

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

FILED IN CLERK'S OFFICE  
U.S.D.C. - Atlanta

APR 14 2011

JAMES N. HATTEN, Clerk  
By: *[Signature]*  
Deputy Clerk

ARRIS GROUP, INC.,

Plaintiff,

v.

BRITISH TELECOMMUNICATIONS  
PLC,

Defendant.

**WSD**

Case No.:

**1 : 11 - CV - 123 1**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiff ARRIS Group, Inc., through their undersigned counsel, files this Complaint for Declaratory Judgment against Defendant British Telecommunications plc seeking declaratory relief with respect to U.S. patent Nos. 6,205,216 (the "216 patent"), 5,923,247 (the "247 patent"), 6,473,742 (the "742 patent"), and 5,790,643 (the "643 patent") (the "Second Action Patents" and attached as Exhibits A, B, C and D) and alleges as follows:

**PARTIES**

1. ARRIS is a Delaware corporation with its principal place of business at 3871 Lakefield Drive, Suwanee, Georgia 30024. ARRIS offers to sell and sells PacketCable certified and DOCSIS compliant equipment and other related equipment that enables cable companies to provide various services, such as telephone, high-speed internet, and video on demand.

2. On information and belief, British Telecom is organized under the laws of England and Wales with principal executive offices at British Telecom Centre, 81 Newgate Street, London, EC 1 A 7AJ, England.

**JURISDICTION AND VENUE**

3. This is an action for declaratory relief regarding the Second Action Patents.

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), in that it involves claims arising under the United States Patent Act, 35 U.S.C. § 1 *et seq.*

5. This Court may declare the rights and other legal relations of the parties pursuant to 28 U.S.C. §§ 2201 and 2202 because there is a case of actual controversy within the Court's jurisdiction.

6. Upon information and belief, British Telecom has purposefully directed its activities at residents of Georgia and this District, has had continuous and systematic contacts with the residents of Georgia and this District, the claims asserted arise out of and/or are related to British Telecom's activities within Georgia and this District and, under the circumstances, the assertion of personal jurisdiction over British Telecom comports with traditional notions of fair play and substantial justice. Upon information and belief, British Telecom maintains employees in Georgia, regularly conducts substantial business in Georgia and this District and has voluntarily availed itself of the laws and regulations of Georgia and this District. Accordingly, this Court has personal jurisdiction over British Telecom.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

#### **RELATED CASE**

8. This action is related to an action previously filed in this Court captioned *ARRIS Group, Inc. v. British Telecommunications plc*, Case No. 09-CV-0671 (the "First Action"), which was filed in March 2009 and assigned to the Honorable Charles A. Pannell, Jr. The patents-in-suit in that case are U.S. patent Nos. 5,142,532, 5,526,350, 6,538,989, and 6,665,264 (the "First Action Patents").

The basis for declaratory judgment jurisdiction in that action is set forth in ARRIS's complaint and supplemental filings that were submitted to this Court.

9. On February 18, 2010, this Court dismissed the First Action for lack of declaratory judgment jurisdiction.

10. ARRIS filed a timely appeal to the Federal Circuit, which was docketed as Case No. 10-1292.

11. ARRIS's appeal of this Court's dismissal of the First Action is currently pending before the Federal Circuit.

12. The parties to the First Action are identical to the parties to the present action. Upon information and belief, adjudication of the First Action will require the establishment of many of the same factual bases as adjudication of this action.

**THE PRESENCE OF AN ACTUAL CONTROVERSY**

13. In August 2010, six months after this Court granted British Telecom's motion to dismiss the First Action for lack of declaratory judgment jurisdiction, British Telecom filed suit against two of ARRIS's customers, Cable One, Inc. and CoxCom, Inc. and Cox Communications Inc. (collectively "Cox") in the United States District Court for the District of Delaware asserting infringement of the same patents (the "Delaware Action").

14. Cable One and Cox moved the Delaware Court to stay the proceedings in the Delaware Action pending a decision in ARRIS's Federal Circuit Appeal. The Delaware Court ordered that discovery be limited to documents and information that would be relevant to ARRIS's First Action in this Court until the Federal Circuit rules on ARRIS's appeal.

15. In February 2011, the Federal Circuit heard oral argument on ARRIS's appeal of this Court's dismissal of the First Action.

