

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

GENERAL ACCESS SOLUTIONS, LTD.,

Plaintiff,

v.

SPRINT SPECTRUM L.P., VIRGIN MOBILE
USA, L.P. and BOOST MOBILE LLC,

Defendants.

Case No. 2:16-cv-465-RWS

JURY TRIAL DEMANDED

**DEFENDANTS SPRINT SPECTRUM L.P., BOOST MOBILE LLC, AND
VIRGIN MOBILE USA, L.P.'S INITIAL DISCLOSURES**

Pursuant to Paragraph 1 of the Discovery Order (See Dkt. No. 24-1), Defendants Sprint Spectrum L.P., Boost Mobile LLC, and Virgin Mobile USA, L.P. (together "Sprint"), by counsel, respectfully submit their initial disclosures to Plaintiff General Access Solutions, Ltd. ("Plaintiff").

The following disclosures are based upon information presently available to Sprint. Sprint notes that discovery has just begun. Accordingly, Sprint's investigation into the facts and law that may support its defenses to Plaintiff's charges of infringement of U.S. Patent No. 6,891,810, U.S. Patent No. 7,173,916 and U.S. Patent No. 7,230,931 (the "Patents-in-Suit") is in its early stages. These disclosures are based upon a reasonable construction of the allegations in Plaintiff's Complaint and Infringement Contentions, upon Sprint's current knowledge, and upon information that is reasonably available to Sprint at this time and within Sprint's possession, custody, or control as of the present date. These disclosures represent a good faith effort to identify information Sprint reasonably believes is relevant to the claims and defenses in this case. Sprint has not completed its investigation, discovery, and evaluation of the facts and evidence

that may ultimately be relevant to this case and reserves the right to supplement, amend, modify, or alter these disclosures as new information becomes available.

By making these disclosures, Sprint does not represent that it is identifying every document, tangible thing, or witness possibly relevant to this litigation. Sprint accordingly reserves its right to present witnesses, documents, and evidence in addition to the information that is disclosed and identified herein.

Nothing herein should be construed as an admission or acceptance by Sprint as to the admissibility or relevance of any document or fact referenced in these disclosures. These disclosures are further made without waiving in any way: (i) the right to object on the grounds of competency, privilege, the work product doctrine, relevancy, materiality, hearsay, undue burden, or any other proper ground, to the use of any such information for any purpose, in whole or in part, in this action or any other action or proceeding; and (ii) the right to object on any grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures. Sprint does not waive its right to assert any other objection authorized by the Federal Rules of Civil Procedure, the Local Rules of the Court, or any other applicable law or rule in response to interrogatories, requests for admissions, requests for production of documents, questions at depositions, or any other discovery requests involving or relating to the subject matter of these disclosures.

Sprint reserves the right to continue its investigation and discovery of facts, witnesses, and documents, which may reveal additional information about the issues in this lawsuit. Sprint reserves the right at the time of trial to produce, refer to, and offer into evidence any additional documents, facts, and evidence from any source, and testimony from any witness that may be ascertained through their continuing discovery and trial preparation, notwithstanding the

reference to witnesses, documents and information in these initial disclosures. All the disclosures set forth below are made subject to the above objections and qualifications.

In addition to the disclosures expressly set forth below, Sprint incorporates by reference individuals, entities, documents and/or categories of documents identified in all of the other parties' initial disclosures (including any supplementations) in the related actions, and reserves the right to use, rely upon, seek discovery from or call as witnesses those individuals, entities, documents and/or categories of documents as if they were expressly identified herein.

I. DISCLOSURES

A. CORRECT NAMES OF THE PARTIES

The correct names of the Sprint entities are "Sprint Spectrum L.P.," "Boost Mobile LLC," and "Virgin Mobile USA L.P."

Based upon information and belief, the correct name of the Plaintiff is "General Access Solutions, Ltd."

B. THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ANY POTENTIAL PARTIES

Sprint states that the eNodeBs accused of infringement by Plaintiff were and are supplied to Sprint by Alcatel-Lucent USA Inc., Huawei Technologies USA, Nokia Solutions and Network, and Samsung Telecommunications America, LLC.

