

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DATAQUILL LIMITED,

Plaintiff,

v.

T-MOBILE US, INC. and T-MOBILE
USA, INC.

Defendants.

Case No.

JURY TRIAL DEMANDED

COMPLAINT

This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, against Defendants T-Mobile US, Inc. and T-Mobile USA, Inc. (collectively “T-Mobile”) that relates to U.S. patent 6,058,304 owned by DataQuill Limited (“DataQuill”).

PARTIES

1. Plaintiff DataQuill Limited is a limited company organized under the laws of the British Virgin Islands.

2. Defendant T-Mobile USA, Inc. is a Delaware company with its principal place of business at 12920 SE 38th St, Bellevue, WA, 98006. T-Mobile USA, Inc.’s registered agent for service is Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

3. T-Mobile USA, Inc. does business across the United States, including in the State of Delaware and in the District of Delaware.

4. Defendant T-Mobile US, Inc., is a Delaware corporation with its principal place of business at 12920 SE 38th St, Bellevue, WA, 98006. T-Mobile US, Inc.'s registered agent for service is Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. T-Mobile US, Inc. is the parent of T-Mobile USA, Inc.

5. T-Mobile US, Inc. does business across the United States, including in the State of Delaware and in the District of Delaware.

6. For the relevant time periods of this action, T-Mobile made, used, imported, offered for sale and sold wireless mobile devices under the brand name T-Mobile in the United States.

JURISDICTION AND VENUE

7. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1, et seq., and more particularly 35 U.S.C. § 271.

8. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

9. Each T-Mobile Defendant is subject to this Court's jurisdiction because it is incorporated in the State of Delaware.

10. Venue is proper in this District under 28 U.S.C. §1400(b), because each T-Mobile Defendant is organized under Delaware law or incorporated in Delaware.

BACKGROUND FACTS REGARDING THE DATAQUILL PATENT

11. DataQuill is the owner of record and assignee of U.S. Patent No. 6,058,304 (“the ’304 Patent”) (the “Patent-in-Suit”), attached as Exhibit A.

12. DataQuill has sought to protect its invention through a licensing program (which has on several occasions required litigation). Many of the largest high-tech companies, including HTC, Nokia, Motorola, LG, Samsung, Palm, and Hewlett-Packard, have purchased a license to DataQuill’s patent portfolio. To date, DataQuill has obtained over \$128 million in licensing revenue.

13. The value of DataQuill’s asserted patent is further demonstrated by DataQuill’s repeated success against validity challenges. The Patent-in-Suit has been through a reexamination at the United States Patent and Trademark Office where hundreds of references have been considered. In 2020, the Patent Trial and Appeal Board denied institution of an *inter partes* reexamination of the Patent-in-Suit.

14. In 2021, the United States Patent and Trademark Office ordered a second reexamination of the Patent-in-Suit that is currently pending for claims that are not presently asserted in this complaint.

15. In prior litigations, the Patent-in-Suit withstood heavy scrutiny, including motions for summary judgment of anticipation, obviousness, inequitable conduct, lack of enablement, and lack of an adequate written description—all of which were resolved in DataQuill’s favor. Most recently, a jury returned a verdict finding certain claims of the ’304 Patent valid and infringed in a case against ZTE. The jury determined that DataQuill had been damaged in the amount of \$31,500,000.

THE PATENTS-IN-SUIT AND CLAIMS-IN-SUIT

16. DataQuill has the exclusive right to sue and the exclusive right to recover damages for infringement of the Patent-in-Suit during all relevant time periods.

17. On May 2, 2000, the ’304 Patent entitled “Data Entry Systems” was duly and legally issued by the USPTO. On April 13, 2010, the USPTO issued an Ex Parte Reexamination Certificate for the ’304 Patent.

