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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SOUTHERN DIVISION**

SACV12 - 02006 RNB

11 INNOVATIVE COMMUNICATIONS,
12 LLC,

13 Plaintiff,

14 v.

15 D-LINK SYSTEMS, INC.,
16

17 Defendant.

Case No. _____

**PLAINTIFF INNOVATIVE
COMMUNICATIONS, LLC
ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT AND
DEMAND FOR JURY TRIAL**

JURY TRIAL DEMANDED

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19 Plaintiff Innovative Communications, LLC (“Innovative Communications”), by way
20 of its Complaint against Defendant D-Link Systems, Inc. (“Defendant”) hereby alleges as
21 follows:

22 **NATURE OF THE ACTION**

23 1. This is an action for patent infringement of U.S. Patent No. 5,559,791; U.S.
24 Patent No. 5,436,930; U.S. Patent No. 5,475,691; and U.S. Patent No. 5,475,713, arising
25 under 35 U.S.C. §§ 1, *et seq.*

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FILED
2012 NOV 16 AM 10:13
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

1 **THE PARTIES**

2 2. Plaintiff Innovative Communications is a limited liability company organized
3 under the laws of Delaware with a place of business at 1209 Orange Street, Wilmington,
4 Delaware 19801.

5 3. Defendant D-Link Systems, Inc. is a corporation organized under the laws of
6 California with its principal place of business at 17595 Mount Herrmann Street, Fountain
7 Valley, California 92708, and who can be served by its agent for service of process, Brett
8 Adair, 17595 Mount Herrmann Street, Fountain Valley, California 92708.

9 **JURISDICTION AND VENUE**

10 4. This is an action for patent infringement arising under the patent laws of the
11 United States, Title 35 of the United States Code.

12 5. This Court has jurisdiction over the subject matter of this action under 28
13 U.S.C. §§ 1331 and 1338(a).

14 6. Upon information and belief, Defendant regularly conducts business in this
15 judicial district and has committed acts of patent infringement in this judicial district
16 including, *inter alia*, selling and offering to sell infringing products and services in this
17 judicial district.

18 7. Upon information and belief, Defendant has ongoing and systematic contacts
19 with this judicial district and the United States. In particular, Defendant is incorporated in
20 California with a principal place of business located in this judicial district.

21 8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

22 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,559,791**

23 9. Innovative Communications repeats and realleges the allegations of
24 paragraphs 1 through 8 as though fully set forth herein.

25 10. On September 24, 1996, United States Patent No. 5,559,791 (“the ‘791
26 Patent”), entitled “Compadding of voice signal for simultaneous voice and data
27 transmission,” was duly and legally issued by the United States Patent and Trademark
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1 Office. A true and correct copy of the '791 Patent is attached as Exhibit A to this
2 Complaint.

3 11. Innovative Communications is the assignee and owner of the right, title, and
4 interest in and to the '791 Patent, including the right to assert all causes of action arising
5 under said patent and the right to any remedies for infringement of it.

6 12. In violation of 35 U.S.C. § 271, Defendant has directly infringed and
7 continues to directly infringe, including under the doctrine of equivalents, the '791 Patent
8 by making, using, selling, and/or offering for sale in the United States, including in this
9 Judicial District, networking products capable of providing the simultaneous transmission
10 of audio/voice and data signals, without the authority of Innovative Communications.

11 13. The '791 Accused Products and Services include, but are not limited to D-
12 Link Systems, Inc.'s "DFM-560E+" products and D-Link Systems, Inc.'s support services
13 which utilize those products and services.

14 14. Innovative Communications provided actual notice to Defendant of its
15 infringement of the '791 Patent in a letter sent by certified mail on November 2, 2012.

16 15. Defendant has had actual knowledge of the '791 Patent and its infringement of
17 the patent since at least the date that it received the November 2, 2012, letter.