C. LEGAL THEORIES AND, IN GENERAL, THE FACTUAL BASES OF THE DISCLOSING PARTY'S CLAIMS OR DEFENSES

Sprint denies the allegations of infringement as recited in Plaintiff's Complaint. More specifically, Sprint has not and does not infringe the Patents-in-Suit, either directly or indirectly, literally or under the doctrine of equivalents because Sprint does not manufacture, use, sell or offer to sell in the United States, or import into the United States, any product that includes each and every element of the asserted claims of the Patents-in-Suit, or an equivalent, to the extent

that Plaintiff is entitled to an equivalent. Facts supporting Sprint's non-infringement contentions may include but are not limited to the structure, characteristics, and operation of the accused products, the Patents-in-Suit, and their prosecution histories. Sprint incorporates by reference its forthcoming Patent Rule disclosures and document production.

Plaintiff's claims of infringement are barred in whole or in part by the doctrine of prosecution history estoppel.

The asserted claims of Patents-in-Suit are invalid and unenforceable because they fail to comply with one or more provisions of 35 U.S.C. §§ 101, 102, 103, or 112.

The asserted claims are barred and the Patents-in-Suit are unenforceable against Sprint due to the doctrines of laches, waiver, estoppel, and acquiescence.

The asserted claims are barred or otherwise limited based upon exhaustion, the first sale doctrine, implied license, and restrictions on double recovery.

The asserted claims are barred for failure to state a claim upon which relief may be granted.

Plaintiff is barred in whole or in part from recovering damages under 35 U.S.C. § 287 because it and/or its licensees have not consistently marked products that allegedly practice the Patents-in-Suit.

Plaintiff's claims are barred in whole or in part by express or implied licenses granted for the Patents-in-Suit and/or by the doctrine of patent exhaustion.

Plaintiff is not entitled to injunctive relief because any alleged injury to Plaintiff is not immediate or irreparable and Plaintiff has an adequate remedy at law for any claims it can prove.

To the extent Plaintiff asserts that Sprint indirectly infringes by actively inducing others to infringe, Sprint is not liable to Plaintiff for the acts alleged to have been performed before

Sprint allegedly knew of the Patents-in-Suit or that its actions allegedly caused indirect infringement.

To the extent Plaintiff asserts that Sprint willfully infringes, Sprint is not liable for willful infringement because it did not have pre-suit knowledge of the Patents-in-Suit, and because Plaintiff has failed to adequately plead willful infringement.

To the extent the Complaint accuses products or services that are provided by or for the government of the United States of America, Plaintiff's claims are barred in whole or in part under 28 U.S.C. § 1498(a).

Sprint is presently investigating the facts relating to the procurement of the Patents-in-Suit and the assertions of infringement against Sprint, and will continue to do so throughout the discovery process. To the extent that this investigation reveals any improprieties in connection with such matters, Sprint reserves the right to assert such allegations or defenses based thereon that may be appropriate.

D. PERSONS WHO MAY HAVE KNOWLEDGE OF RELEVANT FACTS

After a reasonable inquiry, Sprint identifies the following individuals, who may be contacted only through Sprint's outside counsel, as likely to have discoverable information that Sprint may use to support its claims or defenses (unless such use would likely be solely for impeachment) based on information currently known to Sprint.

Each individual listed in the below chart for which there is an indication that such individual should be "contact[ed] through outside counsel for Sprint," should be contacted only through counsel of record for Sprint.

