

**IN THE UNITED STATE DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

M2M SOLUTIONS LLC,)
a Delaware limited liability company,)
)
Plaintiff,)
)
v.)
)
ENFORA, INC., a Delaware corporation,)
NOVATEL WIRELESS SOLUTIONS,)
INC., a Delaware corporation, and)
NOVATEL WIRELESS, INC., a)
Delaware corporation,)
)
Defendants.)
_____)

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff M2M Solutions LLC (“M2M Solutions”) brings this action for patent infringement under the laws of the United States relating to patents, 35 U.S.C. §§ 1 et seq., against Defendants Enfora, Inc., Novatel Wireless Solutions, Inc., and Novatel Wireless, Inc. (collectively, “Enfora/Novatel”), hereby alleging as follows:

THE PARTIES

1. Plaintiff M2M Solutions is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at P.O. Box 541, Shepherdstown, WV 25443-0541.
2. Upon information and belief, Defendant Enfora, Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 251 Renner Pkwy, Richardson, Texas 75080. Upon information and belief, Enfora, Inc. is a wholly-owned subsidiary of Defendant Novatel Wireless, Inc., and has appointed The Corporation Trust

Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801 as its registered agent for service of process.

3. Upon information and belief, Defendant Novatel Wireless Solutions, Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 9645 Scranton Road, San Diego, California 92121. Upon information and belief, Novatel Wireless Solutions, Inc. is a wholly-owned subsidiary of Defendant Novatel Wireless, Inc., and has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington Delaware 19801 as its registered agent for service of process.

4. Upon information and belief, Defendant Novatel Wireless, Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 9645 Scranton Road, San Diego, California 92121. Upon information and belief, Novatel Wireless, Inc. is the ultimate parent company of Defendants Enfora, Inc. and Novatel Wireless Solutions, Inc., and has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801 as its registered agent for service of process.

JURISDICTION AND VENUE

5. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States.

6. Upon information and belief, Enfora/Novatel has submitted to the personal jurisdiction of this Court by committing acts that establish its legal presence within the State of Delaware, including acting directly, and/or through its third-party distribution network, to sell and offer for sale to Delaware residents infringing products and related services that practice, embody, and/or facilitate unauthorized use of the claimed inventions of the patent-in-suit. Upon

information and belief, Enfora/Novatel has also generally acted to place these infringing products and related services into the stream of commerce with the intent, purpose, and reasonably foreseeable result of supplying the Delaware market therewith. Moreover, upon information and belief, Enfora/Novatel has actively induced Delaware residents to use these products and services in an infringing manner by making available and/or disseminating within this judicial district promotional and marketing materials, instructional materials, product manuals, and technical materials illustrating and advocating such infringing uses. By virtue of its above-described actions, Enfora/Novatel has transacted business, performed services, contracted to supply services, caused tortious injury, regularly done or solicited business, engaged in a persistent course of conduct, and/or derived substantial revenues from infringing products and services used in Delaware. In light of Enfora/Novatel's aforementioned contacts with the State of Delaware and its purposeful availment of the rights and benefits of Delaware law, maintenance of this suit would not offend traditional notions of fair play and substantial justice.

7. This Court has further grounds for exercising personal jurisdiction over Defendant Enfora/Novatel America, Inc. because, upon information and belief, it is a Delaware corporation. By virtue of its incorporation under Delaware law, Enfora/Novatel has acquiesced to personal jurisdiction in the courts of the State of Delaware.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b) because, *inter alia*, a substantial part of the events or omissions giving rise to the claims occurred in this judicial district, Enfora/Novatel is subject to personal jurisdiction in and therefore resides in this judicial district, and Enfora/Novatel has committed acts of patent infringement and has a regular presence in this judicial district.

THE PATENTS-IN-SUIT

9. On February 11, 2014, United States Patent No. 8,648,717 (the “’717 patent-in-suit”), entitled “Programmable Communicator,” was duly and legally issued by the United States Patent and Trademark Office to inventor Eveline Wesby-van Swaay. M2M Solutions is the sole owner by assignment of the entire rights, title, and interest in and to the ’717 patent-in-suit, including the rights to sue and recover for damages for any past, current, or future infringements thereof. A true and correct copy of the ’717 patent-in-suit is attached hereto as Exhibit A.

