

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CELLULAR SPECIALTIES, INC.,

Plaintiff,

v.

AXELL WIRELESS, LTD.

Defendant

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Case No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

NOW COMES, the plaintiff, Cellular Specialties, Inc. (“CSI”), by and through its attorneys, Devine, Millimet & Branch, Professional Association, and complains against the defendant Axell Wireless, Inc. (“Axell”) as follows:

NATURE OF ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code, Sections 100 *et seq.*

THE PARTIES

2. CSI is a corporation organized under the laws of the state of New Hampshire, with its principal place of business in Manchester, New Hampshire.

3. Upon information and belief, Axell is a corporation organized under the laws of the United Kingdom with its principal place of business in Chesam, England. Axell also maintains a place of business in Dallas, Texas.

JURISDICTION AND VENUE

4. The parties are citizens of different states and the amount in controversy exclusive of interest and costs exceeds \$75,000. Accordingly, this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

6. Axell is subject to personal jurisdiction in this District because, on information and belief, it transacts a substantial amount of business in Massachusetts, including business which is directly related to the patent-in-suit.

PATENT IN SUIT

7. The patent-in-suit is United States Patent No. 7,254,370 (the “’370 patent”), entitled “Method to Maintain Stability in a Bi-Directional Amplifier,” which was duly and legally issued by the United States Patent and Trademark Office on August 7, 2007. A copy of the ‘370 patent is attached hereto as Exhibit A.

8. CSI is the owner by assignment of the ‘370 patent.

PATENT INFRINGEMENT

9. Plaintiff repeats and realleges each of the allegations in paragraphs 1 through 8 as if completely set forth herein.

10. On information and belief, Axell has been and is still making, using, offering to sell, selling and/or importing into the United States a dual-band cellular/personal communications service (PCS) selective RF repeater product, marketed under the name Axell 819 that infringes the ‘370 patent under 35 U.S.C. § 271.

11. On information and belief, Axell has been and still is directly infringing, actively inducing infringement, and/or contributing to the infringement of the ‘370 patent.

12. On information and belief, Axell has conducted its unlawful activities with notice and full knowledge of the '370 patent, and will continue those activities in the future.

13. On information and belief, Axell's infringement of the '370 patent has been, and continues to be willful, wanton and deliberate.

14. Unless enjoined by this Court, Axell's continued acts of infringement of the '370 patent will cause substantial and irreparable harm to CSI.

WHEREFORE, CSI respectfully requests the following relief from this Honorable Court:

A. The entry of judgment in its favor, and against Defendant, Axell, declaring that Axell has infringed one of more claims of the '370 patent under 35 U.S.C. § 271 and that Axell's infringement has been deliberate;

B. The entry of preliminary and permanent injunctive relief enjoining Axell, its officers, directors, agents, employees, successors and assigns, and any persons acting in concert or privity with it, from infringing the '370 patent;

C. The entry of judgment that this is an exceptional case under 35 U.S.C. § 285;

D. An award to CSI of damages adequate to compensate for Axell's infringement, including an award of prejudgment and post judgment interest, trebled or increased in such other amount as the Court shall deem appropriate on a finding of willful infringement;

E. An award to CSI of its costs in this action, including attorneys' fees; and

F. Grant to CSI such other and further relief as may be just and appropriate.

Respectfully submitted,

CELLULAR SPECIALTIES, INC.

By its Attorneys,

**DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION**

Dated: April 20, 2011

By: /s/ Brendan P. Mitchell

Brendan P. Mitchell, Esquire (BBO# 633835)

Steven E. Grill, Esquire (Pro Hac Vice To Be Filed)

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