

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**EON CORP. IP HOLDINGS, INC.**  
**Plaintiff,**

v.

**AT&T MOBILITY, LLC; AT&T  
MOBILITY PUERTO RICO, INC.; AT&T,  
INC.; PUERTO RICO TELEPHONE  
COMPANY, INC;  
TELECOMUNICACIONES DE PUERTO  
RICO, INC. AND TELEFONICA DE  
PUERTO RICO, INC.,**  
**Defendants.**

**CIVIL NUM.: 3:11-cv-01555**

**REQUEST FOR TRIAL BY JURY**

**PATENT INFRINGEMENT**

**PLAINTIFF EON CORP. IP HOLDINGS, LLC'S FIRST AMENDED COMPLAINT**

TO THE HONORABLE COURT:

COMES NOW, Plaintiff EON Corp. IP Holdings, LLC ("EON"), through the undersigned attorneys, and respectfully alleges, states, and pray as follows:

**I. NATURE OF THE ACTION**

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 of the United States Code ("U.S.C.") to prevent and enjoin co-defendants AT&T Mobility, LLC ("AT&T LLC"), AT&T Mobility Puerto Rico, Inc. ("AT&T Puerto Rico"), and AT&T, Inc. (collectively, "AT&T") and Puerto Rico Telephone Company, Inc. ("PRTC"), Telecomunicaciones de Puerto Rico, Inc. ("TPRI"), and Telefonica de Puerto Rico, Inc. ("TPR"), all d/b/a Claro Puerto Rico (collectively, "Claro") (collectively, "Defendants") from infringing and profiting from, in an illegal and unauthorized manner and without authorization and/or consent from Plaintiff, U.S. Patent No. 5,663,757 (the "'757 Patent"), U.S. Patent No. 5,388,101 (the "'101 Patent"), U.S. Patent No. 5,481,546 (the "'546 Patent"), and U.S. Patent No.

5,592,491 (the “’491 Patent”) pursuant to 35 U.S.C. §271, and to recover damages, attorneys’ fees, costs, and all available equitable relief.

## **II. JURISDICTION AND VENUE**

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a).

3. Venue lies in this judicial district pursuant to 28 U.S.C. §§1391 and 1400(b).

4. This Court has personal jurisdiction over each Defendant. Upon information and belief, each Defendant has conducted and does conduct business within Puerto Rico, directly or through intermediaries or agents, or offers for sale, sells, or advertises (including through the provision of interactive web pages) products or services, or uses or induces others to use services or products in Puerto Rico that infringe the ’757 Patent, the ’101 Patent, the ’546 Patent and/or the ’491 Patent or knowingly contributes to infringement of the asserted patents.

5. In addition to the specific and general jurisdiction alleged above, this Court has personal jurisdiction over AT&T because it is, upon information and belief, a wireless operator within Puerto Rico and derives and has derived substantial revenue therefrom.

6. In addition to AT&T continuously and systematically conducting business in Puerto Rico, the causes of action against AT&T arose from or are connected with AT&T’s purposeful acts committed in Puerto Rico, including AT&T’s making, using, importing, offering for sale, or selling two-way communication networks, two-way communication network components, subscriber units, associated services, or data systems that fall within the scope of at least one claim of the ’757 Patent, the ’101 Patent, the ’546 Patent, and the ’491 Patent.

7. In addition to the specific and general jurisdiction alleged above, this Court has personal jurisdiction over Claro because it is, upon information and belief, a wireless operator within Puerto Rico and derives and has derived substantial revenue therefrom.

8. In addition to Claro continuously and systematically conducting business in Puerto Rico, the causes of action against Claro arose from or are connected with Claro's purposeful acts committed in Puerto Rico, including Claro's making, using, importing, offering for sale, or selling two-way communication networks, two-way communication network components, subscriber units, associated services, or data systems that fall within the scope of at least one claim of the '757 Patent, the '101 Patent, the '546 Patent, and the '491 Patent.

### **III. THE PARTIES**

9. Plaintiff is a Texas limited liability company with its principal place of business at 719 West Front Street, Suite 108, Tyler, Texas 75702.

10. Defendant AT&T LLC is a Delaware limited liability company with its principal place of business at 5565 Glenridge Connector, Atlanta, Georgia 30342.

11. Upon information and belief, AT&T LLC engages in business but does not maintain a regular place of business in Puerto Rico and has not designated or maintained a resident agent for service of process there. AT&T LLC may be served with process through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

12. Upon information and belief, Defendant AT&T Puerto Rico is a subsidiary of AT&T, Inc., with a registration number of 8172 from the Puerto Rico Department of State and offices located in 105 Ponce de León Avenue, Puerto Rico 00919, where it can be served with process.