16. In March 2011, during the next scheduled status conference in the Delaware Action, counsel for British Telecom informed the Delaware Court that it intended to seek leave to amend its complaint to assert four additional patents. British Telecom also stated that it expected ARRIS to file a declaratory judgment action on the four additional patents. Attempting to preempt such an action, British Telecom requested that the Delaware Court either permit it to amend its complaint as a matter of right or enjoin ARRIS from filing a declaratory judgment action on the additional patents. The Delaware Court denied British Telecom's request.

17. In April 2011, British Telecom filed a motion to amend its complaint in the Delaware Action to add the Second Action Patents. British Telecom's amended complaint in Delaware, which alleges infringement by Cable One and

Cox of both the First Action Patents and the Second Action Patents, states that all eight patents “disclose technologies that facilitate the efficient flow of internet traffic and voice transmissions over cable networks such as those typically used for transmitting television entertainment.”

18. In its motion for leave to amend its complaint in the Delaware Action, British Telecom also argued that the Second Action Patents involve “technology similar to that which is at issue in the original complaint,” and that “much of the technology is overlapping or closely related.”

19. Upon information and belief, the ARRIS equipment accused of infringing the First Action Patents is also being accused of infringing the Second Action Patents.

20. The '216 patent is entitled “Apparatus and Method for Inter-Network Communication” and is directed to equipment for transmitting telephone calls in a manner that allows calls to be forwarded to and processed by networks that use different signaling protocols than the network where the call originated. Upon information and belief, British Telecom is accusing equipment ARRIS provides to its cable company customers, including Cable One, Cox and/or others, of infringing the '216 patent.

21. The '247 patent is entitled "Fault Monitoring" and is directed to methods of monitoring telecommunications networks for conditions that disrupt service and generating alarms in response to such conditions. Upon information and belief, British Telecom is accusing equipment ARRIS provides to its cable company customers, including Cable One, Cox and/or others, of infringing the '247 patent.

22. The '742 patent is entitled "Reception Apparatus for Authenticated Access to Coded Broadcast Signals" and is directed to equipment that allows cable customers to receive broadcast transmissions of selected programming. Upon information and belief, British Telecom is accusing equipment ARRIS provides to its cable company customers, including Cable One, Cox and/or others, of infringing the '742 patent.

23. The '643 patent is entitled "Pricing Method for Telecommunication System" and is directed to methods for calculating charges for telephone calls. Upon information and belief, British Telecom is accusing equipment ARRIS provides to its cable company customers, including Cable One, Cox and/or others, of infringing the '643 patent.

24. Based on the foregoing, ARRIS has a definite and concrete dispute with British Telecom concerning the scope, enforceability and validity of the Second Action Patents.

**COUNT I: DECLARATION CONCERNING THE '216 PATENT**

25. ARRIS restates and incorporates by reference each allegation of paragraphs 1 to 24 above.

26. Upon information and belief, British Telecom alleges that it is the owner of all legal rights, title and interest in the '216 patent, including the right to enforce the '216 patent.

27. ARRIS has not infringed and does not infringe any valid claim of the '216 patent, directly or indirectly, literally or under the doctrine of equivalents.

28. The use of ARRIS products by ARRIS's customers has not infringed and does not infringe any valid claim of the '216 patent, directly or indirectly, literally or under the doctrine of equivalents.

29. The '216 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of 35 U.S.C. §1, et seq., including §§101, 102, 103 and/or 112.

30. An actual and justiciable controversy exists between ARRIS and British Telecom regarding the infringement, validity and enforceability of the '216 patent.

31. A judicial declaration of non-infringement, invalidity and unenforceability of the '216 patent is necessary and appropriate in order to resolve this controversy.

**COUNT II: DECLARATION CONCERNING THE '247 PATENT**

32. ARRIS restates and incorporates by reference each allegation of paragraphs 1 to 24 above.

33. Upon information and belief, British Telecom alleges that it is the owner of all legal rights, title and interest in the '247 patent, including the right to enforce the '247 patent.

34. ARRIS has not infringed and does not infringe any valid claim of the '247 patent, directly or indirectly, literally or under the doctrine of equivalents.

35. The use of ARRIS products by ARRIS's customers has not infringed and does not infringe any valid claim of the '247 patent, directly or indirectly, literally or under the doctrine of equivalents.