No.	Individual	Subject(s)
1.	George Harter Director Network Development Contact only through outside counsel for	Sprint's accused network services, including operation of wireless base stations that implement WiMAX and LTE

No.	Individual	Subject(s)
	Sprint.	
2.	Rajveen Narendran Manager Telecom Design Engineering Contact only through outside counsel for Sprint.	Sprint's accused network services, including operation of wireless base stations that implement LTE
3.	Udit Thakore Manager Telecom Design Engineering Contact only through outside counsel for Sprint.	Sprint's accused network services, including operation of wireless base stations that implement WiMAX and LTE
4.	Eric Law Director Network Development Contact only through outside counsel for Sprint.	Sprint's accused network services, including operation of wireless base stations that implement WiMAX and LTE
5.	Howard Anderson Manager II RF Engineer Contact only through outside counsel for Sprint.	Sprint's accused network services, including operation of wireless base stations that implement WiMAX and LTE

In addition, the following individuals and entities outside of Sprint may have discoverable information that Sprint may use to support any claims or defenses. Contact information is provided to the extent presently known by Sprint.

	Entity	Subject(s)
	Paul F. Struhasker	Named inventor on all of the Patents-in-Suit. Likely to have discoverable information regarding the Patents-in-Suit and issues relating to the patents or the technology, including conception, reduction to practice, ownership, prior art, invalidity, prosecution, and enforceability.
	Robert R. Nelson	Named inventor of U.S. Patent No. 6,891,810 and U.S. Patent No. 7,173,916. Likely to have discoverable information regarding U.S. Patent No. 6,891,810 and U.S. Patent No. 7,173,916 and issues relating to the patents or the technology, including conception, reduction to practice, ownership, prior art, invalidity, prosecution, and enforceability.

	Entity	Subject(s)
	Russell C. McKown	Named inventor of U.S. Patent No. 6,891,810 and U.S. Patent No. 7,173,916. Likely to have discoverable information regarding U.S. Patent No. 6,891,810 and U.S. Patent No. 7,173,916 and issues relating to the patents or the technology, including conception, reduction to practice, ownership, prior art, invalidity, prosecution, and enforceability
	Raze Technologies, Inc.	Assignee of the Patents-in-Suit. Likely to have discoverable information regarding the Patents-in-Suit and issues relating to the patents or the technology, including conception, reduction to practice, ownership, prior art, invalidity, prosecution, and enforceability.
	Access Solutions, Ltd.	Assignee of the Patents-in-Suit. Likely to have discoverable information regarding the Patents-in-Suit and issues relating to the patents or the technology, including conception, reduction to practice, ownership, prior art, invalidity, prosecution, and enforceability.
	Munck, Wilson, Mandala LLP	Assignee of the Patents-in-Suit. Likely to have discoverable information regarding the Patents-in-Suit and issues relating to the patents or the technology, including conception, reduction to practice, ownership, prior art, invalidity, prosecution, and enforceability.
	WestEnd Broadband, Inc.	Predecessor-in-Interest to Raze Technologies, Inc.
	Attorneys, agents, and other individuals involved in the preparation and prosecution of the Patents-in-Suit	Prosecution of the Patents-in-Suit.
	Individuals listed in any patents, publications, or other references in the file histories of the Patents-in-Suit, related patents and patent applications, and well as individuals listed in prior art patents, publications, or products that Sprint or any other party may produce during this litigation.	Prosecution and/or technologies at issue in the Patents-in-Suit.

	Entity	Subject(s)
	Institute of Electrical and Electronics Engineers (IEEE)	Information relating to the invention and disclosure of the Patents-in-Suit, prior art, and commitments made by or on behalf of inventors or the companies for whom they work.
	The Third Generation Partnership Project (3GPP)	Information relating to the invention and disclosure of the Patents-in-Suit, prior art, and commitments made by or on behalf of inventors or the companies for whom they work.
	WiMAX Forum	Information relating to the invention and disclosure of the Patents-in-Suit, prior art, and commitments made by or on behalf of inventors or the companies for whom they work.

The above charts are not intended to identify every individual with relevant knowledge in the areas listed, nor are the areas listed above intended to describe completely the extent of each individual's possibly relevant knowledge. For example, there may be multiple individuals at Sprint with relevant knowledge regarding the accused products that duplicates or is a subset of the knowledge possessed by the listed individuals. The above list constitutes Sprint's good faith effort to identify individuals with substantial knowledge who may support its defenses without creating an unmanageable list of all individuals that may have some discoverable information.