T-MOBILE’S INFRINGING PRODUCTS

18. During the damages period, T-Mobile made, used, offered for sale, sold, and imported into the United States smartphones that enable users to browse and download items such as apps, games, ringtones, music, videos, books, and magazines. On information and belief, these devices include but are not limited to the following models: Revvl, Concord II, Prism II, Concord, myTouch Q2,

myTouch 2, Prism, Move Balance, Arizona, Vivacity, myTouch 4G Slide, myTouch Q, myTouch, Move, G2x, Sidekick 4G, Vairy Text II, Vibe E200, Comet, myTouch 4G, G2, myTouch 3G Slide, Garminfone, Pulse Mini, myTouch 3G Fender Edition, Pulse, G2 Touch, and myTouch 3G 1.2. To the extent that they are not already licensed, these devices are a subset of, and collectively referred to as, “Accused T-Mobile Smartphones”.

19. In addition to the specific models listed above, the Accused T-Mobile Smartphones are all T-Mobile smartphones that incorporated a touch-sensitive screen and the Android operating system that were offered for sale or sold in the United States between the period that is six years before the filing date of this complaint and the expiration of the Patent-in-Suit and that were not previously licensed.

20. T-Mobile directly infringed claims of the Patent-in-Suit under 35 U.S.C. § 271(a) by making, using, offering for sale, selling, and/or importing the Accused T-Mobile Smartphones in this District and elsewhere in the United States that include the systems claimed in the Patent-in-Suit and/or by using the methods claimed in the Patent-in-Suit, including, for example, T-Mobile’s use of said methods during set-up, testing, and demonstration of Accused T-Mobile Smartphones.

21. T-Mobile induced the direct infringement of method claims of the Patent-in-Suit pursuant to U.S.C. § 271(b) at least by one or more of making, using, offering for sale, selling and/or importing Accused T-Mobile Smartphones in this District and elsewhere in the United States that were designed and intended to use and/or practice the methods and processes covered by the Patent-in-Suit. Further, T-Mobile induced infringement by, for example, providing user guides and other support materials and services to its users and by advertising features that are used, and benefits that are achieved through use of the Patent-in-Suit.

22. Despite T-Mobile's awareness of the Patent-in-Suit, T-Mobile has continued these acts of inducement with specific intent to cause and encourage direct infringement of the Patent-in-Suit with willful blindness that such activities occurred and constitute direct infringement of the Patent-in-Suit.

**T-MOBILE'S KNOWLEDGE OF THE PATENT-IN-SUIT,
HOW T-MOBILE INFRINGES IT, AND
T-MOBILE'S CONTINUED INFRINGEMENT DESPITE THAT
KNOWLEDGE**

23. At least as early as April 25, 2014, DataQuill, through counsel, provided a notice letter to T-Mobile regarding the '304 Patent.

24. T-Mobile did not enter into a license agreement with DataQuill following the April 2014 letter, though counsel for DataQuill and T-Mobile did enter preliminary discussions between April and July 2014.

25. Despite knowledge of the Patent-in-Suit and knowledge of the manner in which the Patent-in-Suit were infringed, T-Mobile continued to infringe, and induce the infringement of, the Patent-in-Suit.

COUNT I: INFRINGEMENT OF PAT. 6,058,304

26. DataQuill reasserts and realleges paragraphs 1 through 25 of this Complaint as though set forth fully here.

27. T-Mobile directly infringed the '304 Patent in the State of Delaware, in this judicial district, and elsewhere within the United States by making, using, offering for sale, selling, and/or importing Accused T-Mobile Smartphones that infringe one or more claims of the '304 Patent.

28. Accused T-Mobile Smartphones sold by T-Mobile infringed claim 101 of the '304 Patent, for example as explained in the following paragraphs (29-42).

29. The Accused T-Mobile Smartphones are data entry devices for use in a data entry system.

30. Each Accused T-Mobile Smartphone contains at least one reading sensor. "Reading sensor" has been repeatedly construed by several courts to cover

a touchscreen. Each Accused T-Mobile Smartphone has a touchscreen. The touchscreen is a reading sensor responsive to commands and/or sensed commands and data. The touchscreen produces input signals.

