

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADAPTIX, INC.,
Plaintiff,

v.

ERICSSON, INC.,
TELEFONAKTIEBOLAGET LM
ERICSSON, CELLCO PARTNERSHIP
D/B/A VERIZON WIRELESS, and SPRINT
SPECTRUM L.P.
Defendants.

Case No. 6:15-cv-00042

**ORIGINAL COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL REQUESTED

COMPLAINT

This is an action for patent infringement in which Plaintiff, ADAPTIX, Inc. (“ADAPTIX”), complains against Defendants Ericsson, Inc. and Telefonaktiebolaget Lm Ericsson (together “Ericsson”), Cellco Partnership d/b/a Verizon Wireless (“Verizon”), and Sprint Spectrum, L.P. (“Sprint”) (collectively “Defendants”) as follows:

THE PARTIES

1. ADAPTIX is a Delaware corporation with its principal place of business at 2400 Dallas Parkway, Suite 200, Plano, TX 75093.
2. Ericsson, Inc. is a Delaware corporation with its principal place of business at 6300 Legacy Drive, Plano, Texas 75024, and regularly does business in this judicial district at 6300 Legacy Drive, Plano, Texas 75024 by, among other things, committing the infringing acts giving rise to this Complaint.
3. Telefonaktiebolaget LM Ericsson is a Swedish corporation with its principal place of business at Torshamsgatan 23, Kista, 164 83 Stockholm, Sweden and regularly does business in this judicial district at 6300 Legacy Drive, Plano, Texas 75024 by, among other things, committing the infringing acts giving rise to this Complaint.

4. Verizon is a Delaware corporation with its principal place of business at 1 Verizon Way, Basking Ridge, New Jersey 07920, and regularly does business in this judicial district at 741 N. Central Expressway, Plano, Texas 75075 by, among other things, committing the infringing acts giving rise to this Complaint.
5. Sprint is a Delaware corporation with its principal place of business at 6200 Sprint Parkway, Overland Park, Kansas 66251, and regularly does business in this judicial district at 921 N. Central Expressway, Plano, Texas 75075 by, among other things, committing the infringing acts giving rise to this Complaint.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, Title 35 of the United States Code, 35 U.S.C. §§ 101 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
7. Defendants are subject to this Court's specific and general personal jurisdiction, pursuant to due process and/or the Texas Long Arm Statute.
8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b-c) and 1400(b) because Defendants, *inter alia*, regularly conduct business in and have committed the acts giving rise to this action within this judicial district.

COUNT I **(INFRINGEMENT OF U.S. PATENT NO. 8,934,445)**

9. ADAPTIX incorporates by reference paragraphs 1 through 8 herein.
10. This cause of action arises under the patent laws of United States of America and 35 U.S.C. §§ 271 *et seq.*
11. ADAPTIX is the owner by assignment of United States Patent No. 8,934,445, entitled "Multi-Carrier Communications with Cluster Configuration and Switching" ("the '445

Patent”), with ownership of all substantial rights therein, including the right to exclude others and to sue and recover damages for the past and future infringement thereof. A true and correct copy of the ‘445 Patent is attached as Exhibit A.

12. The ‘445 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.
13. Ericsson has directly infringed and continues to directly infringe at least Claims 1 and 8 of the ‘445 Patent by, among other things, making, using, offering for sale, selling and/or importing LTE cellular base stations, including without limitation the RBS 6000 family of products, for use on the 4G LTE Wireless Networks controlled by Verizon and Sprint, respectively. Ericsson is thereby liable for infringement of the ‘445 Patent pursuant to 35 U.S.C. § 271(a).
14. Verizon has directly infringed and continues to directly infringe at least Claims 1 and 8 of the ‘445 Patent by, among other things, using the accused LTE cellular base stations, including without limitation the RBS 6000 family of products, to operate its 4G LTE Wireless Network. Verizon is thereby liable for infringement of the ‘445 Patent pursuant to 35 U.S.C. § 271(a).
15. Sprint has directly infringed and continues to directly infringe at least Claims 1 and 8 of the ‘445 Patent by, among other things, using the accused LTE cellular base stations, including without limitation the RBS 6000 family of products, to operate its 4G LTE Wireless Network. Sprint is thereby liable for infringement of the ‘445 Patent pursuant to 35 U.S.C. § 271(a).
16. Ericsson has indirectly infringed and continues to indirectly infringe at least Claim 1 of the ‘445 Patent in this judicial district and elsewhere in the United States by, among other things,

