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2 A Limited Liability Partnership

3 Including Professional Corporations

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16 Attorneys for Plaintiff

17 Continental Automotive Systems, Inc.

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

22 CONTINENTAL AUTOMOTIVE  
23 SYSTEMS, INC., a Delaware  
24 corporation,

25 Plaintiff,

26 v.

27 AVANCI, LLC, a Delaware  
28 corporation. AVANCI PLATFORM

Case No. 19-cv-2520

**COMPLAINT FOR BREACH OF  
FRAND COMMITMENTS AND  
VIOLATIONS OF ANTITRUST  
AND UNFAIR COMPETITION  
LAWS:**

**(1) Breach of Contract;**

INTERNATIONAL LIMITED, an Irish company, NOKIA CORPORATION, a Finnish corporation, NOKIA OF AMERICA CORPORATION, a Delaware corporation, NOKIA SOLUTIONS AND NETWORKS US LLC, a Delaware corporation, NOKIA SOLUTIONS AND NETWORKS OY, a Finnish corporation, NOKIA TECHNOLOGIES OY, a Finnish corporation, CONVERSANT WIRELESS LICENSING SARL, a Luxembourg corporation, OPTIS UP HOLDINGS LLC, a Delaware corporation, OPTIS CELLULAR TECHNOLOGY, LLC, a Delaware corporation, OPTIS WIRELESS TECHNOLOGY, LLC, a Delaware corporation,

Defendants.

- (2) Promissory Estoppel;**
- (3) Declaratory Judgment;**
- (4) Violation of Section 1 of the Sherman Act—Concerted Action Unreasonably Restraining Trade**
- (5) Violation of Section 2 of the Sherman Act—Unlawful Monopolization;**
- (6) Violation of Section 2 of the Sherman Act—Conspiracy to Monopolize;**
- (7) Violations of the California Unfair Competition Law, Business and Professions Code Section 17200 et seq.**

1 Plaintiff Continental Automotive Systems, Inc. (“Continental” or “Plaintiff”)  
2 alleges the following facts and claims against Defendants Avanci, LLC, Avanci  
3 Platform International Limited (collectively, “Avanci”), Nokia Corporation (“Nokia  
4 Corp.”), Nokia of America Corporation (“Nokia America”), Nokia Solutions and  
5 Networks US LLC (“Nokia Solutions”), Nokia Solutions and Networks Oy (“Nokia  
6 Solutions Oy”), Nokia Technologies Oy (“Nokia Technologies Oy”) (Nokia Corp.,  
7 Nokia America, Nokia Solutions, Nokia Solutions Oy, and Nokia Technologies Oy  
8 collectively referred to herein as “Nokia”), Conversant Wireless Licensing SARL  
9 (“Conversant SARL”), Optis UP Holdings, LLC (“Optis UP”), Optis Cellular  
10 Technology, LLC (“Optis Cellular”), Optis Wireless Technology, LLC (“Optis  
11 Wireless”) (Optis UP, Optis Cellular, and Optis Wireless collectively referred to  
12 herein as “PanOptis”) (collectively, “Defendants”) (Nokia, Conversant, and  
13 PanOptis collectively referred to herein as “Defendant Licensors”).

## 14 **INTRODUCTION**

15 1. Continental, a leading provider of cutting-edge automotive  
16 components, including gateway products and telematics control units (“TCUs”),  
17 brings this lawsuit because of Defendants’ concerted refusal to license their alleged  
18 standard essential patents (“SEPs”) relevant to the 2G, 3G, and 4G cellular standards  
19 to Continental and its suppliers on fair, reasonable, and non-discriminatory  
20 (“FRAND”) terms and conditions.<sup>1</sup> Continental is a willing licensee, and seeks to  
21 pay a FRAND royalty rate for a license to the SEPs owned or controlled by  
22 Defendants. Accordingly, Continental seeks a declaration of its rights and  
23 Defendants’ breaches of contract and other violations of law, as well as the  
24 determination and imposition of the FRAND terms and conditions for a license to  
25 the SEPs owned or controlled by Defendants.

