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*Attorneys for the Plaintiff, ADAPTIX, Inc.*

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 ADAPTIX, INC.,  
12 Plaintiff,  
13  
14 v.  
15 SONY MOBILE COMMUNICATIONS  
16 (USA), INC., AT&T MOBILITY LLC, and  
17 JOHN DOE NOS. 1-10,  
Defendants.

Case No. 5:15-cv-00972-PSG  
**FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**  
**JURY TRIAL REQUESTED**

18 This is an action for patent infringement in which Plaintiff, ADAPTIX, Inc. (“ADAPTIX”),  
19 complains against Defendants Sony Mobile Communications (USA), Inc. (“Sony”), AT&T Mobility  
20 LLC (“AT&T”), and John Doe Nos. 1-10 (collectively “the Defendants”), as follows:

21 **THE PARTIES**

22 1. ADAPTIX is a Delaware corporation with its principal place of business at 2400 Dallas  
23 Parkway, Suite 200, Plano, Texas 75093.

24 2. Sony Mobile Communications (USA), Inc. is a Delaware corporation with its principal  
25 place of business at 3333 Piedmont Road NE, # 600, Atlanta, Georgia 30305 and does business in this  
26 judicial district by, among other things, committing the infringing acts giving rise to this Complaint

27 3. AT&T is a Delaware corporation with its principal place of business at 1025 Lenox  
28 Park Blvd. NE, Atlanta, Georgia 30319 and does business in this judicial district by, among other

1 things, committing the infringing acts giving rise to this Complaint.

2 4. Defendants John Doe Nos. 1-10 are customers of Sony and AT&T who have purchased  
3 or have been provided and have used the Sony Xperia TL, Sony Xperia ion, and Sony Vaio Duo 13  
4 and whose identities are not currently known to ADAPTIX.

5 **JURISDICTION AND VENUE**

6 5. This action arises under the patent laws of the United States, Title 35 of the United  
7 States Code, 35 U.S.C. §§ 101, et seq. This Court has subject matter jurisdiction pursuant to 28  
8 U.S.C. §§ 1331 and 1338(a).

9 6. Defendants are subject to this Court’s specific and general personal jurisdiction,  
10 pursuant to due process and/or the California Long Arm Statute.

11 7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b-c) and 1400(b)  
12 because, among other things, Defendants have committed acts of patent infringement within this  
13 judicial district, giving rise to this action, Sony and AT&T continue to conduct business in this  
14 district, and John Doe Nos. 1-10 reside in this district.

15 **INFRINGEMENT OF U.S. PATENT NO. 7,454,212**

16 8. This cause of action arises under the patent laws of United States of America and, in  
17 particular, 35 U.S.C. §§ 271, et seq.

18 9. ADAPTIX is the owner by assignment of United States patent number 7,454,212,  
19 entitled “OFDMA With Adaptive Subcarrier-Cluster Configuration And Selective Loading” (“the  
20 ’212 Patent”), with ownership of all substantial rights in the ’212 Patent, including the right to exclude  
21 others and to sue and recover damages for the past and future infringement thereof. A true and correct  
22 copy of the ’212 Patent is attached as Exhibit A.

23 **Direct Infringement**

24 10. AT&T has infringed, and continues to infringe, at least claim 18 of the ’212 patent in  
25 this judicial district and elsewhere in the United States by, among other things, making and using its  
26 4G LTE Wireless Network (“AT&T’s LTE network”).

27 11. AT&T supplies cellular communication devices, including without limitation the Sony  
28 Xperia TL, Sony Xperia ion, and Sony Vaio Duo 13, which together with the base stations that AT&T

1 operates create AT&T's LTE Network. AT&T's LTE Network infringes at least claim 18 of the '212  
2 patent. AT&T is thereby liable for infringement of the '212 Patent, pursuant to 35 U.S.C. § 271(a).

3 12. John Doe Nos. 1-10 have infringed, and continue to infringe, at least claim 1 of the  
4 '212 patent in this judicial district and elsewhere in the United States by, among other things, using  
5 cellular communication devices, including without limitation the Sony Xperia TL, Sony Xperia ion,  
6 and Sony Vaio Duo 13, on AT&T's 4G LTE Wireless Network.

7 13. AT&T's and John Doe Nos. 1-10's infringement has caused damage to ADAPTIX,  
8 which infringement by AT&T and John Doe Nos. 1-10 and damage to ADAPTIX will continue unless  
9 and until AT&T and John Doe Nos. 1-10 are enjoined.