18 16. Upon information and belief, Defendant has committed and continues to
19 commit acts of contributory infringement of the '791 Patent under 35 U.S.C. § 271(c) by
20 selling, offering to sell, and/or importing products including the '791 Accused Services and
21 Products for the '791 Patent, knowing or willfully blind to the fact that these products and
22 services constitute a material part of the invention, were especially made or especially
23 adapted for use in an infringement of the '791 Patent, and have no substantial non-
24 infringing uses.

25 17. In particular, the '791 Accused Services and Products for the '791 Patent
26 constitute a material part of the claimed invention at least because the products include
27 modem devices capable of the simultaneous transmission of audio/voice and data signals.

1 The '791 Accused Services and Products for the '791 Patent were made or especially
2 adapted for use in an infringement of the '791 Patent and have no substantial non-
3 infringing uses at least because they contain components whose only purpose is to
4 implement the sending and/or receiving of simultaneous audio/voice and data signals.

5 18. Upon information and belief, since at least the date it received the notice letter
6 from Innovative Communications notifying Defendant that the receiving simultaneous
7 audio/voice and data signals feature in its products and services infringed the '791 Patent,
8 Defendant has induced and continues to induce others to infringe the '791 Patent under 35
9 U.S.C. § 271(b) by, among other things, and with specific intent, actively and knowingly
10 aiding and abetting others to infringe, including, but not limited to, Defendant's customers
11 whose use of the '791 Accused Services and Products constitutes direct infringement of the
12 '791 Patent. In particular, Defendant acted with specific intent to make others, such as its
13 customers, infringe by advertising and selling the products and providing information
14 and/or materials demonstrating infringing uses of the products or services. On information
15 and belief, Defendant engaged in such actions with specific intent to cause infringement, or
16 with willful blindness to the resulting infringement, because Defendant has had actual
17 knowledge of the '791 Patent and its acts were inducing its customers to infringe the '791
18 Patent since at least the date it received the notice letter from Innovative Communications
19 notifying Defendant that the sending and/or receiving function in its products and services
20 infringed the '791 Patent.

21 19. Innovative Communications has been harmed by Defendant's infringing
22 activities.

23 20. Innovative Communications has provided notice of infringement of the '791
24 Patent to Defendant, but Defendant thereafter continued to infringe the patent. On
25 information and belief, Defendant's infringement has been and continues to be willful.
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1 **COUNT II – INFRINGEMENT OF U.S. PATENT NO. 5,436,930**

2 21. Innovative Communications repeats and realleges the allegations of
3 paragraphs 1 through 20 as though fully set forth herein.

4 22. On July 25, 1995, United States Patent No. 5,436,930 (“the ‘930 Patent”),
5 entitled “Simultaneous analog and digital communications with a selection of different
6 signal point constellations based on signal energy,” was duly and legally issued by the
7 United States Patent and Trademark Office. A true and correct copy of the ‘930 Patent is
8 attached as Exhibit B to this Complaint.

9 23. Innovative Communications is the assignee and owner of the right, title, and
10 interest in and to the ‘930 Patent, including the right to assert all causes of action arising
11 under said patent and the right to any remedies for infringement of it.

12 24. In violation of 35 U.S.C. § 271, Defendant has directly infringed, and
13 continues to directly infringe, including under the doctrine of equivalents, the ‘930 Patent
14 by making, using, selling, and/or offering for sale in the United States, including in this
15 Judicial District, networking products capable of providing technology involving the
16 simultaneous transmission of audio/voice and data signals, without the authority of
17 Innovative Communications.

18 25. The ‘930 Accused Products and Services include, but are not limited to D-
19 Link Systems, Inc.’s “DFM-560E+” products and D-Link Systems, Inc.’s support services
20 which utilize those products and services.

21 26. Innovative Communications provided actual notice to Defendant of its
22 infringement of the ‘930 Patent in a letter sent by certified mail on November 2, 2012.

23 27. Defendant has had actual knowledge of the ‘930 Patent and its infringement of
24 the patent since at least the date that it received the November 2, 2012, letter.