13. Upon information and belief, Defendant AT&T, Inc. is a Delaware corporation with its principal place of business at 208 South Akard Street, Dallas, Texas 75202. AT&T, Inc. can be served with process through its registered agent, CT Corporation System, 350 North St. Paul Street, Suite 2900, Dallas, Texas 75201.

14. Upon information and belief, Defendants PRTC, TPR, and TPRI are wholly owned by América Móvil SAB de CV of Mexico City, Mexico, are doing business as Claro, and have offices located in 562 Ponce de León Avenue, Hato Rey, Puerto Rico 00918, where they can be served with process.

15. Upon information and belief, Defendant PRTC has a registration number of 102198 from the Puerto Rico Department of State and offices located at 1515 Roosevelt Avenue 10th Floor, Bo. Pueblo Viejo, Puerto Rico 00968, where it can be served with process.

16. Upon information and belief, Defendant TPRI has a registration number of 99283 from the Puerto Rico Department of State.

17. Upon information and belief, Defendant TPR has a registration number of 95864 from the Puerto Rico Department of State.

#### **IV. FACTUAL ALLEGATIONS**

##### **A. The '757 Patent**

18. On September 2, 1997, after a full and fair examination, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '757 Patent, entitled "Software Controlled Multi-Mode Interactive TV Systems." A true and correct copy of the '757 Patent is attached hereto as Exhibit A.

19. Broadly speaking, the '757 patent claims a data processing station subscriber unit with interactive video capabilities. This technology has recently become ubiquitous, as network providers (like Defendants) now deliver quality interactive video content to wireless device users at affordable prices. EON's technology is fundamental to the development of these products and services. Without reference to the particular construction of any claim terms, features of the technology claimed in the '757 Patent include: (1) a software operating system in the wireless subscriber unit for controlling received interactive video content; (2) a selectable video screen

display; (3) the ability to create customizable programming menus or guides for individual subscribers on the display screen; and (4) wireless transmission and reception facilities in the subscriber unit that allow for the sending and receiving of interactive control signals, including messages with subscriber IDs. Both Claro and AT&T deliver interactive video programming to subscribers in Puerto Rico containing these features; AT&T delivers such interactive video programming to subscribers everywhere its network operates, including throughout the United States and its territories.

20. EON is the assignee through an exclusive license of all right, title, and interest in and to the '757 Patent and possesses all rights of recovery under the '757 Patent, including the exclusive right to recover for infringement. The '757 Patent is valid and enforceable.

21. Defendant AT&T makes, uses, sells, offers for sale, and imports interactive mobile television services and compatible subscriber units that embody one or more claims of the '757 Patent or are especially configured for use in and constitute a material portion of the patented invention (*e.g.*, data processing station subscriber units that deliver interactive television or television-quality entertainment and informational content to subscribers). For example, AT&T sells and offers for sale subscriber units (*e.g.*, Motorola Atrix 4G, Samsung Mythic, HP Veer 4G, LG Phoenix, Samsung Infuse, and similar interactive-video-enabled devices) that are especially configured for receiving television content (*e.g.*, television shows provided via AT&T Mobile TV and other interactive video applications) in accordance with one or more claims of the '757 Patent.

22. Upon information and belief, AT&T knew the actions alleged in Paragraph 21 infringed the '757 Patent at least since November 4, 2003 because, among other reasons, numerous AT&T patents have prosecution histories linking them to the '757 Patent, including,

for example, U.S. Patent No. 6,642,938. At the very least, AT&T has known of the '757 Patent and has specifically intended to continue infringing it since this lawsuit was filed and served on AT&T.

23. AT&T's mobile television services and compatible subscriber units are not staple articles or commodities of commerce suitable for substantial non-infringing use.

24. AT&T has been and is presently infringing at least one claim of the '757 Patent literally or under the doctrine of equivalents, directly or indirectly by knowingly and specifically intending to contribute to or induce infringement by others, alone or through its relationships with subscriber unit manufacturers (*e.g.*, Samsung and Motorola), mobile television content (and associated application) providers (*e.g.*, MobiTV, Inc.), and/or end users. Among others, AT&T's customers are direct infringers of the '757 Patent in connection with the indirect infringement allegations related to AT&T in this complaint.

