

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA**

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	:	
PRISM TECHNOLOGIES LLC,	:	
	:	Civil Action No. 8:12-cv-123-LES-TDT
Plaintiff,	:	
	:	
v.	:	<b>SECOND AMENDED COMPLAINT</b>
	:	
SPRINT SPECTRUM L.P. D/B/A/ SPRINT PCS,	:	
	:	<b>JURY TRIAL REQUESTED</b>
Defendant.	:	<b>IN OMAHA</b>
	:	
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Plaintiff Prism Technologies LLC, for its Second Amended Complaint against Sprint Spectrum L.P. d/b/a Sprint PCS, upon information and belief as to all other matters, hereby alleges as follows:

**THE PARTIES**

1. Plaintiff Prism Technologies LLC (“Prism”) is a limited liability company organized and existing under the laws of the State of Nebraska, with its principal place of business at 2323 S. 171st Street, Suite 106, Omaha, Nebraska 68130.

2. Defendant Sprint Spectrum L.P. d/b/a Sprint PCS (“Sprint”) is a Delaware limited partnership with its principal place of business at 6200 Sprint Parkway, Overland Park, Kansas 66251. Sprint conducts substantial business in this judicial district.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the Patent Act, 35 U.S.C. §§ 101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has specific and general personal jurisdiction over Defendant because it has committed acts giving rise to this action within this judicial district and has established

minimum contacts within Nebraska and within this judicial district such that the exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because Sprint has conducted business in this district and/or provided service and support to Sprint's customers within this district, and has committed acts of patent infringement within this district giving rise to this action.

### **PRISM AND THE PATENTS**

6. Prism's direct predecessor-in-interest, Prism Resources, was founded by Mr. Richard L. Gregg in 1989. In 1996, Mr. Gregg, along with Timothy Goeke, and Sandeep Giri, researched and developed novel systems and methods that included controlling access to protected computer resources. The systems and methods included a server with an associated database to store information that could authenticate a device to determine which device was authorized to access protected resources.

7. Prism Resources proceeded to file various patent applications to protect these and related inventions. On October 30, 2007, United States Letters Patent No. 7,290,288 ("the '288 patent") entitled METHOD AND SYSTEM FOR CONTROLLING ACCESS, BY AN AUTHENTICATION SERVER, TO PROTECTED COMPUTER RESOURCES PROVIDED VIA AN INTERNET PROTOCOL NETWORK was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '288 patent is attached hereto as Exhibit A, and is incorporated herein by reference. A true and correct copy of a Certificate of Correction issued by the United States Patent and Trademark Office on September 8, 2009, in connection with the '288 patent is attached hereto as Exhibit B. On August 3, 2010, *Ex Parte*

Reexamination Certificate issued and is attached hereto as Exhibit C. On June 7, 2011, a second *Ex Parte* Reexamination Certificate issued and is attached hereto as Exhibit D. On August 23, 2011 and Certificate of Correction issued and is attached hereto as Exhibit E.

8. On February 28, 2012, United States Letters Patent No. 8,127,345 (“the ’345 patent”) entitled METHOD AND SYSTEM FOR MANAGING ACCESS TO PROTECTED COMPUTER RESOURCES PROVIDED VIA AN INTERNET PROTOCOL NETWORK was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’345 patent is attached hereto as Exhibit F, and is incorporated herein by reference.

9. On February 26, 2013, United States Letters Patent No. 8,387,155 (“the ’155 patent”) entitled SYSTEM FOR MANAGING ACCESS TO PROTECTED COMPUTER RESOURCES was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’155 patent is attached hereto as Exhibit G, and is incorporated herein by reference.

10. Prism is the owner and assignee of all right, title and interest in and to the ’288 patent, the ’345 patent, and the ’155 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

11. Today, various wireless networks allow computer devices, such as smartphones, tablets and mobile broadband cards, to access protected resources of the wireless networks, such as web servers. These wireless networks implement systems and methods for controlling access to the wireless networks that Prism pioneered and patented.

**COUNT I**  
**DIRECT INFRINGEMENT OF U.S. PATENT NO. 7,290,288**

12. Prism re-alleges and incorporates by reference the allegations set forth in Paragraphs 1 through 11 above as if fully set forth herein.

