EXHIBIT A

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

CELERITY IP, LLC, ASUS TECHNOLOGY LICENSING INC., AND INNOVATIVE SONIC LTD., **Plaintiffs,** v. **AT&T CORP., AT&T MOBILITY LLC, AT&T MOBILITY II LLC, AT&T SERVICES, INC., CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, T-MOBILE USA, INC. AND ERICSSON, INC.,** Defendants.	**Civil Action No.** **2:24-CV-00721-JRG-RSP** **JURY TRIAL**

PLAINTIFFS' SECOND AMENDED COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff Celerity IP, LLC ("Celerity"), Plaintiff ASUS Technology Licensing Inc. ("ATL"), and Plaintiff Innovative Sonic Limited ("IS") (collectively, "Plaintiffs"), and file this, their Complaint against Defendants AT&T Corp., AT&T Mobility LLC, AT&T Mobility II LLC, AT&T Services, Inc. (collectively, the "AT&T Defendants"), Cellco Partnership d/b/a Verizon Wireless, T-Mobile USA, Inc., and Ericsson, Inc. (collectively, "Defendants") and, for cause, would respectfully show unto the Court as follows:

I. PARTIES

1. Plaintiff Celerity IP, LLC is a limited liability company organized and existing under the laws of the State of Texas.

2. Plaintiff ASUS Technology Licensing Inc. ("ATL") is Taiwanese corporation, with its principal place of business located at No. 115, Li-De Rd., Beitou District, Taipei, Taiwan, R.O.C. ATL was established in April 2022 by ASUSTeK Computer Inc. ("ASUSTeK") to continue ASUSTeK's long history of development in and contributions to the field of wireless communication technologies since 2000. ATL's mission includes active development of 3G, 4G, and 5G wireless communication technologies, as well as management of an innovative patent portfolio concerning such technologies which has brought abounding contributions to the industry through standards contributions and licensing. ATL is the owner by assignment of patents, originally owned by ASUSTeK, that are critically important to 3G, 4G, and 5G technologies.

3. Plaintiff Innovative Sonic Limited ("Innovative Sonic") is a corporation organized and existing under the laws of the Republic of Mauritius, with its principal place of business at 6F-1, No. 319, Sec. 4 Chung Hsiao E. Rd., Taipei City 106078, Taiwan, R.O.C. Innovative Sonic is the owner by assignment of patents that are critically important to 3G, 4G, and 5G technologies.

4. Defendant AT&T Corp. is a corporation. Since February 11, 1925, AT&T Corp. has been registered to do business in Texas under Texas SOS file number 0000480306. AT&T Corp. may be served through its registered agent for service, CT Corporation System, located at 1999 Bryan St., Suite 900, Dallas, Texas 75201.

5. Defendant AT&T Mobility LLC is a limited liability company. Since November 21, 2000, AT&T Mobility LLC has been registered to do business in Texas under Texas SOS file number 0707861123. AT&T Mobility LLC may be served through its registered agent for service, CT Corporation System, located at 1999 Bryan St., Suite 900, Dallas, Texas 75201.

6. Defendant AT&T Mobility II LLC is a limited liability company. AT&T Mobility II LLC is identified by the Texas Secretary of State as having an "ACTIVE" right to transact business in Texas under Texas taxpayer number 18416599704, associated with the Texas mailing address 101 N. Saint Marys St., Rm. 9-Y01, San Antonio, Texas 78215-2109. AT&T Mobility II LLC may be served through its registered agent for service, The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware, 19801. On information and belief, AT&T Mobility II LLC may also be served through AT&T Mobility LLC's registered agent for service, CT Corporation System, located at 1999 Bryan St., Suite 900, Dallas, Texas 75201.

7. Defendant AT&T Services, Inc. is a corporation organized and existing under the laws of Delaware. Since April 5, 1996, AT&T Services, Inc. has been registered to do business in Texas under Texas SOS file number 0010935606. AT&T Services, Inc. may be served through its registered agent for service, CT Corporation System, located at 1999 Bryan St., Suite 900, Dallas, Texas 75201.

8. The AT&T Defendants' principal place of business is 208 S Akard ST, Dallas, Texas 75202.

9. Defendant T-Mobile USA, Inc. ("T-Mobile") is a corporation. T-Mobile is registered to do business in the State of Texas and may be served through its registered agent for service, The Corporation Service Company, located at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

10. Defendant Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless") is a partnership. Verizon Wireless is registered to do business in the State of Texas and may be served through its registered agent for service, The Corporation Trust Company, located at 1209 Orange Street, Wilmington, Delaware 19801.

11. Defendant Ericsson, Inc. ("Ericsson") is a corporation. Ericsson is registered to do business in the State of Texas and may be served through its registered agent for service, Capitol Corporate Services, Inc., located at 1501 S. Mopac Expressway, Suite 220, Austin, Texas 78746. Ericsson's principal place of business is in Texas.