10. The claimed inventions of the ’717 patent-in-suit relate in relevant part to wireless modules and related devices designed and intended for use in machine-to-machine (“M2M”) communications. So-called M2M communications encompass a variety of applications in which one machine is able to remotely monitor a second machine in a relatively autonomous fashion by communicating with or through a wireless module that is embedded in or otherwise linked to that second machine. By way of limited examples, M2M applications are prevalent in the fields of automated meter reading, asset tracking and fleet management, automotive telematics, commercial and residential security systems, wireless telemedicine and healthcare devices, industrial automation and controls, remote information displays and digital signage, and the remote control of certain consumer devices and appliances, point of sale payment systems, vending machines, kiosks, and ATM and banking machines.

11. Enfora/Novatel became aware of the allowance of the ’717 patent-in-suit by not later than the December 19, 2013 date on which e-mail notification regarding said patent was provided to Mikal Condon, Christopher Hanba, Michael Bettinger, Irene Yang, Holly Hogan, Eric Rusnak, and Francis DiGiovanni, Counsel for Enfora/Novatel in C.A. No. 12-032, currently

pending in this District. Enfora/Novatel has been aware of the existence of the '717 patent since the date it first issued on February 11, 2014.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 8,648,717

12. M2M Solutions realleges and incorporates by reference each and every allegation of Paragraphs 1-11 above as if fully set forth herein.

13. Enfora/Novatel has directly infringed, and continues to directly infringe, one or more claims of the '717 patent-in-suit under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by without authority making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, its intelligent embedded wireless module products, related intelligent mobile tracking device products, and related services that are designed and promoted for use in M2M communications applications, and that embody and/or practice the inventions of one or more claims of the '717 patent-in-suit.

14. Enfora/Novatel has had actual and/or constructive knowledge of the existence of the '717 patent-in-suit since at least February 11, 2014 for the reasons detailed above in Paragraph 11. In addition, Enfora/Novatel will receive further confirmatory notice as to the existence of the '717 patent-in-suit upon the service of this Complaint by M2M Solutions at the addresses referenced herein, concurrently with this filing.

15. With knowledge of the '717 patent-in-suit, Enfora/Novatel has indirectly infringed, and continues to indirectly infringe, one or more claims thereof under 35 U.S.C. § 271(b) through the active inducement of direct infringement by intending to encourage, and in fact encouraging, its customers to configure Enfora/Novatel's intelligent embedded wireless module products and related intelligent mobile tracking device products in an infringing manner that embodies and/or practices the claimed inventions of the '717 patent-in-suit, and to without

authority use, import, offer for sale, and/or sell those products so configured within or into the United States. Enfora/Novatel has actively induced direct infringement by, *inter alia*, designing and introducing into the stream of commerce its intelligent embedded wireless module products and related intelligent mobile tracking device products suitable for infringing uses in M2M communications applications, by publishing manuals and promotional literature describing and instructing the configuration and operation of those products in an infringing manner by its customers, and by offering support and technical assistance to its customers that encourage use of those products in ways that directly infringe one or more claims of the '717 patent-in-suit. Upon information and belief, Enfora/Novatel has performed the acts that constitute inducement of infringement with the knowledge or willful blindness that the acts induced thereby would constitute direct infringement by its customers.

16. Enfora/Novatel has also indirectly infringed, and continues to indirectly infringe, one or more claims of the '717 patent-in-suit under 35 U.S.C. § 271(c) by selling, offering for sale, and/or importing its intelligent embedded wireless module products and related intelligent mobile tracking device products within or into the United States knowing that those products are especially made or especially adapted for use in direct infringements of the '717 patent-in-suit by its customers, and knowing that those products are not a staple article or commodity of commerce suitable for substantial noninfringing use.

17. Upon information and belief, Enfora/Novatel's acts of infringing the '717 patent-in-suit have been willful and undertaken in knowing and deliberate disregard of M2M Solutions' patent rights.