### 10 **Indirect Infringement**

11 14. Sony has induced infringement of and continues to induce infringement of at least  
12 Claims 1 and 18 of the '212 Patent in this judicial district and elsewhere in the United States by,  
13 among other things, providing, offering for sale, selling, and/or importing cellular communication  
14 devices, including without limitation the Sony Xperia TL, Sony Xperia ion, and Sony Vaio Duo 13,  
15 for use on AT&T's LTE network. Sony knowingly encourages and intends for its customers to use  
16 those devices in a manner that infringes the '212 patent. Sony's customers who operate such devices  
17 in accordance with Sony's instructions, as well as AT&T, directly infringe one or more claims of the  
18 '212 Patent in violation of 35 U.S.C § 271. Sony's inducement of such infringement creates liability  
19 under 35 U.S.C. § 271(b).

20 15. AT&T has induced infringement of and continues to induce infringement of at least  
21 Claims 1 and 18 of the '212 Patent in this judicial district and elsewhere in the United States by,  
22 among other things, providing, offering for sale, selling, and/or importing cellular communication  
23 devices, including without limitation the Sony Xperia TL, Sony Xperia ion, and Sony Vaio Duo 13,  
24 for use on AT&T's LTE network, and using its LTE network to operate those devices. AT&T  
25 knowingly encourages and intends for its customers to use those devices in a manner that infringes the  
26 '212 patent. AT&T's customers who operate such devices in accordance with AT&T's instructions  
27 directly infringe one or more claims of the '212 Patent in violation of 35 U.S.C § 271. AT&T's  
28 inducement of such infringement creates liability under 35 U.S.C. § 271(b).

1           16. Sony has contributed, and continues to contribute, to the direct infringement of at least  
2 claim 18 by others, such as AT&T and end users of its cellular communication devices, including  
3 without limitation the Sony Xperia TL, Sony Xperia ion, and Sony Vaio Duo 13, to be used on  
4 AT&T's LTE network, by offering to sell, selling within, and/or importing into the United States a  
5 component of a patented system or an apparatus for use in practicing a patented process, that  
6 constitutes a material part of the invention, knowing the same to be especially made or especially  
7 adapted for use in infringement of the '212 Patent and not a staple article or commodity of commerce  
8 suitable for substantial non-infringing use. Sony's conduct creates liability under 35 U.S.C. § 271(c).

9           17. AT&T has contributed, and continues to contribute, to the direct infringement of at  
10 least claims 1 and 18 by others, such as end users of its LTE network and of cellular communication  
11 devices, including without limitation the Sony Xperia TL, Sony Xperia ion, and Sony Vaio Duo 13, to  
12 be used on its LTE network, by making, offering to sell, selling within, and/or importing into the  
13 United States a component of a patented system or an apparatus for use in practicing a patented  
14 process, that constitutes a material part of the invention, knowing the same to be especially made or  
15 especially adapted for use in infringement of the '212 Patent and not a staple article or commodity of  
16 commerce suitable for substantial non-infringing use. AT&T's conduct creates liability under 35  
17 U.S.C. § 271(c).

18           18. Sony and AT&T have been on notice of the '212 Patent since May 31, 2013, at the  
19 latest, when Sony's counsel contacted Adaptix's counsel to discuss the Complaint in the 14-cv-1385  
20 litigation. Sony and AT&T will thus have known and intended (since receiving such notice) that their  
21 continued actions would induce or contribute to direct infringement of at least Claims 1 and 18 of the  
22 '212 Patent.

23           19. ADAPTIX has been irreparably damaged as a result of Defendants' infringing conduct  
24 described in this Count. Defendants are thus liable to ADAPTIX for an amount that adequately  
25 compensates ADAPTIX for Defendants' infringement, which, by law, cannot be less than a reasonable  
26 royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284. Additionally,  
27 such irreparable damage will continue until Defendants are enjoined pursuant to 35 U.S.C. § 283.

28

**PRAYER FOR RELIEF**

For the above reasons, ADAPTIX respectfully requests that this Court enter judgment:

A. That each Defendant has infringed the '212 patent;

B. Enjoining each Defendant, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or privity with it from infringement of the '212 patent, under 35 U.S.C. § 283;

C. That each Defendant pay ADAPTIX damages with interest and costs, under 35 U.S.C. § 284;

D. Declaring this case exceptional under 35 U.S.C. § 285 and awarding attorneys' fees; and

E. Granting any further relief that the Court may deem appropriate.

**DEMAND FOR JURY TRIAL**

ADAPTIX hereby requests a trial by jury on all issues so triable by right pursuant to Fed. R. Civ. P. 38.

Dated: May 20, 2015

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF  
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