25 28. Upon information and belief, Defendant has committed and continues to
26 commit acts of contributory infringement of the ‘930 Patent under 35 U.S.C. § 271(c) by
27 selling, offering to sell, and/or importing products including the ‘930 Accused Services and
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1 Products for the '930 Patent, knowing or willfully blind to the fact that these products and
2 services constitute a material part of the invention, were especially made or especially
3 adapted for use in an infringement of the '930 Patent, and have no substantial non-
4 infringing uses.

5 29. In particular, the '930 Accused Services and Products for the '930 Patent
6 constitute a material part of the claimed invention at least because the products include
7 modem devices capable of the simultaneous transmission of audio/voice and data signals.
8 The '930 Accused Services and Products for the '930 Patent were made or especially
9 adapted for use in an infringement of the '930 Patent and have no substantial non-
10 infringing uses at least because they contain components whose only purpose is to
11 implement receiving simultaneous audio/voice and data signals.

12 30. Upon information and belief, since at least the date it received the notice letter
13 from Innovative Communications notifying Defendant that the receiving simultaneous
14 audio/voice and data signals feature in its products and services infringed the '930 Patent,
15 Defendant has induced and continues to induce others to infringe the '930 Patent under 35
16 U.S.C. § 271(b) by, among other things, and with specific intent, actively and knowingly
17 aiding and abetting others to infringe, including, but not limited to, Defendant's customers
18 whose use of the '930 Accused Services and Products constitutes direct infringement of the
19 '930 Patent. In particular, Defendant acted with specific intent to make others, such as its
20 customers, infringe by advertising and selling the products and providing information
21 and/or materials demonstrating infringing uses of the products or services. On information
22 and belief, Defendant engaged in such actions with specific intent to cause infringement, or
23 with willful blindness to the resulting infringement, because Defendant has had actual
24 knowledge of the '930 Patent and its acts were inducing its customers to infringe the '930
25 Patent since at least the date it received the notice letter from Innovative Communications
26 notifying Defendant that the receiving function in its products and services infringed the
27 '930 Patent.

1 31. Innovative Communications has been harmed by Defendant's infringing
2 activities.

3 32. Innovative Communications has provided notice of infringement of the '930
4 Patent to Defendant, but Defendant thereafter continued to infringe the patent. On
5 information and belief, Defendant's infringement has been, and continues to be, willful.

6 **COUNT III – INFRINGEMENT OF U.S. PATENT NO. 5,475,691**

7 33. Innovative Communications repeats and realleges the allegations of
8 paragraphs 1 through 32 as though fully set forth herein.

9 34. On December 12, 1995, United States Patent No. 5,475,691 ("the '691
10 Patent"), entitled "Voice activated data rate change in simultaneous voice and data
11 transmission," was duly and legally issued by the United States Patent and Trademark
12 Office. A true and correct copy of the '691 Patent is attached as Exhibit C to this
13 Complaint.

14 35. Innovative Communications is the assignee and owner of the right, title, and
15 interest in and to the '691 Patent, including the right to assert all causes of action arising
16 under said patent and the right to any remedies for infringement of it.

17 36. In violation of 35 U.S.C. § 271, Defendant has directly infringed and
18 continues to directly infringe, including under the doctrine of equivalents, the '691 Patent
19 by making, using, selling, and/or offering for sale in the United States, including in this
20 Judicial District, networking products capable of providing technology involving the
21 simultaneous transmission of audio/voice and data signals, without the authority of
22 Innovative Communications.

23 37. The '691 Accused Products and Services include, but are not limited to D-
24 Link Systems, Inc.'s "DFM-560E+" products and D-Link Systems, Inc.'s support services
25 which utilize those products and services.

26 38. Innovative Communications provided actual notice to Defendant of its
27 infringement of the '691 Patent in a letter sent by certified mail on November 2, 2012.

1 39. Defendant has had actual knowledge of the '691 Patent and its infringement of
2 the patent since at least the date that it received the November 2, 2012, letter.

3 40. Upon information and belief, Defendant has committed and continues to
4 commit acts of contributory infringement of the '691 Patent under 35 U.S.C. § 271(c) by
5 selling, offering to sell, and/or importing products including the '691 Accused Services and
6 Products for the '691 Patent, knowing or willfully blind to the fact that these products and
7 services constitute a material part of the invention, were especially made or especially
8 adapted for use in an infringement of the '691 Patent, and have no substantial non-
9 infringing uses.

