

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

DICAM, INC.

Plaintiff,

v.

CIVIL ACTION NO.
3:08-CV-00053-NKM

SPRINT NEXTEL CORPORATION,

SANYO NORTH AMERICA CORPORATION,

CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS,

AT&T MOBILITY CORPORATION
(f/k/a CINGULAR WIRELESS CORPORATION),

AT&T MOBILITY, LLC
(f/k/a CINGULAR WIRELESS, LLC),

T-MOBILE USA, INC.,

VIRGIN MOBILE USA, INC.,

MOTOROLA, INC.,

SONY ERICSSON MOBILE
COMMUNICATIONS (USA), INC.,

PERSONAL COMMUNICATIONS
DEVICES, LLC (f/k/a UTSTARCOM),

HTC AMERICA, INC.,

and

PALM, INC.,

Defendants.

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff Dicam, Inc. ("Dicam"), by and through counsel, for its Complaint against Defendants Sprint Nextel Corporation, Cellco Partnership d/b/a Verizon Wireless, AT&T

Mobility Corporation f/k/a Cingular Wireless Corporation, AT&T Mobility, LLC f/k/a Cingular Wireless, LLC, T-Mobile USA, Inc., Virgin Mobile USA, Inc. (collectively “Defendant Carriers”), and Defendants Sanyo North America Corporation, Motorola, Inc., Sony Ericsson Mobile Communications (USA), Inc., Personal Communications Devices, LLC (f/k/a UTStarcom), HTC America, Inc. and Palm, Inc. (collectively “Defendant Manufacturers”) alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff Dicam is a Virginia corporation and has a principal place of business in Charlottesville, Virginia.

2. Defendant Sprint Nextel Corporation (“Sprint”) is a Kansas corporation and has a principal place of business at 6200 Sprint Parkway, Overland Park, Kansas 66251. Sprint may be served with process through its registered agent, Corporation Service Company, 11 South 12th Street, Richmond, VA 23218.

3. Defendant Sanyo North America Corporation (“Sanyo”) is a Delaware corporation and has a principal place of business at 2055 Sanyo Avenue, San Diego, CA 92154. Sanyo may be served with process through its California registered agent, Corporation Service Company, 2730 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833.

4. Defendant Cellco Partnership d/b/a Verizon Wireless (“Verizon”) is a Delaware partnership and has a principal place of business at One Verizon Way, Basking Ridge, New Jersey 07920. Verizon may be served with process through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

5. Defendant AT&T Mobility Corporation, formerly Cingular Wireless Corporation is a Delaware corporation with a principal place of business at 5565 Glenridge Connector, 1725B,

Atlanta, Georgia 30342-4756. AT&T Mobility Corporation may be served with process through its Georgia registered agent, Neal Berinhout, 5565 Glenridge Connector, Atlanta, GA 30342.

6. AT&T Mobility, LLC, formerly Cingular Wireless, LLC is a Delaware limited liability company with a principal place of business at 5565 Glenridge Connector, 1725B, Atlanta, Georgia 30342-4756. AT&T Mobility, LLC may be served with process through its Georgia registered agent, Neal Berinhout, 5565 Glenridge Connector, Atlanta, GA 30342. AT&T Mobility Corporation and AT&T Mobility, LLC are collectively referred to herein as “AT&T.”

7. Defendant T-Mobile USA, Inc. (“T-Mobile”) is a Delaware corporation and has a principal place of business at 12920 S.E. 38th Street, Bellevue, Washington 98006-1350. T-Mobile may be served with process through its registered agent, Corporation Service Company, 11 South 12th Street, Richmond, VA 23218.

8. Defendant Virgin Mobile USA, Inc. (“Virgin Mobile”) is a Delaware corporation and has a principal place of business at 10 Independence Boulevard, Warren, New Jersey 07059. Virgin Mobile may be served with process through its registered agent, The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801.

9. Defendant Motorola, Inc. (“Motorola”) is a Delaware corporation and has a principal place of business at 1303 East Algonquin Road, Schaumburg, Illinois 60196. Motorola may be served with process through its registered agent, CT Corporation System, 4701 Cox Road, Suite 301, Glen Allen, VA 23060.

10. Defendant Sony Ericsson Mobile Communications (USA), Inc. (“Ericsson”) is a Delaware corporation and has a principal place of business at 7001 Development Drive, Research Triangle Park, North Carolina 27709. Ericsson may be served with process through its

registered agent, Capitol Corporate Services, Inc., 10 S. Jefferson Street, Suite 1400, Roanoke, VA 24011.

