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DISTRICT OF UTAH

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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

WILSON ELECTRONICS, INC.,)
)
) **AMENDED COMPLAINT FOR**
) **DECLARATORY UJDMENT OF**
) **INVALIDITY AND NONINFRINGE-**
) **MENT OF PATENT NO. 6,215,451**
 vs.) **AND FOR DECLARATORY**
) **JUDGMENT OF NO MISREPRE-**
 ALLEN TELECOM, INC.) **SENTATION**
)
)
) Civil No. 2:01CV470
 Defendant.) Judge Benson

**FIRST CAUSE OF ACTION FOR DECLARATORY
JUDGMENT OF INVALIDITY AND NONINFRINGEMENT
OF U.S. PATENT NO. 6,215,451**

Plaintiff Wilson Electronics, Inc. alleges:

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1. Plaintiff Wilson Electronics, Inc. is a Utah corporation having its principal place of business at 3301 E. Deseret Dr., St. George, UT 84790.

2. Upon information and belief, Defendant Allen Telecom, Inc. is a Delaware corporation, having its principal place of business at 25101 Chagrin Blvd., Beachwood, Ohio 44122.

3. This is an action arising under an Act of Congress relating to patents, and the court has jurisdiction under 28 USC §§ 1331 and 1338(a).

4. Defendant is subject to personal jurisdiction in this District, and venue is proper under 28 USC § 1391(c).

5. Defendant is the owner, by assignment, of U.S. Patent No. 6,215,451, entitled "Dual-Band Glass-Mounted Antenna," issued April 10, 2001.

6. Defendant has charged that Plaintiff is infringing U.S. Patent No. 6,215,451, and Plaintiff has a real and reasonable apprehension that it will be sued for infringement. So, there is a case of actual controversy within the jurisdiction of this Court, and it may declare the rights and legal obligations of Plaintiff under 28 U.S.C. §§ 2201 and 2202.

7. U.S. Patent No. 6,215,451 is invalid, because the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art, to which said subject matter pertains, under 35 U.S.C. §103(a).

8. Plaintiff has not infringed, and is not infringing, U.S. Patent No. 6,215,451.

**SECOND CAUSE OF ACTION FOR DECLARATORY
JUDGMENT OF NO MISREPRESENTATION**

9. Plaintiff realleges paragraph 1.

10. Plaintiff realleges paragraph 2.

11. This is an action arising under an Act of Congress relating to trademarks, and the Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

12. Defendant is subject to personal jurisdiction in this District, and venue is proper under 28 U.S.C. § 1391(c).

13. Plaintiff has commercially advertised that: “Tests show the Wilson Dual-Bank Cellular Antenna System has more power gain than all others tested,” and “Tests by Dr. Dwight Helm (Ph.D Electrical Engineering, Professor Emeritus, University of Michigan) show the Wilson DB819 Dual-Band Glass Mount Cellular Antenna has more power gain than all others tested.” Plaintiff has also commercially advertised that the Wilson DB819 Dual-Band Glass Mount Cellular Antenna has “Up to 48% more power than” Defendant’s APDM923M Dual-Band Glass Mount Antenna, at 800 MHz, and “Up to 247% more power than Defendant’s APDM923M Dual-Band Glass Mount Antenna,” at 1900 MHz.

14. Defendant has alleged that Plaintiff’s said advertising, and related commercial advertising, misrepresents the nature, characteristics or quality of Defendant’s antennas, which is a violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. §1125(a)(1)(B), and the law, or laws, of several states, and Plaintiff has a real and reasonable apprehension that it will be sued for misrepresentation. So, there is a case of actual controversy within the jurisdiction of this Court, and it may declare the rights and legal obligations of Plaintiff under 28 U.S.C. §§ 2201 and 2202.

15. Plaintiff's said advertising, and related commercial advertising, is true, and does not misrepresent the nature, characteristics, or quality of Defendant's antennas.

WHEREFORE, Plaintiff prays that the Court declare:

1. U.S. Patent No. 6,215,451 is invalid;
2. Plaintiff has not infringed, and is not infringing, U.S. Patent No. 6,215,451.
3. Plaintiff's said advertising, and related commercial advertising, is true, and does not misrepresent the nature, characteristics or quality of Defendant's antennas.
4. Plaintiff is entitled to its costs and attorney's fees; and
5. Plaintiff may have such further necessary or proper relief as the Court deems just.

DATED this 27 day of June, 2001.

GALLIAN, WESTFALL, WILCOX &
WELKER, P.C.

By: 

Russell J. Gallian

Plaintiff's Address:

3301 E. Deseret Dr.
St. George, UT 84790