

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>ARENA IP, LLC,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No. 4:23-cv-00428</b>
<b>v.</b>	)	
	)	
<b>NEW ENGLAND PATRIOTS, LLC,</b>	)	<b>JURY TRIAL DEMANDED</b>
<b>Defendant.</b>	)	

**PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Arena IP, LLC (“Plaintiff” or “Arena”) files this First Amended Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,320,820 (“the ’820 patent”) (referred to as the “Patent-in-Suit”) by New England Patriots, LLC (“Defendant” or “Patriots”).

**I. THE PARTIES**

1. Plaintiff is a Limited Liability Company with its principal place of business located 117 Bryn Mawr Drive SE, Albuquerque, NM 87106.

2. On information and belief, Defendant is a corporation organized and existing under the laws of the State of DE, with a regular and established place of business located at One Patriot Place, Foxboro, MA 02035. On information and belief, Defendant employs local managers in the Southern District of Texas. On information and belief, Defendant stores property in the Southern District of Texas, at least in the homes of Defendant’s employees. On information and belief, Defendant continuously maintains a physical presence in the Southern District of Texas. See Exhibit F.

3. On information and belief, Defendant sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that

perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. Defendant can be served with process through their registered agent, Corporate Service Company, 251 Little Falls Drive, Wilmington, New Castle, Delaware 19808, at its place of business, or anywhere else it may be found.

## **II. JURISDICTION AND VENUE**

4. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

5. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

## **III. INFRINGEMENT - Infringement of the '820 Patent**

7. On November 27, 2012, U.S. Patent No. 8,320,820 ("the '820 patent", included as Exhibit A and part of this complaint) entitled "Self-contained Data Communication System Nodes As

Stand-alone Pods Or Embedded In Concrete Walkways And In Walls At Public Venues Including Sports And Entertainment Venues” was duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the '820 patent by assignment.

8. The '820 patent relates to novel and improved methods and systems for communications of video and data to hand held devices located within a public venue. More specifically, the '820 patent relates to wireless data communications systems including communications nodes set up to establish a communication network within public venues including sports and entertainment venues.<sup>1</sup> The '820 patent also relates to wireless data communications systems including communications nodes comprising a communication network within a public venue supporting access to video and data by hand held devices also located within the public venue.<sup>2</sup> According to the '820 patent specification, although the most modern venues includes built-in wireless infrastructure, older venues often require retrofitting to incorporate wireless communications equipment, or the equipment will only be temporary and must be installed just before an event.<sup>3</sup> Temporary use will be typical with multi-purpose venues.<sup>4</sup> The '820 patent provides a system that can simplify the temporary or retrofit placement of wireless data communications equipment as pods throughout sports and entertainment venues.<sup>5</sup>

9. Embodiments of the '820 patent provide numerous benefits over the prior art, including, but not limited to, providing systems that can enable video and data communications with multiple wireless hand held devices for older entertainment venues, and/or for any public venues

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<sup>1</sup> Exhibit A (the '820 patent) at column 1, lines 23 – 26 (C:1, L:23-26).

<sup>2</sup> *Id.* at C:1, L:26-30.

<sup>3</sup> *Id.* at C:3, L:66 to C:4, L3.

<sup>4</sup> *Id.* at C:4, L3-4.

<sup>5</sup> *Id.* at C:4, L4-7.

where data access is only needed temporarily or long-term.<sup>6</sup> The specification states that many entertainment venues are older and lack the “built-in” wireless data communications infrastructure necessary to support large scale hand held device access to live video recorded by cameras at entertainment venues and associated entertainment data.<sup>7</sup> The specification further states that some entertainment venues may only require temporary installations of wireless video and data communications capabilities for a special event.<sup>8</sup> However, in accordance with the '820 patent, communications electronics can be provided within sports and entertainment venues in the form of self-contained pods<sup>9</sup> that enable video and data communications with multiple wireless hand held devices for older entertainment venues, and/or for any public venues where data access is only needed temporarily or long-term.<sup>10</sup>

10. A wireless data communications system node 100 is illustrated in FIG. 1 of the '820 patent. As illustrated in FIG. 2 of the '820 patent, a sports and entertainment venue 200 can include wireless data communications system nodes 100 distributed around and throughout the sports and entertainment venue 100 for establishing a wireless communication network in communication with hand held devices 210 used by spectators within sports and entertainment venue 100.<sup>11</sup> The wireless communications network supported by the pods 100 enable handheld devices 210 to receive multiple perspective of an event 230 in video captured within the venue.<sup>12</sup>

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<sup>6</sup> *Id.* at C:1, L:67 to C:2, L-3.

<sup>7</sup> *Id.* at C:1, L:58-63.

<sup>8</sup> *Id.* at C:1, L:63-66.

<sup>9</sup> *Id.* at C:4, L:8-9.