31. For example, the touchscreen of each Accused T-Mobile Smartphone is responsive to commands and/or sensed commands and data that enable a user to navigate and download Google Play Products from Google Play.

32. The Accused T-Mobile Smartphones contain a controller coupled to the reading sensor to receive and process input signals from the touchscreen, e.g., circuitry coupled to the touchscreen including the touchscreen controller and processor. This circuitry responds to commands, sensed commands, and data to control the Accused T-Mobile Smartphones and to select items.

33. The Accused T-Mobile Smartphones' controller is coupled to a communications interface to selectively control transmission over said communications interface of command and or data signals as determined by said input signals processed by the controller.

34. For example, Accused T-Mobile Smartphones' contain a communications interface (e.g., the GSM/GPRS/UMTS/HSDPA/HSUPA/HSPA+/DC-HSDPA/EDGE/CDMA/EV-DO/3G/4G/LTE/FDD-LTE/TD-LTE circuitry). The communications interface is coupled to the controller. The communications interface provides for transmission

of commands and/or data signals as determined by input signals processed by the controller in several ways including: commands and/or data signals are transmitted over the communications interface when a user navigates Google Play and selects to view additional information about an item or to rate or review an item or when a user chooses to download an item from Google Play.

35. The Accused T-Mobile Smartphones contain a communications interface (e.g., the GSM/GPRS/UMTS/HSDPA/HSUPA/HSPA+/DC-HSDPA/EDGE/CDMA/EV-DO/3G/4G/LTE/FDD-LTE/TD-LTE circuitry) that directly connects the Accused T-Mobile Smartphones to a wireless telecommunications network. This connection is made over a wireless telecommunications network via an antenna.

36. The Accused T-Mobile Smartphones contain a touchscreen display coupled to a controller to display commands and/or information under control of the input signals processed by the controller. For instance, the Google Play store displays buttons under the control of input signals the Accused T-Mobile Smartphones' controller processes. The Accused T-Mobile Smartphones' reading sensors, controllers, and displays comprise a unitary assembly. The Accused T-Mobile Smartphones are sold as complete, integrated units. The Accused T-Mobile Smartphones' touchscreens comprise a reading sensor and a display. The controller is located within the Accused T-Mobile Smartphones.

37. The Accused T-Mobile Smartphones contain a communications interface (e.g., the GSM/GPRS/UMTS/HSDPA/HSUPA/HSPA+/DC-HSDPA/EDGE/CDMA/EVDO/3G/4G/LTE/FDD-LTE/TD-LTE circuitry) that is a cellular telephone network interface. The cellular telephone network interface directly connects the Accused T-Mobile Smartphone to a wireless telecommunications network that is a cellular telephone network.

38. Each Accused T-Mobile Smartphones is a data entry device integral with a cellular telephone. The Accused T-Mobile Smartphones comprise both a data entry device and a cellular telephone.

39. The controller is configured to respond to a user update command by downloading information required for updating information previously stored in the Accused T-Mobile Smartphones. For example, a user can choose to update a user selectable application by tapping the “UPDATE” button. The existing application was previously stored on the Accused T-Mobile Smartphones, and the “UPDATE” button initiates a download of information to update that application. Additionally, when a user accesses Google Play by tapping the Google Play icon, information required for updating applications (e.g., whether an update is available, app permission information) is downloaded from a remote processing center (e.g., one or more of the servers that operate Google Play). An update may be available if the user previously downloaded and stored said app.

40. The Accused T-Mobile Smartphones comprise a touchscreen, which is a carrier. “Carrier” has been construed by multiple courts to mean “a medium that carries one or more data and/or command codes.” The touchscreen is a medium associated with displaying a plurality of data and/or command codes. The data and/or command codes are displayed on the screen as buttons, links, or icons. The touchscreen is associated with displaying a plurality of user selectable items, such as Google Play Products.

