

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

SISVEL INTERNATIONAL S.A.,  
3G LICENSING S.A., and SISVEL S.p.A.,  
Plaintiffs,  
v.  
CRADLEPOINT, INC.,  
Defendant.

Civil Action No. 1:20-cv-00649-MN

**JURY TRIAL DEMANDED**

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs Sisvel International S.A., 3G Licensing S.A. and Sisvel S.p.A. (collectively, “Plaintiffs”), for their Amended Complaint against Defendant Cradlepoint, Inc. (“Cradlepoint” or “Defendant”), allege the following:

**NATURE OF THE ACTION**

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

**THE PARTIES**

2. Sisvel International S.A. (“Sisvel”) is an entity organized under the laws of Luxembourg with a place of business at 6, Avenue Marie Thérèse, 2132 Luxembourg, Grand Duchy of Luxembourg.

3. 3G Licensing S.A. (“3G Licensing”) is also an entity organized under the laws of Luxembourg with a place of business at 6, Avenue Marie Thérèse, 2132 Luxembourg, Grand Duchy of Luxembourg.

4. Sisvel S.p.A. (“Sisvel S.p.A.”) is an entity organized under the laws of Italy with a place of business at Via Sestriere 100, 10060 None (TO) Italy. “Sisvel” is an acronym for “Società Italiana per lo Sviluppo Dell’Elettronica.”

5. Founded in Italy in 1982, Sisvel is a world leader in fostering innovation and managing intellectual property. Sisvel works with its partners offering a comprehensive approach to patent licensing: from issuing initial calls for essential patents; facilitating discussions among stakeholders; developing multiparty license agreements; executing and administering licenses; to collecting and distributing royalties. At the same time, Sisvel actively promotes a culture of respect and understanding of the intellectual property and innovation ecosystem through, for example, its regular presence at the key consumer electronics trade fairs and intellectual property events, participation in policy discussions and conferences, as well as open dialogues with a number of government bodies, standard-setting organizations and industry associations.

6. In early 2016, Sisvel initiated licensing activities in North America via its U.S. subsidiary, Sisvel US Inc.

7. A subsidiary of Sisvel founded in 2015, 3G Licensing, is an intellectual property company operating in the consumer electronics and telecommunications industry. The company is composed of specialists with an extensive experience in administering licensing programs on behalf of third-party companies and organizations.

8. A subsidiary of Sisvel founded in 1982, Sisvel S.p.A., is an intellectual property company operating primarily in areas of wireless communication, audio/video coding/decoding, digital video display, and broadband technology. The company is composed of specialists with

extensive experience to support Sisvel's efforts in licensing programs and patent pools, primarily on behalf of third-party companies and organizations.

9. Upon information and belief, Defendant is a corporation organized and existing under the laws of Delaware, with its principal place of business at 1111 W. Jefferson Street, Boise, Idaho 83702.

10. Defendant maintains a registered agent for service of process in Delaware at Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. Upon information and belief, Defendant sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that enter into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

#### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over the subject matter jurisdiction of this case under 28 U.S.C. §§ 1331 (federal question) and 1338(a) (patent law – 35 U.S.C. § 101, *et seq.*).

12. This Court has personal jurisdiction over Defendant, because Defendant has sufficient minimum contacts within the State of Delaware and this District, pursuant to due process and/or the Del. Code. Ann. Tit. 3, § 3104, as Defendant has purposefully availed itself of the privileges of conducting business in the State of Delaware by regularly conducting and soliciting business within the State of Delaware and within this District, and because Plaintiffs' causes of action arise directly from Defendant's business contacts and other activities in the State of Delaware and this District. Further, this Court has personal jurisdiction over Defendant because

it is incorporated in the State of Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

13. Venue is proper in this judicial district under 28 U.S.C. § 1400(b) because Defendant is incorporated in the State of Delaware.

**ACCUSED INSTRUMENTALITIES**

14. Defendant makes, uses, sells and offers for sale, provides, and causes to be used, now and within the past six years, ARC CBA850, AER2200, AER1600 Series, COR IBR600B, COR IBR600C, COR IBR1700-600M, COR IBR1700-1200M, and IBR900 Series (“Accused Instrumentalities”), among other such devices.

15. Defendant advertises that the ARC CBA850 is compliant with the 3G and 4G cellular network standard. Specifically, the product datasheet notes that the product is compliant with WCDMA (3G), UMTS (3G) and LTE (4G) cellular networks. (*See* product datasheet for ARC CBA850, attached hereto as Exhibit 1 at 6-8.)

16. Defendant advertises that the AER2200 is compliant with the 3G and 4G cellular network standards. Specifically, the product datasheet notes that the product is compliant with WDCDMA (3G), HSPA+ (3G) and LTE (4G) cellular networks. (*See* product datasheet for AER2200, attached hereto as Exhibit 2 at 2, 4, 6.)

17. Defendant advertises that the AER1600 Series is compliant with the 3G and 4G cellular network standards. Specifically, the product datasheet notes that the product is compliant with WDCDMA (3G), UMTS (3G), HSPA+ (3G) and LTE (4G) cellular networks. (*See* product datasheet for AER1600 Series, attached hereto as Exhibit 3 at 4, 6, 8-13.)

18. Defendant advertises that the COR IBR600B is compliant with the 3G and 4G cellular network standards. Specifically, the product datasheet notes that the product is compliant with UMTS (3G), HSPA+ (3G) and LTE (4G) cellular networks. (*See* product datasheet for COR IBR600B, attached hereto as Exhibit 4 at 6.)

19. Defendant advertises that the COR IBR600C is compliant with the 3G and 4G cellular network standards. Specifically, the product datasheet notes that the product is compliant with UMTS (3G), HSPA+ (3G) and LTE (4G) cellular networks. (*See* product information for COR IBR600C, attached hereto as Exhibit 5 at 2, 6.)

20. Defendant advertises that the COR IBR1700-600M is compliant with the 3G and 4G cellular network standards. Specifically, the product datasheet notes that the product is compliant with WCDMA (3G), HSPA+ (3G) and LTE (4G) cellular networks. (*See* product datasheet for COR IBR1700-600M, attached hereto as Exhibit 6 at 3, 6, 10-16.)