<sup>10</sup> *Id.* at C:1, L:67 to C:2, L-3.

<sup>11</sup> *Id.* at C:4, L:44-52.

<sup>12</sup> *Id.* at C:4, L:53-56.

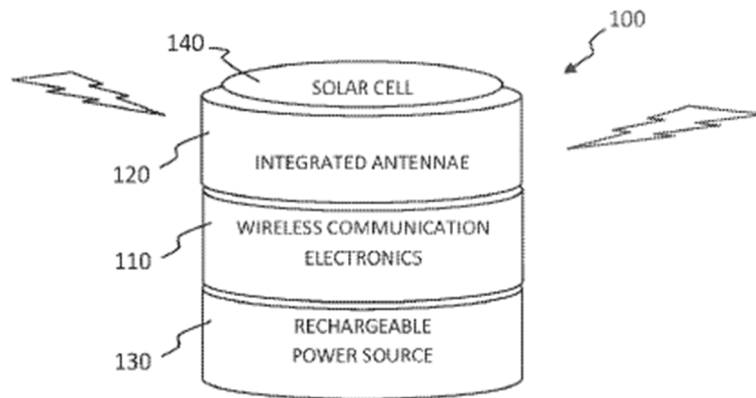


FIG. 1

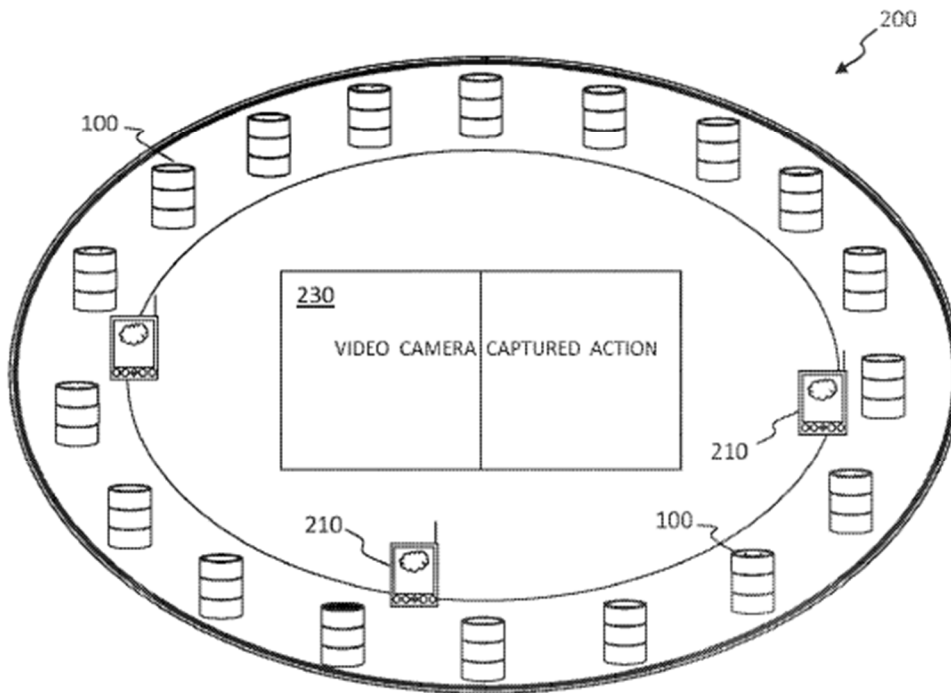


FIG. 2

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11. As shown in the claim chart attached as Exhibit B, claim 1 recites:

A system providing communications capacity and supporting the communications of video and data to hand held wireless devices located throughout a sports and entertainment venue, comprising:

<sup>13</sup> *Id.* at Fig. 1 and Fig. 2.

at least one server managing data including video of various perspectives of an activity captured by video cameras located throughout the sports and entertainment venue; and

more than one self-contained pod including wireless communications electronics and an integrated antennae for said self-contained pod to operate as a wireless access point sustaining bi-directional communication with said at least one server,

said more than one self-contained pod deployed as a matrix of communications nodes throughout a sports and entertainment venue

to provide enhanced communications capacity for and data network access by said hand held wireless devices being used by spectators located throughout the sports and entertainment venue and

providing access to said data from the at least one server to said hand held wireless devices in use by the spectators<sup>14</sup>

12. As shown in the claim chart attached as Exhibit C, claim 8 recites:

A system supporting the communications of hand held wireless devices located throughout a sports and entertainment venue, comprising

more than one self-contained pod including wireless communications electronics and an integrated antennae for said more than one self-contained pod

to operate as a wireless access point and

deployed as a matrix of communications nodes throughout said sports and entertainment venue

to provide enhanced wireless communications capacity throughout the sports and entertainment venue and

to support bi-directional communication of said hand held wireless devices used by spectators located throughout the sports and entertainment venue

with at least one server to obtain access to data including the video from said at least one server,

wherein said at least one server manages video of various perspectives of an activity captured by video cameras located throughout the sports and entertainment venue.<sup>15</sup>

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<sup>14</sup> *Id.* at C:8, L:54 to C:9, L:7.