25. Defendant Claro makes, uses, sells, offers for sale, and/or imports mobile television services and compatible subscriber units that embody one or more claims of the '757 Patent or are especially configured for use in and constitute a material portion of the patented invention (*e.g.*, data processing station subscriber units that deliver interactive television or television-quality entertainment and informational content to subscribers). For example, Claro sells and offers for sale subscriber units (*e.g.*, the Samsung A 670, Motorola V 710, Kyocera Slider, Motorola RAZR, Nokia N9, LG Optimus Black, Motorola Pro, HTC Incredible S, HTC Wildfire S, and similar interactive-video-enabled devices) that are especially configured for receiving television content (*e.g.*, television shows provided via Idea TV/Wapa Móvil) in accordance with one or more claims of the '757 Patent.

26. Upon information and belief, Claro makes, uses, sells, offers for sale, and/or imports mobile television services and compatible subscriber units, multimedia content, and associated applications in the United States knowing that they embody or will become a material part of a product or process that embodies the '757 Patent. At the very least, Claro has known of the '757 Patent and has specifically intended to continue infringing it since this lawsuit was filed and served on Claro.

27. Claro's mobile television services and compatible subscriber units are not staple articles or commodities of commerce suitable for substantial non-infringing use.

28. Claro has been and is presently infringing at least one claim of the '757 Patent literally or under the doctrine of equivalents, directly or indirectly by knowingly and specifically intending to contribute to or induce infringement by others, alone or through its relationships with subscriber unit manufacturers (*e.g.*, Samsung, Motorola, HTC, Nokia, LG, and Kyocera), mobile television content (and associated application) providers, and/or end users. Among others, Claro's customers are direct infringers of the '757 Patent in connection with the indirect infringement allegations against Claro in this complaint.

**B. The '101,'546, and '491 Patents (the "Dinkins Patents")**

29. On February 7, 1995, after a full and fair examination, the USPTO duly and legally issued the '101 Patent, entitled "Interactive Nationwide Data Service Communication System for Stationary and Mobile Battery Operated Subscriber Units." The USPTO conducted *ex parte* reexamination of the '101 Patent and confirmed claims 1-18. The rejection of claims 19 and 20 is presently on appeal. A true and correct copy of the '101 Patent is attached hereto as Exhibit B.

30. On January 2, 1996, after a full and fair examination, the USPTO duly and legally issued the '546 Patent, entitled "Interactive Nationwide Data Service Communication System for Stationary and Mobile Battery Operated Subscriber Units" as a continuation of the '101 Patent. The USPTO conducted *ex parte* reexamination of the '546 Patent and issued a reexamination certificate on August 3, 2010, confirming all claims. A true and correct copy of the '546 Patent and reexamination certificate are attached hereto as Exhibit C.

31. The '101 and '546 Patents describe a multi-faceted structure designed to enable two-way wireless digital signals to be exchanged between one or more base stations and fixed or portable remote, low-powered subscriber units placed at a distance from the base stations (hence, the "two-way" nature of the digital signals). Broadly and without reference to the particular construction of any claim terms, features of the communications technology claimed in the '101 and '546 Patents include: (1) a base station (or multiple base stations) from which wireless network digital information is transmitted and received; (2) individual low power subscriber or monitoring units that transmit and receive wireless digital information from the base station(s) (for example, mobile devices such as smartphones); and (3) remote receivers, which receive the low power wireless messages sent from the subscriber or monitoring units and then relay those messages via an efficient path (*e.g.*, wireless r-f signals, wire lines, and microwave signals) back to a processing station. Both Claro and AT&T deliver two-way wireless communication services to subscribers in Puerto Rico by utilizing these features of the '101 and '546 Patents; AT&T delivers such wireless communications services to subscribers everywhere its network operates, including throughout the United States and its territories.

32. EON is the assignee through an exclusive license of all right, title, and interest in and to the '101 and '546 Patents and possesses all rights of recovery under the '101 and '546



Patents, including the exclusive right to recover for infringement. The '101 and '546 Patents are valid and enforceable.

33. On January 7, 1997, the USPTO duly and legally issued the '491 Patent, entitled "Wireless Modem", after a full and fair examination. A true and correct copy of the '491 Patent is attached hereto as Exhibit D.