10 41. In particular, the '691 Accused Services and Products for the '691 Patent
11 constitute a material part of the claimed invention at least because the products include
12 modem devices capable of the simultaneous transmission of audio/voice and data signals.
13 The '691 Accused Services and Products for the '691 Patent were made or especially
14 adapted for use in an infringement of the '691 Patent and have no substantial non-
15 infringing uses at least because they contain components whose only purpose is to
16 implement receiving simultaneous audio/voice and data signals.

17 42. Upon information and belief, since at least the date it received the notice letter
18 from Innovative Communications notifying Defendant that the receiving simultaneous
19 audio/voice and data signals feature in its products and services infringed the '691 Patent,
20 Defendant has induced and continues to induce others to infringe the '691 Patent under 35
21 U.S.C. § 271(b) by, among other things, and with specific intent, actively and knowingly
22 aiding and abetting others to infringe, including, but not limited to, Defendant's customers
23 whose use of the '691 Accused Services and Products constitutes direct infringement of at
24 least claim 1 of the '691 Patent. In particular, Defendant acted with specific intent to make
25 others, such as its customers, infringe by advertising and selling the products and providing
26 information and/or materials demonstrating infringing uses of the products or services. On
27 information and belief, Defendant engaged in such actions with specific intent to cause

1 infringement, or with willful blindness to the resulting infringement, because Defendant
2 has had actual knowledge of the '691 Patent and its acts were inducing its customers to
3 infringe the '691 Patent since at least the date it received the notice letter from Innovative
4 Communications notifying Defendant that the receiving function in its products and
5 services infringed the '691 Patent.

6 43. Innovative Communications has been harmed by Defendant's infringing
7 activities.

8 44. Innovative Communications has provided notice of infringement of the '691
9 Patent to Defendant, but Defendant thereafter continued to infringe the patent. On
10 information and belief, Defendant's infringement has been and continues to be willful.

11 **COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 5,475,713**

12 45. Innovative Communications repeats and realleges the allegations of
13 paragraphs 1 through 44 as though fully set forth herein.

14 46. On December 12, 1995, United States Patent No. 5,475,713 ("the '713
15 Patent"), entitled "Shaped signal spaces in a simultaneous voice and data system," was duly
16 and legally issued by the United States Patent and Trademark Office. A true and correct
17 copy of the '713 Patent is attached as Exhibit D to this Complaint.

18 47. Innovative Communications is the assignee and owner of the right, title, and
19 interest in and to the '713 Patent, including the right to assert all causes of action arising
20 under said patent and the right to any remedies for infringement of it.

21 48. In violation of 35 U.S.C. § 271, Defendant has directly infringed and
22 continues to directly infringe, including under the doctrine of equivalents, the '713 Patent
23 by making, using, selling, and/or offering for sale in the United States, including in this
24 Judicial District, networking products capable of providing technology involving the
25 simultaneous transmission of audio/voice and data signals, without the authority of
26 Innovative Communications.

1 49. The '713 Accused Products and Services include, but are not limited to D-
2 Link Systems, Inc.'s "DFM-560E+" products and D-Link Systems, Inc.'s support services
3 which utilize those products and services.

4 50. Innovative Communications provided actual notice to Defendant of its
5 infringement of the '713 Patent in a letter sent by certified mail on November 2, 2012.

6 51. Defendant has had actual knowledge of the '713 Patent and its infringement of
7 the patent since at least the date that it received the November 2, 2012, letter.

8 52. Upon information and belief, Defendant has committed and continues to
9 commit acts of contributory infringement of the '713 Patent under 35 U.S.C. § 271(c) by
10 selling, offering to sell, and/or importing products including the '713 Accused Services and
11 Products, knowing or willfully blind to the fact that these products and services constitute a
12 material part of the invention, were especially made or especially adapted for use in an
13 infringement of the '713 Patent, and have no substantial non-infringing uses.

