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10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF ILLINOIS**
12 **EASTERN DIVISION**

13 HELFERICH PATENT LICENSING, L.L.C.,)
an Illinois Limited Liability Company,)
14 Plaintiff,)

No. 1:08-cv-05190
AMENDED COMPLAINT
Hon. Elaine E. Bucklo

15 vs.)

16 I-MATE P.L.C., a Scottish Corporation;)
I-MATE USA, INC. a Delaware Corporation,)
17 UTSTARCOM, INCORPORATED,)
a Delaware Corporation; and PERSONAL)
18 COMMUNICATIONS DEVICES, LLC,)
a Delaware Limited Liability Company,)
19 Defendants.)

(Jury Trial Demanded)

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21 Plaintiff Helferich Patent Licensing, L.L.C. (“HPL”) complains against defendants

22 I-mate plc and I-mate USA, Inc. (hereinafter, collectively, “I-mate”) and as follows:
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1 1. This action arises under the Patent Laws of the United States, 35 United
2 States Code. This Court has jurisdiction of this action under 28 U.S.C. § 1338(a).

3 2. Helferich Patent Licensing, L.L.C. is an Illinois limited liability company
4 and the exclusive licensee of a portfolio of patents duly and legally issued to Richard J.
5 Helferich for the inventions claimed therein, and relating to wireless communication and
6 messaging, and the provision of media and content to wireless subscribers. Relevant
7 issued patents include (collectively, the “Subject Patents”):

- 8 • U.S. Patent No. 7,403,787, titled “Paging Transceivers and Methods for
9 Selectively Retrieving Messages,” issued on July 22, 2008;
- 10 • U.S. Patent No. 7,376,432, titled “Paging Transceivers and Methods for
11 Selectively Retrieving Messages,” issued on May 20, 2008;
- 12 • U.S. Patent No. 7,280,838, titled “Paging Transceivers and Methods for
13 Selectively Retrieving Messages,” issued October 9, 2007;
- 14 • U.S. Patent No. 7,277,716, titled “Systems and Methods for Delivering
15 Information to a Communication Device,” issued October 2, 2007;
- 16 • U.S. Patent No. 7,242,951, titled “Paging Transceivers and Methods for
17 Selectively Retrieving Messages,” issued July 10, 2007;
- 18 • U.S. Patent No. 7,155,241, titled “Systems and Methods for Enabling a
19 User of a Communication Device to Manage Remote Information,” issued
20 December 26, 2006;
- 21 • U.S. Patent No. 7,146,157, titled “Systems and Methods for Downloading
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1 Information to a Mobile Device,” issued December 5, 2006;

- 2 • U.S. Patent No. 7,039,428, titled “System and Method for Delivering
- 3 Information to a Transmitting and Receiving Device,” issued May 2, 2006;
- 4 • U.S. Patent No. 7,003,304, titled “Paging Transceivers and Methods for
- 5 Selectively Retrieving Messages,” issued February 21, 2006;
- 6 • U.S. Patent No. 6,983,138, titled “User Interface for Message Access,”
- 7 issued January 3, 2006;
- 8 • U.S. Patent No. 6,826,407, titled “System and Method For Integrating
- 9 Audio and Visual Messaging,” issued November 30, 2004;
- 10 • U.S. Patent No. 6,696,921, titled “Transmitting and Receiving Devices and
- 11 Methods for Transmitting Data to and Receiving Data from a
- 12 Communications System,” issued February 24, 2004;.
- 13 • U.S. Patent No. 6,636,733, titled “Wireless Messaging System,” issued
- 14 October 21, 2003;
- 15 • U.S. Patent No. 6,462,646, titled “Transmitting and Receiving Devices and
- 16 Methods for Transmitting Data to and Receiving Data from a
- 17 Communication System,” issued October 8, 2002;
- 18 • U.S. Patent No. 6,459,360, titled “Paging Transceivers and Methods for
- 19 Selectively Erasing Information,” issued October 1, 2002;
- 20 • U.S. Patent No. 6,259,892, titled “Pager Transceivers and Methods for
- 21 Performing Action on Information at Desired Times,” issued July 10, 2001;
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- 1 • U.S. Patent No. 6,253,061, titled “Systems and Methods for Delivering
2 Information to a Transmitting and Receiving Device,” issued June 26,
3 2001;
- 4 • U.S. Patent No. 6,233,430, titled “Paging Transceivers and Methods for
5 Selectively Retrieving Messages,” issued May 15, 2001;
- 6 • U.S. Patent No. 6,097,941, titled “User Interface for Voice Message
7 Access,” issued August 1, 2000;
- 8 • U.S. Patent No. 6,087,956, titled “Paging Transceivers and Methods for
9 Selectively Erasing Information,” issued July 11, 2000.