34. The '491 Patent is a continuation-in-part of the '101 Patent. The '491 Patent enables communication in a two-way network between subscribers and the network base station or central hub via multiple paths (*e.g.*, a Wide-Area-Network (WAN) path or a Local-Area-Network (LAN) path). The '491 Patent teaches deploying a wireless modem as a network access point, allowing network providers like AT&T and Claro to dramatically improve quality of service for subscribers, meet customer demand for bandwidth hungry applications and services (*e.g.*, interactive television), reduce congestion on the network, and provide coverage in areas in which service is impaired. The '491 Patent accomplishes this without the need for additional costly network infrastructure, and thereby helps to stabilize the cost of communication within the network. In fact, one of the many advantages of the patented technology is that network providers can off-load subscriber traffic through the Internet via a wireless modem LAN using, for instance, Wi-Fi technology. Such offloading frees up valuable licensed bandwidth allowing network providers to offer their services to more customers. EON's patented technology is therefore invaluable to network providers (such as Defendants), as it allows them to increase their customer base substantially without increasing capital expenditures and operational costs and without decreasing the quality of their services. Both Claro and AT&T deploy data offloading strategies to enhance the two-way wireless communication services they provide to subscribers in Puerto Rico by utilizing these features of the '491 Patent; AT&T deploys such

strategies everywhere its network operates, including throughout the United States and its territories.

35. EON is the assignee under an exclusive license of all rights, title, and interest in and to the '491 Patent and possesses all rights of recovery under the '491 Patent, including the right to recover for past infringement. The '491 Patent is valid and enforceable.

36. The '101, '546, and '491 Patents are collectively referred to as the "Dinkins Patents."

37. Defendant AT&T makes, uses, sells, offers for sale, and/or imports two-way communication networks, dual-mode network components, dual-mode subscriber units (*e.g.*, Wi-Fi and cellular-enabled smart phones and tablets), modems (*e.g.*, Wi-Fi Hotspots, Wi-Fi access points, femtocells), dual-mode services, and/or dual-mode enabling software solutions that fall within the scope of at least one claim of each of the Dinkins Patents or are especially configured for use in and constitute a material portion of the patented inventions (*e.g.*, dual-mode communication networks comprising subscriber units, base stations, and/or network hub switching centers, and modems that facilitate switching between alternate communication pathways). For example, AT&T directly infringes because it makes, uses, offers to sell, or sells cellular networks utilizing mobile offload services (*e.g.*, AT&T Wi-Fi Basic, AT&T Wi-Fi Premier, and AT&T Wi-Fi On the Spot) that enable dual-mode subscriber units (*e.g.*, Wi-Fi and cellular-enabled smart phones and tablets) to switch between communication paths having cellular components – CDMA (*e.g.*, 1xEV-DO Rev. A, 1xEV-DO Rel. 0, 1X, operating on a PCS 1900 MHz system) and/or GSM components (*e.g.*, GSM 850/900/1800/1900, HSDPA 850/1900/2100, and HSPA+) and communication paths having Wi-Fi components in accordance with one or more claims of each of the Dinkins Patents. AT&T indirectly infringes, for example,

by contributing to direct infringement by its customers through the selling, offering for sale, or importing of dual-mode services and compatible subscriber units (*e.g.*, Wi-Fi and cellular-enabled smart phones and tablets), modems (*e.g.*, AT&T Mobile Hotspot MiFi 2372), dual-mode network components, and dual-mode enabling software solutions that are configured for use in and constitute a material portion of the patented invention. AT&T induces its customers to directly infringe the Dinkins Patents, for example, by instructing them in how to switch between WAN and LAN communication paths.

38. Upon information and belief, AT&T knew the actions alleged in Paragraph 37 infringed the Dinkins Patents at least since January 11, 2000 because, among other reasons, numerous AT&T patents have prosecution histories linking them to the Dinkins Patents, including, for example, U.S. Patent No. 6,014,569. At the very least, AT&T has known of the Dinkins Patents and has specifically intended to continue infringing them since this lawsuit was filed and served on AT&T.

39. AT&T's dual-mode services and compatible subscriber units, modems, dual-mode network components, and dual-mode enabling software solutions are not staple articles or commodities of commerce suitable for substantial non-infringing use.

40. AT&T has been and is presently infringing at least one claim of each of the Dinkins Patents literally or under the doctrine of equivalents, directly or indirectly by knowingly and specifically intending to contribute to or induce infringement by others, alone or through its relationships with subscriber unit manufacturers, equipment manufacturers, network component manufacturers, retailers, wireless customers, and/or end users.

