

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

CALYPSO WIRELESS, INC.

Plaintiff,

vs.

T-MOBILE USA, INC.,

Defendant.

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Case No. 2:08-CV-00441

Jury Demanded

PLAINTIFF’S ORIGINAL COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW, **CALYPSO WIRELESS, INC.** (hereinafter “Plaintiff” or “Calypso”), complaining of **T-MOBILE USA, INC.** (hereinafter “T-Mobile”), and for cause of action would respectfully show the following:

I. PARTIES

1. Plaintiff is a Delaware corporation with its principal place of business in Montgomery County, Texas.

2. Defendant T-Mobile USA, Inc. (hereinafter “Defendant” or “T-Mobile”) is a Delaware Corporation and may be served with citation by serving its registered agent for service of process Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701-3232.

II. JURISDICTION & VENUE

3. This Court has jurisdiction over Calypso’s patent infringement claims pursuant to the patent laws of the United States, 35 U.S.C. §§ 1 et seq., and pursuant to 28 U.S.C. § 1338.

4. This Court has personal jurisdiction over T-Mobile because T-Mobile actively markets and conducts business in the Eastern District of Texas, such that T-Mobile’s appearance in this case does not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because certain of the acts complained herein occurred in this judicial district. T-Mobile actively sells its infringing products and services within this judicial district

III. GENERAL ALLEGATIONS

A. Patent Infringement Allegations.

6. On January 20, 2004, U.S. Patent No. 6,680,923 B1, entitled “Communication System And Method” (“the ‘923 patent”), was duly and legally issued to inventor Robert Leon. A true and correct copy of the ‘923 patent is attached hereto as Exhibit 1.

7. Calypso is the owner by assignment of the ‘923 patent, with full and exclusive right to bring suit to enforce it.

8. The ‘923 patent relates to seamless fixed mobile convergence, which allows a seamless “hand off” between cellular networks and Wireless Local Area Networks.

9. Upon information and belief, T-Mobile has infringed and continues to infringe the ‘923 patent. The infringing acts include, but are not limited to, the manufacture, use, offering for sale, sale and/or importation of software/firmware, hardware, and services embodying the inventions of the patent-in-suit. T-Mobile is liable for infringement of the ‘923 patent pursuant to 35 U.S.C. § 271.

IV. CLAIM FOR PATENT INFRINGEMENT

10. Calypso repeats and re-alleges the allegations of paragraphs 1 through 9 above as if fully set forth herein.

11. In violation of 35 U.S.C. § 271, T-Mobile has infringed and is continuing to infringe, literally and/or under the doctrine of equivalents, the ‘923 patent by practicing one or more

claims of the '923 patent in its manufacture, use, offering for sale, sale and/or importation of software/firmware, hardware, and services embodying the inventions of the patent-in-suit.

12. Upon information and belief, T-Mobile's acts have been willful and with full knowledge of the legally protected status of the '923 patent.

13. Calypso has been damaged by T-Mobile's infringement and, unless T-Mobile obtains a license for the '923 patent, or is enjoined by the Court, T-Mobile will continue its infringing activity and Calypso will continue to be damaged.

VI. JURY DEMANDED

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury of all issues raised by this Complaint which are triable by jury.

PRAYER

Calypso respectfully request the following relief:

- a. A preliminary and permanent injunction against T-Mobile, its officers, agents, servants, employees, attorneys, all parent and subsidiary companies, all assignees and successors in interest and those persons in active concert or participation with T-Mobile and enjoining them from continuing acts of infringement of Calypso's patent;
- b. All actual damages;
- c. A trebling of said damages pursuant to 35 U.S.C. §204;
- d. Attorney's fees pursuant to 35 U.S.C. §205;
- e. All costs of court; and
- f. Any such other relief that this Court deems just and proper.

Respectfully submitted,

WILLIAMS ♦ KHERKHER

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