

1 Matthew D. Murphey, Esq. (State Bar No. 194111)
mmurphey@tocounsel.com
2 THEODORA ORINGHER PC
535 Anton Boulevard, Ninth Floor
3 Costa Mesa, California 92626-7109
Telephone: (714) 549-6200
4 Facsimile: (714) 549-6201

5 Daniel S. Carlineo, Esq. (State Bar No. 197889)
dcarlineo@ck-iplaw.com
6 Nelson M. Kee, Esq. (*Pro Hac Vice To Be Filed*)
nkee@ck-iplaw.com
7 CARLINEO KEE, PLLC
8 1517 17th Street, NW; 3rd Floor
Washington, DC 20036
9 Telephone: (202) 780-6109

10 Attorneys for Plaintiff
MODERN TELECOM SYSTEMS, LLC

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

15 MODERN TELECOM SYSTEMS, LLC,
a Delaware corporation,

17 Plaintiff,

18 vs.

19 TP-LINK USA CORPORATION, a
California corporation,

20 Defendant.

Case No. 8:18-cv-01983

**COMPLAINT FOR PATENT
INFRINGEMENT**

Trial Date: None Set

JURY TRIAL DEMANDED

21
22
23
24
25
26
27
28

1 Plaintiff Modern Telecom Systems, LLC (“MTS” or “Plaintiff”), for its
2 Complaint against TP-LINK USA Corporation (“TP-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 145 South State College Blvd., Suite 400,
13 Brea, CA 92821. The website for the California Secretary of State identifies
14 Defendant’s agent for service of process as Yongsheng Liu, 145 South State College
15 Blvd., Suite 400, Brea, CA 92821.

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 ///

THEODORA TO ORINGHER
COUNSELORS AT LAW

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

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

12 12. Plaintiff assumed all the rights and obligations related to the patent from
13 Modern Telecom Systems, LLC (“MTS-CA”), a California limited liability company,
14 which had assumed all the rights and obligations related to the patent from Glacom
15 Patents Licensing, LLC, which had assumed all the rights and obligations related to the
16 patent from V-Dot Technologies, LLC (formerly, V-Dot Technologies, Limited)
17 (“VDOT”), which had assumed all the rights and obligations related to the patent from
18 Telecom Technology Licensing, LLC (“TTL”), which had assumed all the rights and
19 obligations related to the patent from Mindspeed. Conexant, the assignee identified on
20 the face of the patent, assigned the patent to Mindspeed in an assignment dated June 27,
21 2003.

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

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

25 14. On January 7, 2003, U.S. Patent No. 6,504,886 (“the ‘886 Patent”),
26 entitled “Communication of an Impairment Learning Sequence According to an
27 Impairment Learning Sequence Descriptor,” was duly and legally issued by the United
28

1 States Patent and Trademark Office. A true and correct copy of the ‘886 Patent is
2 attached as Exhibit 1.

3 15. The ‘886 Patent issued from United States Patent Application No.
4 09/956,207 (“the ‘207 Application”), filed on September 19, 2001. The ‘207
5 Application is a Continuation of U.S. Patent Application No. 08/969,971, entitled
6 “Method and Apparatus for Generating a Line Impairment Learning Signal for a Data
7 Communication System,” filed November 13, 1997, now U.S. Patent No. 6,332,009,
8 which is a Continuation-In-Part of U.S. Patent Application No. 08/922,851, entitled
9 “Method and Apparatus for Generating a Programmable Synchronization Signal for a
10 Data Communication System,” filed September 3, 1997, now U.S. Patent No.
11 6,212,247.

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

15 17. Defendant has infringed and continues to infringe the ‘886 Patent under 35
16 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling,
17 and/or offering for sale in the United States, and/or importing into the United States,
18 infringing products without authorization (hereafter “Infringing Instrumentalities”). At
19 a minimum, Infringing Instrumentalities include all TP-Link routers, adapters, switches,
20 cameras and other devices that operate pursuant to Part 11: Wireless LAN Medium
21 Access Control (MAC) and Physical Layer (PHY) Specifications of IEEE Std 802.11™
22 -2012 and IEEE Std 802.11™ -2009 (collectively, the relevant “Wi-Fi Standard”). This
23 includes products like the TP-Link AC5400 Router, which is configured to operate
24 pursuant to the Wi-Fi Standard.

25 18. Defendant directly infringed and continues to directly infringe at least
26 claim 181 of the ‘886 Patent by making, using, selling, offering to sell, importing
27

28 ¹ Plaintiff reserves the right to identify additional asserted claims and accused products as this

1 and/or providing and causing to be used the TP-Link AC5400 Router which satisfies,
2 literally or under the doctrine of equivalents, each and every claim limitation of claim
3 18 of the '886 Patent. The correspondence between the limitations of claim 18 of the
4 '886 Patent and the TP-Link AC5400 Router is shown in the claim chart attached
5 hereto as Exhibit 2. The claim chart is incorporated by reference as if set forth herein.
6 The citations to the Wi-Fi Standard in the representative claim chart are required for a
7 product that is configured to operate pursuant to the Wi-Fi Standard. Additional details
8 relating to the TP-Link AC5400 Router, and other products configured to operate
9 pursuant to the Wi-Fi Standard, and their infringement are within the possession,
10 custody or control of Defendant.

11 19. Defendant provides users of the TP-Link AC5400 Router with instructions
12 on how to connect to a Wi-Fi network, and Defendant markets Wi-Fi connectivity in its
13 promotional materials for the TP-Link AC5400 Router. To connect to a Wi-Fi
14 network, the TP-Link AC5400 Router needs to operate pursuant to the Wi-Fi Standard
15 such that the required portions of the Wi-Fi Standard necessarily practice at least claim
16 18 of the '886 Patent.

17 20. On information and belief, the identified structure and functionality of the
18 TP-Link AC5400 Router that are shown in the claim chart (Exhibit 2) are representative
19 of the structure and functionality present in all Infringing Instrumentalities, including
20 but not limited to TP-Link products with the following designations or trade names:
21 AD7200 Router, AC2300 Router, AC1750 Router, AC1900 Router, AC1350 Router,
22 AC1200 Router, OnHub Router, NC450 Camera, AC1300 Adapter, AC450 Adapter,
23 AC600 Adapter, and TL-SF1008D Switch. On information and belief, any other
24 product of TP-Link that operates pursuant to the Wi-Fi Standard is also an Infringing
25 Instrumentality. Additional details relating to Infringing Instrumentalities and their
26 infringement are within the possession, custody or control of Defendant.

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

1 21. Plaintiff offers this preliminary identification and description of
2 infringement without the benefit of discovery or claim construction in this action, and
3 expressly reserves the right to augment, supplement, and revise its identification and
4 description of infringement, including the identification of other claims of the ‘886
5 Patent being infringed, based on additional information obtained through discovery or
6 otherwise.

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

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

17 **JURY DEMAND**

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

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment as follows:

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

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

25 ///

26 ///

27 ///

28 ///

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

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

5

6 DATED: November 5, 2018

THEODORA ORINGHER PC

CARLINEO KEE, PLLC

By:



Matthew D. Murphey

Daniel S. Carlineo

Nelson M. Kee (*Pro Hac Vice To Be Filed*)

Attorneys for Plaintiff

MODERN TELECOM SYSTEMS, LLC

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28