41. Defendant Claro makes, uses, sells, offers for sale, and/or imports two-way communication networks, dual-mode network components, subscriber units (*e.g.*, Wi-Fi and

cellular-enabled smart phones and tablets), modems, dual-mode services, and/or dual-mode enabling software solutions that fall within the scope of at least one claim of each of the Dinkins Patents or are especially configured for use in and constitute a material portion of the patented inventions (*e.g.*, dual-mode communication networks comprising subscriber units, base stations, and/or network hub switching centers, and modems that facilitate switching between alternate communication pathways). For example, Claro directly infringes because it makes, uses, offers to sell, or sells cellular networks utilizing mobile offload services that enable dual-mode subscriber units (*e.g.*, Wi-Fi and cellular-enabled smart phones—such as the Samsung A 670, Motorola V 710, Kyocera Slider, Motorola RAZR, Nokia N9, LG Optimus Black, Motorola Pro, HTC Incredible S, HTC Wildfire S—and tablets—such as the Samsung Galaxy Tab 8.9, Motorola Xoom 4G, and BlackBerry Playbook) to switch between communication paths having cellular components - CDMA (*e.g.*, 1x or 1xEV0DO Rel. 0, operating on a PCS 1900 MHz system) or GSM (*e.g.*, GSM 850/900/1800/1900 and HSDPA 850/900/1900) and communication paths having Wi-Fi components in accordance with one or more claims of each of the Dinkins Patents. Claro indirectly infringes, for example, by contributing to direct infringement by its customers through the selling, offering for sale or importing of dual-mode services and compatible subscriber units, modems, dual-mode network components, and dual-mode enabling software solutions that are configured for use in and constitute a material portion of the patented invention. Claro induces its customers to directly infringe the Dinkins Patents, for example, by instructing them in how to switch between WAN and LAN communication paths.

42. Upon information and belief, Claro makes, uses, sells, offers for sale, or imports dual-mode services and compatible subscriber units, modems, dual-mode network components, and dual-mode enabling software solutions knowing that they will become a material part of a

method, system or apparatus that infringes each of the Dinkins Patents. At the very least, Claro has known of the Dinkins Patents and has specifically intended to continue infringing them since this lawsuit was filed and served on Claro.

43. Claro's dual-mode services and compatible subscriber units, modems, dual-mode network components and dual-mode enabling software solutions are not staple articles or commodities of commerce suitable for substantial non-infringing use.

44. Claro has been and is presently infringing at least one claim of each of the Dinkins Patents literally or under the doctrine of equivalents, directly or indirectly by knowingly and specifically intending to contribute to or induce infringement by others, alone or through its relationships with subscriber unit manufacturers, equipment manufacturers, network component manufacturers, retailers, wireless customers, and/or end-users.

#### **V. FIRST CAUSE OF ACTION INFRINGEMENT OF THE EON PATENTS IN SUIT**

45. EON repeats and realleges the allegations set forth in Paragraphs 1 through 44 as if those allegations had been fully set forth herein.

46. Defendants, without authorization or license and in violation of 35 U.S.C. §271, have been and are infringing the '757 Patent, the '101 Patent, the '546 Patent, and the '491 Patent directly, by inducement, and/or contributorily.

47. Defendants' continued infringement is willful.

48. EON has no adequate remedy at law against Defendants' acts of infringement, and Defendants' infringement will continue unless enjoined by this Court.

49. EON has suffered and will continue to suffer irreparable injury as a result of Defendants' infringement.

50. EON is in compliance with the requirements of 35 U.S.C. §287.

51. EON has been damaged by Defendants' infringement and will continue to be damaged until enjoined by this Court.

#### **VI. PRAYER FOR RELIEF**

WHEREFORE, in consideration of the foregoing, Plaintiff respectfully requests that this Honorable Court enter judgment against Defendants, and in favor of Plaintiff. Plaintiff prays that this Court:

- a. award Plaintiff all relief available under § 284 of the Patent Act, including monetary damages, for the Defendants' infringement in an amount to be determined by the trier of fact;
- b. award Plaintiff all relief available under § 285 of the Patent Act, including the costs of this litigation as well as attorneys' fees.
- c. order payment of all applicable interests, including prejudgment interest;  
and
- d. award Plaintiff whatever equitable relief is deemed appropriate.

#### **VII. DEMAND FOR JURY TRIAL**

EON demands a trial by jury of any and all issues triable of right before a jury.

Respectfully submitted,

Dated: San Juan Puerto Rico  
December 12, 2011

/s/Eugenio J. Torres-Oyola

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**ATTORNEYS FOR PLAINTIFF  
EON CORP. IP HOLDINGS, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on December 12, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all attorneys of record.

/s/Eugenio J. Torres-Oyola  
Eugenio J. Torres-Oyola