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8 Attorneys for Plaintiffs
NOVATEL WIRELESS, INC. and
9 NOVATEL WIRELESS SOLUTIONS, INC.

10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 NOVATEL WIRELESS, INC., a Delaware
14 corporation, and NOVATEL WIRELESS
SOLUTIONS, INC., a Delaware
15 corporation,

16 Plaintiffs,

17 v.

18 ZTE CORP., a China corporation, and ZTE
19 (USA), Inc., a New Jersey corporation,

20 Defendants.

Case No. **'12CV2576 BEN KSC**

**COMPLAINT FOR PATENT
INFRINGEMENT**

Jury Trial Demanded

21 Plaintiffs Novatel Wireless, Inc. and Novatel Wireless Solutions, Inc. hereby complain of
22 Defendants ZTE Corp., and ZTE (USA), Inc. (collectively, "Defendants"), and by this Complaint
23 alleges as follows:

24 **THE PARTIES**

25 1. Novatel Wireless, Inc. is a Delaware corporation with its headquarters and principal
26 place of business at 9645 Scranton Road, Suite 205, San Diego, California 92121. Novatel Wireless
27 Solutions, Inc. is a Delaware corporation with its principal place of business at 9645 Scranton Road,
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1 Suite 205, San Diego, California 92121, and is a wholly owned subsidiary of Novatel Wireless, Inc.
2 Novatel Wireless, Inc. and Novatel Wireless Solutions, Inc. are collectively referred to herein as
3 “Novatel Wireless.”

4 2. Novatel Wireless is a leading provider of wireless broadband access for the world
5 wide mobile communications market. Novatel Wireless pioneered and introduced the industry’s
6 first Intelligent Mobile Data Hotspot, the Novatel Wireless MiFi®, which creates a personal cloud of
7 high-speed internet connectivity that can be easily shared among multiple users. Novatel Wireless is
8 the owner by assignment of U.S. Patent No. 8,208,517 (“the ‘517 patent” or “the Asserted Patent”).

9 3. ZTE Corp. (“ZTE”) is a China corporation with its principal place of business at
10 ZTE Plaza, Keji Road South, Hi-tech Industrial Park, Nanshan District, Shenzhen, Guangdong,
11 China 51807. ZTE is a provider of telecommunications equipment and network solutions.

12 4. ZTE conducts business in the United States through its wholly-owned U.S. entity
13 ZTE (USA), Inc. (“ZTE USA”).

14 5. ZTE USA is currently under criminal investigation by the United States
15 Department of Commerce (“DOC”), United States’ Attorney General’s Office (“AG”), Federal
16 Bureau of Investigation (“FBI”) and the United States House of Representatives Permanent Select
17 Committee on Intelligence (“SCI”) in connection with the sale of goods by ZTE USA to Iran.

18 6. Upon information and belief, ZTE USA conducts research and development
19 activities, with respect to the infringing products, at its facilities in the Southern District of
20 California at 10105 Pacific Heights Boulevard, Suite 250, San Diego, California 92121.

21 **JURISDICTION AND VENUE**

22 7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

23 8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(d) and 1400(b).
24 Defendant ZTE USA resides in this District. Defendant ZTE is an alien that conducts business
25 in this District through its wholly-owned subsidiary ZTE USA. A substantial part of the
26 infringing conduct giving rise to this Complaint has occurred in this District. The patent at issue
27 in this Complaint is owned by, and assigned to, Novatel Wireless, which is headquartered in this
28 District.

1 **ACCUSED PRODUCTS AND INFRINGEMENT**

2 9. Defendants ZTE and ZTE USA have infringed and continue to infringe the ‘517
3 patent, including at least claim 1 thereof, by using, selling, and/or offering to sell, within the United
4 States, and/or by importing into the United States, products, including, but not limited to, mobile
5 data hot spots and wireless data modems, which embody and/or practice at least claim 1 of the ‘517
6 patent in violation of 35 U.S.C. § 271 (the “Accused Products”). Such ZTE and ZTE USA
7 infringing mobile data hot spots and wireless data modems include at least the 890L mobile hotspot
8 device, marketed by Verizon Wireless as the Verizon Jetpack 890L (the “Verizon 890L Hotspot”).

9 10. The Accused Products have no substantial non-infringing uses. In addition to
10 Defendants’ direct infringement, Defendants’ various distributors and the end users of the Accused
11 Products, including without limitation the ZTE Identified Product, have directly infringed and
12 continue to infringe the ‘517 patent by using, selling, and/or offering to sell the Accused Products
13 within the United States in violation of 35 U.S.C. § 271.

14 **First Claim for Relief**

15 **(Patent Infringement - U.S. Patent No. 8,208,517)**

16 11. Novatel Wireless is the owner by assignment of U.S. Patent No. 8,208,517 (“the ‘517
17 patent”), entitled “Systems And Methods For A Multi-Mode Wireless Modem,” a true copy of
18 which is attached hereto as Exhibit 1. The ‘517 patent was duly and legally issued on June 26, 2012.

19 12. The ‘517 patent is directed to a wireless gateway device which allows multiple
20 wireless devices to access the internet through a wireless communication system.

21 13. Defendants ZTE and ZTE USA have infringed the ‘517 patent, by using, selling,
22 and/or offering to sell, within the United States, and/or by importing into the United States, products,
23 including, but not limited to, mobile data hot spots and wireless data modems, which embody and/or
24 practice at least claim 1 of the ‘517 patent by providing a wireless gateway device which allows
25 multiple wireless devices to access the internet through a wireless communication system in
26 violation of 35 U.S.C. § 271. Such infringing mobile data hot spots and wireless data modems
27 include at least the Verizon 890L Hotspot.

28 14. Defendants’ distributors and end users have directly infringed the ‘517 patent by

1 using, selling, and/or offering to sell within the United States products, including, but not limited to,
2 mobile data hot spots and wireless data modems, which embody and/or practice at least claim 1 of
3 the '517 patent by providing a wireless gateway device which allows multiple wireless devices to
4 access the internet through a wireless communication system in violation of 35 U.S.C. § 271, as
5 alleged above. Such infringing mobile data hot spots and wireless data modems include at least the
6 Verizon 890L Hotspot.

7 15. As a result of Defendants' infringement, Novatel Wireless has suffered, and will
8 continue to suffer, substantial damages. Novatel Wireless will also suffer irreparable harm unless
9 Defendants' infringement is enjoined by this Court.

10 **WHEREFORE**, Novatel Wireless requests that the Court:

- 11 1. Adjudge that ZTE and ZTE USA has infringed and continues to infringe the '517
12 patent;
- 13 2. Preliminarily and permanently enjoin ZTE and ZTE USA from further infringement
14 of the '517 patent;
- 15 3. Award Novatel Wireless compensatory damages;
- 16 4. Award Novatel Wireless its costs and reasonable experts' fees and attorneys' fees;
17 and
- 18 5. Award Novatel Wireless such other relief as the Court deems just and proper.

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21 Dated: October 22, 2012

K&L GATES LLP

22
23 By: /s/ Michael J. Bettinger
Michael J. Bettinger

24 *Attorneys for Plaintiffs Novatel Wireless, Inc.*
25 *and Novatel Wireless Solutions, Inc.*
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REQUEST FOR TRIAL BY JURY

Plaintiff claims trial by jury on all issues so triable.

Dated: October 22, 2012

K&L GATES LLP

By: /s/ Michael J. Bettinger
Michael J. Bettinger

*Attorneys for Plaintiff Novatel Wireless, Inc
and Novatel Wireless Solutions, Inc.*