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18 *ATTORNEYS FOR PLAINTIFF*

19 **UNITED STATES DISTRICT COURT**
20 **DISTRICT OF NEVADA**

21 DIGCOM, INC., A Nevada Corporation,)

22 Plaintiff,)

23 vs.)

24 ZTE CORPORATION,)
25 ZTE (USA) INC.,)
26 ZTE SOLUTIONS INC.)

27 Defendants.)
28

) Case No:

) **COMPLAINT FOR PATENT**
) **INFRINGEMENT**

) **JURY TRIAL DEMANDED**
)
)
)

1 Plaintiff Digcom, Inc., for its Complaint against Defendants ZTE Corporation, ZTE (USA)
2 Inc., and ZTE Solutions Inc., alleges as follows:

3 **THE PARTIES**

4 1. Plaintiff Digcom, Inc. (hereinafter “DIGCOM”) is a Nevada Corporation
5 with its corporate headquarters and principal place of business at 923 Tahoe Boulevard,
6 Suite 210, Incline Village, Nevada 89451.
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8 2. Upon information and belief, ZTE Corporation is a corporation organized
9 and existing under the laws of the People’s Republic of China, with its principal place of
10 business at ZTE Plaza, Keji Road South, Hi-tech Industrial Park, Nanshan District,
11 Shenzhen, Guandong, China 518057.
12

13 3. Upon information and belief, ZTE (USA) Inc. is a wholly-owned subsidiary
14 of Defendant ZTE Corporation, and is a corporation organized and existing under the laws
15 of the State of New Jersey, with its principal place of business at 2425 North Central
16 Expressway, Suite 323, Richardson, Texas 75080. ZTE (USA) Inc. may be served with
17 process by serving its registered agent, Incorp Services, Inc., 36 South 18th Avenue, Suite
18 D, Brighton, Colorado 80601.
19

20 4. Upon information and belief, ZTE Solutions, Inc. is a wholly-owned
21 subsidiary of Defendant ZTE Corporation, and is a corporation organized and existing under
22 the laws of the State of Delaware, with its principal place of business at 2425 North Central
23 Expressway, Suite 323, Richardson, Texas 75080. ZTE Solutions Inc. may be served with
24 process by serving its registered agent, Corporation Service Company, 2711 Centerville
25 Road, Suite 400, Wilmington, Delaware 19808.
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1 11. The '374 patent is a continuation application of U.S. utility patent application
2 Ser. No. 11/745,201 entitled: "Video, Voice and Location Finder Wireless Communication
3 System," which is a continuation of U.S. utility patent application Ser. No. 11/197,610
4 entitled: "Location Finder, Tracker, Communication and Remote Control System," filed on
5 August 3, 2005 and now U.S. Pat. No. 7,260,369, issued on Aug. 21, 2007.
6

7 **U.S. Patent No. 7,899,491**

8 12. On March 1, 2011, United States Patent No. 7,899,491, entitled "Cross-
9 correlated Quadrature Modulated Spread Spectrum, OFDM and Position Finder System"
10 (the "'491 patent'") was duly and legally issued by the United States Patent and Trademark
11 Office. A true and correct copy of the '491 patent is attached as Exhibit C.
12

13 13. Pursuant to 35 U.S.C. § 282, the '491 patent is presumed valid.

14 14. The '491 patent is a continuation application of U.S. utility patent application
15 Ser. No. 11/413,687 entitled: "GPS and other than GPS Position Finder Communication
16 System" and a continuation application of U.S. utility patent application Ser. No.
17 11/197,609 entitled: "Multimode Communication System," filed on Aug. 3, 2005 and now
18 U.S. Pat. No. 7,280,810, issued on Oct. 9, 2007.
19

20 **U.S. Patent No. 7,983,678**

21 15. On July 19, 2011, United States Patent No. 7,983,678, entitled "3G and Wi-
22 Fi Connected Mobile Systems" (the "'678 patent'") was duly and legally issued by the
23 United States Patent and Trademark Office. A true and correct copy of the '678 patent is
24 attached as Exhibit D.
25