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11 U.S. Patent Nos. 6,087,956, 6,233,430, 7,146,157, 7,280,838 and 7,376,432 are,
12 collectively, the “Asserted Patents.”

13 Helferich Patent Licensing, L.L.C. is also the exclusive licensee of a
14 portfolio of patent applications naming Richard J. Helferich as inventor relating to
15 wireless communication and messaging. The relevant pending applications include
16 (collectively, the “Subject Applications”):

- 17 • U.S. Patent Application No. 12/167,971, titled “System and Method for
18 Delivering Information to a Transmitting and Receiving Device;”
- 19 • U.S. Patent Application No. 11/635,781, titled “Paging Transceivers and
20 Methods for Selectively Retrieving Messages;”
- 21 • U.S. Patent Application No. 11/598,832, titled “Systems and Methods for
22 Downloading Information to a Mobile Device;”

- 1 • U.S. Patent Application No. 11/598,202, titled “Wireless Messaging
2 System;”
- 3 • Allowed U.S. Patent Application No. 11/399,513, titled “System and
4 Method for Delivering Information to a Transmitting and Receiving
5 Device;”
- 6 • U.S. Patent Application No. 11/105,441, titled “Systems and Methods for
7 Adding Information to a Directory Stored in a Mobile Device;”
- 8 • U.S. Patent Application No. 10/958,731, titled “System and Method for
9 Integrating Audio and Visual Messaging.”

10
11 HPL is the exclusive licensee of all right, title and interest in the Subject Patents and
12 Applications, including the right to sue for past damages.

13 3. Defendant I-mate plc is a corporation established under the laws of
14 Scotland and based in Dubai, United Arab Emirates. Defendant I-mate USA, Inc. is a
15 corporation established under the laws of the State of Delaware and based in Redmond,
16 Washington, and is a wholly owned subsidiary of I-mate plc. I-mate plc, including
17 through its subsidiary I-mate USA, Inc., manufactures or sells wireless electronic devices
18 such as cellular telephones, including selling or offering to sell such devices (including
19 the accused devices) within this judicial district and by conducting other business within
20 this judicial district or elsewhere in the United States that impacts this jurisdiction.

21
22 4. Within the United States, I-mate has manufactured, used, sold or offered for
23 sale devices used for short message service (“SMS”) messaging, web browsing, and
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1 multimedia (e.g., picture) messaging (“MMS”) and covered by at least claims 44 and 46
2 of the ‘956 Patent, claims 19, 44 and 45 of the ‘430 Patent, claims 2 and 3 of the ‘157
3 Patent, claims 34 and 35 of the ‘838 Patent, and claims 1 and 8 of the ‘432 Patent,
4 including, for example, the models known as JASJAR, JASJAM, K-JAM, JAMin, JAM,
5 Ultimate 8150, PDA2, PDA2k, Pocket PC, SP5, SP3, SP3i, Ultimate 6150, JAMA,
6 SP5m, JAQ, SPL, SPJAS, JAQ3, Smartphone, and SP4m.

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8 5. Defendant UTStarcom, Incorporated (“UTStarcom”) is a corporation
9 established under the laws of the State of Delaware and based in Alameda, California.
10 UTStarcom manufactured and sold wireless electronic devices such as cellular
11 telephones, including selling or offering to sell such devices (including the accused
12 devices) within this judicial district and by conducted other business within this judicial
13 district or elsewhere in the United States that impacts this jurisdiction.

14 6. Plaintiff is informed and believes and thereupon alleges that on or about
15 July 1, 2008, UTStarcom sold the assets of its handset division to defendant Personal
16 Communications Devices, LLC. Personal Communications Devices, LLC (“PCD”) is a
17 Delaware limited liability company. Since that time, PCD has manufactured and sold
18 wireless electronic devices such as cellular telephones, including selling or offering to
19 sell such devices (including the accused devices) within this judicial district and by
20 conducted other business within this judicial district or elsewhere in the United States
21 that impacts this jurisdiction. Plaintiff is informed and believes and thereupon alleges
22 that UTStarcom retains liability for acts of infringement based on its manufacture and
23 sale of handsets prior to the sale of the assets of the handset division to PCD. Plaintiff

1 specifically asked PCD for clarification on the issue of who had liability for past acts
2 under the sales agreement, which inquiry has gone unanswered.

