

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

MLR, LLC,

Plaintiff,

v.

INTERMEC, INC., INTERMEC
TECHNOLOGIES CORPORATION and
UTSTARCOM, INC.,

Defendants.

Civil Action No. 07 cv 5321

Judge Norgle
Magistrate Judge Brown

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

Plaintiff, MLR, LLC ("MLR"), complains of Defendants, Intermec, Inc., Intermec Technologies Corporation and UTStarcom, Inc., as follows:

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. § 1338(a).
2. MLR is a Virginia limited liability company with its place of business at 24 Laguna Terrace, Palm Beach Gardens, Florida 33418.
3. MLR owns and has standing to sue for infringement of a significant portfolio of patents in the wireless data communication field, including each of the patents in suit identified below (the "MLR Patents").
4. Intermec, Inc. and Intermec Technologies Corporation (collectively "Intermec") are Delaware corporations, each with a principal place of business at 6001 36th Avenue West, Everett, Washington 98203. Intermec, Inc. is also registered to do business in Illinois.

5. UTStarcom, Inc. ("UTStarcom") is a Delaware corporation with its principal place of business at 1275 Harbor Bay Parkway, Alameda, California 94502. UTStarcom is also registered to do business in Illinois.

6. Each of the Defendants has committed acts of infringement in this judicial district and does regular business in this judicial district, including importing into the United States and selling, directly or indirectly, the products accused of infringement. Each of the Defendants also markets services and products throughout the United States and this judicial district using its website.

7. This Court has personal jurisdiction over each of the Defendants because, among other things, each Defendant has committed acts of infringement in this judicial district.

8. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b).

9. Intermec has infringed at least the following MLR Patents through, among other activities, the manufacture, use, importation, sale and/or offer for sale of, for example, the Intermec CN3 Mobile Computer and the Intermec 600 series, 700 Series, 2400, CK31, CK60, CK1, CN2A, CN2B, CN2G, CK30, 6100, 6210, 6212, 6220, 6110, and 6620 handheld computers and Intermec cables 226-998-001, 321-562-001 and 321-584-002: claims 1, 7 and 8 of U.S. Patent No. 6,934,558 (the "558 patent"); claims 25, 33, 41 and 48 of U.S. Patent No. Re38,645 (the "645 patent"); claim 1 of U.S. Patent No. 6,134,453 (the "453 patent"); claim 1 of U.S. Patent No. 5,854,985 (the "985 patent"); claim 1 of U.S. Patent No. 6,961,584 (the "584 patent"); claims 9 and 23 of U.S. Patent No. 5,640,444 (the "444 patent"); claims 3, 7 and 19 of U.S. Patent No. 5,353,334 (the "334 patent"); and claims 50 and 62 of U.S. Patent No. 5,367,563 (the "563 patent"). Intermec has also knowingly and intentionally induced others to infringe

(such as its customers and end-users in this judicial district and throughout the United States) by willfully and intentionally aiding, assisting and encouraging their infringement.

10. UTStarcom has infringed at least the following MLR Patents through, among other activities, the manufacture, use, importation, sale and/or offer for sale of, for example, the CDM120, CDM180, CDM7025, CDM7075, CDM8615, CDM8625, CDM8905, CDM8910, CDM8912, CDM8915, CDM8932, CDM8940, CDM8945, CDM8955 and SMT5700 cellular telephones: claim 1 of the '453 patent; claim 1 of the '985 patent; claims 25, 33, 41 and 48 of the '645 patent; and, claims 1, 7 and 8 of the '558 patent. UTStarcom also knowingly and intentionally induced others to infringe (such as its customers and end-users in this judicial district and throughout the United States) by willfully and intentionally aiding, assisting and encouraging their infringement.

11. MLR has given each of the Defendants notice of the MLR Patents and its infringement, and despite that notice, each Defendant has committed acts of infringement including but not limited to those described herein. Each of the Defendants' infringement is and has been willful and deliberate in violation of 35 U.S.C. § 284.

12. Each of the Defendants' infringement, contributory infringement and/or inducement to infringe has injured MLR and MLR is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

13. Each of the Defendants' infringement has caused irreparable harm to MLR and will continue to injure MLR unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, offers for sale and/or sale of cellular telephones and/or wireless products that fall within the scope of any of the MLR Patents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, MLR, asks this Court to enter judgment against each of the Defendants, jointly and individually, and against their respective subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- a. An award of damages adequate to compensate MLR for the infringement that has occurred pursuant to 35 U.S.C. § 284;
- b. An award to MLR of all remedies available under 35 U.S.C. § 284;
- c. An award to MLR of all remedies available under 35 U.S.C. § 285;
- d. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the MLR Patents; and,
- e. Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

MLR demands a trial by jury on all issues so triable.

Respectfully submitted,

/s/ Raymond P. Niro, Jr.

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