13. Sprint owns, operates, and/or controls one or more wireless networks. On information and belief, Sprint uses, sells and offer for sale various data services provided through its wireless networks.

14. Sprint implements authentication systems and methods for controlling and protecting unauthorized access to its wireless networks.

15. Sprint's authentication systems and methods are used every time a computer or wireless device accesses Sprint's wireless network and data services.

16. On information and belief, Sprint's systems and methods for controlling and protecting unauthorized access to its wireless networks and data services operate in the same manner as the systems and methods for controlling access that Prism pioneered and patented in the '288 patent, '345 patent, and '155 patent.

#### **Sprint's Wireless Network and Data Services**

17. Sprint owns, controls, operates and/or uses one or more wireless networks that include a complex infrastructure of network computers and telecommunication systems.

18. On information and belief, Sprint owns, controls, operates and/or uses wireless networks that are based on various technologies including third generation (3G) code division multiple access (CDMA), fourth generation (4G) services utilizing Worldwide Interoperability for Microwave Access (WiMAX), and 4G services utilizing Long Term Evolution (LTE) technology (individually and collectively referred to as the Sprint "Wireless Networks").

19. Sprint owns, controls, operates, uses, sells and/or offers for sale access to its Wireless Networks, including data communications services made available through its Wireless Networks.

20. Sprint's data communication services, made available through its Wireless Networks, include mobile productivity applications, such as Internet access, messaging and email services; wireless photo and video offerings, location-based capabilities, including asset and fleet management, dispatch services and navigation tools; and mobile entertainment applications, including the ability to view live television, listen to internet radio, download and listen to music, and game play with full-color graphics and polyphonic and real-music sounds from a wireless handset computing device (individually and collectively referred to as Sprint's "Data Services").

21. Sprint authorizes customers' devices to access Sprint's Wireless Networks and Data Services if customers purchase and/or subscribe to Sprint's Data Service plans. These Data Service plans include, for example, Simply Everything, Everything Data, Simply Everything Share, Everything Data Share, Business Advantage Messaging and Data, 12 GB Connection, 6 GB Connection, 5 GB Connection, 3 GB Connection, 500 MB Connection, 12 GB Tablet Connection, 6 GB Tablet Connection, and 3 GB Tablet Connection (individually and collectively referred to as Sprint "Data Plans").

22. On information and belief, Sprint requires all Data Plan subscribers to enter into an agreement (of varying term/length) with Sprint in which customers must comply with Sprint's terms of use in order to access Sprint's Wireless Network and Data Services. An exemplary copy of such an Agreement is attached as Exhibit H.

### **Sprint's Authentication Systems**

23. Sprint's Wireless Network complies with one or more various industry standards, including, for example, CDMA2000 and 3GPP2 standards.

24. Industry standards such as CDMA2000 and 3GPP2 include authentication systems and methods for controlling and protecting access to data resources.

25. Sprint controls and limits unauthorized access to its Wireless Network and Data Services by implementing authentication systems and methods so only authorized devices may access at least a portion of Sprint's Wireless Networks and Data Services (collectively referred to as Sprint's "Authentication Systems").

26. On information and belief, Sprint's Authentication Systems include: one or more access servers, authentication servers, and databases for storing at least the digital identifications associated with customers' wireless devices (e.g., smartphone, tablet or broadband card) and associated authorized Data Services.

27. On information and belief, Sprint's Authentication Systems requires that any wireless devices used to access Sprint's Data Services include an associated hardware key/access key and digital identification (or other form of identity data) that may be associated with such wireless device.

28. Sprint uses its Authentication Systems when a device accesses the Sprint Wireless Network and Data Services.

29. On information and belief, if customers choose not to subscribe to Sprint's Data Plans, Sprint does not authorize the customers' wireless device(s) to access, at least a portion of, Sprint Wireless Networks and Data Services.

### **Sprint's Wireless Devices**

30. The Wireless Networks and Data Services operated, offered, sold, and marketed by Sprint are accessed by Sprint's customers using a wide variety of wireless devices including

smartphones, mobile broadband devices such as aircards and hotspots, and embedded tablets and laptops manufactured by various suppliers for use with Sprint's Data Services.

