

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

MLR, LLC

Plaintiff,

v.

MOTOROLA, INC.

Defendant.

2008 JUL 28 P 5:06

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

C.A. No. 2:08cv357

HCM / FBS
NORFOLK DIVISION
JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

For its Complaint, Plaintiff MLR, LLC (“MLR”) alleges against the Defendant as follows, all upon MLR’s best information and belief:

THE PARTIES

1. Plaintiff MLR is a Limited Liability Company organized and existing under the laws of the Commonwealth of Virginia with its Registered Office and principal place of business at 6524 Truman Lane, Falls Church, Virginia 22043.

2. Defendant Motorola, Inc. (“Motorola”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 1303 East Algonquin Road, Schaumburg, Illinois 60196. Motorola is registered to do business in the Commonwealth of Virginia as a foreign business entity, and its Registered Agent is CT Corporation System, 4701 Cox Road, Suite 301, Glen Allen, Virginia 23060-6802.

3. MLR is the owner of certain patents. The patents include those that had been developed by MLR and patents that originated with Spectrum Information Technologies, Inc.

4. Motorola directly or indirectly distributes, markets, sells and/or offers to sell throughout the United States, including in this judicial district various telecommunication and

other consumer products, including wireless communication devices, associated equipment and software.

5. Motorola has previously licensed certain MLR patents but is not licensed under any of the patents asserted in this Complaint. MLR has repeatedly requested that Motorola stop infringing the claims of the patents identified in this Complaint in light of its lack of a license, or accept an appropriate and due license, but Motorola has refused to stop infringing and has not agreed to an appropriate and due license.

JURISDICTION AND VENUE

6. This is an action for patent infringement, arising under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*

7. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

8. Because Motorola is registered to do business in this Commonwealth, and has committed acts of patent infringement in this judicial district and because Motorola does business in this judicial district, and otherwise has minimum contacts here, venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c), and 1400(b).

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,854,985

9. MLR realleges and incorporates herein by reference the allegations stated in paragraphs 1-8 of this Complaint.

10. U.S. Patent No. 5,854,985 entitled “Adaptive Omni-Modal Radio Apparatus And Methods” (the “985 Patent”) was duly and legally issued by the United States Patent and Trademark Office on December 29, 1998, to the inventors Joseph B. Sainton, Charles M. Leedom, Jr., and Eric J. Robinson. MLR is the owner by assignment of all right, title and

interest in and to the '985 Patent, including the right to sue, enforce and recover damages for all infringements of the patent. A true and correct copy of the '985 Patent is attached as Exhibit A.

11. Upon information and belief, Motorola has directly or indirectly infringed, and is continuing to directly or indirectly infringe the '985 Patent, by making, using, offering to sell and/or selling in this judicial district and elsewhere within the United States and/or importing into the United States products within the scope of at least claim 1 of the '985 Patent, constituting infringement under 35 U.S.C. § 271 (a), (b), (c) and/or (g).

12. Upon information and belief, Motorola will continue to infringe the '985 Patent unless enjoined by this Court. Upon information and belief, such infringement has been, and will continue to be, willful, making this an exceptional case and entitling MLR to increased damages and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 6,134,453

13. MLR realleges and incorporates herein by reference the allegations stated in paragraphs 1-8 of this Complaint.

14. U.S. Patent No. 6,134,453 entitled "Adaptive Omni-Modal Radio Apparatus And Methods" (the "'453 Patent'") was duly and legally issued by the United States Patent and Trademark Office on October 17, 2000, to the inventors Joseph B. Sainton, Charles M. Leedom, Jr., and Eric J. Robinson. MLR is the owner by assignment of all right, title and interest in and to the '453 Patent, including the right to sue, enforce and recover damages for all infringements of the patent. A true and correct copy of the '453 Patent is attached as Exhibit B.

15. Upon information and belief, Motorola has directly or indirectly infringed, and is continuing to directly or indirectly infringe the '453 Patent, by making, using, offering to sell and/or selling in this judicial district and elsewhere within the United States and/or importing

into the United States products within the scope of at least claim 1 of the '453 Patent, constituting infringement under 35 U.S.C. § 271 (a), (b), (c) and/or (g).

