

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADAPTIX, INC.,
Plaintiff,

v.

ALCATEL-LUCENT USA, INC., and
CELLCO PARTNERSHIP D/B/A
VERIZON WIRELESS,

Defendants.

Case No. 6:15-cv-604

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL REQUESTED

COMPLAINT

This is an action for patent infringement in which Plaintiff, ADAPTIX, Inc. (“ADAPTIX”), complains against Defendants, Alcatel-Lucent USA, Inc. (“ALU”), and Cellco Partnership d/b/a Verizon Wireless (“Verizon”), (collectively, “Defendants”) as follows:

THE PARTIES

1. ADAPTIX is a Delaware corporation with its principal place of business at 2400 Dallas Parkway, Suite 200, Plano, TX 75093.

2. ALU is a Delaware corporation with its principal place of business at 600-700 Mountain Avenue, Murray Hill, New Jersey 07974, and regularly does business in this judicial district at 601 Data Drive, Plano, Texas 75075 by, among other things, committing the infringing acts giving rise to this Complaint.

3. Verizon is a Delaware corporation with its principal place of business at 1 Verizon Way, Basking Ridge, New Jersey 07920, and regularly does business in this judicial district at 741 N. Central Expressway, Plano, Texas 75075 by, among other things, committing the infringing acts giving rise to this Complaint.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the

United States Code, 35 U.S.C. §§ 101, et seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Defendants are subject to this Court's specific and general personal jurisdiction, pursuant to due process and/or the Texas Long Arm Statute.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b-c) and 1400(b) because Defendants, *inter alia*, regularly conduct business in and have committed the acts giving rise to this action within this judicial district.

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 8,934,445)

7. ADAPTIX incorporates by reference paragraphs 1 through 6 herein.

8. This cause of action arises under the patent laws of United States of America and 35 U.S.C. §§ 271, *et seq.*

9. ADAPTIX is the owner by assignment of United States Patent No. 8,934,445, entitled "Multi-Carrier Communications with Adaptive Cluster Configuration and Switching" ("the '445 Patent"), with ownership of all substantial rights therein, including the right to exclude others and to sue and recover damages for the past and future infringement thereof. A true and correct copy of the '445 Patent is attached as Exhibit A.

10. The '445 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

11. ALU has directly infringed and continues to directly infringe at least Claims 1 and 8 of the '445 Patent by, among other things, making, using, offering for sale, selling and/or importing LTE cellular base stations, including without limitation the 9412 eNodeB Compact, the 9460 Pico, the 9926 Distributed Base Station, the 9442 Remote Radio Head, the lightRadio 9711 Indoor Base Station for LTE, the lightRadio 9712 Outdoor Base Station for LTE, and 9760

Small Cells, including the 9764 Metro Cell Outdoor LTE and the 9768 Metro Radio Outdoor, for use on the 4G LTE Wireless Network controlled by Verizon. ALU is thereby liable for infringement of the '445 Patent pursuant to 35 U.S.C. § 271(a).

12. Verizon has directly infringed and continues to directly infringe at least Claims 1 and 8 of the '445 Patent by, among other things, using the accused LTE cellular base stations, including without limitation the 9412 eNodeB Compact, the 9460 Pico, the 9926 Distributed Base Station, the 9442 Remote Radio Head, the lightRadio 9711 Indoor Base Station for LTE, the lightRadio 9712 Outdoor Base Station for LTE, and 9760 Small Cells, including the 9764 Metro Cell Outdoor LTE and the 9768 Metro Radio Outdoor, to operate its 4G LTE Wireless Network. Verizon is thereby liable for infringement of the '445 Patent pursuant to 35 U.S.C. § 271(a).

13. ALU has indirectly infringed and continues to indirectly infringe at least Claims 1 and 8 of the '445 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importation of LTE cellular base stations, including without limitation the 9412 eNodeB Compact, the 9460 Pico, the 9926 Distributed Base Station, the 9442 Remote Radio Head, the lightRadio 9711 Indoor Base Station for LTE, the lightRadio 9712 Outdoor Base Station for LTE, and 9760 Small Cells, including the 9764 Metro Cell Outdoor LTE and the 9768 Metro Radio Outdoor, by Verizon. ALU's end users, including without limitation Verizon, who purchase systems and components thereof, and operate such systems and components in accordance with ALU's instructions directly infringe one or more claims of the '445 Patent in violation of 35 U.S.C § 271. To the extent such end users are held to have directly infringed, ALU is thereby liable for infringement of the '445 Patent pursuant to 35 U.S.C. § 271(b).