21. Defendant advertises that the COR IBR1700-1200M is compliant with the 3G and 4G cellular network standards. Specifically, the product datasheet notes that the product is compliant with WCDMA (3G), HSPA+ (3G) and LTE (4G) cellular networks. (*See* product datasheet for COR IBR1700-1200M, attached hereto as Exhibit 6 at 3, 6, 10-15.)

22. Defendant advertises that the IBR900 Series is compliant with the 3G and 4G cellular network standards. Specifically, the product datasheet notes that the product is compliant with UMTS (3G), WCDMA (3G), HSPA+ (3G) and LTE (4G) cellular networks. (*See* product datasheet for IBR900 Series, attached hereto as Exhibit 7 at 2, 4, 7-9.)

### **BACKGROUND**

23. Plaintiffs are the owners by assignment of a portfolio of patents, including the nine patents described in detail in the counts below (collectively, the “Asserted Patents”), that relate to

technology for cellular communications networks, including variations or generations of cellular communication network technology such as, but not limited to 3G, and 4G.

24. Cellular communication network technology is used to provide data transmission across mobile cellular networks. Cellular communication networks were introduced in 1984 and initially consisted of several incompatible networks. For example, the Global System for Mobile Communications (“GSM”) network was introduced in Europe while in North America either Time Division Multiple Access (“TDMA”) or Code Division Multiple Access (CDMA) networks were implemented. These differences resulted in compatibility issues when organizations were required to select a wireless communications strategy. In order to maintain interoperability among operators and equipment manufacturers, international standards bodies were formed to set the rules of operation for cellular networks. Over time a single standard body called the 3rd Generation Partnership Project (“3GPP”) emerged in 1998 to integrate the cellular network standards for GSM networks.

25. 3GPP unites several different telecommunications standard development organizations and provides members with a stable environment to produce reports and specifications.<sup>1</sup> The scope of 3GPP is to produce, maintain and develop Technical Specifications and Technical Reports for a 3G Mobile System based on GSM networks and the radio access technologies that they support. In many cases the 3GPP standards are required to operate and provide interoperability between and among the various manufacturers and operators. This allows full transparency and interoperability among the different cellular networks.

26. The 3GPP technologies are constantly evolving through “generations” of commercial cellular / mobile systems. For example, the generations are sometimes referred to as

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<sup>1</sup> <https://www.3gpp.org/about-3gpp/about-3gpp>

3G, 4G, and 5G. Although these generations can be used as a general descriptor for the type of cellular network, 3GPP standards are measured as “Releases.” Each Release includes a stable platform for the implementation of features at a given point in time and allows for the addition of new functionality in subsequent Releases. 3GPP works on a number of Releases in parallel, starting future work well in advance of the completion of the current Release. Each Release includes multiple versions of Technical Specifications. The Releases generally correspond to specific generations of cellular technology such as 3G or 4G. As shown in the table below, the first 3G Release was called Release 99 and related to a UMTS cellular network which is based on GSM technology. UMTS networks use W-CDMA technology, which is also considered to be 3G. The following Releases, Release 4 through Release 7, correspond to 3G UMTS cellular networks with additional functionality added for each release. For example, standards for HSPA+ cellular network technology, which is also considered 3G, were introduced in Release 7. Release 8 was the first 4G/LTE Release. Release 13 was the last 4G/LTE Release, with 5G technology starting in Release 14. The main focus for all 3GPP Releases is to make the system backwards and forwards compatible where possible, to ensure that the operation of user equipment is uninterrupted.

### 3GPP RELEASES

3GPP RELEASE	RELEASE DATE	DETAILS
Phase 1	1992	Basic GSM
Phase 2	1995	GSM features including EFR Codec
Release 96	Q1 1997	GSM Updates, 14.4 kbps user data
Release 97	Q1 1998	GSM additional features, GPRS
Release 98	Q1 1999	GSM additional features, GPRS for PCS 1900, AMR, EDGE
Release 99	Q1 2000	3G UMTS incorporating WCDMA radio access
Release 4	Q2 2001	UMTS all-IP Core Network
Release 5	Q1 2002	IMS and HSDPA

**3GPP RELEASES**

<b>3GPP RELEASE</b>	<b>RELEASE DATE</b>	<b>DETAILS</b>
Release 6	Q4 2004	HSUPA, MBMS, IMS enhancements, Push to Talk over Cellular, operation with WLAN
Release 7	Q4 2007	Improvements in QoS & latency, VoIP, HSPA+, NFC integration, EDGE Evolution
Release 8	Q4 2008	Introduction of LTE, SAE, OFDMA, MIMO, Dual Cell HSDPA
Release 9	Q4 2009	WiMAX / LTE / UMTS interoperability, Dual Cell HSDPA with MIMO, Dual Cell HSUPA, LTE HeNB
Release 10	Q1 2011	LTE-Advanced, Backwards compatibility with Release 8 (LTE), Multi-Cell HSDPA
Release 11	Q3 2012	Heterogeneous networks (HetNet), Coordinated Multipoint (CoMP), In device Coexistence (IDC), Advanced IP interconnection of Services,
Release 12	March 2015	Enhanced Small Cells operation, Carrier Aggregation (2 uplink carriers, 3 downlink carriers, FDD/TDD carrier aggregation), MIMO (3D channel modelling, elevation beamforming, massive MIMO), MTC - UE Cat 0 introduced, D2D communication, eMBMS enhancements.
Release 13	Q1 2016	LTE-U / LTE-LAA, LTE-M, Elevation beamforming / Full Dimension MIMO, Indoor positioning, LTE-M Cat 1.4MHz & Cat 200kHz introduced
Release 14	Mid 2017	Elements on road to 5G
Release 15	End 2018	5G Phase 1 specification
Release 16	2020	5G Phase 2 specification
Release 17	~Sept 2021	

27. Equipment compatible with a 3G UMTS or WCDMA cellular network or a 4G/LTE cellular network will necessarily implement the Technical Specifications from the 3GPP Releases



corresponding to those cellular network technologies. It is through this standardization that interoperability can be maintained.