26 16. Pursuant to 35 U.S.C. § 282, the '678 patent is presumed valid.
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1 17. The ‘678 patent is a continuation application of U.S. patent application Ser.
2 No. 12/767,802, filed on Apr. 27, 2010, now U.S. Pat. No. 7,877,110, entitled: “Cascaded
3 4G, 3G, 2G and Other Systems” and is a continuation application of U.S. patent application
4 Ser. No. 11/924,263, filed on Oct. 25, 2007, entitled: “VoIP Multimode WLAN, Wi-Fi,
5 GSM, EDGE, TDMA, Spread Spectrum, CDMA Systems” and now U.S. Pat. No.
6 7,711,368, and is a continuation application of U.S. patent application Ser. No. 11/745,201,
7 filed on May 7, 2007, entitled: “Video, Voice and Location Finder Wireless Communication
8 System,” and now U.S. Pat. No. 7,558,574 and is a continuation application of U.S. patent
9 application Ser. No. 11/197,610, filed on Aug. 3, 2005, entitled: “Location Finder, Tracker,
10 Communication and Remote Control System,” and now U.S. Pat. No. 7,260,369, issued on
11 Aug. 21, 2007.

14 18. The ‘143 patent, ‘374 patent, ‘491 patent, and ‘678 patent are collectively
15 referred to as “the patents-in-suit”.

17 DIGCOM is the exclusive licensee of the patents-in-suit and has all substantial rights
18 in and to the patents-in-suit, including the right to sue and collect damages for past,
19 present, and future infringement.

20 **THE INVENTOR OF THE PATENTS IN SUIT**

21 19. The sole named inventor of the patents-in-suit is Kamilo Feher, Ph.D. Dr.
22 Feher is a former professor of Electrical and Computer Engineering at the University of
23 California, Davis, and also was a Professor at the University of Ottawa, Canada, Concordia
24 University, Montreal, Santa Clara University, and Stanford University in Palo Alto,
25 California. He is the author of six books in the wireless digital communications field, which
26 have been published in the United States and translated into Russian and Chinese. He has
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1 selling, offering to sell, and/or leasing products and/or services as described and claimed in
2 the patents-in-suit either directly or through subsidiaries and/or intermediaries; and because
3 DIGCOM's causes of action arise directly from the Defendants' business contacts and other
4 activities in the State of Nevada and in the District of Nevada.

5
6 24. On information and belief, the Defendants derive substantial revenue from
7 the sale of the Accused Products referred to in paragraphs 31, 46, 61 and 76 of the
8 Complaint to companies organized and existing under the laws of the State of Nevada,
9 and/or the Defendants derive substantial revenue from products sold or distributed within
10 this District.

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12 25. On information and belief, the Defendants derive substantial revenue from
13 interstate and international commerce.

14
15 26. On information and belief, the Defendants expect or should reasonably
16 expect their actions to have consequences within this District.

17 27. The above acts cause injury to DIGCOM within this District.

18
19 Venue is proper in this Court under Title 28 United States Code §§ 1391(b)-(c) and
20 1400(b).

21 **COUNT I: FIRST CLAIM FOR RELIEF**
22 **(INFRINGEMENT OF U.S. PATENT NO. 7,805,143)**

23 28. Plaintiff incorporates its previous allegations by the reference.

24 **Accused Products**

25 29. The Defendants have been and are now making, using, selling, offering for
26 sale within the United States, or importing into the United States, at least the following
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1 mobile system products: ZTE Fury (at least model N850) and other mobile products
2 (hereinafter the “Accused Products I”).

3 **Direct Infringement**

4 30. By so making, using, selling, or offering to sell within the United States, or
5 importing into the United States at least the aforementioned Accused Products I, the
6 Defendants have directly infringed and continue to infringe at least claim 2 of the ‘143
7 patent, either literally or by equivalents.
8

9 **Inducement of Infringement**

10 31. The Defendants have had knowledge of the ‘143 patent at least since the
11 serving of the underlying complaint in this case.
12

13 32. Since becoming aware of the ‘143 patent, the Defendants have continued to
14 intentionally, actively, and knowingly advertise about, import, export, sell, offer to sell,
15 lease, and/or offer to lease one or more of the Accused Products I through their websites,
16 including but not limited to ZTEUSA.com, retailers, resellers and distributors, as well as in
17 other ways.
18

