

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

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QUALCOMM INCORPORATED,

Plaintiff,

v.

Civil Action No. 2:07cv111 (TJW)

NOKIA CORPORATION and NOKIA, INC.,

Jury Trial

Defendants.

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NOKIA CORPORATION and NOKIA, INC.,

Counterclaimants,

v.

QUALCOMM INCORPORATED,

Counterclaim Defendants.

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff QUALCOMM Incorporated (“QUALCOMM”) for its complaint herein states:

**I. PARTIES**

1. Plaintiff QUALCOMM is a corporation organized and existing under the laws of the state of Delaware, with its principal place of business at 5775 Morehouse Drive, San Diego, California, 92121. QUALCOMM develops, manufactures, markets, licenses and operates advanced communications systems based on proprietary technology.

2. On information and belief, Defendant Nokia Corporation (“Nokia Corp.”) is a public limited liability company incorporated under the laws of the Republic of Finland, with its principal executive office at Keilalahdentie 2-4, P.O. Box 226, FIN-00045 Nokia Group, Espoo,

Finland. Nokia Corp. operates throughout the United States, individually and through its wholly-owned indirect subsidiary, Nokia Inc.

3. On information and belief, Defendant Nokia Inc. is a Delaware corporation with its principal place of business at 6000 Connection Drive, Irving, Texas 75039, and is a wholly-owned indirect subsidiary of Nokia Corp.

4. In this Complaint, Nokia Corp. and Nokia Inc. are collectively referred to as “Nokia.”

5. Plaintiff is informed and believes and thereon alleges that Nokia Corp. and Nokia Inc. are doing business in Texas and in this district.

## **II. JURISDICTION AND VENUE**

6. Plaintiff’s claims for patent infringement arise under the patent laws of the United States, Title 35 U.S.C. §§ 1 et seq. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this district under 28 U.S.C. §§ 1391(a), (b) and/or (c), and 1400(b), as Nokia resides and/or conducts substantial business in this district and has committed, and is continuing to commit, acts of infringement in this district.

## **III. GENERAL ALLEGATIONS**

8. This action arises out of, in part, Nokia’s infringement of three (3) patents assigned to QUALCOMM.

## **IV. QUALCOMM’S PATENTS**

9. On September 26, 2006, United States Patent No. 7,113,776 (“the ’776 Patent”) entitled “System and Method for Application and Application Metadata Filtering Based on Wireless Device Capabilities,” was duly and legally issued to QUALCOMM as assignee of the inventors Brian Minear, Eric John Lekven, Mitchell B. Oliver, Phil Nguyen, Richard Wayne

Gardner III, and Stephen A. Sprigg. A true and correct copy of the '776 Patent is attached hereto as Exhibit 1.

10. On June 20, 2006, United States Patent No. 7,065,388 ("the '388 Patent") entitled "System and Method for Providing an Interactive Screen on a Wireless Device Interacting with a Server," was duly and legally issued to QUALCOMM as assignee of the inventors Brian Minear, Mazen Chmaytelli, Mitchell B. Oliver, and Stephen A. Sprigg. A true and correct copy of the '388 Patent is attached hereto as Exhibit 2.

11. On November 21, 2006, United States Patent No. 7,139,559 ("the '559 Patent") entitled "System and Method for Handshaking between Wireless Devices and Servers," was duly and legally issued to QUALCOMM as assignee of the inventors Jason B. Kenagy, Robert D. Briggs, Gina Lombardi, Mark Staskauskas, Marc Stephen Phillips and Robert J. Miller. A true and correct copy of the '559 Patent is attached hereto as Exhibit 3.

## **V. NOKIA'S INFRINGEMENT OF THE PATENTS**

12. The patents described in paragraphs 9, 10 and 11 above, copies of which are attached hereto as Exhibits 1, 2, and 3 are referred to collectively herein as the "patents-in-suit." The patents-in-suit relate generally to the ability to receive applications and/or content in a wireless device.

13. On information and belief, Nokia manufactures, uses, sells, offers for sale in the United States, and/or imports into the United States products that practice GSM, GPRS and/or EDGE functionality ("Nokia's Products").

14. Nokia's Products accused of infringement by this Complaint specifically exclude any Nokia product that is licensed under the Subscriber Unit and Infrastructure Equipment License Agreement dated July 2, 2001, including any amendments thereto, between QUALCOMM Incorporated and Nokia Corp. (the "2001 SULA"). In particular, Nokia's

Products accused of infringement specifically exclude products that are capable of a CDMA-based air interface (including without limitation UMTS, WCDMA, IS-95, CDMA2000, and CDMA) either alone, or in combination with another other air interface, such as GSM, GPRS and/or EDGE.

15. Plaintiff is informed and believes and thereon alleges that, by manufacturing, using, selling, offering for sale in the United States, and/or importing into the United States Nokia's Products, Nokia has been and is infringing, literally and/or under the doctrine of equivalents, one or more claims of each of the patents-in-suit directly and/or indirectly pursuant to 35 U.S.C. § 271(a), (b), (c) and/or (f).

