

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

INTELLECT WIRELESS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 09 C 2945
	)	
HTC CORPORATION,	)	Honorable William T. Harte
HTC AMERICA, INC.,	)	Honorable Geraldine Soat Brown
RESEARCH IN MOTION LIMITED,	)	
AND AT&T MOBILITY LLC,	)	
	)	
Defendants.	)	<b>JURY TRIAL DEMANDED</b>

**AMENDED COMPLAINT**

Plaintiff, Intellect Wireless, Inc. (“Intellect Wireless”) complains of defendants HTC Corporation (“HTC Corporation”), HTC America, Inc. (“HTC America”) (collectively “HTC”), Research In Motion Limited (“RIM”), and AT&T Mobility LLC (“AT&T”) as follows:

**NATURE OF THE SUIT**

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

**PARTIES**

2. Intellect Wireless is a Texas corporation with offices in Fort Worth, Texas and Reston, Virginia.

3. Daniel Henderson is the founder of Intellect Wireless, and the sole inventor of the patents-in-suit. Mr. Henderson has been awarded 25 United States patents with several more pending that relate to picture / video messaging in wireless devices such as PDA's, portable computers and cellular phones. Mr. Henderson's prototype for a wireless picture phone device was received as part

of the permanent collection of the Smithsonian Institution in the National Museum of American History. The Honorable Senator Gordon H. Smith, (OR), declared that Mr. Henderson has “truly blazed new trails in the fields of wireless technology and digital convergence” and called him a “true visionary.”

4. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,266,186 entitled “Method and Apparatus for Improved Paging Receiver and System” which issued on September 4, 2007 (“the ‘186 Patent”).

5. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,310,416 entitled “Method and Apparatus for Improved Personal Communication Devices and Systems” which issued on December 18, 2007 (“the ‘416 Patent”).

6. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,257,210 entitled “Picture Phone with Caller ID” which issued on August 14, 2007 (“the ‘210 Patent”).

7. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,305,076 entitled “Method and Apparatus for Improved Paging Receiver and System” which issued on December 4, 2007 (“the ‘076 Patent”).

8. HTC Corporation (“HTC Corporation”) is a foreign corporation with corporate headquarters at 23 Xinghua Road, Taoyuan 330, Taiwan. HTC Corporation does substantial business in this judicial district including the

marketing, sale, offering for sale, and importation of cellular telephone devices which are accused of patent infringement in this case.

9. HTC America, Inc. (“HTC America”) is the North American headquarters for HTC Corporation. HTC America is a Texas corporation with its offices at 13920 SE Eastgate Way, Suite 400, Bellevue, Washington 98005. HTC America does substantial business in this judicial district including the marketing, sale, and offer for sale of cellular telephone devices which are accused of patent infringement in this case.

10. RIM is a Canadian company with its principal place of business at 295 Phillip Street, Waterloo, Ontario N2L 3W8. RIM does substantial business in this judicial district and provides the products and services accused of infringement in this judicial district including, but not limited to, those associated with RIM’s mobile handset products sold or marketed under the BlackBerry names. RIM’s BlackBerry branded mobile handset products are sold and/or offered for sale throughout this judicial district at retail outlets such as those of AT&T, U.S. Cellular and Verizon.

11. AT&T is a Delaware limited liability corporation with its principal place of business at Glendale Heights Two, 5565 Glenridge Connector, Atlanta, Georgia 30342. AT&T does substantial business in this judicial district by, among other things, operating wireless telecommunications systems and providing the wireless handset products and wireless services accused of infringement in this judicial district. Such products and services are sold and/or offered for sale at numerous AT&T stores located within this judicial district,

including one such store located at 168 North State Street, Chicago, Illinois 60601.