18. M2M Solutions has been and continues to be damaged by Enfora/Novatel's infringements of the '717 patent-in-suit in an amount to be determined at trial.

19. M2M Solutions has suffered irreparable injury for which there is no adequate remedy at law, and will continue to suffer such irreparable injury, unless Enfora/Novatel's infringements of the '717 patent-in-suit are enjoined by this Court.

20. Upon information and belief, Enfora/Novatel's willful infringements, together with its other potential conduct in this action, have or will render this case exceptional under 35 U.S.C. § 285 and thereby entitle M2M Solutions to recovery of its attorneys' fees and costs incurred in prosecuting this action.

PRAYER FOR RELIEF

WHEREFORE, M2M Solutions respectfully requests that this Court enter a judgment in its favor and against Enfora/Novatel as follows:

(a) Declaring that Enfora/Novatel has directly infringed, induced others to infringe, and/or committed acts of contributory infringement with regard to one or more claims of the '717 patent-in-suit;

(b) Awarding damages adequate to fully compensate M2M Solutions within the meaning of 35 U.S.C. § 284 for the past acts of infringement committed by Enfora/Novatel, as well as any applicable prejudgment and post-judgment interest thereon at the maximum rates allowed by law;

(c) Awarding an accounting and supplemental damages adequate to fully compensate M2M Solutions within the meaning of 35 U.S.C. § 284 for any continuing or future acts of infringement committed by Enfora/Novatel subsequent to the discovery cut-off date in this action, as well as any applicable prejudgment and post-judgment interest thereon at the maximum rates allowed by law;

(d) Awarding treble or otherwise enhanced damages to M2M Solutions pursuant to 35 U.S.C. § 284 for the acts of willful infringement committed by Enfora/Novatel, as well as any applicable prejudgment and post-judgment interest thereon at the maximum rates allowed by law;

(e) Declaring that this action is exceptional within the meaning of 35 U.S.C. § 285, and concomitantly awarding M2M Solutions its attorneys' fees as the prevailing party in this action, as well as any applicable prejudgment and post-judgment interest thereon at the maximum rates allowed by law;

(f) Awarding M2M Solutions its costs and expenses incurred in this action;

(g) Ordering that Enfora/Novatel and its parents, subsidiaries, affiliates, successors, predecessors, assigns, and the officers, directors, agents, servants and employees of each of the foregoing, customers and/or licensees, and those persons acting in concert or participation with any of them, be preliminarily and permanently enjoined and restrained from continued infringement, including but not limited to using, making, offering for sale, and/or selling within the United States, and/or importing into the United States, products and related services that infringe the '717 patent-in-suit, and from contributing to and/or inducing the infringement by others of the '717 patent-in-suit, at all times prior to its expiration, including any extensions thereof; and

(h) Awarding any further relief to M2M Solutions that this Court deems just and proper.

DEMAND FOR JURY TRIAL

M2M Solutions demands a jury trial as to all issues arising in this action that are so triable.

Dated: August 26, 2014

BAYARD, P.A.

OF COUNSEL:

Marc N. Henschke
FOLEY & LARDNER LLP
111 Huntington Avenue, Suite 2600
Boston, MA 02199
(617) 342-4000
mhenschke@foley.com

Jeffrey N. Costakos
FOLEY & LARDNER LLP
777 E Wisconsin Avenue
Milwaukee, WI 53202
(414) 271-2400
jcostakos@foley.com

Jason J. Keener
Jeffrey J. Mikrut
Matthew J. Shin
FOLEY & LARDNER LLP
321 North Clark Street
Chicago, IL 60654
(312) 832-4500
jkeener@foley.com
jmikrut@foley.com
mshin@foley.com

/s/ Richard D. Kirk
Richard D. Kirk (rk0922)
Stephen B. Braerman (sb4952)
Vanessa R. Tiradentes (vt5398)
Sara E. Bussiere (sb5725)
222 Delaware Avenue, Suite 900
Wilmington, DE 19801
(302) 655-5000
rkirk@bayardlaw.com
sbraerman@bayardlaw.com
vtiradentes@bayardlaw.com
sbussiere@bayardlaw.com

Attorneys for M2M SOLUTIONS LLC