

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

OPTIMA DIRECT, LLC.,

Plaintiff,

v.

TEXAS INSTRUMENTS, INC.,

Defendant.

Case No. _____

DEMAND FOR JURY TRIAL

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

1. Optima Direct, LLC (“Optima” or “Plaintiff”), by and through its counsel, hereby brings this action for patent infringement against Texas Instruments, Inc. (“TI” or “Defendant”) alleging infringement of the following validly issued patent (the “Patent-in-Suit”): U.S. Patent No. 6,396,460 titled “Chip Antenna” (the ‘460 Patent) attached hereto as Exhibit A.

NATURE OF THE ACTION

2. This is an action for patent infringement arising under the United States Patent Act 35 U.S.C. §§ 1 et seq., including 35 U.S.C. § 271.

PARTIES

3. Plaintiff, Optima Direct, LLC is a corporation organized and existing under the laws of Wyoming that maintains its principal place of business at 30 N. Gould St. STE R, Sheridan, WY 82801.

4. Upon information and belief, Defendant Texas Instruments, Inc. is a Delaware corporation with a regular and established place of business in this district. Specifically, Defendant maintains facilities at 300 West Renner Road, Richardson, Texas 75080, and at 6412

US-75, Sherman, Texas 75090. Upon information and belief, Defendant may be served with process through its registered agent at CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

5. This lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 et seq. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 1367.

6. The Court has personal jurisdiction over Defendant for the following reasons: (1) Defendant is present within or has minimum contacts within the State of Texas and in the Eastern District of Texas; (2) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this district; (3) Defendant has sought protection and benefit from the laws of the State of Texas; (4) Defendant regularly conducts business within the State of Texas and within this district, and Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this district; and (5) Defendant has purposely availed itself of the privileges and benefits of the laws of the State of Texas.

7. Defendant, directly and/or through intermediaries, ships, distributes, uses, offers for sale, sells, and/or advertises products and services in the United States, the State of Texas, and the Eastern District of Texas including but not limited to the products which contain the infringing '460 Patent systems and methods as detailed below. Upon information and belief, Defendant has committed patent infringement in the State of Texas and in this district; Defendant solicits and has solicited customers in the State of Texas and in this district; and Defendant has paying customers who are residents of the State of Texas and this district and who each use and have used the Defendant's products and services in the State of Texas and in this district.

8. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1400(b). Defendant has regular and established places of business in this district, has transacted business in this district, and has directly committed acts of patent infringement in this district.

PATENT-IN-SUIT

9. Plaintiff incorporates the above paragraphs herein by reference.

10. On May 28, 2002, United States Patent No. 6,396,460 titled “Chip Antenna” was duly and legally issued by the United States Patent and Trademark Office. The ’460 Patent is presumed valid and enforceable.

11. Plaintiff is the assignee of all right, title and interest in the ’460 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ’460 Patent.

12. The ’460 Patent relates to the chip antennas such as broadband chip antennas used in wireless communication networks and equipment. This includes short range wireless communication and personal mobile communication network and equipment. (*See* Ex. A at 1:5-10).

13. The inventions disclosed in the Patent-in-Suit were not well-understood, routine, or conventional. At the time the ’460 Patent was filed, the monopole antennas with quarter of a wavelength were incorporated in the device as basic units. (*See* Ex. A at 1:12-15). They were considered to be bulkier. The development of antennas that were considered to be lighter, thinner, shorter and smaller was very slow. Then there were special winding shaped antennas that were developed such as a meandering shape. Subsequently, bow-tie shaped antennas were developed which further shortened the length of the antennas. (*See* Ex. A at 1:18-26). The conventional chip antennas of a meandering type had a substrate made of a dielectric material or a magnetic material.

A metallic meandered conductor was disposed on the substrate with one end acting as a feeding point. However, the design principle of such antennas was inherently flawed mostly regarding the reduction of the size. (See Ex. A at 1:28-41). Another type of chip antenna was developed which had a spirally wounding conductor with a capacitor connected in parallel that achieved the matching function for the antenna. Even though it was a smaller sized antenna, it was bandwidth restricted. (See Ex. A at 1:42-47). There has not been a single design proposed for a chip antenna that has a capability of expanding the bandwidth while reducing its size.

14. The Patent-in-Suit addressed these technical challenges by, for example, by proposing a chip antenna design having a substrate, feeding pad, feeding conductor, matching unit, and a meandering conductor. By using such a design, expansion of the bandwidth is possible while being smaller in size. (See Ex. A at 1:50-55).

