

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division**

TELECOMMUNICATION)
SYSTEMS, INC.)
275 West Street)
Annapolis, Maryland 21401)
Anne Arundel County)

Plaintiff,)

v.)

ALFRED B. LEVINE)
9005 Seven Locks Road)
Bethesda, Maryland, 20817)
Montgomery County)

Serve:)
Alfred B. Levine)
9005 Seven Locks Road)
Bethesda, Maryland, 20817)

Defendant.)

C.A. No.: _____

DEMAND FOR JURY TRIAL

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff TeleCommunication Systems, Inc. (“TCS”), by and through its undersigned counsel, alleges as follows:

NATURE OF THE CASE

1. This is an action for declaratory judgment of noninfringement and invalidity of two (2) United States patents pursuant to the Declaratory Judgment Act, 28

U.S.C. §§ 2201-02, the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, and for such relief as the Court deems just and proper.

PARTIES

2. Plaintiff TCS is a Maryland corporation with its principal place of business at 275 West Street, Annapolis, MD 21401.

3. On information and belief, Defendant Alfred B. Levine (“Defendant” or “Levine”) is an individual residing in the State of Maryland and is the owner of the patents at issue in this case. Levine is identified as the sole inventor and owner of U.S. Patent No. 6,140,943 and U.S. Patent No. 6,243,030 (collectively “the patents-in-suit”). Levine is in the business of enforcing and licensing patents. On information and belief, Levine does not sell or offer for sale any products.

JURISDICTION AND VENUE

4. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), 2201, and 2202, and the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*

5. This Court has personal jurisdiction over Levine because Levine is a resident of this district. Levine also has, in the past, availed himself of this district to resolve a total of 14 patent disputes, including, but not limited to, Case No. 8:05-cv-01795, Case No. 8:02-cv-3904, Case No. 8:02-cv-3903, Case No. 8:02-cv-3902, Case

No. 8:02-cv-3901, Case No. 8:02-cv-3900, Case No. 8:02-cv-3971, Case No. 8:01-cv-2173, Case No. 8:01-cv-422, and Case No. 8:00-cv-554.

6. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400(b), as on information and belief, Levine resides within this judicial district.

FACTS

7. Levine identifies himself as the sole inventor and owner of U.S. Patent No. 6,140,943 (“the ’943 Patent”) entitled “Electronic Wireless Navigation System,” which issued on October 31, 2000. A copy of the ’943 patent is attached as Exhibit 1.

8. Levine also identifies himself as the sole inventor and owner of U.S. Patent No. 6,243,030 (“the ’030 patent”) entitled “Electronic Wireless Navigation System,” which issued on June 5, 2001. A copy of the ’030 patent is attached as Exhibit 2.

9. On November 30, 2009, Levine filed suit in the Marshall Division of the United States District Court for the Eastern District of Texas against Sprint Solutions, Inc. and Samsung Telecommunications America LLC/Samsung Electronics Co., Ltd. accusing the defendants of infringing the ’943 and ’030 patents (Case No. 2:09-cv-372) (“the *Sprint* action”).

10. Almost a full year into the litigation, on October 28, 2010, Levine filed a First Amended Complaint that added 15 new defendants, including Cellco Partnership (“Cellco”). TCS is not a named party to the *Sprint* action.

11. Levine served Infringement Contentions on Cellco in which certain claims of the '943 and '030 patents are being asserted based on an accused navigational application called VZ Navigator.

12. Levine filed another lawsuit in the United States District Court for the Eastern District of Texas on January 28, 2011 against Casio America, Inc. and others alleging infringement of the '943 and '030 patent (Case No. 2:11-cv-56) (“the *Casio* action”). In the *Casio* action, Levine’s allegations of infringement are based on the defendants’ “cellular handsets with navigation capabilities” “available through, from, or on behalf of AT&T, Sprint, T-Mobile, and Verizon Wireless.” TCS is not a party to the *Casio* action.