31. On information and belief, Sprint, as identified in its Customer Agreement, controls at least portions of the hardware, software and operation of customers' wireless devices to ensure each wireless device can access Sprint's Wireless Network and Data Services by using the systems and methods claimed in the '288 patent. For example, Sprint's Agreement with its customers states "Our services will only work with our phones...." (Exhibit H). Sprint further states in its Agreement with customers:

Your device is designed to be activated on our networks and in other coverage areas that [Sprint] may make available to you. As programmed, it will not accept wireless service from another carrier. Except for any legal right you may have to port/transfer your phone number to another carrier, you have no—and cannot gain any (for example, through publication, use, etc.)—proprietary, ownership, or other rights to any phone number, identification number, e-mail address, or other identifier that we assign to you, your Device, or your account. We'll notify you if we decide to change or reassign them. Your CDMA Sprint PCS phone has a software programming lock that protects certain of the handset's operating parameters against unauthorized reprogramming. If you wish to obtain the software program lock code for your CDMA Sprint PCS phone, please visit [Sprint.com](http://Sprint.com) or call 1-888-211-4727 for information and eligibility requirements.

32. On information and belief, Sprint requires that any wireless devices used to access Sprint's Data Services include an associated hardware key/access key and digital identification that may be associated with such wireless device necessary to work with Sprint's Authentication System.

33. At this time Sprint offers, sells and markets wireless devices capable of accessing Sprint's Data Services. These wireless devices include at least the following examples: Samsung Transform Ultra, Galaxy S II, Galaxy S III, Galaxy Nexus, Replenish, M370, Epic 4G, HTC EVO 4G, EVO 3D 4G, EVO 4G LTE, Conquer 4G, Motorola Photon Q 4G LTE, Admiral, ES400S, Apple iPhone 4 and iPhone 4S; LG Rumor Reflex, Viper 4G LTE, Optimus Elite,

Optimus S, Kyocera Rise, DuraCore, DuraXT, DuraPlus, Milano, Briol Sierra Wireless 4G LTE Tri-Fi Hotspot, Sierra Wireless Overdrive Pro 3G/4G Mobile Hotspot, Sprint 3G/4G USB Modem 250U, Sprint 3G/4G Plug-in-Connect USB, MiFi 3G/4G Mobile Hotspot, Express Mobile Hotspot, Sprint International Mobile Hotspot, Merlin CC208 3G/4G 2-in-1 Card; ZTE Optik, and Lenovo ideaPad S205s (collectively “Data Enabled Wireless Devices”). Prism expects, through discovery, to learn of additional devices that are provided sold and/or offered for sale by Sprint that are capable of accessing Sprint’s Data Services through its Wireless Networks.

### **Sprint’s Authentication Systems And Methods Infringe Prism’s Patents**

34. Sprint uses its Authentication Systems to control and protect access to its Wireless Network and Data Services. For example, a Data Enabled Wireless Device that is not associated with a customer subscribing to one of Sprint’s Data Plans will not be authorized by Sprint to access at least a portion of Sprint’s Wireless Network and Data Services.

35. Sprint’s Authentication Systems may further be used to control access to its Wireless Network and Data Services in such a way that Sprint may “limit data throughput speeds or quantities or to deny, terminate, end, modify, disconnect, or suspend service if an individual engages in any of the prohibited voice or data uses detailed below or if Sprint, in its sole discretion, determines action is necessary to protect its wireless networks from harm or degradation....” (See Exhibit H).

36. On information and belief, Sprint’s Wireless Networks implement the systems and methods that are claimed in the ‘288 patent, including at least claims 186 and 187, when a Data Enabled Wireless Device accesses Sprint’s Data Services through Wireless Networks.



37. Sprint has been and now is directly infringing the '288 patent in the State of Nebraska, in this judicial district, and elsewhere in the United States, by implementing systems and methods for controlling Data Enabled Wireless Devices from accessing its Wireless Network and Data Service as claimed in the '288 patent.

38. To the extent others are acting with Sprint to use the systems and methods for controlling access to Sprint's Wireless Network and Data Services, Sprint is the mastermind behind the use of the systems and methods that are implemented for controlling access to Sprint's Wireless Network and Data Services. For example, on information and belief, Sprint requires that Data Enabled Wireless Devices include an access/key hardware key and/or digital identification that is transmitted to Sprint's Wireless Network so that Sprint's Authentication Systems can control and limit "use [of Sprint] services in a manner that is unlawful [or] infringes on intellectual property rights...." (Exhibit H).