<sup>15</sup> *Id.* at C:9, L:44-58.

13. During prosecution of the '820 patent, the U.S. Patent and Trademark Office Examiner stated that the prior art of record does not disclose these claim features:

more than one self-contained pod including wireless communications electronics and an integrated antennae for said self-contained pod to operate as a wireless access point sustaining bi-directional communication with said at least one server, said more than one self-contained pod deployed as a matrix of communications nodes throughout a sports and entertainment venue to provide enhanced communications capacity for and data network access by said hand held wireless devices being used by spectators located throughout the sports and entertainment venue and providing access to said data from the at least one server to said hand held wireless devices in use by the spectators.<sup>16</sup>

14. Defendant maintains, operates, and administers systems, products, and services that infringes one or more of claims 1-21 of the '820 patent, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '820 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

15. Support for the allegations of infringement may be found in the charts attached as Exhibits B and C. As shown, in the attached claim charts, for example, Gillette Stadium has a system providing communications capacity and supporting the communications of video and data to hand held wireless devices located throughout its venue.<sup>17</sup> Gillette Stadium describes its distributed antenna system (DAS), which is a network of spatially separated antenna nodes.<sup>18</sup> This corresponds to the claimed self-contained pods. Furthermore, on information and belief, Gillette

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<sup>16</sup> See Exhibit D – Notice of Allowance, at page 7.

<sup>17</sup> For example, see Exhibit B at page 2.

<sup>18</sup> See Exhibit C, page 3.

Stadium has 200 self-contained indoor and outdoor 802.11n access points (which also corresponds to the more than one self-contained pod),<sup>19</sup> including wireless communications electronics and an integrated antennae to operate as a wireless access point sustaining bi-directional communication with said at least one server. The DAS or Access Points are deployed as a matrix of communications nodes throughout Gillette Stadium (a sports and entertainment venue) to provide communications capacity for and data network access by hand held wireless devices being used by spectators located throughout the venue and providing access to said data from the at least one server to the hand held wireless devices in use by the spectators. These allegations of infringement are preliminary and are therefore subject to change.

16. Defendant has and continues to induce infringement. Defendant has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., system supporting communications of video and data to hand held devices located within a public venue) such as to cause infringement of one or more of claims 1-21 of the '820 patent, literally or under the doctrine of equivalents. Moreover, Defendant has known of the '820 patent and the technology underlying it from at least the filing date of the lawsuit.<sup>20</sup> For clarity, direct infringement is previously alleged in this complaint.

17. Defendant has and continues to contributorily infringe. Defendant has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., system supporting

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<sup>19</sup> See Exhibit E, September 11, 2012 blog entitled "Wi-Fi ® Networks in Stadiums Face Challenges," by Laird Connectivity. ([https://www.lairdconnect.com/resources/blog/wi-fi-networks-stadiums-face-challenges.](https://www.lairdconnect.com/resources/blog/wi-fi-networks-stadiums-face-challenges))

<sup>20</sup> Plaintiff reserves the right to amend and add inducement pre-suit if discovery reveals an earlier date of knowledge.



communications of video and data to hand held devices located within a public venue) and related services such as to cause infringement of one or more of claims 1-21 of the '820 patent, literally or under the doctrine of equivalents. Further, there are no substantial noninfringing uses for Defendant's products and services. Moreover, Defendant has known of the '820 patent and the technology underlying it from at least the filing date of the lawsuit.<sup>21</sup> For clarity, direct infringement is previously alleged in this complaint.

18. Defendant has caused and will continue to cause Plaintiff damage by direct and indirect infringement of (including inducing infringement of) the claims of the '820 patent.

#### **IV. JURY DEMAND**

Plaintiff hereby requests a trial by jury on issues so triable by right.

#### **V. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '820 patent;
- b. award Plaintiff damages in an amount sufficient to compensate it for Defendant's infringement of the Patents-in-Suit in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award Plaintiff an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Plaintiff its attorneys' fees, expenses, and costs incurred in this action;

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<sup>21</sup> Plaintiff reserves the right to amend and add inducement pre-suit if discovery reveals an earlier date of knowledge.

- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award Plaintiff such other and further relief as this Court deems just and proper.

DATED: May 31, 2023

Respectfully submitted,

**Ramey LLP**

/s/ William P. Ramey, III  
William P. Ramey, III  
Texas Bar No. 24027643  
[wramey@rameyfirm.com](mailto:wramey@rameyfirm.com)

5020 Montrose Blvd., Suite 800  
Houston, Texas 77006  
(713) 426-3923 (telephone)  
(832) 900-4941 (fax)

***Attorneys for ARENA IP, LLC***