### **JURISDICTION AND VENUE**

12. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

13. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b). HTC and RIM transact business in this district and have committed acts of infringement in this judicial district, at least by offering to sell or selling infringing cellular telephones through cellular service provider retail stores such as those operated by AT&T Wireless, Verizon Wireless, T-Mobile, Sprint, and U.S. Cellular and other retailers such as Wal-Mart and websites operated by those cellular service providers and retailers that are designed to reach Illinois customers and are used by customers in this judicial district. AT&T transacts business in this district and has committed acts of infringement in this judicial district, at least by offering to sell or selling infringing cellular telephones and cellular telephone services to Illinois customers in this judicial district and through Internet websites that are designed to reach Illinois customers and are, in fact, used by customers in this judicial district.

### **PATENT INFRINGEMENT**

14. HTC has directly and/or indirectly infringed at least one claim of the '186 patent and '416 patent by making, using, selling and/or offering to sell wireless portable communication devices that receive and display caller ID

information, non-facsimile pictures, video messages and/or Multimedia Messaging Service.

15. HTC has contributorily infringed or induced infringement of at least one claim of the '186 patent and '416 patent in violation of 35 U.S.C. § 271 (b) and/or (c) through, among other activities, by providing wireless portable communication devices that receive and display caller ID information, non-facsimile pictures, video messages and/or Multimedia Messaging Service and demonstrating and instructing users of its wireless portable communication devices how to utilize its picture and video messages service and/or Multimedia Messaging Service.

16. RIM has directly and/or indirectly infringed at least one claim of the '186 patent and the '416 patent by making, using, selling and/or offer to sell wireless portable communication devices that receive and display caller ID information, non-facsimile pictures, video messages and/or Multimedia Messaging Service.

17. RIM has contributorily infringed or induced infringement of at least one claim of the '186 and the '416 patent in violation of 35 U.S.C. § 271 (b) and/or (c) through, among other activities, by providing wireless portable communication devices that receive and display caller ID information, non-facsimile pictures, video messages and/or Multimedia Messaging Service and demonstrating and instructing users of its wireless portable communication devices how to utilize its picture and video messages service and/or Multimedia Messaging Service.

18. AT&T has directly and/or indirectly infringed at least one claim of the '210 patent, the '076 patent, and the '186 patent by making, using, selling and/or offering to sell wireless communication devices that receive and display caller ID information, non-facsimile pictures, video messages and/or Multimedia Messaging Service and by making, using, selling and/or offering to sell wireless communication services that include, or optionally include, Caller ID, picture and video messaging and/or Multimedia Messaging Service.

19. AT&T has contributorily infringed or induced infringement of at least one claim of the '210 patent, the '076 patent, and the '186 patent in violation of 35 U.S.C. § 271 (b) or (c) through, among other activities, by providing wireless portable communication devices that receive and display caller ID information, non-facsimile pictures, video messages and/or Multimedia Messaging Service and demonstrating and instructing users of its wireless portable communication devices how to utilize its picture and video messages service and/or Multimedia Messaging Service and by providing plans, packages and/or cellular telephone services that include, or optionally include caller ID and video messaging and/or Multimedia Messaging Service and demonstrating and instructing subscribers to its plans, packages and/or services how to utilize its picture and video messages service and/or Multimedia Messaging Service through its website at [www.wireless.att.com/support](http://www.wireless.att.com/support).

20. HTC, RIM, and AT&T's infringement, contributory infringement and/or inducement to infringe has injured Intellect Wireless and it is entitled to

recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff, Intellect Wireless, Inc., respectfully requests this Court enter judgment against HTC Corporation, HTC America, Inc., Research In Motion Limited, and AT&T Mobility LLC and against their subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

- A. The entry of judgment in favor of Intellect Wireless;
- B. An award of damages adequate to compensate Intellect Wireless for the infringement that has occurred (together with prejudgment interest from the date the infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;
- C. A finding that this case is exceptional and an award to Intellect Wireless of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. Such other relief that Intellect Wireless is entitled to under law and any other relief that this Court or a jury may deem just and proper.

**JURY DEMAND**

Intellect Wireless demands a trial by jury on all issues presented in this complaint.

INTELLECT WIRELESS INC.

/s/ Raymond P. Niro

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **Amended Complaint** was electronically filed with the Clerk of Court using CM/ECF system, which will send notification of such filing to the following e-mail addresses on August 6, 2009:

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and HTC America, Inc.***

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