11. Defendant Personal Communications Devices, LLC (f/k/a UTStarcom) (“PCD”) is a Delaware corporation and has a principal place of business at 555 Wireless Blvd., Hauppauge, New York 11788. PCD may be served with process through its New York Department of State agent, Corporation Service Company, 80 State Street, Albany, NY 12207-2543.

12. Defendant HTC America, Inc. (“HTC”) is a Texas corporation and has a principal place of business at 13920 SE Eastgate Way, Suite 400, Bellevue, WA 98005. HTC may be served with process through its Washington registered agent, National Registered Agents, Inc., 1780 Barnes Blvd Sw Bldg G, Tumwater, WA 98512-0410.

13. Defendant Palm, Inc. (“Palm”) is a Delaware corporation and has a principal place of business at 950 West Maude Avenue, Sunnyvale, CA 94085. Palm may be served with process through its Delaware registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

NATURE OF ACTION

14. This is an action for infringement of United States Patent No. 4,884,132 (“the ‘132 Patent”) under 35 U.S.C. § 271.

JURISDICTION AND VENUE

15. This action arises under the patent laws of the United States of America, United States Code, Title 35, Section 1, *et seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. §1331 and 1338.

16. Based on the facts and causes alleged herein, this Court has personal jurisdiction over Defendant Carriers and Defendant Manufacturers.

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

FACTUAL BACKGROUND

18. On November 28, 1989, the '132 Patent was issued to inventors James A. Morris, Terry F. Morris and Frank O. Birdsall for a personal security system including a handheld unit.

19. On July 13, 2007, the '132 Patent was duly and properly assigned to Dicam, together with all right, title and interest in and to the '132 Patent in the United States, expressly including the right to sue for all damages for past, present and future infringements of the '132 Patent. Since that date, Dicam has been, and remains, the owner of the '132 Patent.

SPRINT

20. Upon information and belief, Sprint is one of the three largest wireless service carriers in the United States and serves over 50 million customers in all 50 states.

21. Sprint provides cellular services throughout the Commonwealth of Virginia and the Western District of Virginia.

22. Sprint has sold, offered for sale and/or advertised cellular telephones embodying the patented invention of the '132 Patent, including, but not limited to, those manufactured by Defendant Manufacturers.

23. Sprint has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

VERIZON

24. Upon information and belief, Verizon is one of the largest wireless service carriers in the United States and serves over 71 million customers in all 50 states.

25. Verizon provides cellular services throughout the Commonwealth of Virginia and the Western District of Virginia.

26. Verizon has sold, offered for sale and/or advertised cellular telephones embodying the patented invention of the '132 Patent, including, but not limited to those manufactured by Defendant Manufacturers.

27. Verizon has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

AT&T

28. Upon information and belief, AT&T is one of the largest wireless service carriers in the United States serving more than 72.9 million customers in all 50 states.

29. AT&T provides cellular services throughout the Commonwealth of Virginia and the Western District of Virginia.

30. AT&T has sold, offered for sale and/or advertised cellular telephones embodying the patented invention of the '132 Patent, including, but not limited to, those manufactured by Defendant Manufacturers.

31. AT&T has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

T-MOBILE

32. Upon information and belief, T-Mobile is a wireless service carrier in the United States capable of reaching over 268 million Americans throughout all 50 states.

33. T-Mobile provides cellular services throughout the Commonwealth of Virginia and the Western District of Virginia.

34. T-Mobile has sold, offered for sale and/or advertised cellular telephones embodying the patented invention of the '132 Patent, including, but not limited to, those manufactured by Defendant Manufacturers.

35. T-Mobile has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

VIRGIN MOBILE

36. Upon information and belief, Virgin Mobile is a wireless service carrier in the United States that serves over 5 million customers in all 50 states.

37. Virgin Mobile provides cellular services throughout the Commonwealth of Virginia and the Western District of Virginia.

38. Virgin Mobile has sold, offered for sale and/or advertised cellular telephones embodying the patented invention of the '132 Patent, including, but not limited to, those manufactured by Defendant Manufacturers.

39. Virgin Mobile has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

SANYO

40. Sanyo is and/or has been a leading manufacturer of mobile devices, including cellular phones.

41. Sanyo cellular phones are and/or have been sold and/or advertised throughout the Commonwealth of Virginia and the Western District of Virginia by Sprint.