28. U.S. Patent No. 7,979,070 (“the ’070 patent”) was assigned to Nokia Corporation either directly from the inventors or through mergers. In 2011, the ’070 patent was assigned to a trust by Nokia Corporation. On April 10, 2012, Sisvel obtained ownership of the ’070 patent.

29. U.S. Patent Nos. 8,189,611 (“the ’611 patent”) and 8,600,383 (“the ’383 patent”) were assigned to Research in Motion Ltd. from the inventors. Research in Motion Ltd. changed its name to Blackberry, Ltd. in 2013. On November 16, 2018, the ’611 and ’383 patents were assigned to Provenance Asset Group LLC from Blackberry, Ltd. On April 5, 2019, Sisvel obtained ownership of the ’611 and ’383 patents from Provenance Asset Group LLC. On July 11, 2019, Sisvel assigned the ’611 and ’383 patents to 3G Licensing.

30. U.S. Patent Nos. 7,215,653 (“the ’653 patent”), 7,319,718 (“the ’718 patent”), 7,551,625 (“the ’625 patent”) and 7,580,388 (“the ’388 patent”) were assigned to LG Electronics Inc. from the inventors. On February 10, 2020, 3G Licensing obtained ownership of the ’653, ’718, ’625, and ’388 patents from LG Electronics Inc.

31. U.S. Patent Nos. 7,869,396 (“the ’396 patent”) and 8,971,279 (“the ’279 patent”) were assigned to LG Electronics Inc. from the inventors. On March 28, 2014, the ’396 and ’279 patents were assigned to Thomson Licensing SAS from LG Electronics. On September 23, 2019, Sisvel S.p.A. obtained ownership of the ’396 and ’279 patents from Thomson Licensing SAS.

32. Sisvel, 3G Licensing and Sisvel S.p.A. are the rightful owners of the Asserted Patents and hold the entire right, title and interest in the Asserted Patents.

33. Sisvel sent letters to Cradlepoint on January 8, 2016, offering Cradlepoint a license to patents owned and/or managed by Sisvel that are essential to cellular standards including 3G

and 4G technologies. The correspondence identified certain Cradlepoint products that made use of cellular standards that infringed the patents offered for a license.

34. In the months following the January 8, 2016 letters, Sisvel and Cradlepoint began communicating regarding the offered patent portfolios through additional letters and correspondence. On September 2, 2016, Sisvel sent Cradlepoint an email attaching numerous claim charts demonstrating how the essential cellular standards practice the claims of the patents offered for a license.

35. Following the September 2, 2016 email Sisvel and Cradlepoint continued communicating regarding the patent portfolios owned and/or managed by Sisvel by email. On March 27, 2018 Sisvel sent a letter to Cradlepoint seeking to continue licensing discussions and offering to license patents essential to cellular standards including 3G and 4G standards. The March 27, 2018 letter included a link to materials on Sisvel's website, which specifically identified the '070 patent. The March 27, 2018 letter also included a list of Cradlepoint products that infringe the patents offered for a license including the AER2200, the AER1600 Series, COR IBR600B, COR IBR600C, the COR IBR 1700 Series, and the COR IBR900 Series.

36. Despite Sisvel's continuous efforts over more than three years and numerous demonstrations of infringement, Cradlepoint refused to take a license to the relevant patent portfolios.

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,979,070**

37. The allegations set forth in the foregoing paragraphs 1 through 36 are incorporated into this First Claim for Relief.

38. On July 12, 2011, the '070 patent, entitled "Mobile Equipment for Sending an Attach Request to a Network" was duly and legally issued by the United States Patent and Trademark Office from Patent Application No. 12/232,724 filed on September 23, 2008. The '070

patent claims priority to U.S. Patent No. 7,035,621 filed on October 13, 2000. A true and correct copy of the '070 patent is attached as Exhibit 8.

39. Plaintiff Sisvel is the assignee and owner of the right, title and interest in and to the '070 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

40. The '070 patent discloses a system and method that Plaintiffs believe is essential under the 4G/LTE cellular standard as explained in attached Exhibit 9. The standards cited in Exhibit 9 were released as part of 3GPP Release 8, which was the first Release dedicated to 4G/LTE cellular networks. The cited standards, 3GPP Technical Specifications 24.301 version 8.10.0 ("TS 24.301 v. 8.10.0"), 23.401 version 8.18.0 ("TS 23.401 v. 8.18.0"), and 36.331 version 8.21.0 ("TS 36.331 v. 8.21.0") were released on June 15, 2011, March 7, 2013 and July 2, 2014 respectively as part of Release 8. The cited portions of the standards are substantively consistent with later versions of the same standards from Release 13 as shown in Exhibit 9. As stated above, Release 13 is the last Release directed to 4G/LTE cellular technology. Specifically, the excerpted sections from TS 24.301 v. 8.10.0 are found with substantively similar wording in Technical Specification 24.301 version 13.11.0 dated December 28, 2017. Similarly, the excerpted sections from TS 23.401 v. 8.18.0 are found with substantively similar wording in Technical Specification 23.401 version 13.13.0 dated December 22, 2017. Similarly, the excerpted sections from TS 36.331 v. 8.21.0 are found with substantively similar wording in Technical Specification 36.331 version 13.7.1 dated September 19, 2017. Due to the backwards and forwards compatibility of the 3GPP technical specifications as shown in Exhibit 9, any product compliant with 4G/LTE will be compliant with all of the excerpted portions of the standards cited in Exhibit 9. Thus, Defendant's Accused Instrumentalities are necessarily infringing the '070 patent.

41. Defendant was made aware of the '070 patent and its infringement thereof by correspondence from Plaintiff on March 27, 2018, as discussed in paragraph 35 above.

42. Defendant was further made aware of the '070 patent and its infringement thereof at least as early as the date of filing of this Complaint.

43. Upon information and belief, Defendant has and continues to directly infringe at least claims 1, 2 and/or 5 of the '070 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing the Accused Instrumentalities that infringe the patented methods.

44. Since March 27, 2018, when it first was made aware of the '070 patent, Defendant's infringement has been, and continues to be willful.

45. Upon information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, customers/subscribers and end users across the country and in this District.

46. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claims 1, 2 and/or 5 of the '070 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients, customers/subscribers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '070 patent.