19 33. Since becoming aware of the ‘143 patent, the Defendants’ advertising and
20 sales of one or more of the Accused Products I have intentionally, actively, knowingly, and
21 willfully contained and continues to contain instructions, directions, suggestions, and/or
22 invitations that intentionally, actively, and knowingly invite, entice, lead on, influence,
23 prevail on, move by persuasion, cause, and/or influence the public, the Defendants’
24 distributors, the Defendants’ retailers, the Defendants’ customers, and/or ZTEUSA.com
25 website users to, at least, import, export, make, use, sell, offer to sell, lease and/or offer to
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1 lease one or more of the Accused Products I to practice the inventions claimed in the '143
2 patent, and thus directly infringe the patent, either literally or by equivalents.

3 34. Since becoming aware of the '143 patent, the Defendants were willfully
4 blind, knew, or should have known that the public's, the distributors', the retailers', the
5 customers' and/or the website users' acts relative to importing, exporting, making, using,
6 selling, offering to sell, leasing, and/or offering to lease one or more of the Accused
7 Products I to practice the inventions claimed in the '143 patent, directly infringe, either
8 literally or by equivalents, at least claim 2 of the '143 patent.

9
10 35. For these reasons, the Defendants are liable for inducing infringement of the
11 '143 patent.

12 **Contributory Infringement**

13
14 36. At least for the reasons stated above, the Defendants have had actual
15 knowledge of the '143 patent.

16 37. Since becoming aware of the '143 patent, the Defendants have intentionally,
17 actively, and knowingly offered to sell or sold the Accused Products I within the United
18 States or imported the Accused Products I into the United States.

19
20 38. By selling, offering to sell, and/or importing into the United States one or
21 more of the Accused Products I and the components thereof, the Defendants have
22 contributed to the infringement by the public, the distributors, the retailers, the customers
23 and the website users who import, export, make, use, sell, offer to sell, lease, and/or offer to
24 lease one or more of the Accused Products I to practice the inventions claimed in the '143
25 patent, and thus directly infringe the patent, either literally or by the doctrine of equivalents.
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1 39. Since becoming aware of the ‘143 patent, the Defendants were willfully
2 blind, knew, or should have known that the Accused Products I were especially made or
3 especially adapted for use in an infringement of at least claim 2 of the ‘143 patent.

4 40. The Accused Products I are not a staple article or commodity of commerce
5 suitable for substantial noninfringing use because they are especially configured to infringe
6 at least claim 2 of the ‘143 patent, either literally or through the doctrine of equivalents.
7

8 41. Since becoming aware of the ‘143 patent, the Defendants were willfully
9 blind, knew, or should have known that the Accused Products I were not a staple article or
10 commodity of commerce suitable for substantial noninfringing use.

11 For these reasons, the Defendants are contributory infringers of at least claim 2 of
12 the ‘143 patent, either literally or through the doctrine of equivalents.
13

14 **COUNT II: SECOND CLAIM FOR RELIEF**
15 **(INFRINGEMENT OF U.S. PATENT NO. 7,809,374)**

16 42. Plaintiff incorporates its previous allegations by the reference.
17

18 **Accused Products**

19 43. The Defendants have been and are now making, using, selling, offering for
20 sale within the United States, or importing into the United States, at least the following
21 mobile system products: ZTE Optik (at least model V55) and other tablets and mobile
22 products (hereinafter the “Accused Products II”).
23

24 **Direct Infringement**

25 44. By so making, using, selling, or offering to sell within the United States, or
26 importing into the United States at least the aforementioned Accused Products II, the
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1 Defendants have directly infringed and continue to infringe at least claim 3 of the '374
2 patent, either literally or by equivalents.

3 **Inducement of Infringement**

4 45. The Defendants have had knowledge of the '374 patent at least since the
5 serving of the underlying complaint in this case.

6
7 46. Since becoming aware of the '374 patent, the Defendants have continued to
8 intentionally, actively, and knowingly advertise about, import, export, sell, offer to sell,
9 lease, and/or offer to lease one or more of the Accused Products II through their websites,
10 including but not limited to ZTEUSA.com, retailers, resellers and distributors, as well as in
11 other ways.

