directly from Defendant’s business contacts and other activities in the State of
18 California and in this District, including regularly doing or soliciting business and
19 deriving substantial revenue from products and services provided to individuals in the
20 State of California and in this District. The exercise of jurisdiction over Defendant
21 would not offend traditional notions of fair play and substantial justice.

22 **BACKGROUND**

23 10. The technology claimed in the patent asserted in this action was invented
24 during the research and development activities of the Rockwell family of companies,
25 including Rockwell Semiconductors Systems, Inc. (“Rockwell Semiconductors”),
26 Conexant Systems, Inc. (“Conexant”), and Mindspeed Technologies, Inc.
27 (“Mindspeed”). In 1998, Rockwell International spun off its Rockwell Semiconductors
28 group and renamed it Conexant. Conexant inherited Rockwell’s mixed signal

1 semiconductor expertise and intellectual property portfolio, and was focused on
2 developing semiconductor products for a broad range of communications networks.
3 Conexant's Internet Infrastructure group was incorporated as a wholly-owned
4 subsidiary named Mindspeed Technologies, Inc. ("Mindspeed") in 2001 and spun-off
5 as an independent entity in 2003. Mindspeed's focus was on semiconductor and
6 software solutions for Internet access devices, switching fabric, and network
7 processors.

8 11. Plaintiff is the owner of the patent asserted in this action and has the
9 exclusive right to sue and collect remedies for past, present, and future infringement of
10 the patent.

11 12. Plaintiff assumed all the rights and obligations related to the patent from
12 Modern Telecom Systems, LLC ("MTS-CA"), a California limited liability company,
13 which had assumed all the rights and obligations related to the patent from Glacom
14 Patents Licensing, LLC, which had assumed all the rights and obligations related to the
15 patent from V-Dot Technologies, LLC (formerly, V-Dot Technologies, Limited)
16 ("VDOT"), which had assumed all the rights and obligations related to the patent from
17 Telecom Technology Licensing, LLC ("TTL"), which had assumed all the rights and
18 obligations related to the patent from Mindspeed. Conexant, the assignee identified on
19 the face of the patent, assigned the patent to Mindspeed in an assignment dated June 27,
20 2003.

21 **INFRINGEMENT OF U.S. PATENT NO. 6,504,886**

22 13. The allegations set forth in the foregoing paragraphs 1 through 12 are
23 incorporated by reference into this claim for relief.

24 14. On January 7, 2003, U.S. Patent No. 6,504,886 ("the '886 Patent"),
25 entitled "Communication of an Impairment Learning Sequence According to an
26 Impairment Learning Sequence Descriptor," was duly and legally issued by the United
27 States Patent and Trademark Office. A true and correct copy of the '886 Patent is
28 attached as Exhibit 1.

1 15. The ‘886 Patent issued from United States Patent Application No.
2 09/956,207 (“the ‘207 Application”), filed on September 19, 2001. The ‘207
3 Application is a Continuation of U.S. Patent Application No. 08/969,971, entitled
4 “Method and Apparatus for Generating a Line Impairment Learning Signal for a Data
5 Communication System,” filed November 13, 1997, now U.S. Patent No. 6,332,009,
6 which is a Continuation-In-Part of U.S. Patent Application No. 08/922,851, entitled
7 “Method and Apparatus for Generating a Programmable Synchronization Signal for a
8 Data Communication System,” filed September 3, 1997, now U.S. Patent No.
9 6,212,247.

10 16. Plaintiff is the assignee and owner of the right, title, and interest in and to
11 the ‘886 Patent, including the right to assert all causes of action arising under the ‘886
12 Patent and the right to any remedies for infringement of the ‘886 Patent.

13 17. Defendant has infringed and continues to infringe the ‘886 Patent under 35
14 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling,
15 and/or offering for sale in the United States, and/or importing into the United States,
16 infringing products without authorization (hereafter “Infringing Instrumentalities”). At
17 a minimum, Infringing Instrumentalities include all D-Link routers, adapters, switches,
18 cameras and other devices that operate pursuant to Part 11: Wireless LAN Medium
19 Access Control (MAC) and Physical Layer (PHY) Specifications of IEEE Std 802.11™
20 -2012 and IEEE Std 802.11™ -2009 (collectively, the relevant “Wi-Fi Standard”). This
21 includes products like the D-Link AC1900 Wi-Fi Router, which is configured to
22 operate pursuant to the Wi-Fi Standard.