16. Upon information and belief, Motorola will continue to infringe the '453 Patent unless enjoined by this Court. Upon information and belief, such infringement has been, and will continue to be, willful, making this an exceptional case and entitling MLR to increased damages and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 6,934,558

17. MLR realleges and incorporates herein by reference the allegations stated in paragraphs 1-8 of this Complaint.

18. U.S. Patent No. 6,934,558 entitled "Adaptive Omni-Modal Radio Apparatus And Methods" (the "'558 Patent") was duly and legally issued by the United States Patent and Trademark Office on August 23, 2005, to the inventors Joseph B. Sainton, Charles M. Leedom, Jr., and Eric J. Robinson. MLR is the owner by assignment of all right, title and interest in and to the '558 Patent, including the right to sue, enforce and recover damages for all infringements of the patent. A true and correct copy of the '558 Patent is attached as Exhibit C.

19. Upon information and belief, Motorola has directly or indirectly infringed, and is continuing to directly or indirectly infringe the '558 Patent, by making, using, offering to sell and/or selling in this judicial district and elsewhere within the United States and/or importing into the United States products within the scope of at least claim 1 of the '558 Patent, constituting infringement under 35 U.S.C. § 271 (a), (b), (c) and/or (g).

20. Upon information and belief, Motorola will continue to infringe the '558 Patent unless enjoined by this Court. Upon information and belief, such infringement has been, and

will continue to be, willful, making this an exceptional case and entitling MLR to increased damages and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 7,386,322

21. MLR realleges and incorporates herein by reference the allegations stated in paragraphs 1-8 of this Complaint.

22. U.S. Patent No. 7,386,322 entitled “Adaptive Omni-Modal Radio Apparatus And Methods” (the “’322 Patent”) was duly and legally issued by the United States Patent and Trademark Office on June 10, 2008, to the inventors Joseph B. Sainton, Charles M. Leedom, Jr., and Eric J. Robinson. MLR is the owner by assignment of all right, title and interest in and to the ’322 Patent, including the right to sue, enforce and recover damages for all infringements of the patent. A true and correct copy of the ’322 Patent is attached as Exhibit D.

23. Upon information and belief, Motorola has directly or indirectly infringed, and is continuing to directly or indirectly infringe the ’322 Patent, by making, using, offering to sell and/or selling in this judicial district and elsewhere within the United States and/or importing into the United States products within the scope of at least claim 1 of the ’322 Patent, constituting infringement under 35 U.S.C. § 271 (a), (b), (c) and/or (g).

24. Upon information and belief, Motorola will continue to infringe the ’322 Patent unless enjoined by this Court. Upon information and belief, such infringement has been, and will continue to be, willful, making this an exceptional case and entitling MLR to increased damages and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

COUNT V – INFRINGEMENT OF U.S. PATENT NO. 7,343,173

25. MLR realleges and incorporates herein by reference the allegations stated in paragraphs 1-8 of this Complaint.

26. U.S. Patent No. 7,343,173 entitled "Tiered Wireless, Multi-Modal Access System And Method" (the "'173 Patent") was duly and legally issued by the United States Patent and Trademark Office on March 11, 2008, to the inventor Charles M. Leedom, Jr. MLR is the owner by assignment of all right, title and interest in and to the '173 Patent, including the right to sue, enforce and recover damages for all infringements of the patent. A true and correct copy of the '173 Patent is attached as Exhibit E.

27. Upon information and belief, Motorola has directly or indirectly infringed, and is continuing to directly or indirectly infringe the '173 Patent, by making, using, offering to sell and/or selling in this judicial district and elsewhere within the United States and/or importing into the United States at least the Motorola Z6w Wi-Fi device, constituting infringement under 35 U.S.C. § 271 (a), (b), (c) and/or (g).

28. Upon information and belief, Motorola will continue to infringe the '173 Patent unless enjoined by this Court. Upon information and belief, such infringement has been, and will continue to be, willful, making this an exceptional case and entitling MLR to increased damages and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

PRAYER FOR RELIEF

WHEREFORE, MLR prays that it have judgment against Motorola for the following:

- (1) Adjudging that Motorola has infringed the patents-in-suit;
- (2) Permanently enjoining and restraining Motorola and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association, active concert or participation

with any of them, from further acts of infringement, contributory infringement or inducement of infringement of any asserted claim of the patents-in-suit;

(3) Awarding damages to MLR, together with both pre-judgment and post-judgment interest;

(4) Awarding increased damages pursuant to 35 U.S.C. § 284;

(5) Finding this action constitutes an exceptional case pursuant to 35 U.S.C. § 285;

(5) Awarding MLR all its costs of this action, including attorneys' fees and expenses;

and

(6) Awarding such other and further relief, at law or in equity, to which MLR is justly entitled.

JURY DEMAND

MLR hereby demands a jury trial on all issues appropriately triable by a jury.

Respectfully Submitted,

Dated: July 28, 2008

By: Virginia W. Hoptman

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