15. More specifically, the '460 patent discusses in detail a chip antenna design in which a substrate is made of a dielectric material such as ceramic ceramics, glass/epoxy, or the like. Furthermore, the substrate has a feeding pad for injecting a signal. In addition to the feeding pad, a meandering conductor is disclosed that acts as a radiator unit. The substrate is also disposed with a feeding conductor for propagating signals when signal is injected. Additionally, a matching unit which includes a matching conductor and a ground which is shielded by at least one plate of the ground is also disposed on the dielectric substrate. More specifically, the matching conductor is positioned between the feeding pad and the meandering conductor and are connected to them along with being connected to ground. (See Ex. A at 1:57-67-2:1-3).

16. The claims of the '460 Patent do not merely recite the performance of a familiar business practice with a requirement to perform it on the Internet. Instead, the claims recite one or more inventive concepts that are rooted in increasing the bandwidth and reduction in size of

the chip antennas.

17. Moreover, the inventions taught in the '460 Patent, which are rooted in improving the chip antenna design cannot be performed with pen and paper or in the human mind. One of ordinary skill in the art at the time of the patent would have understood that the inventions could not be performed with pen and paper. Additionally, because the '460 Patent teaches a mechanism to improve the bandwidth and reduce the size of the chip antenna, the solutions it teaches are not merely drawn to longstanding human activities.

ACCUSED PRODUCTS

18. Defendant makes, uses, offers for sale and sells in the U.S. products, systems, and/or services that infringe the Patent-in-Suit, including, but not limited to its Bluetooth Modules with embedded chip antennas, including the LMX9830SMX (the "Accused Products" or "Accused Instrumentality").

COUNT I (Infringement of U.S. Patent No. 6,396,460)

19. Plaintiff incorporates the above paragraphs herein by reference.

20. The '460 Patent is valid, enforceable, and was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on May 28, 2002. The '460 Patent is presumed valid and enforceable. *See* 35 U.S.C. § 282.

21. Plaintiff is the owner by assignment of the '460 patent and possesses all rights of recovery under the '460 patent, including the exclusive right enforce the '460 patent and pursue lawsuits against infringers.

22. Upon information and belief, to the extent any marking was required by 35 U.S.C. § 287 with regards to the '460 Patent, Plaintiff has complied with such requirements.

23. Without a license or permission from Plaintiff, Defendant has infringed and

continues to directly and indirectly infringe on one or more claims of the '460 Patent by importing, making, using, offering for sale, or selling products and devices that embody the patented inventions, including, without limitation, one or more of the patented '460 systems and methods, in violation of 35 U.S.C. § 271.

Direct Infringement – 35 U.S.C. § 271(a)

24. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

25. Without a license or permission from Plaintiff, Defendant has infringed and continues to directly infringe on one or more claims of the '460 Patent by importing, making, using, offering for sale, or selling products and devices that embody the patented inventions, including, without limitation, one or more of the patented '460 systems and methods, in violation of 35 U.S.C. § 271.

26. Defendant has been and now is directly infringing by, among other things, practicing all of the steps of the '668 Patent, for example, internal testing, quality assurance, research and development, and troubleshooting. *See, e.g., Waymark Corp. v. Porta Sys. Corp.*, 245 F.3d 1364, 1366 (Fed. Cir. 2001) (noting that “testing is a use of the invention that may infringe under § 271(a)”).

27. By way of example, Defendant has infringed and continues to infringe at least one or more claims of the '460 Patent, including at least Claim 1. Attached hereto as Exhibit B is an exemplary claim chart detailing representative infringement of Claim 1 of the '460 Patent.

Induced Infringement – 35 U.S.C. § 271(b)

28. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

29. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '460 Patent in the State of Texas, in this judicial District, and elsewhere in the United States, by, among other things, making, using, offering for sale, and/or selling, without license or authority, products incorporating the accused technology. End users include, for example, Defendant's customers and other third parties interacting with the accused technology.

30. Defendant had pre-suit knowledge of the Patents-in-Suit as early as April 6, 2021 when it received a letter from Plaintiff notifying Defendant of Defendant's infringement. Defendant had post-suit knowledge when this suit was filed. *EON Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient to meet the knowledge requirement for indirect infringement).

31. Defendant knew the Accused Product infringes the '460 Patent and yet Defendant induced and continues to induce others-including partners, customers, and third parties-to directly infringe at least one claim of the '460 Patent under 35 U.S.C. § 271(b). Defendant took active steps to induce infringement, such as advertising an infringing use, which supports a finding of an intention. *See Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932 (2005) ("[I]t may be presumed from distribution of an article in commerce that the distributor intended the article to be used to infringe another's patent, and so may justly be held liable for that infringement").