II. JURISDICTION AND VENUE

12. Defendants have taken the position that Plaintiffs' claims are subject to federal jurisdiction under 28 U.S.C. §§ 1331 and 28 U.S.C. §§ 1338(a)-(b), and if necessary supplemental jurisdiction under 28 U.S.C. § 1367. *See* Dkt. 4 (AT&T Notice Of Removal); Dkt. 5 (Ericsson Joinder In Removal); Dkt. 7 (T-Mobile Consent To Removal); Dkt. 9 (Verizon Consent To Removal).

13. Each Defendant is subject to this Court's personal jurisdiction consistent with the principles of due process and/or the Texas Long Arm Statute.

III. FACTS

14. This lawsuit concerns certain 3G/4G/5G patents owned by ATL, IS and/or ASUSTeK, for which Celerity has certain exclusive rights to negotiate licenses (the "Wireless Patents").

15. AT&T Defendants, T-Mobile, and Verizon Wireless (the "Service Providers") are three wireless service providers who collectively represent ~99% of the wireless service market in the United States and Texas.

16. The Service Providers maintain that the patents at issue in this action (U.S. Patent Nos. 10,951,383; 10,841,914; 10,827,487; and 10,993,141) meet the definition of ESSENTIAL under the ETSI patent policy.

17. The Service Providers maintain that that the patents at issue in this action (U.S. Patent Nos. 10,951,383; 10,841,914; 10,827,487; and 10,993,141) must be licensed under terms controlled by the ETSI Patent Policy.

18. Not later than 2022, Celerity initiated independent, good faith efforts to license the Wireless Patents to each of the Service Providers. After initiation of the Original Patent Suit (C.A. 2:23-cv-00486-JRG-RSP) each Service Provider refused to engage in a good faith licensing discussion concerning the Plaintiffs' valuable patents. Instead, the Service Providers refused to negotiate in good faith with Plaintiffs regarding licenses to Plaintiffs' patents.

19. None of the behavior that is the subject of this complaint relates to the joint defense of the Original Patent Suit, the joint defense of any breach of ETSI policy claims, or any legal advice received from any shared outside counsel. No liability in this complaint arises from receiving common legal advice or participation in a common defense agreement by the Service Providers or Ericsson. Instead, it relates to the substantive positions taken in negotiations. At the same time the Service Providers are claiming Plaintiffs have obligations under ETSI Patent Policy, they are taking steps that violate the ETSI Patent Policy.

20. First, the Service Providers are refusing to negotiate with the Plaintiffs unless ASUSTeK, a third party who has no control over the licensing of the Plaintiffs' patents, takes a license to Service Providers' own patents.

21. Second, the Service Providers are falsely claiming ignorance as to how their systems operate and using this as a basis for not negotiating.

22. Third, the Service Providers are refusing to provide information that would be necessary to conduct a negotiation.

23. Fourth, the Service Providers are claiming that ETSI gives then contractual rights to patents that do not meet the definition of ESSENTIAL in the ETSI Patent Policy.

24. Ericsson has attempted to extort Plaintiffs by maintaining that ASUSTeK requires a license to Ericsson patents but making the grant of a license contingent on Plaintiffs granting patent licenses for free.

25. Specifically, on June 14, 2024, Patricio Delgado, located in Texas, made clear that Ericsson will grant ASUSTeK a license to the patents owned by Ericsson that Ericsson claims are essential or are found to be essential to any cellular or H.26x standards employed by ASUSTeK at a rate of $5 per phone and tablet only if ASUSTeK grants Ericsson a "cross-license for Ericsson 4G/5G infra equipment" that is "not subject to royalties." The Wireless Patents include 4G/5G patents and the right to license these patents rests exclusively with Celerity. Ericsson is extorting ASUSTeK to interfere with Celerity's exclusive rights and to destroy Celerity's opportunity to generate revenue by Ericsson's step of making access to Ericsson patents it claims are technically essential contingent on ASUSTeK granting a royalty free license to the Wireless Patents. This is independently unlawful behavior for multiple reasons.

26. First, Ericsson has knowledge of Celerity's exclusive rights in the Wireless Patents on or about April 3, 2024 when it admitted this knowledge in correspondence written from its Texas headquarters. Nonetheless, it is extorting ASUSTeK to grant a license to the Wireless Patents.

27. Second, Ericsson has made clear in correspondence to ASUSTeK that it knows that ASUSTeK's "licensing agent" is responsible and has sole control over the Wireless Patents, candidly admitting in correspondence that "Asustek instead contracted with a licensing agent to

initiate litigation against Ericsson's customers in late 2023[.]" Nonetheless, it is extorting ASUSTeK to grant a license to the Wireless Patents.

28. Third, Ericsson is engaging in reciprocal dealing, whereby it is making ASUSTeK's access to the monopoly rights it owns via what it claims are technically "essential" "cellular" and "H.26x" patents contingent upon royalty free access to the Wireless Patents which ASUSTeK does not control.