39. Further, on information and belief, through its Customer Agreements, Sprint requires that all customers subscribing to a Data Plan use a Data Enabled Wireless Device that works with Sprint's Wireless Network and Data Services. Failure to comply with a Customer Agreement may (at Sprint's discretion) result in termination of services. For example, as stated in the attached Agreement (Exhibit H):

To ensure the activities of some users do not impair the ability of our customers to have access to reliable services provided at reasonable costs, you may not use our services in a manner that is unlawful, infringes on intellectual property rights, or harms or unduly interferes with the use of Sprint's network or systems. Sprint reserves the right, without notice or limitation, to limit data throughput speeds or quantities or to deny, terminate, end, modify, disconnect, or suspend service if an individual engages in any of the prohibited voice or data uses detailed below or if Sprint, in its sole discretion, determines action is necessary to protect its wireless networks from harm or degradation.

40. Sprint and its customers have been and now are jointly infringing the '288 patent in the State of Nebraska, in this judicial district, and elsewhere in the United States, by implementing and using systems and methods for controlling access to Sprint's protected computer resources as claimed in the '288 patent.

41. Prism has been injured by Sprint's infringing activities, and is entitled to recover money damages from Sprint adequate to compensate it for Sprint's infringement, but in no event less than a reasonable royalty together with interest and costs as fixed by the Court, and Prism will continue to suffer damages in the future unless Sprint's infringing activities are enjoined by this Court.

42. Unless a permanent injunction is issued enjoining Sprint and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '288 patent, Prism will be greatly and irreparably harmed.

**COUNT II**  
**INDIRECT CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 7,290,288**

43. Prism re-alleges and incorporates by reference the allegations set forth in Paragraphs 1 through 42 above as if fully set forth herein.

44. On information and belief, when Sprint sells Data Enabled Wireless Devices to customers, Sprint also sells a Data Plan that allows his or her device to access Sprint's Wireless Network and Data Services.

45. On information and belief, the Data Enabled Wireless Devices sold by Sprint necessarily include software and hardware that allows the device to use Sprint's authentication systems and methods controlling access to Sprint's Wireless Network and Data Services. On information and belief, a Data Enabled Wireless Device includes software controlled by Sprint to

ensure that the Data Enabled Wireless Device attempts to access Sprint's Wireless Network and Data Services when the Data Enabled Wireless Device is powered-on.

46. On information and belief, these Data Enabled Wireless Devices are specifically designed to work with Sprint's Wireless Network, Data Services and Authentication Systems and have no substantial non-infringing use as sold and authorized by Sprint.

47. Sprint has been and now is indirectly infringing the '288 patent (by contributory infringement) in the State of Nebraska, in this judicial district, and elsewhere in the United States, by making, using, selling and offering to sell Data Enabled Wireless Devices that use and practice the systems and methods claimed in the '288 patent.

48. Prism has been injured by Sprint's infringing activities, and is entitled to recover money damages from Sprint adequate to compensate it for Sprint's infringement, but in no event less than a reasonable royalty together with interest and costs as fixed by the Court, and Prism will continue to suffer damages in the future unless Sprint's infringing activities are enjoined by this Court.

49. Unless a permanent injunction is issued enjoining Sprint and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '288 patent, Prism will be greatly and irreparably harmed.

**COUNT III**  
**INDIRECT INDUCEMENT OF INFRINGEMENT OF U.S. PATENT NO. 7,290,288**

50. Prism re-alleges and incorporates by reference the allegations set forth in Paragraphs 1 through 49 above as if fully set forth herein.

51. On information and belief, Sprint sells Data Enabled Wireless Devices at prices below Sprint's cost to attract and induce new customers to subscribe to Sprint's Wireless Network and Data Services. Sprint offers, sells and markets these Data Enabled Wireless

Devices through its web site and through various channels including Sprint agents and other third parties. Further, on information and belief, Sprint sells accessories, such as carrying cases, hands-free devices, batteries, battery chargers and other items to Sprint customers, to Sprint agents and other third-party distributors for resale so that they may be used by Sprint customers (with Data Enabled Device) who access Sprint's Wireless Networks and Data Services.