32. For example, Defendant induces its users to use the infringing Accused Product for various Bluetooth applications s actively prompting infringement by directing its customers to

design and embed the antenna device for it to work. *See, e.g., Ex. C*¹ (instructing customers on how to embed the antenna through application notes on various Bluetooth modules and providing use cases for various technical implementations).

33. The allegations herein support a finding that Defendant induced infringement of the '460 Patent. *See Power Integrations v. Fairchild Semiconductor*, 843 F.3d 1315, 1335 (Fed. Cir. 2016) (“[W]e have affirmed induced infringement verdicts based on circumstantial evidence of inducement [e.g., advertisements, user manuals] directed to a class of direct infringers [e.g., customers, end users] without requiring hard proof that any individual third-party direct infringer was actually persuaded to infringe by that material.”).

Contributory Infringement – 35 U.S.C. § 271(c)

34. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

35. Defendant had pre-suit knowledge of the Patents-in-Suit as early as April 6, 2021 when it received a letter from Plaintiff notifying Defendant of Defendant’s infringement. Defendant had post-suit knowledge when this suit was filed. *EON Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient to meet the knowledge requirement for indirect infringement).

36. On information and belief, Defendant’s implementation of the accused functionality has no substantial non-infringing uses. *See, e.g., Lucent Techs., Inc. v. Gateway, Inc.*, 580

¹ <https://www.ti.com/lit/an/snoa519b/snoa519b.pdf>

F.3d 1301, 1321 (Fed. Cir. 2009) (holding that the “substantial non-infringing use” element of a contributory infringement claim applies to an infringing feature or component, and that an “infringing feature” of a product does not escape liability simply because the product as a whole has other non-infringing uses). The Accused Product does not allow one to disable the infringing technology when used.

Willful Infringement

37. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

38. Defendant had pre-suit knowledge of the Patents-in-Suit as early as April 6, 2021 when it received a letter from Plaintiff notifying Defendant of Defendant’s infringement. Defendant had post-suit knowledge when this suit was filed. *EON Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient to meet the knowledge requirement for indirect infringement).

39. Despite its knowledge of the ’460 Patent, Defendant has sold the Accused Product in egregious disregard of Plaintiff’s patent rights. Defendant has acted recklessly and engaged in willful, wanton, and deliberately acts of infringement of the ’460 Patent, justifying an award to Plaintiff of increased damages under 35 U.S.C. § 284, and attorneys’ fees and costs incurred under 35 U.S.C. § 285.

Plaintiff Suffered Damages

40. Defendant’s infringement of the ’460 Patent has caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained as a result of Defendant’s

wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 271. Defendant's infringement of Plaintiff's exclusive rights under the '460 Patent will continue to damage Plaintiff causing it irreparable harm for which there is no adequate remedy at law, warranting an injunction from the Court.

REQUEST FOR RELIEF

41. Plaintiff incorporates each of the allegations in the paragraphs above and respectfully asks the Court to:

- (a) enter a judgment that Defendant has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of each of the '460 Patent;
- (b) enter a judgment awarding Plaintiff all damages adequate to compensate it for Defendant's infringement of, direct or contributory, or inducement to infringe, the including all pre-judgment and post-judgment interest at the maximum rate permitted by law;
- (c) enter a judgment awarding treble damages pursuant to 35 U.S.C. § 284 for Defendant's willful infringement of the '460 Patent;
- (d) issue a preliminary injunction and thereafter a permanent injunction enjoining and restraining Defendant, its directors, officers, agents, servants, employees, and those acting in privity or in concert with them, and their subsidiaries, divisions, successors, and assigns, from further acts of infringement, contributory infringement, or inducement of infringement of the '460 Patent;
- (e) enter a judgment requiring Defendant to pay the costs of this action, including all disbursements, and attorneys' fees as provided by 35 U.S.C. § 285, together with prejudgment interest; and

(f) award Plaintiff all other relief that the Court may deem just and proper.

Dated: April 19, 2021

Respectfully submitted,

By: /s/ Kirk J. Anderson

KIRK J. ANDERSON (CA SBN 289043)

kanderson@budolaw.com

BUDO LAW P.C.

5610 Ward Rd., Suite #300

Arvada, CO 80002

(720) 225-9440 (Phone)

(720) 225-9331 (Fax)

Attorneys for Plaintiff Optima Direct, LLC.