42. Sanyo cellular phones are and/or have been sold, offered for sale, and/or advertised through Defendant Carriers.

43. Sanyo has made, sold, offered for sale, imported, and/or used products embodying the patented invention of the '132 Patent.

44. Sanyo has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

MOTOROLA

45. Motorola is and/or has been a leading manufacturer of mobile devices, including cellular phones.

46. Motorola cellular phones are and/or have been sold and/or advertised throughout the Commonwealth of Virginia and the Western District of Virginia by Defendant Carriers.

47. Motorola cellular phones are and/or have been sold, offered for sale, and/or advertised through Defendant Carriers.

48. Motorola has made, sold, offered for sale, imported, and/or used products embodying the patented invention of the '132 Patent.

49. Motorola has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

ERICSSON

50. Ericsson is and/or has been a leading manufacturer of mobile devices, including cellular phones.

51. Ericsson cellular phones are and/or have been sold and/or advertised throughout the Commonwealth of Virginia and the Western District of Virginia by Defendant Carriers.

52. Ericsson cellular phones are and/or have been sold, offered for sale, and/or advertised through Defendant Carriers.

53. Ericsson has made, sold, offered for sale, imported, and/or used products embodying the patented invention of the '132 Patent.

54. Ericsson has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

PCD

55. PCD is a manufacturer of mobile devices, including cellular phones.

56. PCD cellular phones are and/or have been sold and/or advertised throughout the Commonwealth of Virginia and the Western District of Virginia by Defendant Carriers.

57. PCD cellular phones are and/or have been sold, offered for sale, and/or advertised through Defendant Carriers.

58. PCD has made, sold, offered for sale, imported, and/or used products embodying the patented invention of the '132 Patent.

59. PCD (in its capacity as successor to UTStarcom) has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

HTC

60. HTC is and/or has been a leading manufacturer of mobile devices, including cellular phones.

61. HTC cellular phones are and/or have been sold and/or advertised throughout the Commonwealth of Virginia and the Western District of Virginia by Defendant Carriers.

62. HTC cellular phones are and/or have been sold, offered for sale, and/or advertised through Defendant Carriers.

63. HTC has made, sold, offered for sale, imported, and/or used products embodying the patented invention of the '132 Patent.

64. HTC has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

PALM

65. Palm is and/or has been a leading manufacturer of mobile devices, including cellular phones.

66. Palm cellular phones are and/or have been sold and/or advertised throughout the Commonwealth of Virginia and the Western District of Virginia by Defendant Carriers.

67. Palm cellular phones are and/or have been sold, offered for sale, and/or advertised through Defendant Carriers.

68. Palm has made, sold, offered for sale, imported, and/or used products embodying the patented invention of the '132 Patent.

69. Palm has infringed the '132 Patent by selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

COUNT I **(Patent Infringement)**

70. Paragraphs 1 through 69 are incorporated by reference as if fully restated herein.

71. Defendant Carriers and Defendant Manufacturers have been infringing the '132 Patent by making, selling, offering for sale, importing, and/or using products embodying the patented invention during the enforceable patent term of the '132 Patent.

72. Alternatively, each of the Defendant Carriers and Defendant Manufacturers has contributed to or induced the infringement of the '132 Patent by aiding and abetting (a) such

Defendant Carrier's and Defendant Manufacturer's affiliates and/or subsidiaries; (b) the other Defendant Carriers and Defendant Manufacturers; and/or (c) the other Defendant Carrier's and Defendant Manufacturer's subsidiaries and/or affiliates to make, sell, offer for sale, import and/or use the patented invention during the enforceable patent term of the '132 Patent.

73. After a reasonable opportunity for further investigation and discovery, Plaintiff is likely to have evidentiary support that Defendant Carriers and Defendant Manufacturers have willfully infringed the '132 Patent.

DEMAND FOR JURY TRIAL

74. Plaintiff requests a trial by jury for all issues appropriately tried to a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendants, and that the Court grant Plaintiff the following relief:

1. damages no less than a reasonable royalty;
2. an assessment of interest and costs against each Defendant Carrier and Defendant Manufacturer;
3. a finding of willful infringement;
4. a finding that this action is an exceptional case under 35 U.S.C. § 285;
5. an award of treble damages and reasonable attorneys' fees; and
6. any and all such other relief as this Court deems just and proper under the circumstances.

Filed this 6th day of March, 2009.

DICAM, INC.
By Counsel

/s/ Mark D. Obenshain

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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of March, 2009, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Western District of Virginia, Charlottesville Division, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Mark D. Obenshain

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