

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

<p>Zavala Licensing LLC, Plaintiff, v. Telrad Inc., Defendant.</p>	<p>Case No. _____ Patent Case Jury Trial Demanded</p>
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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Zavala Licensing LLC ("Zavala"), through its attorneys, complains of Telrad Inc. ("Telrad"), and alleges the following:

PARTIES

1. Plaintiff Zavala Licensing LLC is a corporation organized and existing under the laws of Texas that maintains its principal place of business at 15922 Eldorado Pkwy, Ste 500, Frisco, TX 75035.

2. Defendant Telrad Inc. is a corporation organized and existing under the laws of Delaware that maintains its principal place of business at 1390 Donaldson Road, Ste H, Erlanger, KY 41018 USA.

JURISDICTION

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District, and is incorporated in this District's state. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

VENUE

6. Venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant has committed acts of patent infringement in this District, has an established place of business in this District, and is incorporated in this District's state. In addition, Zavala has suffered harm in this district.

PATENT-IN-SUIT

7. Zavala is the assignee of all right, title and interest in United States Patent No. 6,684,086 (the "'086 Patent"); (the "Patent-in-Suit"); including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Zavala possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Defendant.

The '086 Patent

8. The '086 Patent is entitled "Radio Base Station Device and Radio Communication Method," and issued 1/27/2004. The application leading to the '086 Patent was filed on 8/7/2001. A true and correct copy of the '086 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

9. The '086 Patent is valid and enforceable.

COUNT 1: INFRINGEMENT OF THE '086 PATENT

10. Zavala incorporates the above paragraphs herein by reference.

11. **Direct Infringement.** Defendant has been and continues to directly infringe one or more claims of the '086 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, at least Telrad's BreezeCompact 3000 Base Station (among the "Exemplary Telrad Products") that infringe at least exemplary claims 1 and 9 of the '086 Patent (the "Exemplary '086 Patent Claims") literally or by the doctrine of equivalence. On information and belief, numerous other devices that infringe the claims of the '086 Patent have been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

12. Defendant also has and continues to directly infringe, literally or under the doctrine of equivalents, at the Exemplary '086 Patent Claims, by having its employees internally test and use these Exemplary Products.

13. The filing of this Complaint constitutes notice and actual knowledge in accordance with 35 U.S.C. § 287.

14. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the '086 Patent. On information and belief, Defendant has also continued to sell the Exemplary Telrad Products and distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the '086 Patent. Thus, on information and belief, Defendant is contributing to and/or inducing the infringement of the '086 Patent.

15. **Induced Infringement.** Defendant actively, knowingly, and intentionally has been and continues to induce infringement of the '086 Patent, literally or by the doctrine of equivalence, by selling Exemplary Telrad Products to their customers for use in end-user products in a manner that infringes one or more claims of the '086 Patent.

16. **Contributory Infringement.** Defendant actively, knowingly, and intentionally has been and continues materially contribute to their own customers' infringement of the '086 Patent, literally or by the doctrine of equivalence, by selling Exemplary Telrad Products to their customers for use in end-user products in a manner that infringes one or more claims of the '086 Patent.

17. Exhibit 2 includes charts comparing the Exemplary '086 Patent Claims to the Exemplary Telrad Products. As set forth in these charts, the Exemplary Telrad Products practice the technology claimed by the '086 Patent. Accordingly, the Exemplary Telrad Products incorporated in these charts satisfy all elements of the Exemplary '086 Patent Claims.

18. Zavala therefore incorporates by reference in its allegations herein the claim charts of Exhibit 2.

19. Zavala is entitled to recover damages adequate to compensate for Defendant's infringement.

JURY DEMAND

20. Under Rule 38(b) of the Federal Rules of Civil Procedure, Zavala respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Zavala respectfully requests the following relief:

- A. A judgment that the '086 Patent is valid and enforceable;
- B. A judgment that Defendant has infringed, contributorily infringed, and/or induced infringement of one or more claims of the '086 Patent;
- C. An accounting of all damages not presented at trial;

- D. A judgment that awards Zavala all appropriate damages under 35 U.S.C. § 284 for Defendant's past infringement, and any continuing or future infringement of the Patent-in-Suit, up until the date such judgment is entered, including pre- or post-judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Zavala for Defendant's infringement, an accounting:
- i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Zavala be awarded its reasonable attorneys' fees against Defendant that it incurs in prosecuting this action;
 - ii. that Zavala be awarded costs, and expenses that it incurs in prosecuting this action; and
 - iii. that Zavala be awarded such further relief at law or in equity as the Court deems just and proper.

Dated: July 28, 2019

Respectfully submitted,

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