13. Levine previously filed suit against American Honda Motor Co., Inc. and Chevy Chase Acura in this Court alleging infringement of claims 1, 3-4, and 12-15 of the '943 patent (Case No. 8:05-c-v 01795) (“the *Honda* action”). Specifically, in the *Honda* action, Levine accused the defendants of infringing and continuing to infringe the '943 patent by manufacturing, marketing, offering to sell, using, and selling navigation systems that “variously allow for the display of navigation maps and aids . . . provid[ing] for the sequential display of roads and/or exits in chronological order and allow[ing] for the wireless receipt of updated data and includ[ing] locations sensing using GPS”

14. TCS is the vendor of navigational applications for products such as cellular handsets including, but not limited to, the accused Cellco navigational application VZ Navigator in the *Sprint* action. The accused VZ Navigator product is based on a software platform, referred to as AtlasBook, which is produced by TCS.

15. TCS's navigational applications have not infringed and do not infringe, either directly or indirectly, any valid claim of the '943 or '030 patents, either literally or under the doctrine of equivalents. A substantial controversy exists between the parties that is of sufficient immediacy and reality to warrant declaratory relief.

16. TCS believes and alleges that the '943 and '030 patents are invalid.

COUNT I

Declaration of Non-Infringement of U.S. Patent No. 6,140,943

17. TCS repeats, realleges, and incorporates by reference herein the allegations contained in paragraphs 1 through 16 as though expressly set forth herein.

18. Levine has alleged that at least one customer of TCS infringes the '943 patent in the United States District Court for the Eastern District of Texas with a navigational application supplied by TCS.

19. TCS's navigational applications have not infringed and do not infringe, directly or indirectly, any valid claim of the '943 patent, either literally or under the doctrine of equivalents.

20. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment as to whether TCS infringes, directly or indirectly, any claim of the '943 patent.

21. A judicial declaration is necessary and appropriate so that TCS may ascertain its rights regarding the '943 patent.

COUNT II

Declaration of Invalidity of U.S. Patent No. 6,140,943

22. TCS repeats, realleges, and incorporates by reference herein the allegations contained in paragraphs 1 through 21 as though expressly set forth herein.

23. The '943 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, including, but not limited to, sections 101, 102, 103, and/or 112.

24. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment regarding the invalidity of the '943 patent.

25. A judicial declaration is necessary and appropriate so that Plaintiff TCS may ascertain its rights regarding the '943 patent.

COUNT III

Declaration of Non-Infringement of U.S. Patent No. 6,243,030

26. TCS repeats, realleges, and incorporates by reference herein the allegations contained in paragraphs 1 through 25 as though expressly set forth herein.

27. Levine has alleged that at least one customer of TCS infringes the '030 patent in the United States District Court for the Eastern District of Texas with a navigational application supplied by TCS.

28. TCS's navigational applications have not infringed and do not infringe, directly or indirectly, any valid claim of the '030 patent, either literally or under the doctrine of equivalents.

29. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment as to whether TCS infringes, directly or indirectly, any claim of the '030 patent.

30. A judicial declaration is necessary and appropriate so that TCS may ascertain its rights regarding the '030 patent.

COUNT IV

Declaration of Invalidity of U.S. Patent No. 6,243,030

31. TCS repeats, realleges, and incorporates by reference herein the allegations contained in paragraphs 1 through 30 as though expressly set forth herein.

32. The '030 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, including, but not limited to, sections 101, 102, 103, and/or 112.

33. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment regarding the invalidity of the '030 patent.

34. A judicial declaration is necessary and appropriate so that TCS may ascertain its rights regarding the '030 patent.

REQUEST FOR RELIEF

WHEREFORE, TCS respectfully requests that the Court enter judgment in favor of TCS granting the following relief:

- A. A declaration that TCS does not and has not infringed, directly or indirectly, any valid claim of the patents-in-suit;
- B. A declaration that the patents-in-suit are invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of 35 U.S.C. §§ 100 *et seq.*, including, but not limited to, 101, 102, 103, and/or 112;
- C. An injunction against Levine and others in active concert or participation with Levine from asserting infringement or instituting or continuing any legal action for infringement of the patents-in-suit against TCS or its suppliers, manufacturers, distributors, resellers of its products, customers, or end users of its products;
- D. An order declaring that this is an exceptional case and awarding TCS its costs, expenses, disbursements, and reasonable attorney fees under 35 U.S.C. § 285 and all other applicable statutes, rules, and common law; and
- E. Such other and further relief as this Court deems to be just or proper.

JURY DEMAND

TCS demands trial by jury for all claims triable by jury pursuant to Fed. R. Civ. P.

38.

Respectfully submitted,

/s/ Edward A. Pennington

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