52. On information and belief, Sprint markets and sells Data Services and Data Enabled Wireless Devices, targeting groups of retail subscribers: individual consumers, businesses and governments. On information and belief, Sprint uses a variety of sales channels to attract new subscribers of wireless services, including: direct sales representatives whose efforts are focused on marketing and selling wireless data communication services, primarily to mid-sized to large businesses and government agencies; retail outlets owned and operated by or on behalf of Sprint, that focus on sales to the consumer market as well as third-party retailers; indirect sales agents that primarily consist of local and national non-affiliated dealers and independent contractors that market and sell services to businesses and the consumer market, and are generally paid through commissions; and subscriber-convenient channels, including web sales and telesales.

53. On information and belief, on April 4, 2012, Prism filed a complaint against Sprint alleging infringement of the '288 patent and '345 patent. On April 7, 2012, Sprint received a copy of the April 4, 2012 Complaint and has known of the '288 patent.

54. On information and belief, to the extent others, such as Sprint's customers (and their Data Enabled Devices), are acting with Sprint to use systems and methods for accessing Sprint's Wireless Networks and Data Services, Sprint controls the design, function and operation of its Wireless Networks, including Data Enabled Devices, to ensure that customers' Data

Enabled Devices will work with Sprint's Wireless Network and Data Services. For example, as illustrated in Customer Agreements, Sprint requires that customers use Data Enabled Devices that use Sprint's systems and methods for controlling access to Sprint's Wireless Network. Further, on information and belief, Sprint, at least as early as April 7, 2012, has induced and continued to induce others, including its customers, to use Data Enabled Devices to practice one or more steps of the methods claimed in the '288 patent.

55. Sprint has been, at least as early as April 7, 2012, and now is indirectly infringing the '288 patent (by inducement) in the State of Nebraska, in this judicial district, and elsewhere in the United States, by inducing its customers, in combination with Sprint, to continue to use Data Enabled Devices and practice the methods claimed in the '288 patent. Further, on information and belief, at least as early as April 7, 2012, Sprint has recklessly, knowingly, and willfully continued to implement and use systems and methods claimed in the '288 patent and '345 patent to control access to its wireless network and data connection service despite knowing of its infringing activity.

56. On information and belief, this use of Sprint's Authentication Systems by Sprint and its customers have occurred and will continue to occur at Sprint's active behest, and with its intent, knowledge and encouragement, and with Sprint's aid and support to its customers, with knowledge that it is in contravention of Prism's rights under the '288 patent.

57. Prism has been injured by Sprint's infringing activities, and is entitled to recover money damages from Sprint adequate to compensate it for Sprint's infringement, but in no event less than a reasonable royalty together with interest and costs as fixed by the Court, and Prism will continue to suffer damages in the future unless Sprint's infringing activities are enjoined by this Court.

58. Unless a permanent injunction is issued enjoining Sprint and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '288 patent, Prism will be greatly and irreparably harmed.

**COUNT IV**  
**DIRECT INFRINGEMENT OF U.S. PATENT NO. 8,127,345**

59. Prism re-alleges and incorporates by reference the allegations set forth in Paragraphs 1 through 58 above as if fully set forth herein.

60. On information and belief, Sprint's Wireless Network and Data Services use authentication methods that are claimed in the '345 patent, including at least claims 1 and 49.

61. Sprint has been and now is directly infringing the '345 patent in the State of Nebraska, in this judicial district, and elsewhere in the United States, by implementing authentication systems and methods for controlling access to protected computer resources as claimed in the '345 patent.

62. To the extent others are acting with Sprint to use the systems and methods for controlling access to Sprint's Wireless Network and Data Services, Sprint is the mastermind behind the use of the systems and methods that are implemented for controlling access to Sprint's Wireless Network and Data Services. For example, on information and belief, Sprint requires that Data Enabled Wireless Devices include identity data that is transmitted to Sprint's Wireless Network so that Sprint's Authentication Systems can control and limit "use [of Sprint] services in a manner that is unlawful [or] infringes on intellectual property rights...." (Exhibit H).

