

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

**OPTIS WIRELESS TECHNOLOGY, LLC,
OPTIS CELLULAR TECHNOLOGY, LLC,
AND PANOPTIS PATENT MANAGEMENT,
LLC,**

Plaintiffs,

v.

**HUAWEI TECHNOLOGIES CO. LTD AND
HUAWEI DEVICE USA, INC.,**

Defendants.

Civil Action No. 2:17-cv-123

JURY TRIAL REQUESTED

PLAINTIFFS' SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Optis Wireless Technology, LLC, Optis Cellular Technology, LLC, and PanOptis Patent Management, LLC (collectively, "PanOptis") file this First Amended Complaint for patent infringement under 35 U.S.C. § 271 against Huawei Technologies Co. Ltd. and Huawei Device USA, Inc. (collectively, "Huawei"), and allege as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement. Huawei has infringed and continues to infringe, contribute to the infringement of, and/or actively induce others to infringe U.S. Patent Nos. 7,769,238 ("the '238 patent"), 6,604,216 ("the '216 patent"), 7,940,851 ("the '851 patent"), 8,385,284 ("the '284 patent"), 8,208,569 ("the '569 patent"), 8,102,833 ("the '833 patent"), and 8,437,293 ("the '293 patent") (collectively, "the Asserted Patents" or "the Patents-in-Suit").

PARTIES

2. Plaintiff Optis Wireless Technology, LLC ("Optis Wireless") is a limited liability company organized and existing under the laws of the State of Delaware, and maintains its

principal place of business at 7160 Dallas Parkway, Suite 250, Plano, TX 75024.

3. Plaintiff Optis Cellular Technology, LLC (“Optis Cellular”) is a limited liability company organized and existing under the laws of the State of Delaware, and maintains its principal place of business at 7160 Dallas Parkway, Suite 250, Plano, TX 75024.

4. Plaintiff PanOptis Patent Management, LLC (“PPM”) is a limited liability company organized and existing under the laws of the State of Delaware, and maintains its principal place of business at 7160 Dallas Parkway, Suite 250, Plano, TX 75024.

5. Upon information and belief, Huawei Technologies Co. Ltd. (“Huawei Technologies”) is a Chinese corporation with its principal place of business at Bantian, Longgang District, Shenzhen, People’s Republic of China.

6. Upon information and belief, Huawei Device USA, Inc. (“Huawei Device”) is a corporation organized under the laws of Texas, having its principal place of business at 5700 Tennyson Parkway, Suite 500, Plano, Texas 75024.

JURISDICTION AND VENUE

7. This Court has exclusive subject matter jurisdiction over this case under 28 U.S.C. §§ 1331 and 1338.

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Huawei has committed acts of infringement in this judicial district and is subject to personal jurisdiction in this judicial district.

9. This Court has personal jurisdiction over Huawei. Huawei Device is organized under the laws of Texas, and maintains its principal place of business in this District. Huawei has continuous and systematic business contacts with the State of Texas. Huawei, directly or through subsidiaries or intermediaries (including distributors, retailers, and others), conducts its business extensively throughout Texas, by shipping, distributing, offering for sale, selling, and advertising

(including the provision of interactive web pages) its products and services (including its infringing products and services) in the State of Texas and the Eastern District of Texas. Huawei, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has purposefully and voluntarily placed its infringing products and services into this District and into the stream of commerce with the intention and expectation that they will be purchased and used by consumers in this District. These infringing products and services have been and continue to be purchased and used by consumers in this District. Huawei has committed acts of patent infringement within the State of Texas and, more particularly, within this District. Jurisdiction over Huawei in the matter is also proper inasmuch as Huawei has voluntarily submitted itself to the jurisdiction of the courts by commencing litigations within the State of Texas (including in this District), by registering with the Texas Secretary of State's Office to do business in the State of Texas, and by appointing a registered agent.

