

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MICHAEL SEWARD SUTTON,
Plaintiff

v.

NOKIA CORPORATION
and
NOKIA INC.,
Defendants.

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CIVIL ACTION NO.: 6:06cv514

JURY

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE COURT:

Plaintiff, MICHAEL SEWARD SUTTON (hereinafter "SUTTON" or "Plaintiff") through his counsel, files this Original Complaint against Defendants, NOKIA CORPORATION and NOKIA INC. (hereinafter collectively "NOKIA" or "Defendants"), and as claim for relief shows:

PARTIES

1. Plaintiff MICHAEL SEWARD SUTTON is a natural person residing in and a citizen of the country of New Zealand.

2. Defendant NOKIA CORPORATION is a public limited liability company incorporated under the laws of the Republic of Finland having its principal offices at Keilalahdentie 4, P.O. Box 226, FIN-00045 NOKIA GROUP, Espoo, Finland. NOKIA

CORPORATION may be served with process through international registered mail at its principal office.

3. Defendant NOKIA INC. is a Delaware corporation with its principal place of business at 6000 Connection Drive, Irving, Texas 75039, and is a wholly-owned indirect subsidiary of Nokia Corporation. NOKIA INC., may be served with process through its registered agent, National Registered Agents, Inc. at 1614 Sidney Baker Street, Kerrville, Texas 78028.

JURISDICTION AND VENUE

3. This is an action for patent infringement under the patent laws of the United States of America pursuant to 35 U.S.C. § 271, *et seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1400, 1391(b), and 1391(d), because NOKIA conducts business within this judicial district and has engaged in acts in this district and division which constitute infringement of U.S. Patent No. 5,771,238. Furthermore, NOKIA CORPORATION is an alien defendant within the meaning of 28 U.S.C. § 1391(d).

CLAIM FOR RELIEF FOR PATENT INFRINGEMENT

5. The contents of the preceding paragraphs are included by reference as if fully set forth herein.

6. Plaintiff owns all right, title and interest to U.S. Patent No. 5,771,238 (hereinafter “the ‘238 Patent”). A copy of the ‘238 patent is attached as Exhibit A.

7. Plaintiff's '238 patent is valid and presumed valid under 35 U.S.C. § 282.

8. On information and belief, NOKIA has actual notice of the '238 patent.

On information and belief, NOKIA has been and is infringing, literally and/or under the doctrine of equivalents, one or more claims of the '238 Patent, directly and/or indirectly pursuant to 35 U.S.C. § 271(a),(b),(c), and/or (f) by making, using, selling or offering for sale products and services that come within or are operated within the scope of one or more of the claims of the patent.

10. NOKIA's acts of infringement are causing SUTTON to sustain damages, and will continue to do so unless and until enjoined by order of this Court.

11. On information and belief, NOKIA's infringement of Plaintiff's '238 patent is willful, and Plaintiff is accordingly entitled to enhanced damages pursuant to 35 U.S.C. § 284.

12. This is an exceptional case such that NOKIA should be required to pay Plaintiff's reasonable attorneys' fees in accordance with 35 U.S.C. § 285.

DEMAND FOR JURY

13. Plaintiff hereby demands a jury trial of all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

PREMISES CONSIDERED, Plaintiff prays for the following relief from the Court and Jury:

a. That the '238 patent be adjudged infringed under all applicable provisions of Title 35, United States Code;

b. That the Defendants, their officers, directors, employees, agents and all those acting in concert with the Defendants be enjoined, pursuant to 35 U.S.C. § 283, from all future activities infringing the '238 patent, and/or inducing or contributing to the infringement of the '238 patent by others, including making, using, selling or offering for sale the claimed subject matter of the '238 patent;

c. That Defendants be required to prepare and deliver to the Court a complete list of entities to whom they have sold or offered for sale any product that infringes the '238 patent;

d. That Defendants be ordered to account to Plaintiff for all sales, revenues, and profits derived from their infringement of the '238 patent, pursuant to all applicable provisions of Title 35, United States Code;

e. That this Court award Plaintiff's actual and compensatory damages resulting from Defendants' infringing activities, together with prejudgment and post judgment interest and costs, as provided by 35 U.S.C. § 284;

f. That this Court order that damages so found or assessed be enhanced or trebled as a result of willful, deliberate, wanton and reckless infringement by Defendants, as provided by 35 U.S.C. § 284;

g. That this Court order that, because this is an exceptional case, Plaintiff be awarded and Defendants be ordered to pay the reasonable attorneys' fees incurred by Plaintiff in connection with this action, as provided for by 35 U.S.C. § 285; and

h. That Plaintiff be awarded such other and further relief as may be just and appropriate.

Dated: November 27, 2006.

Respectfully submitted,

/s/ GUY E. MATTHEWS

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