23 18. Defendant directly infringed and continues to directly infringe at least
24 claim 181 of the ‘886 Patent by making, using, selling, offering to sell, importing
25 and/or providing and causing to be used the D-Link AC1900 Wi-Fi Router, which

26 _____
27 ¹ Plaintiff reserves the right to identify additional asserted claims and accused products as this
28 litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted
claims and accused products in its infringement contentions to be served during the discovery process.

1 satisfies, literally or under the doctrine of equivalents, each and every claim limitation
2 of claim 18 of the '886 Patent. The correspondence between the limitations of claim 18
3 of the '886 Patent and the D-Link AC1900 Wi-Fi Router is shown in the representative
4 claim chart attached hereto as Exhibit 2. The claim chart is incorporated by reference
5 as if set forth herein. The citations to the Wi-Fi Standard in the claim chart are required
6 for a product that is configured to operate pursuant to the Wi-Fi Standard. Additional
7 details relating to the D-Link AC1900 Wi-Fi Router, and other products configured to
8 operate pursuant to the Wi-Fi Standard, and their infringement are within the
9 possession, custody or control of Defendant.

10 19. Defendant provides users of the D-Link AC1900 Wi-Fi Router with
11 instructions on how to connect to a Wi-Fi network, and Defendant markets Wi-Fi
12 connectivity in its promotional materials for the D-Link AC1900 Wi-Fi Router. To
13 connect to a Wi-Fi network, the D-Link AC1900 Wi-Fi Router needs to operate
14 pursuant to the Wi-Fi Standard such that the required portions of the Wi-Fi Standard
15 necessarily practice at least claim 18 of the '886 Patent.

16 20. On information and belief, the identified structure and functionality of the
17 D-Link AC1900 Wi-Fi Router that are shown in the claim chart (Exhibit 2) are
18 representative of the structure and functionality present in all Infringing
19 Instrumentalities, including but not limited to D-Link products with the following
20 designations or trade names: AC1750 Wi-Fi Router, AC1200 Wi-Fi Router, AC2600
21 Wi-Fi Router, and AC1900 Wi-Fi USB Adapter. On information and belief, any other
22 product of D-Link that operates pursuant to the Wi-Fi Standard is also an Infringing
23 Instrumentality. Additional details relating to Infringing Instrumentalities and their
24 infringement are within the possession, custody or control of Defendant.

25 21. Plaintiff offers this preliminary identification and description of
26 infringement without the benefit of discovery or claim construction in this action, and
27 expressly reserves the right to augment, supplement, and revise its identification and
28 description of infringement, including the identification of other claims of the '886

1 Patent being infringed, based on additional information obtained through discovery or
2 otherwise.

3 22. On information and belief, Defendant had knowledge and became aware
4 that its products that operate pursuant to the Wi-Fi Standard infringe the ‘886 Patent
5 prior to the filing of this Complaint. By way of example, prior to the filing of this
6 Complaint, D-Link received a letter from MTS stating that the ‘886 Patent was being
7 used in Wi-Fi-enabled products that were being used, offered for sale and sold by D-
8 Link. Discovery in this matter may reveal that Defendant is liable for willful
9 infringement and/or has induced others to infringe the ‘886 Patent.

10 23. Defendant’s acts of infringement have caused damage to Plaintiff, and
11 Plaintiff is entitled to recover from Defendant the damages it has sustained as a result of
12 Defendant’s wrongful acts in an amount subject to proof at trial.

13 **JURY DEMAND**

14 24. Plaintiff requests a jury trial of all issues in this action so triable.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff prays for judgment as follows:

17 A. Declaring that Defendant has infringed the ‘886 Patent.

18 B. Awarding damages arising out of Defendant’s infringement of the ‘886
19 Patent to MTS, together with prejudgment and post-judgment interest, in an amount
20 according to proof.

21 C. Declaring this case “exceptional” and awarding attorneys’ fees to MTS
22 pursuant to 35 U.S.C. § 285 or as otherwise permitted by law.

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

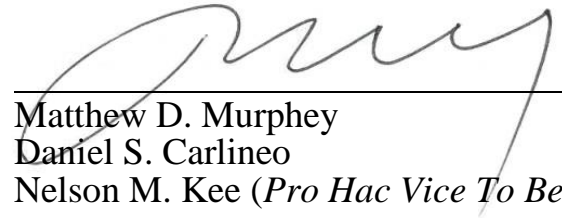
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DATED: November 5, 2018

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By:



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