

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MOBILE TELECOMMUNICATIONS
TECHNOLOGIES, LLC,

Plaintiff,

v.

GOOGLE INC.

Defendant.

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Civil Action No. 2:16-cv-0002

JURY TRIAL REQUESTED

COMPLAINT

Plaintiff Mobile Telecommunications Technologies, LLC (“MTel” or “Plaintiff”) files this Complaint against Google Inc. (“Google”) for infringement of U.S. Patent Nos. 5,809,428 (the “428 Patent”), 5,754,946 (the “946 Patent”), 5,581,804 (the “804 Patent”), and 5,894,506 (the “506 Patent”) pursuant to 35 U.S.C. §271 and alleges as follows:

THE PARTIES

1. Plaintiff MTel is a Delaware limited liability company with its principal place of business at 1720 Lakepointe Drive, Suite 100, Lewisville, Texas 75057.

2. MTel is a wholly owned subsidiary of United Wireless Holdings, Inc. (“United Wireless”). In 2008, United Wireless, through another of its wholly owned subsidiaries, Velocita Wireless, LLC, purchased the SkyTel wireless network, including assets related to SkyTel’s more than twenty-year history as a wireless data company. Velocita Wireless, LLC, continued to operate the SkyTel wireless data network after the acquisition. As a result of that transaction, United Wireless gained ownership and control over the business, operations and intellectual property portfolio, including patents developed by the SkyTel-related entities, including Mobile Telecommunication Technologies Corp. (“MTel Corp.”). United Wireless subsequently assigned certain patent assets, including the Patents-in-Suit, together with all rights

of recovery related to those patent assets, to its wholly owned subsidiary, MTel, which is the licensing division of United Wireless and the plaintiff here.

3. MTel Corp. was a pioneer of two-way wireless data communications and in 1995 launched the first nationwide two-way wireless data messaging service, dubbed SkyTel 2-Way. Prior to that launch, in 1993, MTel Corp. received a Pioneer Preference award from the Federal Communications Commission for technological achievement in developing its wireless data network.

4. Upon information and belief, Google is a corporation organized and existing under the laws of the State of Delaware, which has a regular and established place of business in Texas. Google may be served with process through its registered agent, Corporation Service Company d/b/a CSC, 211 East 7th Street, Suite 620, Austin, Texas 78701.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a).

6. Venue lies in this judicial district pursuant to 28 U.S.C. §§1391(b)-(d) and 1400(b). Google has transacted business in this district and on information and belief has committed acts of infringement in this District.

7. This Court has personal jurisdiction over Google under the laws of the State of Texas, including the Texas long-arm statute, TEX. CIV. PRAC. & REM. CODE §17.042. Defendant Google has availed itself of the rights and benefits of this District by conducting business in this jurisdiction, including by promoting products or services, by selling products or services, or offering to sell products or services, for example via the internet, which is accessible to and accessed by residents of this District. Google maintains at least two offices in Texas, including

one in Austin, Texas and another in Dallas, Texas and sells and promotes the sales of its products and services in consumer retail locations throughout Texas, including in this District. Google uses or induces others to use its products or services in Texas, including in this District, that infringe the '428 Patent, the '946 Patent, '804 Patent and the '506 Patent, or knowingly contributes to infringement of the '428 Patent, the '946 Patent, '804 Patent and the '506 Patent. Thus venue is proper in this District.

THE PATENTS-IN-SUIT

8. On Tuesday, September 15, 1998, the United States Patent and Trademark (“USPTO”) duly and legally issued United States Patent No. 5,809,428, titled “Method and Device for Processing Undelivered Data Messages in a Two-Way Wireless Communications System,” after a full and fair examination. A true and correct copy of the '428 Patent is attached hereto as Exhibit A. Plaintiff is the assignee of all right, title, and interest in and to the '428 Patent and possesses the exclusive right of recovery under the '428 Patent, including the exclusive right to recover for past and future infringement of the '428 Patent. The '428 Patent is valid and enforceable.