41. The Accused T-Mobile Smartphones’ touchscreens carry a plurality of codes representing natural language characters and numbers, as well as commands for controlling operation of the data entry and/or merchandising systems. For natural language characters and numbers, the Accused T-Mobile Smartphones display a keyboard that can be used to input information. For commands, the touchscreen displays apps, buttons, or links that a user may select to control the system.

42. Each code is associated with a visual representation displayed on the Accused T-Mobile Smartphones’ screens. The codes may be product identifications such as links to products on the Google Play store.

43. In addition to claim 101, by way of example, T-Mobile infringed at least independent claims 78, 80-81, 83, and 86 of the ’304 Patent and the following dependent claims (as depending from specific independent claims): 13 (12); 45

(44); 55 (53); 40 (78); 59 (78); 60 (78); 32 (81); 34 (81); 35 (81); 44 (78, 81); 53 (78 or 81); 56 (78 or 81); 57 (78 or 81); 20 (86, 83, or 86); 12 (80, 83, 86, or 101); 22 (80, 83, 86, or 101); 23 (80, 83, 86, or 101); and 9 (101).

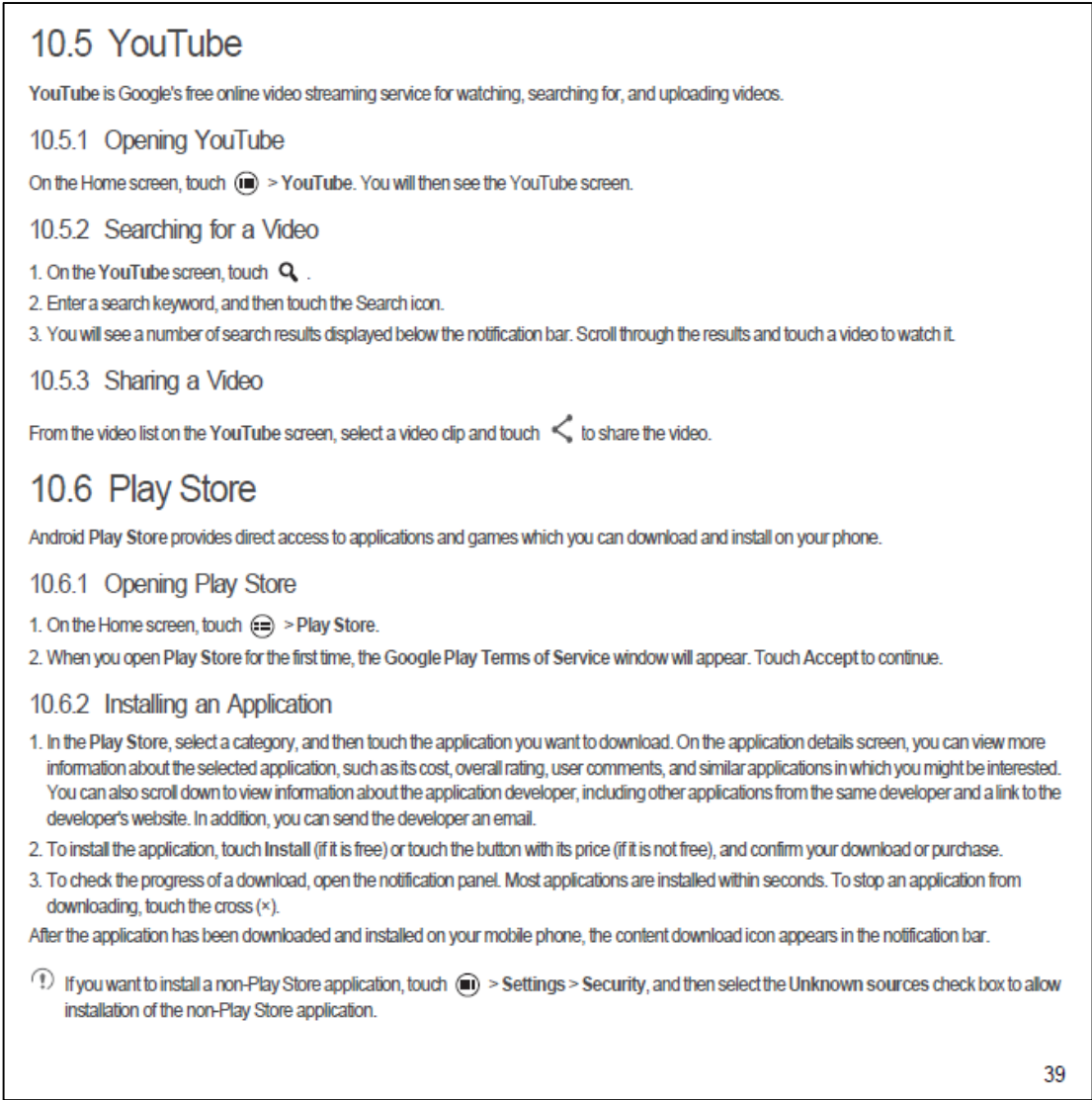
44. T-Mobile is thus liable for infringement of the '304 Patent under 35 U.S.C. § 271(a).