3 7. Within the United States, UTStarcom and PCD have manufactured, used,
4 sold and offered for sale devices used for multimedia (e.g., picture) messaging (“MMS”)
5 and covered by at least claims 44 and 46 of the ‘956 Patent, claims 19, 44 and 45 of the
6 ‘430 Patent, claims 2 and 3 of the ‘157 Patent, claims 34 and 35 of the ‘838 Patent, and
7 claims 1 and 8 of the ‘432 Patent, including, for example, the models known as
8 CDM1450, CDM180, CDM8915, CDM8932, CDM8935, CDM8940,
9 CDM105/CDM7000, CDM7075/CDM220, CDM8945/pn230, CDM8900, CDM8960,
10 CDN9200, GPRS1229, GPRS748, GPRS749, GPRS758, GPRS778, GPRS779,
11 GPRS799, GSM708, GSM709, G’zOne Type-S, G’zOne Type-V, G’zOne Boulder, Mini
12 8935, PPC-6700/xv-6700, xv-6900, and Super Slice/CDM-1450.

14 8. In the six-year period preceding the filing of this action, defendants have
15 infringed the Asserted Patent in violation of 35 U.S.C. § 271 with resultant damage to
16 HPL, in an amount to be proven at trial.

17 9. HPL gave written notice to I-mate of the Asserted Patents by letter dated
18 May 9, 2008, which letter included a detailed explanation of the Asserted Patents and the
19 manner in which they were infringed by exemplary I-mate products. In response to
20 HPL’s notice letters and infringement assertions sent to other manufacturers of cellular
21 phones, one major manufacturer of wireless electronic technology, LG Electronics, Inc.,
22 entered into a license agreement with HPL. HPL also offered to meet face to face with I-
23 mate in Chicago, Phoenix, Los Angeles and Hawaii to address the issues raised by this
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1 Complaint, but I-mate refused. HPL did engage in a telephonic discussion with I-mate
2 regarding the patents in June 2008, but was unable to resolve the issues raised by this
3 Complaint. During these discussions, I-mate presented no substantive defense to HPL's
4 allegation that I-mate infringed the Asserted Patents.

5 10. HPL gave written notice to UTStarcom of the Asserted Patents by letter
6 dated May 9, 2008. HPL sent follow up letters June 16, 2008 and again on July 3, 2008,
7 inviting UTStarcom to meet with representatives of HPL to discuss the allegations. No
8 response was received. In August, 2008, HPL contacted PCD, providing copies of all of
9 the previous correspondence and offering to meet. To date, no substantive response has
10 been received from either UTStarcom or PCD.

11
12 12. HPL has, in addition to the license with LG, since entered into other license
13 agreements, including with ASUSTeK, Pantech and ZTE. Moreover, HPL is in license
14 negotiations with several other handset manufacturers. HPL is aware that these
15 companies may act as original device manufacturers. To the extent that defendants, or
16 any of them, obtain handsets from HPL's licensees, no allegations of infringement are or
17 will be asserted regarding such handsets.

18 11. Thus, Defendants, with actual knowledge of the Asserted Patents and
19 without lawful justification, willfully and deliberately infringed the Asserted Patents.

20 **WHEREFORE, HPL PRAYS FOR:**

21 (a) Judgment on the Complaint that Defendants have infringed, contributed to
22 the infringement of, or actively induced others to infringe U.S. Patent Nos. 6,087,956,
23 6,233,430, 7,146,157, 7,280,838 and 7,376,432;

1 (b) A permanent injunction to be issued enjoining and restraining Defendants,
2 and their officers, directors, agents, servants, employees, attorneys, licensees, successors,
3 assigns, and those in active concert and participation with them, and each of them, from
4 making, using, selling, offering for sale, or importing any products which fall within the
5 scope of any or all claims of the Asserted Patents, and from inducing or contributing to
6 the infringement of any such claims by others;

7 (c) An award of damages against Defendants adequate to compensate HPL for
8 past infringement of the Asserted Patents, together with interest and costs as fixed by the
9 Court, such damages to be trebled because of the willful and deliberate character of the
10 infringement;
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12 (d) Judgment that this case is “exceptional” in the sense of 35 U.S.C. § 285,
13 and that HPL is entitled to an award of its reasonable attorneys’ fees in the prosecution of
14 this action; and

15 (e) Such other and further relief as the Court may deem just and proper.

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff hereby makes a demand for a trial by jury pursuant to Rule 38 of the
18 Federal Rules of Civil Procedures as to all issues in this lawsuit.

19 RESPECTFULLY SUBMITTED this 2nd day of December, 2008.

20 VICTORIA GRUVER CURTIN, P.L.C.

21
22 By: /s/ Victoria Curtin
23 Victoria Curtin
24 Attorneys for Plaintiff