14 53. In particular, the '713 Accused Services and Products for the '713 Patent
15 constitute a material part of the claimed invention at least because the products include
16 modem devices capable of the simultaneous transmission of audio/voice and data signals.
17 The '713 Accused Services and Products for the '713 Patent were made or especially
18 adapted for use in an infringement of the '713 Patent and have no substantial non-
19 infringing uses at least because they contain components whose only purpose is to
20 implement receiving simultaneous audio/voice and data signals.

21 54. Upon information and belief, since at least the date it received the notice letter
22 from Innovative Communications notifying Defendant that the receiving simultaneous
23 audio/voice and data signals feature in its products and services infringed the '713 Patent,
24 Defendant has induced and continues to induce others to infringe the '713 Patent under 35
25 U.S.C. § 271(b) by, among other things, and with specific intent, actively and knowingly
26 aiding and abetting others to infringe, including, but not limited to, Defendant's customers
27 whose use of the '713 Accused Services and Products constitutes direct infringement of at

1 least claim 1 of the '713 Patent. In particular, Defendant acted with specific intent to make
2 others, such as its customers, infringe by advertising and selling the products and providing
3 information and/or materials demonstrating infringing uses of the products or services. On
4 information and belief, Defendant engaged in such actions with specific intent to cause
5 infringement, or with willful blindness to the resulting infringement, because Defendant
6 has had actual knowledge of the '713 Patent and its acts were inducing its customers to
7 infringe the '713 Patent since at least the date it received the notice letter from Innovative
8 Communications notifying Defendant that the receiving function in its products and
9 services infringed the '713 Patent.

10 55. Innovative Communications has been harmed by Defendant's infringing
11 activities.

12 56. Innovative Communications has provided notice of infringement of the '713
13 Patent to Defendant, but Defendant thereafter continued to infringe the patent. On
14 information and belief, Defendant's infringement has been and continues to be willful.

15 **JURY DEMAND**

16 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Innovative
17 Communications demands a trial by jury on all issues triable as such.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Innovative Communications respectfully demands judgment for
20 itself and against Defendant as follows:

21 A. An adjudication that Defendant has infringed U.S. Patent No. 5,559,791; U.S.
22 Patent No. 5,436,930; U.S. Patent No. 5,475,691; and U.S. Patent No. 5,475,713
23 (collectively "the IC Patents").

24 B. An award of damages to be paid by Defendant adequate to compensate
25 Innovative Communications for their past infringement of the IC Patents and any
26 continuing or future infringement of the IC Patents through the date such judgment is
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1 entered, including pre-judgment and post-judgment interest, costs and expenses as justified
2 under 35 U.S.C. § 284;

3 C. An injunction ordering Defendant to pay an ongoing royalty in an amount to
4 be determined for any continued infringement after the date judgment is entered;

5 D. A declaration that this case is exceptional under 35 U.S.C. § 285, and an
6 award of Innovative Communications' reasonable attorneys' fees;

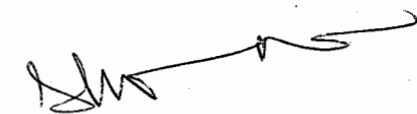
7 E. An award of treble damages under 35 U.S.C. § 284; and

8 F. Such other and further relief at law or in equity as the Court deems just and
9 proper.

10 Dated: November 16, 2012

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12 **LEE, JORGENSEN, PYLE & KEWALRAMANI, PC**

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15 By:



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17 H. H. (Shashi) Kewalramani
18 Attorneys for Plaintiff
19 Innovative Communications, LLC
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DEMAND FOR JURY TRIAL

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2 Plaintiff, Innovative Communications, LLC., hereby demands trial by jury in this
3 action.

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5 Dated: November 16, 2012

6 **LEE, JORGENSEN, PYLE & KEWALRAMANI, PC**

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8
9 By:



10 _____
11 H. H. (Shashi) Kewalramani
12 Attorneys for Plaintiff
13 Innovative Communications, LLC
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