63. Further, on information and belief, through its Customer Agreements, Sprint requires that all customer subscribing to a Data Plan use a Data Enabled Wireless Device that works with Sprint's Wireless Network, Data Services and Authentication Systems. Failure to

comply with a Customer Agreement may (at Sprint's discretion) result in termination of services.

For example, as stated in the attached Agreement (Exhibit H), Sprint states:

To ensure the activities of some users do not impair the ability of our customers to have access to reliable services provided at reasonable costs, you may not use our services in a manner that is unlawful, infringes on intellectual property rights, or harms or unduly interferes with the use of Sprint's network or systems. Sprint reserves the right, without notice or limitation, to limit data throughput speeds or quantities or to deny, terminate, end, modify, disconnect, or suspend service if an individual engages in any of the prohibited voice or data uses detailed below or if Sprint, in its sole discretion, determines action is necessary to protect its wireless networks from harm or degradation.

64. Sprint and its customers have been and now are jointly infringing the '345 patent in the State of Nebraska, in this judicial district, and elsewhere in the United States, by implementing and using authentication systems and methods for controlling access to protected computer resources as claimed in the '345 patent.

65. Prism has been injured by Sprint's infringing activities, and is entitled to recover money damages from Sprint adequate to compensate it for Sprint's infringement, but in no event less than a reasonable royalty together with interest and costs as fixed by the Court, and Prism will continue to suffer damages in the future unless Sprint's infringing activities are enjoined by this Court.

66. Unless a permanent injunction is issued enjoining Sprint and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '345 patent, Prism will be greatly and irreparably harmed.

**COUNT V**  
**INDIRECT CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 8,127,345**

67. Prism re-alleges and incorporates by reference the allegations set forth in Paragraphs 1 through 66 above as if fully set forth herein.

68. When Sprint sells Data Enabled Wireless Devices to customers, Sprint also sells a Data Plan that allows his or her device to access Sprint's Wireless Network and Data Services.

69. On information and belief, the Data Enabled Wireless Devices sold by Sprint necessarily include software and hardware that allows the device to use Sprint's authentication systems and methods controlling access to Sprint's Wireless Network and Data Services. On information and belief, a Data Enabled Wireless Device includes software controlled by Sprint to ensure that the Data Enabled Wireless Device attempts to access Sprint's Wireless Network and Data Services when the Data Enabled Wireless Device is powered-on.

70. On information and belief, these Data Enabled Wireless Device are specifically designed to work with Sprint's Wireless Network, Data Services and Authentication Systems and have no substantial non-infringing use as sold and authorized by Sprint.

71. Sprint has been and now is indirectly infringing the '345 patent (by contributory infringement) in the State of Nebraska, in this judicial district, and elsewhere in the United States, by making, using, selling and offering to sell Data Enabled Wireless Devices that use and practice the systems and methods claimed in the '345 patent.

72. Prism has been injured by Sprint's infringing activities, and is entitled to recover money damages from Sprint adequate to compensate it for Sprint's infringement, but in no event less than a reasonable royalty together with interest and costs as fixed by the Court, and Prism will continue to suffer damages in the future unless Sprint's infringing activities are enjoined by this Court.

73. Unless a permanent injunction is issued enjoining Sprint and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '345 patent, Prism will be greatly and irreparably harmed.



**COUNT VI**  
**INDIRECT INDUCEMENT OF INFRINGEMENT OF U.S. PATENT NO. 8,127,345**

74. Prism re-alleges and incorporates by reference the allegations set forth in Paragraphs 1 through 73 above as if fully set forth herein.

75. On information and belief, Sprint sells Data Enabled Wireless Devices at prices below Sprint's cost to attract and induce new customers to subscribe to Sprint's Wireless Network and Data Services. Sprint offers, sells and markets these Data Enabled Wireless Devices through its web site and through various channels including Sprint agents and other third parties. Further, on information and belief, Sprint sells accessories, such as carrying cases, hands-free devices, batteries, battery chargers and other items to Sprint customers, to Sprint agents and other third-party distributors for resale so that they may be used by Sprint customers (with Data Enabled Device) who access Sprint's Wireless Networks and Data Services.

