

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

COMMONWEALTH SCIENTIFIC AND	§	
INDUSTRIAL RESEARCH	§	
ORGANISATION,	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:10-CV-067 (LED)
	§	
AT&T INC.	§	
AT&T MOBILITY LLC F/K/A	§	Jury Requested
CINGULAR WIRELESS LLC. and	§	
AT&T WI-FI SERVICES, F/K/A	§	
WAYPORT, INC.	§	
Defendants.	§	

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

Plaintiff Commonwealth Scientific and Industrial Research Organisation ("CSIRO") hereby for its Complaint against Defendants, AT&T Inc., AT&T Mobility LLC f/k/a Cingular Wireless LLC, and Wayport, Inc., d/b/a AT&T Wi-Fi Services, (collectively "Defendants" or "AT&T"), alleges:

**THE PARTIES**

1. CSIRO is one of the largest and most diverse scientific research institutions in the world, and has a principal place of business at Limestone Avenue, Cambell ACT 2612, Australia.
2. CSIRO is informed and believes, and on that basis alleges, that Defendant AT&T Inc. is a Delaware corporation with its principal place of business at 208 South Akard Street, Dallas, Texas 75202. AT&T Inc. can be served with process through its registered agent, The

Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

3. CSIRO is informed and believes, and on that basis alleges, that Defendant AT&T Mobility LLC f/k/a Cingular Wireless LLC is a Delaware limited liability company with its principal place of business at Glenridge Highlands Two, 5565 Glenridge Connector, Atlanta, Georgia 30342. AT&T Mobility LLC f/k/a Cingular Wireless LLC can be served with process through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. AT&T Mobility LLC f/k/a Cingular Wireless LLC is a subsidiary of Defendant AT&T Inc.

4. CSIRO is informed and believes, and on that basis alleges, that Defendant Wayport, Inc., d/b/a AT&T Wi-Fi Services, is a Delaware corporation with its principal place of business at 6363 North State Highway 161, Suite 650, Irving, Texas 75038. Wayport, Inc., d/b/a AT&T Wi-Fi Services can be served with process through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. Defendants AT&T Inc., AT&T Mobility LLC f/k/a Cingular Wireless LLC and Wayport, Inc., d/b/a AT&T Wi-Fi Services are referred to collectively herein as “AT&T.”

#### **JURISDICTION AND VENUE**

5. The court has subject matter jurisdiction pursuant to 28 U.S.C. § § 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. § § 1 *et seq.* Venue is proper in this federal district pursuant to 28 U.S.C. § § 1391(b)-(c) and 1400(b) in that each Defendant has done business in this District, has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling CSIRO to relief.

**INFRINGEMENT OF U.S. PATENT NO. 5,487,069**

6. On January 23, 1996, United States Patent No. 5,487,069 (the “‘069 Patent”) was duly and legally issued for inventions entitled “Wireless LAN.” CSIRO holds all rights and interest in the ‘069 Patent. A true and correct copy of the ‘069 Patent is attached hereto as Exhibit A.

7. Upon information and belief, Defendants have infringed directly and indirectly and continue to infringe directly and indirectly the ‘069 Patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of products practicing the IEEE 802.11a, 802.11g, 802.11n, and/or draft 802.11n standards. The accused products do not include those products practicing or implementing IEEE 802.11a/g/n and/or draft n standards solely through the use of Wireless LAN integrated circuits supplied by Intel Corporation. Defendants are liable for infringement of the ‘069 Patent pursuant to 35 U.S.C. § 271.

8. The acts of infringement by AT&T have caused damage to CSIRO and CSIRO is entitled to recover from AT&T, the damages sustained by CSIRO as a result of their wrongful acts in an amount subject to proof at trial. The infringement of CSIRO’s exclusive rights under the ‘069 Patent by AT&T has damaged and will continue to damage CSIRO, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

9. CSIRO gave AT&T notice of their infringement in writing on or about February 20, 2009. Upon information and belief, Defendants, and each of them, have knowledge of their infringement of the ‘069 Patent, yet each Defendant continues to infringe said patent. The infringement of the ‘069 Patent by AT&T is willful and deliberate, and with full knowledge of

the patent, entitling CSIRO to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**JURY DEMAND**

10. CSIRO hereby demands a trial by jury on all issues.

**PRAYER FOR RELIEF**

11. WHEREFORE, Plaintiff CSIRO requests entry of judgment in its favor and against Defendants AT&T Inc., AT&T Mobility LLC f/k/a Cingular Wireless LLC and Wayport, Inc., d/b/a AT&T Wi-Fi Services as follows:

- a. Declaration that Defendants, and each of them, have infringed the '069 Patent;
- b. Permanently enjoining Defendants, and each of them, their officers, agents, employees, and those acting in privity with them, from further direct and/or indirect infringement of the '069 Patent;
- c. Awarding damages arising out of the infringement of the '069 Patent by Defendants, and each of them, including enhanced damages pursuant to 35 U.S. C. § 284, to CSIRO, together with prejudgment and post-judgment interest, in an amount according to proof;
- d. An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and,
- e. For such other costs and further relief as the Court may deem just and proper.

Dated: May 18, 2010

Respectfully submitted,

/s/ Elizabeth L. DeRieux  
S. Calvin Capshaw  
State Bar No. 03783900  
Elizabeth L. DeRieux  
State Bar No. 05770585  
Capshaw DeRieux, LLP  
1127 Judson Rd., Suite 220  
Longview, Texas 75601  
Telephone: (903) 236-9800  
Facsimile: (903) 236-8787  
E-mail: [ccapshaw@capshawlaw.com](mailto:ccapshaw@capshawlaw.com)  
E-mail: [ederieux@capshawlaw.com](mailto:ederieux@capshawlaw.com)

Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that the all counsel of record who are deemed to have consented to electronic service are being served this 18<sup>th</sup> day of May, 2010, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Elizabeth L. DeRieux  
Elizabeth L. DeRieux