9. The '428 Patent was found valid and infringed at trial against Apple Inc. in this District.¹

10. The '428 Patent describes and claims, among other things, methods, systems, and devices for storing undeliverable messages, such as e-mail messages.

11. On Tuesday, May 19, 1998, the USPTO duly and legally issued United States Patent No. 5,754,946 titled “Nationwide Communication System,” after a full and fair examination. A true and correct copy of the '946 Patent is attached hereto as Exhibit B. Plaintiff is the assignee of all right, title and interest in and to the '946 Patent and possesses the exclusive

¹ Case 2:13-cv-00258-RSP (D.I. 65 Verdict Form) 11/17/14 (Exhibit E).

right of recovery under the '946 Patent, including the exclusive right to recover for past and future infringement of the '946 Patent.

12. The '946 Patent describes and claims, among other things, devices and networks that provide for the transmission of unreceived portions of a message.

13. The '946 Patent is valid and enforceable. The '946 Patent was found valid and infringed at trial against Apple Inc. in this District.²

14. On Tuesday, December 3, 1996, the USPTO duly and legally issued United States Patent No. 5,581,804 titled "Nationwide Communications System," after a full and fair examination. A true and correct copy of the '804 Patent is attached hereto as Exhibit C. Plaintiff is the assignee of all right, title and interest in and to the '804 Patent, including the exclusive right to recover for past and future infringement of the '804 Patent. The '804 Patent is valid and enforceable.

15. The '804 Patent discloses and claims, *inter alia*, methods and systems for providing two-way communication of messages between a central network and a mobile unit over a relatively large area, and more particularly to such methods and systems for communicating messages which allow for rapid communication of large messages and efficient use of system resources.

16. On Tuesday, April 13, 1999, the USPTO duly and legally issued United States Patent No. 5,894,506 titled "Method and Apparatus for Generating and Communicating Messages Between Subscribers to an Electronic Messaging Network," after a full and fair examination. A true and correct copy of the '506 Patent is attached hereto as Exhibit D. Plaintiff is the assignee of all right, title and interest in and to the '506 Patent, including the

² Case 2:13-cv-00258-RSP (D.I. 65 Verdict Form) 11/17/14 (Exhibit E).

exclusive right to recover for past and future infringement of the '506 Patent. The '506 Patent is valid and enforceable.

17. The '506 Patent was found valid at trial against Apple Inc. in this District.³

18. The '506 Patent discloses and claims, *inter alia*, an electronic messaging network comprising a network operations center and message terminals, including memory for storing corresponding files of canned messages and associated message codes, which improves message compression and conserves communications link capacity.

INFRINGEMENT OF THE PATENTS-IN-SUIT

19. Plaintiff reincorporates by reference Paragraphs 1 through 18 as though fully restated herein.

20. Google, without authorization or license, has been and is now directly infringing, literally or under the doctrine of equivalents, one or more claims of the '428 Patent, the '946 Patent, the '804 Patent, and the '506 Patent (together, the "Patents-in-Suit") in violation of 35 U.S.C. §271 as stated below. Google's infringement has been and will continue to be willful at least since its knowledge of the Patents-in-Suit.

21. On November 17, 2014, MTel received a favorable jury verdict in *Mobile Telecomms. Techs., LLC v. Apple* No. 2:13-CV-258-RSP (E.D. Tex.). See Verdict attached as Exhibit E. The jury in that case found the features of accused Apple devices infringed some of the same Patents-in-Suit asserted here. Google's messaging devices and messaging services on information and belief contain similar features and perform similar functions as those found to be infringing in *Mobile Telecomms. Techs., LLC v. Apple*.

22. On December 31, 2012, MTel sent Motorola Mobility, Inc. by Certified mail a letter (Exhibit F) alerting Motorola Mobility, Inc. to patent infringement and offering a patent

³ Case 2:13-cv-00258-RSP (D.I. 65 Verdict Form) 11/17/14 (Exhibit E).

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