

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

**OPTIS WIRELESS TECHNOLOGY, LLC,  
OPTIS CELLULAR TECHNOLOGY, LLC,  
UNWIRED PLANET, LLC, UNWIRED  
PLANET INTERNATIONAL LIMITED,  
AND PANOPTIS PATENT MANAGEMENT,  
LLC**

**Plaintiffs,**

**v.**

**TESLA INC.,**

**Defendant.**

**Civil Action No. 2:20-cv-310**

**JURY TRIAL REQUESTED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs Optis Wireless Technology, LLC, Optis Cellular Technology, LLC, Unwired Planet, LLC, Unwired Planet International Limited, and PanOptis Patent Management, LLC (collectively and/or individually referred to as the “Plaintiff(s)” herein) file this Complaint against Tesla Inc. (“Tesla”), and allege as follows:

**NATURE OF THE ACTION**

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. For example, Tesla has infringed and continues to infringe, contribute to the infringement of, and/or actively induce others to infringe U.S. Patent Nos. 8,149,727 (“the ’727 patent”), 8,199,792 (“the ’792 patent”), 8,223,863 (“the ’863 patent”), 8,254,335 (“the ’335 patent), and 8,320,319 (“the ’319 patent”) (collectively, the “Patents-in-Suit”). The Patents-in-Suit are valid and enforceable, and Plaintiffs believe that they

are necessary to practice the 3GPP LTE cellular technical specifications. Tesla is not currently licensed to practice the Patents-in-Suit.

2. The Plaintiffs have attempted to negotiate with Tesla to reach an agreement for a FRAND license to the Plaintiffs' cellular patent portfolios. For example, Plaintiffs first contacted Tesla in March 2017, and sent six letters over the course of nearly a year before receiving any response from Tesla. When Tesla finally responded, Tesla told Plaintiffs that Tesla preferred to deal with Avanci LLC. On information and belief, Tesla declined to take a license to Plaintiffs' SEPs through Avanci despite Avanci's multiple license proposals. In fact, Tesla has yet to provide any counter-offer (FRAND or otherwise) for a license to Plaintiffs' SEPs to either Plaintiffs or Avanci.

3. The negotiations have been unsuccessful because Tesla is not acting in good faith, is holding out and is frustrating performance of Plaintiffs' FRAND commitment. Therefore, the Plaintiffs file this Complaint seeking a judgment of and relief for Tesla's conduct.

### **PARTIES**

4. 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.

5. 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.

6. Plaintiff Unwired Planet, LLC ("Unwired Planet") is a limited liability company organized and existing under the laws of the State of Nevada, and maintains its principal place of business at 7160 Dallas Parkway, Suite 250, Plano, TX 75024.

7. Plaintiff Unwired Planet International Limited (“UPIL”) is a limited liability company organized and existing under the laws of Ireland, and maintains its principal place of business at Unit 32, Hyde Bldg., The Park, Carrickmines, Dublin 18, Ireland.

8. 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.

9. On information and belief, Defendant Tesla Inc. is a corporation organized under the laws of the State of Delaware, having a principal place of business at 3500 Deer Creek Road, Palo Alto, CA 94304. Tesla may do business with the fictitious name Tesla Motors, Inc.

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

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

12. Optis Cellular is the assignee of numerous patents, many originally assigned to LG Electronics Inc. (“LG”), that are, and remain, essential (as that term is defined by ETSI) to practicing the LTE Standard.

13. Optis Cellular is also the assignee of numerous patents, many originally assigned to Ericsson that are, and remain, essential (as that term is defined by ETSI) to practicing the LTE Standard.

14. Unwired Planet is the assignee of numerous patents, many originally assigned to Ericsson that are, and remain, essential (as that term is defined by ETSI) to practicing the LTE Standard.

15. UPIIL the assignee of numerous patents, many originally assigned to Samsung Electronics Co., Ltd. (“Samsung”) that are, and remain, essential (as that term is defined by ETSI) to practicing the LTE Standard.

16. Each of the Patents-in-Suit has been declared to ETSI, by its original assignee, as well as by Plaintiffs, as essential to practicing the 3GPP LTE technical specifications.

17. Ericsson, Panasonic, Samsung and LG were and continue to be active participants in 3GPP. They have each made numerous contributions to the 3GPP technical specifications, including in the radio access technology. The Patents-in-suit are examples of the significant investment these companies made in research and development for cellular technology.

18. Ericsson, Panasonic, Samsung, and LG have each had a history of making FRAND commitments to ETSI and other telecommunication standards organizations, including through both general declarations and/or specific declarations.

### **JURISDICTION AND VENUE**

19. Within the United States, this Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331, 1332, 1338, and 1367.

20. The amount in controversy exceeds \$75,000.

21. Tesla designs, manufactures, uses, imports into/exports out of the United States, sells, and/or offers for sale in the United States vehicles with 4G (LTE) cellular communication capability. Tesla’s vehicles are marketed, offered for sale, and/or sold throughout the United States, including within this District.

22. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

23. This Court has personal jurisdiction over Tesla. Tesla has continuous and systematic business contacts with the State of Texas. Tesla, 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 vehicles and services in the State of Texas and the Eastern District of Texas.

24. Tesla, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has purposefully and voluntarily placed its infringing vehicles and services into this District and into the stream of commerce with the intention and expectation that they will be purchased and used as designed by consumers in this District. Tesla has offered and sold and continues to offer and sell these infringing vehicles and services in this District, including at physical Tesla stores located within this District.

25. Tesla has also directed communications in connection with negotiations with the Plaintiffs into the Eastern District of Texas.

26. Tesla has committed acts of infringement in this judicial district and has a regular and established place of business in this judicial district.

27. Tesla occupies several permanent, physical places within this District from which Tesla carries out its business. For example, Tesla has physical gallery/stores in the following locations in this District: (1) 5800 Democracy Drive, Plano, TX 75024 (“Plano-Democracy Drive”); (2) 7500 Windrose Avenue Space B185, Plano TX 75024 (“Plano-Legacy West”); and (3) 3408 S SW Loop 323, Tyler, TX 75701 (“Tyler Site”). Tesla conducts business from these locations and has employees who work at these Tesla locations in this District. For example, on

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