

wireless communication products, including but not limited to products compliant with the 3rd Generation Partnership Project (“3GPP”).

3. 3GPP standard, in the United States and, more particularly, in the Eastern District of Texas.

JURISDICTION AND VENUE

4. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 271.

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

THE PATENT-IN-SUIT

7. On April 30, 2002, the USPTO duly and legally issued the '211 Patent, entitled “Processing Data Transmitted and Received Over a Wireless Link Connecting a Central Terminal and a Subscriber Terminal of a Wireless Telecommunications System” after a full and fair examination. Wi-LAN was assigned the '211 Patent and possesses all rights of recovery under the '211 Patent, including the right to recover damages for past infringement. A true and correct copy of the '211 Patent is attached hereto as Exhibit A.

8. The Patent-in-Suit is valid and enforceable.

COUNT I: INFRINGEMENT OF THE '211 PATENT

9. Upon information and belief, Apple makes, uses, offers for sale, imports, and/or sells products compliant with the 3GPP standard, including but not limited to the iPhone 4S, iPhone 5, and iPad (3rd Generation).

10. Upon information and belief, the accused Apple products support at least Release 5, et seq. of the 3GPP standard.

11. Upon information and belief, the accused Apple products use orthogonal codes to transmit and/or receive a plurality of data items over a plurality of wireless links in a single frequency channel.

12. Upon information and belief, Apple has been and is now infringing, directly and indirectly by way of inducement and/or contributory infringement, literally and/or under the doctrine of equivalents, the '211 Patent in this District and elsewhere by making, using, offering for sale, importing, and/or selling, without authority from Wi-LAN, products compliant with the 3GPP standard, including but not limited to the iPhone 4S, iPhone 5, and iPad (3rd Generation), that fall within the scope of one or more of the claims of the '211 Patent. Apple contributes to and induces infringement through supplying the accused Apple products to customers, and Apple's customers—who purchase the accused Apple products and operate those products in accordance with Apple's instructions—directly infringe one or more claims of the '211 Patent.

13. Apple, by way of its infringing activities, has caused and continues to cause Wi-LAN to suffer damages, and Wi-LAN is entitled to recover from Defendant damages in an amount to be determined at trial.

14. Apple has had actual notice of the '211 Patent and of its infringement of the Patent-in-Suit since at least November 25, 2011.

15. Apple's direct and indirect infringement of the '211 Patent has been willful and deliberate, making this an exceptional case and justifying enhanced damages pursuant to 35 U.S.C. § 284 and attorney's fees under 35 U.S.C. § 285.

16. Wi-LAN has no adequate remedy at law against the Defendant's acts of infringement, and unless the Defendant is enjoined from its infringement of the '211 Patent, Wi-LAN will suffer irreparable harm.

DEMAND FOR JURY TRIAL

Wi-LAN demands a trial by jury for any and all issues triable of right before a jury.

PRAYER FOR RELIEF

WHEREFORE, Wi-LAN requests entry of judgment in its favor and against Defendant as follows:

- A. Declaring that Defendant has infringed U.S. Patent No. 6,381,211;
- B. Permanently enjoining Defendant and its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents and all others acting in concert or privity with Defendant from infringing, inducing the infringement of, or contributing to the infringement of U.S. Patent No. 6,381,211;
- C. Awarding to Wi-LAN damages arising out of Defendant's infringement of U.S. Patent No. 6,381,211, including enhanced damages pursuant to 35 U.S.C. § 284, together with prejudgment and post-judgment interest, in an amount to be determined at trial;
- D. Awarding to Wi-LAN its costs in connection with this action; and
- E. Such other and further relief in law or in equity to which Wi-LAN may be justly entitled.

Dated: December 6, 2012

Respectfully submitted,

By: /s/ David B. Weaver

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