45. With knowledge of the '304 Patent and knowledge of the infringing nature of Accused T-Mobile Smartphones (or, at a minimum, willful blindness thereto), T-Mobile has encouraged its retailers to directly infringe the '304 Patent by offering to sell and selling these devices to end user consumers. T-Mobile knew of and intended to cause its retailers' direct infringement and is therefore liable for inducing their infringement of the '304 Patent under 35 U.S.C. § 271(b).

46. With knowledge of the '304 Patent and knowledge of the infringing nature of Accused T-Mobile Smartphone (or, at a minimum, willful blindness thereto), T-Mobile has encouraged end users to directly infringe the '304 Patent by using these devices. T-Mobile has marketed, promoted, and instructed users to use these devices in an infringing manner. This marketing, promotion, and instruction has specifically included instructions to use the device's functionality to download apps, games, music, videos, books, magazines, and ringtones. T-Mobile knew of and intended to cause its end users' direct infringement and is therefore liable for inducing their infringement of the '304 Patent under 35 U.S.C. § 271(b).



T-Mobile Prism[®] II User Manual



T-Mobile, Prism II User Guide at 39 (2013).

47. As a result of its infringement of the '304 Patent, T-Mobile has damaged DataQuill. T-Mobile is liable to DataQuill in an amount to be determined at trial that adequately compensates DataQuill for the infringement, which by law can be no less than a reasonable royalty.

48. Because T-Mobile knew of the '304 Patent and its infringement

thereof (as detailed above), T-Mobile's infringement of the '304 Patent is therefore willful and deliberate, entitling DataQuill to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

DataQuill demands a trial by jury on all issues that may be so tried.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff DataQuill requests that this Court enter judgment in its favor and against Defendants T-Mobile USA, Inc. and T-Mobile US, Inc. as follows:

- A. Adjudging, finding, and declaring that T-Mobile has infringed the above-identified claims of each of the Patent-in-Suit under 35 U.S.C. § 271;
- B. Awarding the past damages arising out of T-Mobile's infringement of the Patent-in-Suit to DataQuill in an amount no less than a reasonable royalty, together with prejudgment and post-judgment interest, in an amount according to proof;
- C. Adjudging, finding, and declaring that T-Mobile's infringement is willful and awarding enhanced damages and fees as a result of that willfulness under 35 U.S.C. § 284;

D. Adjudging, finding, and declaring that the Patent-in-Suit is valid and enforceable;

E. Awarding attorneys' fees, costs, or other damages pursuant to 35 U.S.C. §§ 284 or 285 or as otherwise permitted by law; and

F. Granting DataQuill such other further relief as is just and proper, or as the Court deems appropriate.

Dated: June 21, 2021

Respectfully submitted,

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