47. In particular, the Defendant's actions that aid and abet others such as its partners, customers/subscribers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

48. Any party, including Defendant's partners, clients, customers/subscribers, and end users, using the Accused Instrumentalities necessarily infringes the '070 patent because the invention of the '070 patent is required to comply with the relevant cellular standard. Defendant advertises its Accused Instrumentalities as compliant with the relevant cellular standard, which induces others to infringe the '070 patent. Defendant has knowingly induced infringement since at least March 27, 2018, when Defendant was first made aware of the '070 patent during extensive correspondence with Plaintiffs as discussed in paragraphs 33-35 above.

49. Upon information and belief, the Defendant is liable as a contributory infringer of the '070 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentalities that infringe the patented methods, to be especially made or adapted for use in an infringement of the '070 patent. Each of the Accused Instrumentalities is a material component for use in practicing the '070 patent and is specifically made and not a staple article of commerce suitable for substantial non-infringing use. In particular, each of the Accused Instrumentalities is advertised to be compliant with the relevant standard and primarily used in compliance with that standard.

50. Plaintiffs have been harmed by Defendant's infringing activities.

**COUNT II – INFRINGEMENT OF U.S. PATENT NO. 8,600,383**

51. The allegations set forth in the foregoing paragraphs 1 through 50 are incorporated into this Second Claim for Relief.

52. On December 3, 2013, the '383 patent, entitled "Apparatus and Method for Making Measurements in Mobile Telecommunications System User Equipment" was duly and legally issued by the United States Patent and Trademark Office from Patent Application No. 13/617,241 filed on September 24, 2012. The '383 patent claims priority to U.S. Patent No. 7,463,887 filed on August 18, 2004. A true and correct copy of the '383 patent is attached as Exhibit 10.

53. Plaintiff 3G Licensing is the assignee and owner of the right, title and interest in and to the '383 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

54. The '383 patent discloses a system and method that Plaintiffs believe is essential under the 4G cellular standard as explained in attached Exhibit 11. The standard cited in Exhibit 11 was released as part of 3GPP Release 8, which was the first Release dedicated to 4G/LTE cellular networks. The cited standard, 3GPP Technical Specifications 36.304 version 8.10.0 ("TS 36.304 v. 8.10.0") was released on June 24, 2011 as part of Release 8. The cited portions of the standards are substantively consistent with later versions of the same standards from Release 13 as shown in Exhibit 11. As stated above, Release 13 is the last Release directed to 4G/LTE cellular technology. Specifically, the excerpted sections from TS 36.304 v. 8.10.0 are found with substantively similar wording in Technical Specification 36.304 version 13.8.0 dated January 7, 2018. Due to the backwards and forwards compatibility of the 3GPP technical specifications as shown in Exhibit 11, any product compliant with 4G/LTE will be compliant with all of the excerpted portions of the standards cited in Exhibit 11. Thus, Defendant's Accused Instrumentalities are necessarily infringing the '383 patent.

55. Defendant was made aware of the '383 patent and its infringement thereof at least as early as the date of filing of this Complaint.

56. Upon information and belief, Defendant has and continues to directly infringe at least claims 1, 9, 17, 25, 49, 58, 66, 74, 82, and/or 90 of the '383 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing the Accused Instrumentalities that infringe the patented methods.

57. Upon information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, customers/subscribers and end users across the country and in this District.

58. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claims 1, 9, 17, 25, 49, 58, 66, 74, 82, and/or 90 of the '383 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients, customers/subscribers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '383 patent.

59. In particular, the Defendant's actions that aid and abet others such as its partners, customers/subscribers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

60. Any party, including Defendant's partners, clients, customers/subscribers, and end users, using the Accused Instrumentalities necessarily infringes the '383 patent because the invention of the '383 patent is required to comply with the relevant cellular standard. Defendant advertises its Accused Instrumentalities as compliant with the relevant cellular standard, which induces others to infringe the '383 patent. Defendant has knowingly induced infringement since at least the filing of this Complaint when Defendant was first made aware of the '383 patent.

61. Upon information and belief, the Defendant is liable as a contributory infringer of the '383 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentalities that infringe the patented methods, to be especially made or adapted for use in an infringement of the '383 patent. Each of the Accused Instrumentalities is a

material component for use in practicing the '383 patent and is specifically made and is not a staple article of commerce suitable for substantial non-infringing use. In particular, each of the Accused Instrumentalities is advertised to be compliant with the relevant standard and primarily used in compliance with that standard.

62. Plaintiffs have been harmed by Defendant's infringing activities.

**COUNT III – INFRINGEMENT OF U.S. PATENT NO. 8,189,611**

63. The allegations set forth in the foregoing paragraphs 1 through 62 are incorporated into this Third Claim for Relief.

64. On May 29, 2012, the '611 patent, entitled "System and Method for Resolving Contention Among Applications Requiring Data Connections Between a Mobile Communications Device and a Wireless Network" was duly and legally issued by the United States Patent and Trademark Office from Patent Application No. 12/326,466 filed on December 2, 2008. The '611 patent claims priority to U.S. Patent No. 7,474,671 filed on November 4, 2005. A true and correct copy of the '611 patent is attached as Exhibit 12.

65. Plaintiff 3G Licensing is the assignee and owner of the right, title and interest in and to the '611 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

66. The '611 patent discloses a system and method that Plaintiffs believe is essential under the 4G cellular standard as explained in attached Exhibit 13. The standard cited in Exhibit 13 was released as part of 3GPP Release 11, which was dedicated to 4G/LTE cellular networks. The cited standard, 3GPP Technical Specifications 24.301 version 11.7.0 ("TS 24.301 v. 11.7.0") was released on June 27, 2013 as part of Release 11. The cited portions of the standards are substantively consistent with later versions of the same standards from Release 13 as shown in Exhibit 13. As stated above, Release 13 is the last Release directed to 4G/LTE cellular technology.



Specifically, the excerpted sections from TS 24.301 v. 11.7.0 are found with substantively similar wording in Technical Specification 24.301 version 13.11.0 dated December 28, 2017. Due to the backwards and forwards compatibility of the 3GPP technical specifications as shown in Exhibit 13, any product compliant with 4G/LTE will be compliant with all of the excerpted portions of the standards cited in Exhibit 13. Thus, Defendant's Accused Instrumentalities are necessarily infringing the '611 patent.