THE PANOPTIS PATENTS

10. On August 3, 2010, the '238 patent was duly and legally issued for an invention titled, "Picture Coding Method and Picture Decoding Method." PanOptis owns all rights to the '238 patent necessary to bring this action. A true and correct copy of the '238 patent is attached hereto as Exhibit 1.

11. On August 5, 2003, the '216 patent was duly and legally issued for an invention titled, "Telecommunications System and Method for Supporting an Incremental Redundancy Error Handling Scheme Using Available Gross Rate Channels." PanOptis owns all rights to the '216 patent necessary to bring this action. A true and correct copy of the '216 patent is attached hereto as Exhibit 2.

12. On May 10, 2011, the '851 patent was duly and legally issued for an invention titled, "Radio Communication Apparatus and Radio Communication Method." PanOptis owns

all rights to the '851 patent necessary to bring this action. A true and correct copy of the '851 patent is attached hereto as Exhibit 3.

13. On February 26, 2013, the '284 patent was duly and legally issued for an invention titled, "Control Channel Signaling Using a Common Signaling Field for Transport Format and Redundancy Version." PanOptis owns all rights to the '284 patent necessary to bring this action. A true and correct copy of the '284 patent is attached hereto as Exhibit 4.

14. On June 26, 2012, the '569 patent was duly and legally issued for an invention titled, "Method and Apparatus for Multicarrier Communication." PanOptis owns all rights to the '569 patent necessary to bring this action. A true and correct copy of the '569 patent is attached hereto as Exhibit 5.

15. On January 24, 2012, the '833 patent was duly and legally issued for an invention titled, "Method for Transmitting Uplink Signals." PanOptis owns all rights to the '833 patent necessary to bring this action. A true and correct copy of the '833 patent is attached hereto as Exhibit 6.

16. On May 7, 2013, the '293 patent was duly and legally issued for an invention titled, "Methods and Systems for Scheduling Resources in a Telecommunication System." PanOptis owns all rights to the '293 patent necessary to bring this action. A true and correct copy of the '293 patent is attached hereto as Exhibit 7.

PLAINTIFFS' LTE STANDARDS ESSENTIAL PATENTS

17. PanOptis incorporates by reference the preceding paragraphs as though fully set forth herein.

18. The European Telecommunications Standards Institute ("ETSI") is a standard setting organization ("SSO") that produces globally-accepted standards for the telecommunication industry. ETSI is an organizational partner of the Third Generation

Partnership Project (“3GPP”), which maintains and develops globally applicable technical specifications for mobile systems, including the specifications for implementation and use of wireless communications for high-speed data referred to as the Long Term Evolution (“LTE”) Standard.

19. Implementation and use of the LTE standard, including, but not limited to, use of wireless communications for high-speed data compliant with the LTE specifications as detailed in the 3GPP specification series TS 36.101-36.978, has increased in recent years and continues to increase at a rapid pace.

20. ETSI has developed and promulgated an IPR Policy (found at Annex 6 to the ESTI Rules of Procedure, published November 19, 2014). This policy is intended to strike a balance between the needs of standardization for public use in the field of telecommunications on the one hand, and the rights of IPR owners on the other hand. ETSI requires its members to disclose patents that “are or become, and remain ESSENTIAL to practice” its standards or technical specifications. Clause 15.6 of the ETSI IPR Policy defines the term “ESSENTIAL” to mean that “it is not possible on technical (but not commercial) grounds, taking into account normal technical practice and the state of the art generally available at the time of standardization, to make, sell, lease, otherwise dispose of, repair, use or operate EQUIPMENT or METHODS which comply with a STANDARD without infringing that IPR.”

21. Optis Wireless is the assignee of numerous patents, originally assigned to either Telefonaktiebolaget LM Ericsson (“Ericsson”) or Panasonic Corporation (“Panasonic”), that are, and remain, essential (as that term is defined by ETSI) to practicing the LTE Standard.

22. Optis Cellular is the assignee of numerous patents, originally assigned to either Ericsson or LG Electronics Inc. (“LG”), that are, and remain, essential (as that term is defined by

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