76. Sprint markets and sells Data Services and Data Enabled Wireless Devices, targeting groups of retail subscribers: individual consumers, businesses and government. On information and belief, Sprint uses a variety of sales channels to attract new subscribers of wireless services, including: direct sales representatives whose efforts are focused on marketing and selling wireless data communication services; primarily to mid-sized to large businesses and government agencies, retail outlets owned and operated by or on behalf of Sprint, that focus on sales to the consumer market as well as third-party retailers; indirect sales agents that primarily consist of local and national non-affiliated dealers and independent contractors that market and sell services to businesses and the consumer market, and are generally paid through commissions; and subscriber-convenient channels, including web sales and telesales.

77. On information and belief, on April 4, 2012, Prism filed a complaint against Sprint alleging infringement of the '288 patent and '345 patent. On April 7, 2012, Sprint received a copy of the April 4, 2012 Complaint and has known of the '345 patent.

78. On information and belief, to the extent others, such as Sprint's customers (and their Data Enabled Devices), are acting with Sprint to use systems and methods for accessing Sprint's Wireless Networks and Data Services, Sprint controls the design, function and operation of its Wireless Networks, including Data Enabled Devices, to ensure that customers' Data Enabled Devices will work with Sprint's Wireless Network and Data Services. For example, as illustrated in Customer Agreements, Sprint requires that customers use Data Enabled Devices that use Sprint's systems and methods for controlling access to Sprint's Wireless Network. Further, on information and belief, Sprint, at least as early as April 7, 2012, has induced and continued to induce others, including its customers, to use Data Enabled Devices to practice one or more steps of the methods claimed in the '345 patent.

79. Sprint has been, at least as early as April 7, 2012, and now is indirectly infringing the '345 patent (by inducement) in the State of Nebraska, in this judicial district, and elsewhere in the United States, by inducing its customers, in combination with Sprint, to continue to use Data Enabled Devices and practice the methods claimed in the '345 patent. Further, on information and belief, at least as early as April 7, 2012, Sprint has recklessly, knowingly, and willfully continued to implement and use systems and methods claimed in the '288 patent and '345 patent to control access to its wireless network and data connection service despite knowing of its infringing activity.

80. On information and belief, this use of Sprint's Authentication Systems by Sprint and its customers have occurred and will continue to occur at Sprint's active behest, and with its

intent, knowledge and encouragement, and with Sprint's aid and support to its customers, with knowledge that it is in contravention of Prism's rights under the '345 patent.

81. Prism has been injured by Sprint's infringing activities, and is entitled to recover money damages from Sprint adequate to compensate it for Sprint's infringement, but in no event less than a reasonable royalty together with interest and costs as fixed by the Court, and Prism will continue to suffer damages in the future unless Sprint's infringing activities are enjoined by this Court.

82. Unless a permanent injunction is issued enjoining Sprint and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '345 patent, Prism will be greatly and irreparably harmed.

**COUNT VII**  
**DIRECT INFRINGEMENT OF U.S. PATENT NO. 8,387,155**

83. Prism re-alleges and incorporates by reference the allegations set forth in Paragraphs 1 through 82 above as if fully set forth herein.

84. Sprint has been and now is directly infringing the '155 patent in the State of Nebraska, in this judicial district, and elsewhere in the United States, by implementing authentication systems for controlling access to protected computer resources as claimed in the '155 patent.

85. To the extent others are acting with Sprint to use the systems for controlling access to Sprint's Wireless Network and Data Services, Sprint is the mastermind behind the use of the systems that are implemented for controlling access to Sprint's Wireless Network and Data Services. For example, on information and belief, Sprint requires that Data Enabled Wireless Devices include identity data that is transmitted to Sprint's Wireless Network so that

Sprint's Authentication Systems can control and limit "use [of Sprint] services in a manner that is unlawful [or] infringes on intellectual property rights...." (Exhibit H).

86. Further, on information and belief, through its Customer Agreements, Sprint requires that all customer subscribing to a Data Plan use a Data Enabled Wireless Device that works with Sprint's Wireless Network, Data Services and Authentication Systems. Failure to comply with a Customer Agreement may (at Sprint's discretion) result in termination of services.

For example, as stated in the attached Agreement (Exhibit H), Sprint states:

To ensure the activities of some users do not impair the ability of our customers to have access to reliable services provided at reasonable costs, you may not use our services in a manner that is unlawful, infringes on intellectual property rights, or harms or unduly interferes with the use of Sprint's network or systems. Sprint reserves the right, without notice or limitation, to limit data throughput speeds or quantities or to deny, terminate, end, modify, disconnect, or suspend service if an individual engages in any of the prohibited voice or data uses detailed below or if Sprint, in its sole discretion, determines action is necessary to protect its wireless networks from harm or degradation.