36. The '247 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of 35 U.S.C. §1, et seq., including §§101, 102, 103 and/or 112.

37. An actual and justiciable controversy exists between ARRIS and British Telecom regarding the infringement, validity and enforceability of the '247 patent.

38. A judicial declaration of non-infringement, invalidity and unenforceability of the '247 patent is necessary and appropriate in order to resolve this controversy.

**COUNT III: DECLARATION CONCERNING THE '742 PATENT**

39. ARRIS restates and incorporates by reference each allegation of paragraphs 1 to 24 above.

40. Upon information and belief, British Telecom alleges that it is the owner of all legal rights, title and interest in the '742 patent, including the right to enforce the '742 patent.

41. ARRIS has not infringed and does not infringe any valid claim of the '742 patent, directly or indirectly, literally or under the doctrine of equivalents.

42. The use of ARRIS products by ARRIS's customers has not infringed and does not infringe any valid claim of the '742 patent, directly or indirectly, literally or under the doctrine of equivalents.

43. The '742 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of 35 U.S.C. §1, et seq., including §§101, 102, 103 and/or 112.

44. An actual and justiciable controversy exists between ARRIS and British Telecom regarding the infringement, validity and enforceability of the '742 patent.

45. A judicial declaration of non-infringement, invalidity and unenforceability of the '742 patent is necessary and appropriate in order to resolve this controversy.

**COUNT IV: DECLARATION CONCERNING THE '643 PATENT**

46. ARRIS restates and incorporates by reference each allegation of paragraphs 1 to 24 above.

47. Upon information and belief, British Telecom alleges that it is the owner of all legal rights, title and interest in the '643 patent, including the right to enforce the '643 patent.

48. ARRIS has not infringed and does not infringe any valid claim of the '643 patent, directly or indirectly, literally or under the doctrine of equivalents.

49. The use of ARRIS products by ARRIS's customers has not infringed and does not infringe any valid claim of the '643 patent, directly or indirectly, literally or under the doctrine of equivalents.

50. The '643 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of 35 U.S.C. §1, et seq., including §§101, 102, 103 and/or 112.

51. An actual and justiciable controversy exists between ARRIS and British Telecom regarding the infringement, validity and enforceability of the '643 patent.

52. A judicial declaration of non-infringement, invalidity and unenforceability of the '643 patent is necessary and appropriate in order to resolve this controversy.

### **PRAYER FOR RELIEF**

WHEREFORE, ARRIS requests the Court enter judgment in ARRIS's favor and grant the following relief:

- a. A declaration that ARRIS has not infringed and does not infringe any claim of the Second Action Patents;

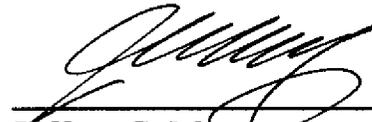
- b. An injunction against British Telecom and its affiliates, subsidiaries, assigns, employees, agents or anyone acting on its behalf *from charging infringement or instituting any action for infringement of the Second Action Patents against ARRIS and its affiliates, subsidiaries or customers;*
- c. A declaration that the Second Action Patents are invalid;
- d. A finding that this is an exceptional case and an award to ARRIS of its attorneys' fees pursuant to 35 U.S.C. §285; and
- e. An award of such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted this 14th day of April, 2011

TROUTMAN SANDERS LLP



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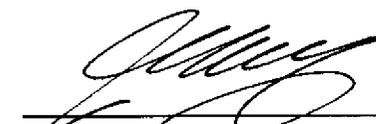
Jeffrey C. Morgan  
Georgia Bar No. 522667  
5200 Bank of America Plaza  
600 Peachtree St., N.E.  
Atlanta, Georgia 30308  
Tel: (404) 885-3661  
Fax : (404) 962-6530  
jeffrey.morgan@troutmansanders.com

John DiMatteo (*Pro Hac to be filed*)  
Willkie Farr & Gallagher LLP  
787 Seventh Ave.  
New York, NY 10019  
Tel.: (212) 728-8000  
jdimatteo@willkie.com

Attorneys for Plaintiff  
ARRIS Group, Inc.

**FONT CERTIFICATION**

I hereby certify that this document is presented in Times New Roman 14.



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Jeffrey C. Morgan  
Georgia Bar No. 522667