67. Defendant was made aware of the '611 patent and its infringement thereof at least as early as the date of filing of this Complaint.

68. Upon information and belief, Defendant has and continues to directly infringe at least claims 1, 7, and/or 8 of the '611 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing the Accused Instrumentalities that infringe the patented methods.

69. Upon information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, customers/subscribers and end users across the country and in this District.

70. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claims 1, 7, and/or 8 of the '611 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients, customers/subscribers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '611 patent.

71. In particular, the Defendant's actions that aid and abet others such as its partners, customers/subscribers, clients, and end users to infringe include advertising and distributing the

Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

72. Any party, including Defendant's partners, clients, customers/subscribers, and end users, using the Accused Instrumentalities necessarily infringes the '611 patent because the invention of the '611 patent is required to comply with the relevant cellular standard. Defendant advertises its Accused Instrumentalities as compliant with the relevant cellular standard, which induces others to infringe the '611 patent. Defendant has knowingly induced infringement since at least the filing of this Complaint when Defendant was first made aware of the '611 patent.

73. Upon information and belief, the Defendant is liable as a contributory infringer of the '611 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentalities that infringe the patented methods, to be especially made or adapted for use in an infringement of the '611 patent. Each of the Accused Instrumentalities is a material component for use in practicing the '611 patent and is specifically made and is not a staple article of commerce suitable for substantial non-infringing use. In particular, each of the Accused Instrumentalities is advertised to be compliant with the relevant standard and primarily used in compliance with that standard.

74. Plaintiffs have been harmed by Defendant's infringing activities.

#### **COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 7,215,653**

75. The allegations set forth in the foregoing paragraphs 1 through 74 are incorporated into this Fourth Claim for Relief.

76. On May 8, 2007, the '653 patent, entitled "Controlling Data Transmission Rate on the Reverse Link for Each Mobile Station in a Dedicated Manner" was duly and legally issued by the United States Patent and Trademark Office from Patent Application No. 10/071,243 filed on February 11, 2002. A true and correct copy of the '653 patent is attached as Exhibit 14.

77. Plaintiff 3G Licensing is the assignee and owner of the right, title and interest in and to the '653 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

78. The '653 patent discloses a system and method that Plaintiffs believe is essential under the 3G cellular standard as explained in attached Exhibit 15. The standards cited in Exhibit 15 were released as part of 3GPP Release 6, which was dedicated to 3G cellular networks. The cited standards, 3GPP Technical Specifications 25.321 version 6.18.0 ("TS 25.321 v. 6.18.0"), and 25.212 version 6.10.0 ("TS 25.212 v. 6.10.0") were released on March 16, 2009 and December 14, 2006 respectively as part of Release 6. The cited portions of the standards are substantively consistent with later versions of the same standards from Release 13 as shown in Exhibit 15. As stated above, Release 13 is the last Release directed to 4G/LTE cellular technology. Specifically, the excerpted sections from TS 25.321 v. 6.18.0 are found with substantively similar wording in Technical Specification 25.321 version 13.13.0 dated December 28, 2016. Similarly, the excerpted sections from TS 25.212 v. 6.10.0 are found with substantively similar wording in Technical Specification 25.212 version 13.1.0 dated June 30, 2016. Due to the backwards and forwards compatibility of the 3GPP technical specifications as shown in Exhibit 15, any product compliant with 3G (UMTS), 3G (WDCMA), or 4G/LTE will be compliant with all of the excerpted portions of the standards cited in Exhibit 15. Thus, Defendant's Accused Instrumentalities are necessarily infringing the '653 patent.

79. Defendant was made aware of the '653 patent and its infringement thereof at least as early as the date of filing of this Complaint.

80. Upon information and belief, Defendant has and continues to directly infringe at least claims 34 and/or 37 of the '653 patent by making, using, selling, importing, offering for sale,

providing, practicing, and causing the Accused Instrumentalities that infringe the patented methods.

81. Upon information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, customers/subscribers and end users across the country and in this District.

82. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claims 34 and/or 37 of the '653 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients, customers/subscribers, and end users, whose use of the Accused Instrumentality constitutes direct infringement of at least one claim of the '653 patent.

83. In particular, the Defendant's actions that aid and abet others such as its partners, customers/subscribers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

84. Any party, including Defendant's partners, clients, customers/subscribers, and end users, using the Accused Instrumentalities necessarily infringes the '653 patent because the invention of the '653 patent is required to comply with the relevant cellular standard. Defendant advertises its Accused Instrumentalities as compliant with the relevant cellular standard, which induces others to infringe the '653 patent. Defendant has knowingly induced infringement since at least the filing of this Complaint when Defendant was first made aware of the '653 patent.

85. Upon information and belief, the Defendant is liable as a contributory infringer of the '653 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United

States the Accused Instrumentalities that infringe the patented methods, to be especially made or adapted for use in an infringement of the '653 patent. Each of the Accused Instrumentalities is a material component for use in practicing the '653 patent and is specifically made and is not a staple article of commerce suitable for substantial non-infringing use. In particular, each of the Accused Instrumentalities is advertised to be compliant with the relevant standard and primarily used in compliance with that standard.

86. Plaintiffs have been harmed by Defendant's infringing activities.

**COUNT V – INFRINGEMENT OF U.S. PATENT NO. 7,319,718**

87. The allegations set forth in the foregoing paragraphs 1 through 86 are incorporated into this Fifth Claim for Relief.

88. On January 15, 2008, the '718 patent, entitled "CQI Coding Method for HS-DPCCH" was duly and legally issued by the United States Patent and Trademark Office from Patent Application No. 10/365,498 filed on February 13, 2003. A true and correct copy of the '718 patent is attached as Exhibit 16.