Other individuals not specifically known to Sprint may possess relevant information. Such individuals include: (1) authors of prior art publications and patents relevant to the subject matter of the Patents-in-Suit; (2) individuals having knowledge of any prior art use, sale, offer to sell, or invention relevant to the subject matter of the Patents-in-Suit; (3) individuals having knowledge of the level of ordinary skill in the art to which the alleged inventions pertains; (4) individuals having knowledge of any licenses to technology relating to the Patents-in-Suit or any offer to license or refusal to license such technology; (5) individuals having knowledge of the circumstances surrounding the alleged inventions disclosed in the Patents-in-Suit; (6) individuals having knowledge of the ownership or rights in the Patents-in-Suit and/or the

subject matter of the Patents-in-Suit; (7) individuals having knowledge of relevant products prior to this lawsuit; (8) individuals having knowledge of development of relevant standards and contributions to the standards by Plaintiff's predecessors-in-interest to the Patents-in-Suit; (9) individuals having knowledge of intellectual property rights disclosures and other conduct related to intellectual property rights by Plaintiff's predecessors-in-interest to the Patents-in-Suit; and (10) individuals or entities identified in the initial disclosures of other parties in this lawsuit, including Plaintiff.

Sprint further anticipates that a number of additional third parties, including at least the designers, manufacturers, and/or suppliers of technology, products, and/or services identified below, are likely to have discoverable information that Sprint may use to support its defenses in this litigation:

	Entity	Subject(s)
	Alcatel-Lucent USA Inc. 600-700 Mountain Avenue Murray Hill, NJ 07974	Wireless base stations that implement LTE
	Huawei Technologies USA 5700 Tennyson Parkway, Suite 500 Plano, TX 75024	Wireless base stations that implement WiMAX and LTE
	Nokia Solutions and Network 6000 Connection Drive Irving, TX 75039	Wireless base stations that implement WiMAX and LTE
	Samsung Telecommunication America, LLC 1301 East Lookout Drive Richardson, TX 75082	Wireless base stations that implement WiMAX and LTE
	Airspan Networks Inc. 777 Yamato Road Boca Raton, FL 33431	Wireless base stations that implement LTE

Additionally, Sprint will disclose the identity of any testifying expert in accordance with the schedule set forth in Fed. R. Civ. P. 26(a)(2) and this Court's Scheduling Order.

Sprint reserves the right to name additional individuals and entities with knowledge concerning the subject matter of this action, or to remove individuals from this list as its

investigation and discovery in this case progress. Sprint's review and evaluation of Plaintiff's Disclosure of Asserted Claims and Infringement Contentions and related document production pursuant to P.R. 3-1 and P.R. 3-2 is ongoing. Sprint will conduct a reasonable search to identify additional individuals likely to have discoverable information that Sprint may use to support its defenses, and will supplement these disclosures if necessary and/or as required by FRCP 26(e). Sprint also reserves the right to object to the deposition or trial testimony of any individual identified in these Initial Disclosures.

E. INDEMNITY AND INSURANCE AGREEMENTS

Sprint has not yet identified any applicable insurance agreements. If and when identified, Sprint will promptly supplement its disclosures.

Based on Sprint's investigation to date and information reasonably available to Sprint at this time, Alcatel-Lucent USA, Inc., Huawei Technologies USA, Nokia Solutions and Network and/or Samsung Telecommunication America, LLC may be required to indemnify Sprint with regarding to the accused products.

F. SETTLEMENT AGREEMENTS

Based upon information reasonably available to Sprint at this time, Sprint is not aware of any settlement agreements relevant to the subject matter of this action.

G. STATEMENT OF ANY PARTY TO THE LITIGATION

Sprint is not presently aware of any such statements.

Dated: December 6, 2016

Respectfully submitted,

/s/ Jason W. Cook

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*Attorneys for Defendants Sprint Spectrum L.P.,
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LLC*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on December 6, 2016, via electronic mail to counsel of record for Plaintiff.

/s/ Jason W. Cook
Jason W. Cook