

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

IPCOM, GMBH & CO. KG

Plaintiff,

v.

AT&T INC., AT&T CORP., AT&T
COMMUNICATIONS LLC, AT&T MOBILITY,
AT&T MOBILITY II LLC, and AT&T
SERVICES INC.

Defendants.

Civil Case No.: 2:20-cv-322

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff IPCom GmbH & Co. KG hereby files this Complaint against AT&T Inc., AT&T Corp., AT&T Communications LLC, AT&T Mobility LLC, AT&T Mobility II LLC, AT&T Services Inc. (collectively, “AT&T” 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. AT&T Inc. is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 208 South Akard Street, Dallas, Texas 75202-4206.

3. AT&T Corp. is a corporation organized and existing under the laws of the State of New York, with a principal place of business at One AT&T Way, Bedminster, New Jersey, 07921-0752.

4. AT&T Communications, LLC, is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business at 295 North Maple Ave Basking Ridge, NJ 07920.

5. AT&T Mobility, LLC, is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business at 1025 Lenox Park Boulevard NE, Atlanta, Georgia 30319.

6. AT&T Mobility II, LLC, is a corporation established under the laws of the State of Delaware, with its principal place of business at 1025 Lenox Park Blvd Ne Rm A325, Brookhaven, Georgia 30319.

7. AT&T Services, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 175 East Houston Street, San Antonio, Texas 78205.

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 “AT&T.” These telecommunications networks have also been used to provide wireless telecommunications services for the Cricket Wireless brand.

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”); 6,983,147 (the “147 Patent”), and 7,778,310 (the “310 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 Defendants, which have committed acts of infringement in Texas and 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, AT&T Inc., AT&T Corp., AT&T Mobility LLC, AT&T Mobility II LLC, and AT&T Services, Inc. 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. AT&T maintains a significant physical presence in this judicial district. For example, there are numerous AT&T retail stores within this judicial district, including in Allen, Athens, Beaumont, Canton, Denton, Frisco, Kilgore, Lindale, Longview, Marshall, Nacogdoches, Sulphur Springs, Texarkana, and Tyler, Texas. AT&T uses these stores to sell telecommunications services that infringe the Patents-in-Suit (discussed below). These stores are physical places within the district, are regular and established places of business, and are AT&T’s places.

13. AT&T further maintains a foundry within this judicial district in Plano, Texas, “encompassing all aspects of an industry environment – from manufacturing to distribution to

retail” and enabling AT&T’s customers “to test potential 5G solutions.”¹ AT&T uses this foundry to design, test, use, and sell telecommunications services that infringe the Patents-in-Suit. This foundry is a physical place within the district, is a regular and established place of business, and is AT&T’s place.

14. For at least these reasons, venue is proper in this judicial district. AT&T resides in this judicial district within the meaning of 28 U.S.C. § 1400(b). AT&T has committed infringement acts within this district and has regular and established places of business here.

THE PATENTS-IN-SUIT

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

15. On February 19, 2008, the United States Patent and Trademark Office (“USPTO” or “PTO”) issued U.S. Patent No. 7,333,822, entitled “Method for Transmitting Messages in a Telecommunication Network.” A true and correct copy of U.S. Patent No. 7,333,822 is attached hereto as Exhibit A and incorporated herein by this reference.

16. On July 16, 2008, a third party requester, HTC Corp. filed a request for *Inter Partes* Reexamination of U.S. Patent No. 7,333,822, and the PTO instituted reexamination pursuant to *Inter Partes* Reexamination Control No. 95/001,211. During this reexamination, the patent owner amended some of the claims, canceled other claims, and added new claims. The PTO Examiner subsequently determined that claims 1, 17, 22 and 27-48 are patentable over all of the prior art cited during the original examination and reexamination. The third-party requester then filed an appeal to the Patent Trial and Appeal Board (“PTAB”). On May 30, 2013, the PTAB issued a Decision on Appeal affirming the Examiner’s determination that these

¹ https://about.att.com/story/2018/plano_foundry.html.

claims are patentable. On September 13, 2013, the PTO issued Inter Partes Reexamination Certificate Number 7,333,822 C1, which is now part of the '822 patent.

17. IPCom is the assignee and owner of all right, title, and interest in and to the '822 Patent, including the right to assert all causes of action arising under said patent and the right to any and all remedies for infringement, including past damages.

18. The invention of the '822 Patent pertains to methods for transmitting messages in a mobile telecommunications network that can utilize two kinds of message services, such as: a short message service ("SMS") and a multimedia messaging service ("MMS"). *See* '822 Patent, 4:23-29. Such networks may comprise telecommunications equipment including Multimedia Messaging Service Centers ("MMSCs"), Short Message Service Centers ("SMSCs"), wireless base stations, and mobile phones. *Id.*, 2:27-30, 2:66-3:31. The invention of the '822 Patent is designed, *inter alia*, to solve certain technical problems affecting message transmission. *Id.* For example, in order to transmit messages, telecommunications equipment needs to set up a "connection" (or "session"). *Id.*, 4:25-29. However, setting up these connections requires certain "overhead" defined by the use of network resources, including "bandwidth" and "signaling" resources. *Id.*, 4:25-29, 4:64-5:6. Among other things, the invention of the '822 Patent reduces the amount of overhead needed to transmit messages within the network. *Id.* This improves efficiency and capacity.

19. The '822 Patent claims are directed to patent-eligible, non-abstract ideas in that they provide technical solutions to at least the technical problems described above. The claims relate to the sending of a dedicated MMS message using a short message of the SMS service, wherein the short message may include: a header portion, a data portion having an identification of a type of the dedicated MMS message, and also an identifier for indicating a presence of the

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