89. Plaintiff 3G Licensing is the assignee and owner of the right, title and interest in and to the '718 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

90. The '718 patent discloses a system and method that Plaintiffs believe is essential under the 3G cellular standard as explained in attached Exhibit 17. The standards cited in Exhibit 17 were released as part of 3GPP Release 6, which was dedicated to 3G cellular networks. The cited standard, 3GPP Technical Specifications 25.212 version 6.7.0 ("TS 25.212 v. 6.7.0") was released on December 15, 2005 respectively as part of Release 6. The cited portions of the standards are substantively consistent with later versions of the same standards from Release 13 as shown in Exhibit 17. As stated above, Release 13 is the last Release directed to 4G/LTE cellular

technology. Specifically, the excerpted sections from TS 25.212 v. 6.7.0 are found with substantively similar wording in Technical Specification 25.212 version 13.1.0 dated June 30, 2016. Due to the backwards and forwards compatibility of the 3GPP technical specifications as shown in Exhibit 17, any product compliant with 3G (UMTS), 3G (WDCMA), or 4G/LTE will be compliant with all of the excerpted portions of the standards cited in Exhibit 17. Thus, Defendant's Accused Instrumentalities are necessarily infringing the '718 patent.

91. Defendant was made aware of the '718 patent and its infringement thereof at least as early as the date of filing of this Complaint.

92. Upon information and belief, Defendant has and continues to directly infringe at least claims 15 and/or 16 of the '718 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing the Accused Instrumentalities that infringe the patented methods.

93. Upon information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, customers/subscribers and end users across the country and in this District.

94. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claims 15 and/or 16 of the '718 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients, customers/subscribers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '718 patent.

95. In particular, the Defendant's actions that aid and abet others such as its partners, customers/subscribers, clients, and end users to infringe include advertising and distributing the

Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

96. Any party, including Defendant's partners, clients, customers/subscribers, and end users, using the Accused Instrumentalities necessarily infringes the '718 patent because the invention of the '718 patent is required to comply with the relevant cellular standard. Defendant advertises its Accused Instrumentalities as compliant with the relevant cellular standard, which induces others to infringe the '718 patent. Defendant has knowingly induced infringement since at least the filing of this Complaint when Defendant was first made aware of the '718 patent.

97. Upon information and belief, the Defendant is liable as a contributory infringer of the '718 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentalities that infringe the patented methods, to be especially made or adapted for use in an infringement of the '718 patent. Each of the Accused Instrumentalities is a material component for use in practicing the '718 patent and is specifically made and is not a staple article of commerce suitable for substantial non-infringing use. In particular, each of the Accused Instrumentalities is advertised to be compliant with the relevant standard and primarily used in compliance with that standard.

98. Plaintiffs have been harmed by Defendant's infringing activities.

**COUNT VI – INFRINGEMENT OF U.S. PATENT NO. 7,551,625**

99. The allegations set forth in the foregoing paragraphs 1 through 98 are incorporated into this Sixth Claim for Relief.

100. On June 23, 2009, the '625 patent, entitled "Method of Scheduling an Uplink Packet Transmission Channel in a Mobile Communication System" was duly and legally issued by the United States Patent and Trademark Office from Patent Application No. 11/097,011 filed on March 31, 2005. A true and correct copy of the '625 patent is attached as Exhibit 18.

101. Plaintiff 3G Licensing is the assignee and owner of the right, title and interest in and to the '625 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

102. The '625 patent discloses a system and method that Plaintiffs believe is essential under the 3G cellular standard as explained in attached Exhibit 19. The standards cited in Exhibit 19 were released as part of 3GPP Release 6, which was dedicated to 3G cellular networks. The cited standards, 3GPP Technical Specifications 25.211 version 6.7.0 ("TS 25.211 v. 6.7.0"), 25.309 version 6.5.0 ("TS 25.309 v. 6.5.0") and 25.321 version 6.8.0 ("TS 25.321 v. 6.8.0") were released on December 15, 2005, December 22, 2005 and March 30, 2006 respectively as part of Release 6. The cited portions of the standards are substantively consistent with later versions of the same standards from Release 13 as shown in Exhibit 19. As stated above, Release 13 is the last Release directed to 4G/LTE cellular technology. Specifically, the excerpted sections from TS 25.211 v. 6.7.0 are found with substantively similar wording in Technical Specification 25.211 version 13.1.0 dated September 29, 2016. Similarly, the excerpted sections from TS 25.309 v. 6.5.0 are found with substantively similar wording in Technical Specification 25.319 version 13.1.0 dated July 1, 2016.<sup>2</sup> Similarly, the excerpted sections from TS 25.321 v. 6.8.0 are found with substantively similar wording in Technical Specification 25.321 version 13.3.0 dated December 28, 2016. Due to the backwards and forwards compatibility of the 3GPP technical specifications as shown in Exhibit 19, any product compliant with 3G (UMTS), 3G (WCDMA), or 4G/LTE will be compliant with all of the excerpted portions of the standards cited in Exhibit 19. Thus, Defendant's Accused Instrumentalities are necessarily infringing the '625 patent.

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<sup>2</sup> TS 25.319 replaced 25.309 starting with Release 7.



103. Defendant was made aware of the '625 patent and its infringement thereof at least as early as the date of filing of this Complaint.

104. Upon information and belief, Defendant has and continues to directly infringe at least claims 16 and/or 39 of the '625 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing the Accused Instrumentalities that infringe the patented methods.

105. Upon information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, customers/subscribers and end users across the country and in this District.

106. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claims 16 and/or 39 of the '625 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients, customers/subscribers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '625 patent.

107. In particular, the Defendant's actions that aid and abet others such as its partners, customers/subscribers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

108. Any party, including Defendant's partners, clients, customers/subscribers, and end users, using the Accused Instrumentalities necessarily infringes the '625 patent because the invention of the '625 patent is required to comply with the relevant cellular standard. Defendant advertises its Accused Instrumentalities as compliant with the relevant cellular standard, which

induces others to infringe the '625 patent. Defendant has knowingly induced infringement since at least the filing of this Complaint when Defendant was first made aware of the '625 patent.

109. Upon information and belief, the Defendant is liable as a contributory infringer of the '625 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentalities that infringe the patented methods, to be especially made or adapted for use in an infringement of the '625 patent. Each of the Accused Instrumentalities is a material component for use in practicing the '625 patent and is specifically made and is not a staple article of commerce suitable for substantial non-infringing use. In particular, each of the Accused Instrumentalities is advertised to be compliant with the relevant standard and primarily used in compliance with that standard.