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13 47. Since becoming aware of the '374 patent, the Defendants' advertising and
14 sales of one or more of the Accused Products II have intentionally, actively, knowingly, and
15 willfully contained and continues to contain instructions, directions, suggestions, and/or
16 invitations that intentionally, actively, and knowingly invite, entice, lead on, influence,
17 prevail on, move by persuasion, cause, and/or influence the public, the Defendants'
18 distributors, the Defendants' retailers, the Defendants' customers, and/or ZTEUSA.com
19 website users to, at least, import, export, make, use, sell, offer to sell, lease and/or offer to
20 lease one or more of the Accused Products II to practice the inventions claimed in the '374
21 patent, and thus directly infringe the patent, either literally or by equivalents.

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24 48. Since becoming aware of the '374 patent, the Defendants were willfully
25 blind, knew, or should have known that the public's, the distributors', the retailers', the
26 customers' and/or the website users' acts relative to importing, exporting, making, using,
27 selling, offering to sell, leasing, and/or offering to lease one or more of the Accused
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1 Products II to practice the inventions claimed in the '374 patent, directly infringe, either
2 literally or by equivalents, at least claim 3 of the '374 patent.

3 49. For these reasons, the Defendants are liable for inducing infringement of the
4 '374 patent.

5 **Contributory Infringement**

6 50. At least for the reasons stated above, the Defendants have had actual
7 knowledge of the '374 patent.

9 51. Since becoming aware of the '374 patent, the Defendants have intentionally,
10 actively, and knowingly offered to sell or sold the Accused Products II within the United
11 States or imported the Accused Products II into the United States.

12 52. By selling, offering to sell, and/or importing into the United States one or
13 more of the Accused Products II and the components thereof, the Defendants have
14 contributed to the infringement by the public, the distributors, the retailers, the customers
15 and the website users who import, export, make, use, sell, offer to sell, lease, and/or offer to
16 lease one or more of the Accused Products II to practice the inventions claimed in the '374
17 patent, and thus directly infringe the patent, either literally or by the doctrine of equivalents.
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19 53. Since becoming aware of the '374 patent, the Defendants were willfully
20 blind, knew, or should have known that the Accused Products II were especially made or
21 especially adapted for use in an infringement of at least claim 3 of the '374 patent.
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23 54. The Accused Products II are not a staple article or commodity of commerce
24 suitable for substantial noninfringing use because they are especially configured to infringe
25 at least claim 3 of the '374 patent, either literally or through the doctrine of equivalents.
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1 55. Since becoming aware of the ‘374 patent, the Defendants were willfully
2 blind, knew, or should have known that the Accused Products II were not a staple article or
3 commodity of commerce suitable for substantial noninfringing use.

4 For these reasons, the Defendants are contributory infringers of at least claim 3 of
5 the ‘374 patent, either literally or through the doctrine of equivalents.
6

7 **COUNT III: THIRD CLAIM FOR RELIEF**
8 **(INFRINGEMENT OF U.S. PATENT NO. 7,899,491)**

9 56. Plaintiff incorporates its previous allegations by the reference.

10 **Accused Products**

11 57. The Defendants have been and are now making, using, selling, offering for
12 sale within the United States, or importing into the United States, at least the following
13 mobile system products: ZTE Concord (at least model V768) and other mobile products
14 (hereinafter the “Accused Products III”).
15

16 **Direct Infringement**

17 58. By so making, using, selling, or offering to sell within the United States, or
18 importing into the United States at least the aforementioned Accused Products III, the
19 Defendants have directly infringed and continue to infringe at least claim 1 of the ‘491
20 patent, either literally or by equivalents.
21

22 **Inducement of Infringement**

23 59. The Defendants have had knowledge of the ‘491 patent at least since the
24 serving of the underlying complaint in this case.
25

26 60. Since becoming aware of the ‘491 patent, the Defendants have continued to
27 intentionally, actively, and knowingly advertise about, import, export, sell, offer to sell,
28

1 lease, and/or offer to lease one or more of the Accused Products III through their websites,
2 including but not limited to ZTEUSA.com, retailers, resellers and distributors, as well as in
3 other ways.

