

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

IPCOM, GMBH & CO. KG

Plaintiff,

v.

SPRINT SPECTRUM L.P., SPRINTCOM, INC.,
SPRINT COMMUNICATIONS INC., SPRINT
COMMUNICATIONS COMPANY, L.P., and
SPRINT CORPORATION, DEUTSCHE
TELEKOM AG

Defendants.

Civil Case No.: 2:20-cv-321

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff IPCom GmbH & Co. KG hereby files this Complaint against Sprint Spectrum, L.P. (d/b/a Sprint PCS), SprintCom, Inc., Sprint Communications Inc., Sprint Communications Company, L.P., Sprint Corporation, and Deutsche Telekom AG (collectively, “Sprint” or “Defendants”), and alleges as follows:

THE PARTIES

1. IPCom GmbH & Co. KG (“IPCom”) is a limited partnership organized under the laws of Germany with its principal place of business at Zugspitzstraße 15, 82049 Pullach, Germany.
2. Deutsche Telekom AG (“Deutsche Telekom”) is an Aktiengesellschaft organized and existing under the laws of the Federal Republic of Germany with its principal place of business in Bonn, Germany.

3. Sprint Spectrum L.P. d/b/a Sprint PCS (“Sprint PCS”) is a Delaware limited partnership with its principal place of business at 6200 Sprint Parkway, Overland Park, Kansas 66251 and is an indirect, controlled subsidiary of Deutsche Telekom.

4. SprintCom, Inc. (“SprintCom”) is a Kansas corporation with its principal place of business at 6391 Sprint Parkway, Overland Park, Kansas 66251 and is an indirect, controlled subsidiary of Deutsche Telekom.

5. Sprint Communications Inc. (“Sprint Communications Corporation”), is a Kansas corporation with its principal place of business at 6160 Sprint Parkway, Overland Park, Kansas 66251 and is an indirect, controlled subsidiary of Deutsche Telekom.

6. Sprint Communications Company, L.P. (“Sprint Communications”) is a Delaware limited partnership with its principal place of business at 6391 Sprint Parkway, Overland Park, Kansas 66251 and is an indirect, controlled subsidiary of Deutsche Telekom.

7. Sprint Corporation is a Delaware corporation with its principal place of business at 6200 Sprint Parkway, Overland Park, Kansas 66251 and is an indirect, controlled subsidiary of Deutsche Telekom.

8. The Defendants operate one or more wireless telecommunications networks to provide wireless telecommunications services in the United States under brand names including but not limited to “Sprint.” These telecommunications networks have also been used to provide wireless telecommunications services for the Virgin Mobile USA and Boost Mobile brands.

NATURE OF ACTION

9. This is a civil action for infringement of U.S. Patent Nos. 7,333,822 (the “822 Patent”), 10,382,909 (the “909 Patent”); 6,813,261 (the “261 Patent”); 7,006,463 (the “463

Patent”); and 6,983,147 (the “147 Patent”) (collectively the “Patents-in-Suit”), arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because it arises under the patent laws of the United States.

11. This Court has personal jurisdiction over the Defendants, which have committed acts of infringement in Texas and this judicial district, or are vicariously liable for the actions of each other in this judicial district in violation of 35 U.S.C. § 271. For instance, Defendants have performed infringing methods, and made and used infringing systems that provide wireless telecommunications services. The Defendants have derived and continue to derive substantial revenue from the sale and use of infringing products and services in this district. In addition, Sprint Spectrum L.P., Sprint Communications Inc., SprintCom Inc., Sprint Communications Company L.P., and Sprint Corporation are registered to do business in Texas, and the Defendants own and/or maintain numerous stores and office locations within Texas. In view of the foregoing, this court possesses both general and specific jurisdiction over the Defendants.

12. Deutsche Telekom AG is subject to this court’s personal jurisdiction. Deutsche Telekom AG owns a controlling interest in the remaining defendants, which are indirectly owned and controlled subsidiaries. Deutsche Telekom is not a passive owner of these entities, but instead controls and directs these subsidiaries and has acted in concert with them to provide infringing telecommunications services in Texas and in this judicial district. In view of the foregoing, and as a joint tortfeasor, Deutsche Telekom AG is subject to personal jurisdiction in this district along with its subsidiaries.

13. Alternatively, the court may exercise personal jurisdiction over Deutsche Telekom pursuant to Fed. R. Civ. P. 4(k)(2), which provides that “for a claim that arises under federal law, serving a summons or filing a waiver of service establishes personal jurisdiction over a defendant if: (a) the defendant is not subject to jurisdiction in any state’s courts of general jurisdiction; and (b) exercising jurisdiction is consistent with the United States Constitution and laws.”

14. IPCom’s claim for patent infringement arises under federal law.

15. Deutsche Telekom is not subject to jurisdiction in any state’s courts of general jurisdiction.

16. Exercising jurisdiction over Deutsche Telekom in this district would not run afoul of the Constitution, due process, or any laws. Deutsche Telekom facilitated the merger of the T-Mobile and Sprint group companies and obtained a controlling interest in Sprint for the purpose of competing in the United States against rival wireless companies. Deutsche Telekom CEO Timotheus Höttges stated during an earnings call on or about February 19, 2020 that “getting the deal done puts the company on an equal footing and in a position to ramp up its attacks on the competition in the U.S.” He further commented that “[w]e see a light at the end of the tunnel . . . Our attempt is going to be the No. 1 in the U.S”¹ Indeed, Höttges testified on behalf of the merger during the antitrust trial challenging the merger in the Southern District of New York. Deutsche Telekom derives and will derive monetary benefit from Sprint’s infringing network operations in Texas and upon information and belief, continues to exert control over the operations of the company.

¹ <https://www.fiercewireless.com/wireless/dt-ceo-sees-light-at-end-tunnel-t-mobile-sprint-combo>.

17. Deutsche Telekom is aware of ICom and the Patents-in-Suit and indeed took a license to the patents in June, 2013, which did not extend to the acquired Sprint companies. ICom notified Deutsche Telekom of the applicability to the Patents-in-Suit to Sprint's network operations, and acting as Sprint's agent, Deutsche Telekom engaged in discussions with ICom over a license for Sprint's activities. Deutsche Telekom made the decision to refuse to take a license and abate the infringement, thereby forcing ICom to file suit to redress the Defendants' patent infringement. For at least the foregoing reasons, exercising jurisdiction over Deutsche Telekom in this district is consistent with the United States Constitution and laws.

18. Sprint maintains a significant physical presence in this judicial district. For example, there are numerous Sprint retail stores within this judicial district, including in Allen, Beaumont, Canton, Denton, Flower Mound, Frisco, Lufkin, Marshall, McKinney, Nacogdoches, Paris, Plano, Sulphur Springs, Texarkana, and Tyler, Texas. These stores are branded with Sprint signage and trademarks for the benefit of the shopping public. Sprint uses these stores to sell telecommunications services that infringe the Patents-in-Suit. These stores are physical places within the district, are regular and established places of business, and are Sprint's places. For at least these reasons, venue is proper in this judicial district. Sprint resides in this judicial district within the meaning of 28 U.S.C. § 1400(b). Sprint has committed infringement acts within this district and has regular and established places of business here.

19. As a foreign corporation, venue is proper for Deutsche Telekom in this district. 28 U.S.C. § 1391(c)(3).

THE PATENTS-IN-SUIT

U.S. Patent No. 7,333,822

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