110. Plaintiffs have been harmed by Defendant's infringing activities.

**COUNT VII – INFRINGEMENT OF U.S. PATENT NO. 7,580,388**

111. The allegations set forth in the foregoing paragraphs 1 through 110 are incorporated into this Seventh Claim for Relief.

112. On August 25, 2009, the '388 patent, entitled "Method and Apparatus for Providing Enhanced Messages on Common Control Channel in Wireless Communication System" was duly and legally issued by the United States Patent and Trademark Office from Patent Application No. 11/065,872 filed on February 25, 2005. The '388 patent claims priority to U.S. Provisional Patent Application No. 60/576,214 filed on June 1, 2004 and Provisional Patent Application No. 60/589,630 filed on July 20, 2004. A true and correct copy of the '388 patent is attached as Exhibit 20.

113. Plaintiff 3G Licensing is the assignee and owner of the right, title and interest in and to the '388 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

114. The '388 patent discloses a system and method that Plaintiffs believe is essential under the 3G cellular standard as explained in attached Exhibit 21. The standards cited in Exhibit 21 were released as part of 3GPP Release 6, which was dedicated to 3G cellular networks. The cited standards, 3GPP Technical Specifications 25.331 version 6.26.0 ("TS 25.331 v. 6.26.0"), 25.301 version 6.6.0 ("TS 25.301 v. 6.6.0") and 25.211 version 6.10.0 ("TS 25.211 v. 6.10.0") were released on January 3, 2012, March 20, 2008 and September 29, 2009 respectively as part of Release 6. The cited portions of the standards are substantively consistent with later versions of the same standards from Release 13 as shown in Exhibit 21. As stated above, Release 13 is the last Release directed to 4G/LTE cellular technology. Specifically, the excerpted sections from TS 25.331 v. 6.26.0 are found with substantively similar wording in Technical Specification 25.331 version 13.8.0 dated January 17, 2018. Similarly, the excerpted sections from TS 25.301 v. 6.6.0 are found with substantively similar wording in Technical Specification 25.301 version 13.0.0 dated January 7, 2016. Similarly, the excerpted sections from TS 25.211 v. 6.10.0 are found with substantively similar wording in Technical Specification 25.211 version 13.1.0 dated September 29, 2016. Due to the backwards and forwards compatibility of the 3GPP technical specifications as shown in Exhibit 21, any product compliant with 3G (UMTS), 3G (WDCMA), or 4G/LTE will be compliant with all of the excerpted portions of the standards cited in Exhibit 21. Thus, Defendant's Accused Instrumentalities are necessarily infringing the '388 patent.

115. Defendant was made aware of the '388 patent and its infringement thereof at least as early as the date of filing of this Complaint.

116. Upon information and belief, Defendant has and continues to directly infringe at least claim 1 of the '388 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing the Accused Instrumentalities that infringe the patented methods.

117. Upon information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, customers/subscribers and end users across the country and in this District.

118. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claim 1 of the '388 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients, customers/subscribers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '388 patent.

119. In particular, the Defendant's actions that aid and abet others such as its partners, customers/subscribers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

120. Any party, including Defendant's partners, clients, customers/subscribers, and end users, using the Accused Instrumentalities necessarily infringes the '388 patent because the invention of the '388 patent is required to comply with the relevant cellular standard. Defendant advertises its Accused Instrumentalities as compliant with the relevant cellular standard, which induces others to infringe the '388 patent. Defendant has knowingly induced infringement since at least the filing of this Complaint when Defendant was first made aware of the '388 patent.

121. Upon information and belief, the Defendant is liable as a contributory infringer of the '388 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentalities that infringe the patented methods, to be especially made or adapted for use in an infringement of the '388 patent. Each of the Accused Instrumentalities is a

material component for use in practicing the '388 patent and is specifically made and is not a staple article of commerce suitable for substantial non-infringing use. In particular, each of the Accused Instrumentalities is advertised to be compliant with the relevant standard and primarily used in compliance with that standard.

122. Plaintiffs have been harmed by Defendant's infringing activities.

**COUNT VIII – INFRINGEMENT OF U.S. PATENT NO. 7,869,396**

123. The allegations set forth in the foregoing paragraphs 1 through 122 are incorporated into this Eighth Claim for Relief.

124. On January 11, 2011, the '396 patent, entitled "Data Transmission Method and Data Re-Transmission Method" was duly and legally issued by the United States Patent and Trademark Office from Patent Application No. 12/158,646 filed on January 3, 2007. The '396 patent claims priority to U.S. Provisional Patent Application No. 60/757,063 filed on January 5, 2006. A true and correct copy of the '396 patent is attached as Exhibit 22.

125. Plaintiff Sisvel S.p.A. is the assignee and owner of the right, title and interest in and to the '396 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

126. The '396 patent discloses a system and method that Plaintiffs believe is essential under the 4G cellular standard as explained in attached Exhibit 23. The standard cited in Exhibit 23 was released as part of 3GPP Release 8, which was dedicated to 4G/LTE cellular networks. The cited standard, 3GPP Technical Specifications 36.322 version 8.5.0 ("TS 36.322 v. 8.5.0") was released on March 23, 2009 as part of Release 8. The cited portions of the standards are substantively consistent with later versions of the same standards from Release 13 as shown in Exhibit 23. As stated above, Release 13 is the last Release directed to 4G/LTE cellular technology. Specifically, the excerpted sections from TS 36.322 v. 8.5.0 are found with substantively similar

wording in Technical Specification 36.322 version 13.4.0 dated September 25, 2017. Due to the backwards and forwards compatibility of the 3GPP technical specifications as shown in Exhibit 23, any product compliant with 4G/LTE will be compliant with all of the excerpted portions of the standards cited in Exhibit 23. Thus, Defendant's Accused Instrumentalities are necessarily infringing the '396 patent.

127. Defendant was made aware of the '396 patent and its infringement thereof at least as early as the date of filing of this Complaint.