26 2. In today’s society, many products in addition to mobile phones,  
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28 <sup>1</sup> For purposes of this Complaint, FRAND will also mean and refer to reasonable  
and non-discriminatory (“FRAND”) terms and conditions.

1 including cars, also include cellular connectivity. For example, cars use cellular  
2 connectivity for emergency communications, among others. A car can provide such  
3 connectivity primarily through a telecommunications chipset, known as a baseband  
4 processor, which is the core electronic component that allows it to transmit and  
5 receive information to and from a cellular communications network. The baseband  
6 processor is typically incorporated within a network access device (“NAD”), which  
7 is itself often a sub-system of the TCU. The TCU includes additional functionality  
8 and components beyond cellular communication, including, by way of example,  
9 GPS, interface software, and control functions. The car into which the TCU (and  
10 thus the NAD and baseband processor) is incorporated obviously includes many  
11 functionalities having nothing to do with cellular connectivity, which is at best  
12 tangential to the main functionality of a car.

13         3.       Enabling cellular connectivity requires the use of widely adopted  
14 cellular standards, such as the second generation (“2G”), third generation (“3G”),  
15 and/or fourth generation (“4G”) cellular standards adopted by various standard-  
16 setting organizations (“SSOs”), such as ETSI, ATIS, TTA, ARIB, CCSA and others  
17 (addressed in more detail beginning at paragraph 64). Continental is a Tier 1  
18 supplier of TCUs to various automotive original equipment manufacturers  
19 (“OEMs”), *i.e.*, vehicle manufacturers. Continental sources its NADs primarily  
20 from Tier 2 suppliers, who in turn source the necessary baseband processor chipsets  
21 that enable cellular connectivity from companies that manufacture such chipsets  
22 (*e.g.*, Qualcomm, Intel, or MediaTek, sometimes referred to as Tier 3 suppliers).

23         4.       Defendant Licensors claim to own patents that have been declared  
24 essential to the cellular standards that are implemented in the components and/or  
25 subsystems supplied by Tier 1, Tier 2, and Tier 3 suppliers, including  
26 Continental. Avanci is a self-proclaimed “licensing platform” purporting to offer  
27 “one-stop” access to essential patents necessary for cellular connectivity. On  
28 information and belief, Avanci claims to license the majority of the total SEPs

1 necessary for implementing the 2G, 3G, and 4G cellular standards, although Avanci  
2 does not disclose the actual percentage. Avanci purportedly does not own any  
3 patents directly, but rather acts on behalf of Defendant Licensors and other owners  
4 of SEPs (collectively “Avanci Members”) as their licensing agent for the alleged  
5 SEPs, and controls the licensing of those SEPs.

6       5. On information and belief, all of the SEPs at issue are the subject of  
7 express and voluntary promises made either directly by Defendant Licensors, or  
8 their predecessors-in-interest, to the relevant SSOs pursuant to those SSOs’  
9 Intellectual Property Rights (“IPR”) Policies. Such IPR Policies all require  
10 Defendants to license the alleged SEPs to any user of the standard that requests a  
11 license, and do so on FRAND terms and conditions. The SSOs relied on such  
12 FRAND commitments when they purportedly incorporated Defendant Licensors’  
13 proprietary technology into their standards.

14       6. The relevant SSOs require FRAND commitments in recognition of the  
15 dangers inherent in collective standard-setting activities which eliminate competitive  
16 technological alternatives that otherwise would have existed in the market. Once  
17 standardized, a technology is “locked in” and must be practiced by all who wish to  
18 produce standard-compliant products. Such lock-in gives SEP owners the market  
19 power to exclude companies from practicing the standard, and to raise the cost of  
20 practicing the standards by charging supra-competitive royalties in excess of the *ex*  
21 *ante* value of such technology when it still competed with alternatives. This  
22 phenomenon is often referred to as “hold-up.” Such market power does not derive  
23 from the original patenting of the SEPs at issue, but results directly from collective  
24 action. In order to ameliorate the risks posed by the existence of this market power,  
25 and as a trade-off for having its proprietary technology included in the standards,  
26 which in turn enables the SEP owner to license a much greater volume of products  
27 than would be the case if the technology was not used in the standards, the SEP  
28 owner is required to make the FRAND licensing commitment.



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