87. Sprint and its customers have been and now are jointly infringing the '155 patent in the State of Nebraska, in this judicial district, and elsewhere in the United States, by implementing and using authentication systems for controlling access to protected computer resources as claimed in the '155 patent.

88. Prism has been injured by Sprint's infringing activities, and is entitled to recover money damages from Sprint adequate to compensate it for Sprint's infringement, but in no event less than a reasonable royalty together with interest and costs as fixed by the Court, and Prism will continue to suffer damages in the future unless Sprint's infringing activities are enjoined by this Court.

89. Unless a permanent injunction is issued enjoining Sprint and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '155 patent, Prism will be greatly and irreparably harmed.

**COUNT VIII**  
**INDIRECT CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 8,387,155**

90. Prism re-alleges and incorporates by reference the allegations set forth in Paragraphs 1 through 89 above as if fully set forth herein.

91. When Sprint sells Data Enabled Wireless Devices to customers, Sprint also sells a Data Plan that allows his or her device to access Sprint's Wireless Network and Data Services.

92. On information and belief, the Data Enabled Wireless Devices sold by Sprint necessarily include software and hardware that allows the device to use Sprint's authentication systems controlling access to Sprint's Wireless Network and Data Services. On information and belief, a Data Enabled Wireless Device includes software controlled by Sprint to ensure that the Data Enabled Wireless Device attempts to access Sprint's Wireless Network and Data Services when the Data Enabled Wireless Device is powered-on.

93. On information and belief, these Data Enabled Wireless Device are specifically designed to work with Sprint's Wireless Network, Data Services and Authentication Systems and have no substantial non-infringing use as sold and authorized by Sprint.

94. Sprint has been and now is indirectly infringing the '155 patent (by contributory infringement) in the State of Nebraska, in this judicial district, and elsewhere in the United States, by making, using, selling and offering to sell Data Enabled Wireless Devices that use and practice the systems claimed in the '155 patent.

95. Prism has been injured by Sprint's infringing activities, and is entitled to recover money damages from Sprint adequate to compensate it for Sprint's infringement, but in no event

less than a reasonable royalty together with interest and costs as fixed by the Court, and Prism will continue to suffer damages in the future unless Sprint's infringing activities are enjoined by this Court.

96. Unless a permanent injunction is issued enjoining Sprint and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '155 patent, Prism will be greatly and irreparably harmed.

**PRAYER FOR RELIEF**

Wherefore, Prism respectfully requests judgment in its favor and against Defendant, as follows:

- a. A judgment in favor of Prism that Sprint has infringed the '288 patent;
- b. A judgment in favor of Prism that Sprint has infringed the '345 patent;
- c. A judgment in favor of Prism that Sprint has infringed the '155 patent;
- d. A permanent injunction against Sprint and its respective officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringing the '288 patent.
- e. A permanent injunction against Sprint and its respective officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringing the '345 patent;
- f. A permanent injunction against Sprint and its respective officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringing the '155 patent;

- g. A judgment and order requiring Sprint to pay Prism its damages, costs, expenses, and pre- and post-judgment interest for its infringement of the '288 patent as provided under 35 U.S.C. § 284;
- h. A judgment and order requiring Sprint to pay Prism its damages, costs, expenses, and pre- and post-judgment interest for its infringement of the '345 patent as provided under 35 U.S.C. § 284;
- i. A judgment and order requiring Sprint to pay Prism its damages, costs, expenses, and pre- and post-judgment interest for its infringement of the '155 patent as provided under 35 U.S.C. § 284;
- j. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Prism its reasonable attorneys' fees; and
- k. Such other relief in law and equity as this Court may deem just and proper.

**DEMAND FOR A JURY TRIAL**

Prism demands a trial by jury in Omaha of all issues triable by a jury.

Dated: March 1, 2013

Respectfully submitted,

By: *s/ Daniel J. Fischer*

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 1, 2013 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record.

*s/ Daniel J. Fischer*