128. Upon information and belief, Defendant has and continues to directly infringe at least claims 1, 6 and/or 8 of the '396 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing the Accused Instrumentalities that infringe the patented methods.

129. Upon information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, customers/subscribers and end users across the country and in this District.

130. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claims 1, 6 and/or 8 of the '396 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients, customers/subscribers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '396 patent.

131. In particular, the Defendant's actions that aid and abet others such as its partners, customers/subscribers, clients, and end users to infringe include advertising and distributing the

Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

132. Any party, including Defendant's partners, clients, customers/subscribers, and end users, using the Accused Instrumentalities necessarily infringes the '396 patent because the invention of the '396 patent is required to comply with the relevant cellular standard. Defendant advertises its Accused Instrumentalities as compliant with the relevant cellular standard, which induces others to infringe the '396 patent. Defendant has knowingly induced infringement since at least the filing of this Complaint when Defendant was first made aware of the '396 patent.

133. Upon information and belief, the Defendant is liable as a contributory infringer of the '396 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentalities that infringe the patented methods, to be especially made or adapted for use in an infringement of the '396 patent. Each of the Accused Instrumentalities is a material component for use in practicing the '396 patent and is specifically made and is not a staple article of commerce suitable for substantial non-infringing use. In particular, each of the Accused Instrumentalities is advertised to be compliant with the relevant standard and primarily used in compliance with that standard.

134. Plaintiffs have been harmed by Defendant's infringing activities.

#### **COUNT IX – INFRINGEMENT OF U.S. PATENT NO. 8,971,279**

135. The allegations set forth in the foregoing paragraphs 1 through 134 are incorporated into this Ninth Claim for Relief.

136. On March 3, 2015, the '279 patent, entitled "Method and Apparatus for Indicating Deactivation of Semi-Persistent Scheduling" was duly and legally issued by the United States Patent and Trademark Office from Patent Application No. 13/791,421 filed on March 8, 2013. The '279 patent claims priority to U.S. Provisional Patent Application Nos. 61/114,440 filed on

November 13, 2008 and 61/119,375 filed on December 3, 2008. A true and correct copy of the '279 patent is attached as Exhibit 24.

137. Plaintiff Sisvel S.p.A. is the assignee and owner of the right, title and interest in and to the '279 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

138. The '279 patent discloses a system and method that Plaintiffs believe is essential under the 4G cellular standard as explained in attached Exhibit 25. The standards cited in Exhibit 25 were released as part of 3GPP Release 8, which was the first Release dedicated to 4G/LTE cellular networks. The cited standards, 3GPP Technical Specifications 36.213 version 8.6.0 ("TS 36.213 v. 8.6.0"), 36.321 version 8.5.0 ("TS 36.321 v. 8.5.0"), 36.331 version 8.4.0 ("TS36.331 v. 8.4.0"), and 36.212 version 8.8.0 ("TS 36.212 v. 8.8.0") were released on March 17, 2009, March 23, 2009, December 20, 2008 and December 16, 2009 respectively as part of Release 8. The cited portions of the standards are substantively consistent with later versions of the same standards from Release 13 as shown in Exhibit 25. As stated above, Release 13 is the last Release directed to 4G/LTE cellular technology. Specifically, the excerpted sections from TS 36.213 v. 8.6.0 are found with substantively similar wording in Technical Specification 36.213 version 13.16.0 dated April 3, 2020. Similarly, the excerpted sections from TS 36.321 v. 8.5.0 are found with substantively similar wording in Technical Specification 36.321 version 13.9.0 dated July 6, 2018. Similarly, the excerpted sections from TS 36.331 v. 8.4.0 are found with substantively similar wording in Technical Specification 36.331 version 13.15.0 dated January 8, 2020. Similarly, the excerpted sections from TS 36.212 v. 8.8.0 are found with substantively similar wording in Technical Specification 36.212 version 13.10.0 dated January 6, 2020. Due to the backwards and forwards compatibility of the 3GPP technical specifications as shown in Exhibit 25, any product



compliant with 4G/LTE will be compliant with all of the excerpted portions of the standards cited in Exhibit 25. Thus, Defendant's Accused Instrumentalities are necessarily infringing the '279 patent.

139. Defendant was made aware of the '279 patent and its infringement thereof at least as early as the date of filing of this Complaint.

140. Upon information and belief, Defendant has and continues to directly infringe at least claims 1 and/or 11 of the '279 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing the Accused Instrumentalities that infringe the patented methods.

141. Upon information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, customers/subscribers and end users across the country and in this District.

142. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claims 1 and/or 11 of the '279 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients, customers/subscribers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '279 patent.

143. In particular, the Defendant's actions that aid and abet others such as its partners, customers/subscribers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities.

144. Any party, including Defendant's partners, clients, customers/subscribers, and end users, using the Accused Instrumentalities necessarily infringes the '279 patent because the invention of the '279 patent is required to comply with the relevant cellular standard. Defendant advertises its Accused Instrumentalities as compliant with the relevant cellular standard, which induces others to infringe the '279 patent. Defendant has knowingly induced infringement since at least the filing of this Complaint when Defendant was first made aware of the '279 patent.

145. Upon information and belief, the Defendant is liable as a contributory infringer of the '396 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentalities that infringe the patented methods, to be especially made or adapted for use in an infringement of the '279 patent. Each of the Accused Instrumentalities is a material component for use in practicing the '279 patent and is specifically made and is not a staple article of commerce suitable for substantial non-infringing use. In particular, each of the Accused Instrumentalities is advertised to be compliant with the relevant standard and primarily used in compliance with that standard.

146. Plaintiffs have been harmed by Defendant's infringing activities.

### **JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all issues triable as such.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs demand judgment for themselves and against Defendant as follows:

- A. An adjudication that Defendant has infringed the '070, '383, '611, '653, '718, '625, '388, '396, and '279 patents;

- B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement of the '070, '383, '611, '653, '718, '625, '388, '396, and '279 patents, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiffs' reasonable attorneys' fees; and
- D. An award to Plaintiffs of such further relief at law or in equity as the Court deems just and proper.

Dated: June 1, 2021

DEVLIN LAW FIRM LLC

*/s/ Timothy Devlin* \_\_\_\_\_

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