making, offering for sale to, selling to and/or importing for sale to Verizon and Sprint LTE cellular base stations, including without limitation the RBS 6000 family of products, for use on their respective 4G LTE Wireless Networks. Ericsson's end users, including without limitation Verizon and Sprint, who purchase systems and components thereof and operate such systems and components in accordance with Ericsson's instructions directly infringe one or more claims of the '445 Patent in violation of 35 U.S.C § 271. To the extent such end users are held to have directly infringed, Ericsson is thereby liable for infringement of the '445 Patent pursuant to 35 U.S.C. § 271(b).

17. Ericsson will have been on notice of the '445 Patent since, at the latest, the service of this Complaint. By the time of trial, Ericsson will thus have known and intended (since receiving such notice) that its continued actions would induce actual infringement of at least Claim 1 of the '445 Patent.
18. Ericsson has indirectly infringed and continues to indirectly infringe at least Claim 1 of the '445 Patent by, among other things, contributing to the direct infringement of others, including without limitation Verizon, Sprint, and other end users of its LTE cellular base stations, including without limitation the RBS 6000 family of products, by supplying systems and components that infringe one or more claims of the '445 Patent in violation of 35 U.S.C. § 271(c).
19. To the extent such end users are held to directly infringe at least Claim 1 of the '445 Patent, Ericsson has contributed, and continues to contribute, to the direct infringement of others by making, offering to sell, selling, re-selling, and/or importing into the United States a component of a patented apparatus that constitutes a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '445

Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

20. Ericsson will have been on notice of the ‘445 Patent since, at the latest, the service of this Complaint. By the time of trial, Ericsson will thus have known and intended (since receiving such notice) that its actions would contribute to actual infringement of at least Claim 1 of the ‘445 Patent.
21. ADAPTIX has been reparably and irreparably damaged as a result of Defendants’ infringing conduct described in this Count. Defendants are thus liable to ADAPTIX for an amount that adequately compensates ADAPTIX for Defendants’ infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284. Additionally, such irreparable damage will continue until Defendants are enjoined pursuant to 35 U.S.C. § 283.

PRAYER FOR RELIEF

Wherefore, ADAPTIX respectfully requests that this Court enter:

- A. Judgment in favor of ADAPTIX that Ericsson, Verizon, and Sprint have directly infringed the ‘445 Patent, as aforesaid;
- B. Judgment in favor of ADAPTIX that Ericsson has indirectly infringed the ‘445 patent, as aforesaid;
- C. A permanent injunction enjoining Defendants, their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or privity therewith from direct and/or indirect infringement of the ‘445 Patent pursuant to 35 U.S.C. § 283;
- D. An order requiring Defendants to pay ADAPTIX its damages with pre- and post-

- judgment interest thereon pursuant to 35 U.S.C. § 284;
- E. A determination that this case is exceptional pursuant to 35 U.S.C. § 285;
- F. An order awarding ADAPTIX its attorneys' fees and costs incurred herein pursuant to 35 U.S.C. § 287; and
- G. Any and all further relief to which the Court may deem ADAPTIX entitled.

DEMAND FOR JURY TRIAL

ADAPTIX hereby requests a trial by jury on all issues so triable by right pursuant to Fed. R. Civ. P. 38.

Dated: January 13, 2015

Respectfully submitted,

By: /s/ Paul J. Hayes

Paul J. Hayes

James J. Foster

HAYES MESSINA GILMAN & HAYES LLC

200 State Street, 6th Floor

Boston, MA 02109

Telephone: (617) 345-6900

Facsimile: (617) 443-1999

Email: phayes@hayesmessina.com

Email: jfoster@hayesmessina.com

Craig Tadlock

Texas State Bar No. 00791766

Keith Smiley

Texas State Bar No. 24067869

TADLOCK LAW FIRM PLLC

2701 Dallas Parkway, Suite 360

Plano, Texas 75093

Phone: (903) 730-6789

Email: craig@tadlocklawfirm.com

keith@tadlocklawfirm.com

**ATTORNEYS FOR THE PLAINTIFF
ADAPTIX, INC.**