**FIRST CAUSE OF ACTION**  
**INFRINGEMENT OF THE '776 PATENT**

**(35 U.S.C. §§ 271 et seq.)**

16. Plaintiff refers to and incorporates paragraphs 1 through 15, as though fully set forth herein.

17. Plaintiff is informed and believes and thereon alleges that Nokia has been and is infringing, literally and/or under the doctrine of equivalents, one or more claims of the '776 Patent and/or indirectly pursuant to 35 U.S.C. § 271(a), (b), (c) and/or (f) by manufacturing, using, selling, offering for sale in the United States, and/or importing into the United States Nokia's Products.

18. By reason of Nokia's acts alleged herein, Plaintiff has suffered, is suffering, and, unless such acts are enjoined by the Court, will continue to suffer injury to its business and property rights, for which it is entitled to damages pursuant to 35 U.S.C. § 284 in an amount to be proved at trial.

19. By reason of Nokia's acts alleged herein, Plaintiff has suffered, is suffering, and, unless such acts are enjoined by the Court, will continue to suffer irreparable harm for which there is no adequate remedy at law, and for which Plaintiff is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

20. Nokia's acts of infringement as alleged herein have been, and continue to be willful, entitling QUALCOMM to treble damages pursuant to 35 U.S.C. § 284, and qualifying this as an exceptional case under 35 U.S.C. § 285.

**SECOND CAUSE OF ACTION**  
**INFRINGEMENT OF THE '388 PATENT**  
**(35 U.S.C. §§ 271 et seq.)**

21. Plaintiff refers to and incorporates paragraphs 1 through 20, as though fully set forth herein.

22. Plaintiff is informed and believes and thereon alleges that Nokia has been and is infringing, literally and/or under the doctrine of equivalents, one or more claims of the '388 Patent and/or indirectly pursuant to 35 U.S.C. § 271(a), (b), (c) and/or (f) by manufacturing, using, selling, offering for sale in the United States, and/or importing into the United States Nokia's Products.

23. By reason of Nokia's acts alleged herein, Plaintiff has suffered, is suffering, and, unless such acts are enjoined by the Court, will continue to suffer injury to its business and property rights, for which it is entitled to damages pursuant to 35 U.S.C. § 284 in an amount to be proved at trial.

24. By reason of Nokia's acts alleged herein, Plaintiff has suffered, is suffering, and, unless such acts are enjoined by the Court, will continue to suffer irreparable harm for which

there is no adequate remedy at law, and for which Plaintiff is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

25. Nokia's acts of infringement as alleged herein have been, and continue to be willful, entitling QUALCOMM to treble damages pursuant to 35 U.S.C. § 284, and qualifying this as an exceptional case under 35 U.S.C. § 285.

**THIRD CAUSE OF ACTION**  
**INFRINGEMENT OF THE '559 PATENT**  
**(35 U.S.C. §§ 271 et seq.)**

26. Plaintiff refers to and incorporates paragraphs 1 through 25, as though fully set forth herein.

27. Plaintiff is informed and believes and thereon alleges that Nokia has been and is infringing, literally and/or under the doctrine of equivalents, one or more claims of the '559 Patent and/or indirectly pursuant to 35 U.S.C. § 271(a), (b), (c) and/or (f) by manufacturing, using, selling, offering for sale in the United States, and/or importing into the United States Nokia's Products.

28. By reason of Nokia's acts alleged herein, Plaintiff has suffered, is suffering, and, unless such acts are enjoined by the Court, will continue to suffer injury to its business and property rights, for which it is entitled to damages pursuant to 35 U.S.C. § 284 in an amount to be proved at trial.

29. By reason of Nokia's acts alleged herein, Plaintiff has suffered, is suffering, and, unless such acts are enjoined by the Court, will continue to suffer irreparable harm for which there is no adequate remedy at law, and for which Plaintiff is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

30. Nokia's acts of infringement as alleged herein have been, and continue to be willful, entitling QUALCOMM to treble damages pursuant to 35 U.S.C. § 284, and qualifying this as an exceptional case under 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

- a) For judgment that Nokia has infringed, directly and/or indirectly, the patents-in-suit;
- b) For a preliminary and/or permanent injunction prohibiting Nokia, and all persons or entities acting in concert with Nokia, from infringing, directly and/or indirectly, one or more of the patents-in-suit;
- c) For an award to Plaintiff of all compensatory damages resulting from the direct and/or indirect infringement by Nokia of the patents-in-suit, including pre-judgment and post-judgment interest;
- d) For an award of treble damages pursuant to 35 U.S.C. § 284;
- e) For judgment and an order directing Nokia to pay Plaintiff's reasonable attorneys' fees, expenses and costs due to this being an "exceptional" case within the meaning of 35 U.S.C. § 285;
- f) For judgment directing Nokia to pay costs of suit; and
- g) For an award to Plaintiff of such other and further relief as the court deems equitable, just and proper.

**REQUEST FOR TRIAL BY JURY**

QUALCOMM respectfully requests that all issues triable be tried by and before a jury.

Dated: June 20, 2007

PARKER, BUNT & AINSWORTH

By: /s/ Charles Ainsworth

**Charles Ainsworth**

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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record, who are deemed to have consented to electronic service are being served this 20<sup>th</sup> day of June, 2007, with a copy of this document via the Court's CM/ECF system per Local Rule CD-5(a)(3).

/s/ Charles Ainsworth  
**Charles Ainsworth**