14. ALU has indirectly infringed and continues to indirectly infringe at least Claims 1 and 8 of the '445 Patent by, among other things, contributing to the direct infringement of others, including without limitation Verizon, and other end users of its LTE cellular base stations, including without limitation the 9412 eNodeB Compact, the 9460 Pico, the 9926 Distributed Base Station, the 9442 Remote Radio Head, the lightRadio 9711 Indoor Base Station for LTE, the lightRadio 9712 Outdoor Base Station for LTE, and 9760 Small Cells, including the 9764 Metro Cell Outdoor LTE and the 9768 Metro Radio Outdoor by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '445 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

15. ALU will have been on notice of the '445 Patent since, at the latest, the service of the Original Complaint in Case No. 6:15-cv-00041. By the time of trial, ALU will thus have known and intended (since receiving such notice), that its actions would actively induce and contribute to actual infringement of at least Claims 1 and 8 of the '445 Patent.

16. Verizon has indirectly infringed and continues to indirectly infringe at least Claim 8 of the '445 Patent by, among other things, actively inducing the using, offering for sale, selling, or importation of the accused LTE cellular base stations, including without limitation the 9412 eNodeB Compact, the 9460 Pico, the 9926 Distributed Base Station, the 9442 Remote Radio Head, the lightRadio 9711 Indoor Base Station for LTE, the lightRadio 9712 Outdoor Base Station for LTE, and 9760 Small Cells, including the 9764 Metro Cell Outdoor LTE and the 9768 Metro Radio Outdoor, by the end users of its 4G LTE Wireless Network. Verizon's

end users directly infringe at least Claim 8 of the '445 Patent by using the claimed apparatus through putting the invention into service, i.e., controlling the system as a whole and obtaining the benefit from it.

17. Verizon will have been on notice of the '445 Patent since, at the latest, the service of the Original Complaint in Case No. 6:15-cv-00041. By the time of trial, Verizon will thus have known, and intended (since receiving such notice), that its continued actions would actively induce actual infringement of at least Claim 8 of the '445 Patent. Verizon is thereby liable for infringement of the '445 Patent pursuant to 35 U.S.C. § 271(b).

18. ADAPTIX has been reparably and irreparably damaged as a result of Defendants' infringing conduct described in this Count. Defendants are thus liable to ADAPTIX for an amount that adequately compensates ADAPTIX for Defendants' infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284. Additionally, such irreparable damage will continue until Defendants are enjoined pursuant to 35 U.S.C. § 283.

PRAYER FOR RELIEF

Wherefore, ADAPTIX respectfully requests that this Court enter:

- a) Judgment in favor of ADAPTIX that ALU, and Verizon have directly infringed the '445 Patent, as aforesaid;
- b) Judgment in favor of ADAPTIX that ALU and Verizon have indirectly infringed the '445 patent, as aforesaid;
- c) A permanent injunction enjoining Defendants, their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or privity therewith from direct and/or indirect infringement of the '445 Patent

pursuant to 35 U.S.C. § 283;

d) An order requiring Defendants to pay ADAPTIX its damages with pre- and post-judgment interest thereon pursuant to 35 U.S.C. § 284;

e) A determination that this case is exceptional pursuant to 35 U.S.C. § 285;

f) An order awarding ADAPTIX its attorneys' fees and costs incurred herein pursuant to 35 U.S.C. § 287; and

g) Any and all further relief to which the Court may deem ADAPTIX entitled.

DEMAND FOR JURY TRIAL

ADAPTIX hereby requests a trial by jury on all issues so triable by right pursuant to Fed.

R. Civ. P. 38.

Dated: June 25, 2015

Respectfully submitted,

By: /s/ Paul J. Hayes

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**ATTORNEYS FOR THE PLAINTIFF
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