4 61. Since becoming aware of the '491 patent, the Defendants' advertising and
5 sales of one or more of the Accused Products III have intentionally, actively, knowingly,
6 and willfully contained and continues to contain instructions, directions, suggestions, and/or
7 invitations that intentionally, actively, and knowingly invite, entice, lead on, influence,
8 prevail on, move by persuasion, cause, and/or influence the public, the Defendants'
9 distributors, the Defendants' retailers, the Defendants' customers, and/or ZTEUSA.com
10 website users to, at least, import, export, make, use, sell, offer to sell, lease and/or offer to
11 lease one or more of the Accused Products III to practice the inventions claimed in the '491
12 patent, and thus directly infringe the patent, either literally or by equivalents.

15 62. Since becoming aware of the '491 patent, the Defendants were willfully
16 blind, knew, or should have known that the public's, the distributors', the retailers', the
17 customers' and/or the website users' acts relative to importing, exporting, making, using,
18 selling, offering to sell, leasing, and/or offering to lease one or more of the Accused
19 Products III to practice the inventions claimed in the '491 patent, directly infringe, either
20 literally or by equivalents, at least claim 1 of the '491 patent.

22 63. For these reasons, the Defendants are liable for inducing infringement of the
23 '491 patent.
24

25 **Contributory Infringement**

26 64. At least for the reasons stated above, the Defendants have had actual
27 knowledge of the '491 patent.
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1 65. Since becoming aware of the '491 patent, the Defendants have intentionally,
2 actively, and knowingly offered to sell or sold the Accused Products III within the United
3 States or imported the Accused Products III into the United States.

4 66. By selling, offering to sell, and/or importing into the United States one or
5 more of the Accused Products III and the components thereof, the Defendants have
6 contributed to the infringement by the public, the distributors, the retailers, the customers
7 and the website users who import, export, make, use, sell, offer to sell, lease, and/or offer to
8 lease one or more of the Accused Products III to practice the inventions claimed in the '491
9 patent, and thus directly infringe the patent, either literally or by the doctrine of equivalents.
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11 67. Since becoming aware of the '491 patent, the Defendants were willfully
12 blind, knew, or should have known that the Accused Products III were especially made or
13 especially adapted for use in an infringement of at least claim 1 of the '491 patent.
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15 68. The Accused Products III are not a staple article or commodity of commerce
16 suitable for substantial noninfringing use because they are especially configured to infringe
17 at least claim 1 of the '491 patent, either literally or through the doctrine of equivalents.
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19 69. Since becoming aware of the '491 patent, the Defendants were willfully
20 blind, knew, or should have known that the Accused Products III were not a staple article or
21 commodity of commerce suitable for substantial noninfringing use.
22

23 For these reasons, the Defendants are contributory infringers of at least claim 1 of
24 the '491 patent, either literally or through the doctrine of equivalents.

25 **COUNT IV: FOURTH CLAIM FOR RELIEF**
26 **(INFRINGEMENT OF U.S. PATENT NO. 7,983,678)**

27 70. Plaintiff incorporates its previous allegations by the reference.
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Accused Products

71. The Defendants have been and are now making, using, selling, offering for sale within the United States, or importing into the United States, at least the following mobile system products: ZTE Fury (at least model N850) and other mobile products (hereinafter the “Accused Products IV”).

Direct Infringement

72. By so making, using, selling, or offering to sell within the United States, or importing into the United States at least the aforementioned Accused Products IV, the Defendants have directly infringed and continue to infringe at least claim 1 of the ‘678 patent, either literally or by equivalents.

Inducement of Infringement

73. The Defendants have had knowledge of the ‘678 patent at least since the serving of the underlying complaint in this case.

74. Since becoming aware of the ‘678 patent, the Defendants have continued to intentionally, actively, and knowingly advertise about, import, export, sell, offer to sell, lease, and/or offer to lease one or more of the Accused Products IV through their websites, including but not limited to ZTEUSA.com, retailers, resellers and distributors, as well as in other ways.

75. Since becoming aware of the ‘678 patent, the Defendants’ advertising and sales of one or more of the Accused Products IV have intentionally, actively, knowingly, and willfully contained and continues to contain instructions, directions, suggestions, and/or invitations that intentionally, actively, and knowingly invite, entice, lead on, influence, prevail on, move by persuasion, cause, and/or influence the public, the Defendants’

1 distributors, the Defendants' retailers, the Defendants' customers, and/or ZTEUSA.com
2 website users to, at least, import, export, make, use, sell, offer to sell, lease and/or offer to
3 lease one or more of the Accused Products IV to practice the inventions claimed in the '678
4 patent, and thus directly infringe the patent, either literally or by equivalents.

5 76. Since becoming aware of the '678 patent, the Defendants were willfully
6 blind, knew, or should have known that the public's, the distributors', the retailers', the
7 customers' and/or the website users' acts relative to importing, exporting, making, using,
8 selling, offering to sell, leasing, and/or offering to lease one or more of the Accused
9 Products IV to practice the inventions claimed in the '678 patent, directly infringe, either
10 literally or by equivalents, at least claim 1 of the '678 patent.
11

12 77. For these reasons, the Defendants are liable for inducing infringement of the
13 '678 patent.
14

15 **Contributory Infringement**

16 78. At least for the reasons stated above, the Defendants have had actual
17 knowledge of the '678 patent.
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19 79. Since becoming aware of the '678 patent, the Defendants have intentionally,
20 actively, and knowingly offered to sell or sold the Accused Products IV within the United
21 States or imported the Accused Products IV into the United States.

22 80. By selling, offering to sell, and/or importing into the United States one or
23 more of the Accused Products IV and the components thereof, the Defendants have
24 contributed to the infringement by the public, the distributors, the retailers, the customers
25 and the website users who import, export, make, use, sell, offer to sell, lease, and/or offer to
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1 lease one or more of the Accused Products IV to practice the inventions claimed in the '678
2 patent, and thus directly infringe the patent, either literally or by the doctrine of equivalents.

3 81. Since becoming aware of the '678 patent, the Defendants were willfully
4 blind, knew, or should have known that the Accused Products IV were especially made or
5 especially adapted for use in an infringement of at least claim 1 of the '678 patent.
6

7 82. The Accused Products IV are not a staple article or commodity of commerce
8 suitable for substantial noninfringing use because they are especially configured to infringe
9 at least claim 1 of the '678 patent, either literally or through the doctrine of equivalents.
10

11 83. Since becoming aware of the '678 patent, the Defendants were willfully
12 blind, knew, or should have known that the Accused Products IV were not a staple article or
13 commodity of commerce suitable for substantial noninfringing use.

14 For these reasons, the Defendants are contributory infringers of at least claim 1 of
15 the '678 patent, either literally or through the doctrine of equivalents.
16

17 **DAMAGES**

18 84. The Defendants' acts of infringement of the '143 patent, the '374 patent, the
19 '491 patent, and the '678 patent as alleged above have injured DIGCOM and thus DIGCOM
20 is entitled to recover damages adequate to compensate it for that infringement, which in no
21 event can be less than a reasonable royalty.
22

23 **DEMAND FOR JURY TRIAL**

24 DIGCOM hereby demands a jury trial on all claims and issues triable of right by a
25 jury, including the Defendants' affirmative defenses and counterclaims, if any.
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PRAYER FOR RELIEF

WHEREFORE, DIGCOM prays for entry of judgment in its favor and against Defendants ZTE Corporation, ZTE (USA) Inc., and ZTE Solutions Inc., declaring:

- A. That the Defendants have infringed one or more claims of the '143 patent, the '374 patent, the '491 patent, and the '678 patent;
- B. That the Defendants account for and pay to DIGCOM all damages caused by the infringement of the '143 patent, the '374 patent, the '491 patent, and the '678 patent, which by statute can be no less than a reasonable royalty;
- C. That DIGCOM be granted pre-judgment and post-judgment interest on the damages caused to it by reason of the Defendants' infringement of the '143 patent, the '374 patent, the '491 patent, and the '678 patent;
- D. That the case be declared exceptional pursuant to 35 U.S.C. § 285, in favor of DIGCOM, and that DIGCOM be granted its attorneys' fees in this action;
- E. That costs be awarded to DIGCOM;
- F. That DIGCOM be granted such other and further relief that is just and proper

under the circumstances.

Dated this 11th day of April, 2013.

BOWEN HALL

By: /s/ Dan C. Bowen
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