29. Fourth, Ericsson has contractual obligations to the standards setting organizations that govern the decision to include patents technically essential in the "cellular" and "H.26x" standards. These organizations which Ericsson is a party to have policies that prohibit Ericsson from requiring a grant back of patent rights controlled by a third party (Celerity), much less a royalty free grant back, as the price for granting access to its technically "essential" "cellular" and "H.26x" patents to ASUSTeK. For example, Ericsson is contractually bound by the ETSI Patent Policy as to its technically essential cellular patents, which makes no provision for requiring a royalty free grant back of patents controlled by third parties such as Celerity. As another example, while the H.26x standard recognize that a patent holder's willingness to license may be based on reciprocity, it specifically defines reciprocity as requiring the prospective licensee "to license its Patent(s) for implementation of the same above document Free of Charge or under reasonable terms and conditions." IEC, ISO, ITU Guidelines For Implementation Of The Common Patent Policy at 18. Ericsson is demanding ASUSTeK grant licenses to entirely unrelated patents and its conduct therefore falls well outside the scope of "reciprocity" as defined by the H.26x standard.

30. Ericsson's agreement to be bound by these patent policies was the predicate for the inclusion of what it alleges are its technically essential patents in the standards. For example, for Ericsson to have obtained its allegedly "essential" patents to the H.26x standard, it must have

declared it is "prepared to grant a license . . . on a worldwide, non-discriminatory basis and on reasonable terms and conditions . . ." IEC, ISO, ITU Guidelines For Implementation Of The Common Patent Policy at 18. While the H.26x standard recognize that a patent holder's willingness to license may be based on reciprocity, it specifically defines reciprocity as required the prospective licensee to "to license its Patent(s) for implementation of the same above document Free of Charge or under reasonable terms and conditions."

31. At the time Ericsson made these representations Ericsson did not disclose to the standard setting organization that it would demand rights to non-HVEC patents in exchange for rights to its allegedly essential HVEC patents. Had Ericsson truthfully represented to the standard setting organization it was not willing to license its alleged essential patents under the defined terms, the standard would "not include provisions depending on the patent" and Ericsson's patents would therefore not be "essential" as it alleges. Common Patent Policy for ITU-T/ITUR/ ISO/IEC. Thus, by secretly planning to make the grant of rights to its technically essential patents contingent on royalty free grant backs to patents controlled by third parties, it made false representations to the standard setting organizations to induce the inclusion of its patents in the "cellular" and "H.26x" standards.

IV. CAUSES OF ACTION

DECLARATORY JUDGMENT THAT THE PLAINTIFFS HAVE COMPLIED WITH SSO OBLIGATIONS AND THAT THE SERVICE PROVIDERS AND ERICSSON HAVE NOT

32. Plaintiffs fully incorporate each of the preceding factual allegations as if set forth in full herein.

33. In an abundance of caution and to ensure their compliance with ETSI's IPR Policy, the Plaintiffs informed the Service Providers that they were prepared to grant Defendants a license, on FRAND terms, to the Plaintiffs' patents.

34. Not later than August 25, 2022, the Plaintiffs sent the Service Providers, in their individual capacities, correspondence initiating the Plaintiff's good faith efforts to license their patents to the Service Providers on FRAND terms.

35. Over the following months, the Plaintiffs' representatives routinely corresponded with the Service Providers' representatives on several occasions. The Plaintiffs' representatives provided, in good faith, materials concerning their patents and technical details evidencing the use of their patents, including the Patent-In-Suit. For example, not later than early February, 2023, the Plaintiffs' representatives provided the Service Providers credentials to access an online data room containing numerous example claim charts evidencing the use of Plaintiffs' patents.

36. The Plaintiffs have provided the Service Providers multiple opportunities to license the Plaintiffs' patents on FRAND terms. Despite this, the Service Providers have not reciprocated Plaintiffs' good faith efforts. The Service Providers have instead declined to take a FRAND license, while continuing to operate infringing Wireless Networks without a license to the Plaintiffs' patents.

37. The parties' license negotiations have been unsuccessful because the Service Providers have not negotiated in good faith. The Service Providers have failed to reciprocate the Plaintiffs' good faith efforts.

38. The Plaintiffs have fully performed all obligations they may have under the FRAND contract, but the Service Providers have refused to license Plaintiffs' patents on the FRAND terms the Plaintiffs have offered. The Service Providers have not reciprocated the

Plaintiffs' efforts to negotiate a FRAND license in good faith. There is a case or controversy of sufficient immediacy, reality, and ripeness to warrant the issuance of declaratory judgment.

39. Accordingly, the Plaintiffs request a declaratory judgment by this Court finding that Plaintiffs' actions in connection with their negotiations toward a FRAND license with the Service Providers were conducted by Plaintiffs in good faith, complied with the ETSI IPR Policy.

40. Further, the Plaintiffs request a declaratory judgment by this Court finding that the Service Providers have not negotiated with Plaintiffs in good faith, have not complied with ETSI's IPR Policy, and have waived any rights they may have under the ETSI IPR Policy.

41. The IEC, ISO, ITU Guidelines For Implementation Of The Common Patent Policy Obligations and ETSI patent policy prevent Ericsson from conditioning access to patents it maintains are essential to HVEC on access to patents controlled by third parties involving different standards royalty free. As a result, Ericsson has failed to comply with its obligations under these policies.

V. DEMAND FOR JURY TRIAL

42. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demands a trial by jury on all issues so triable.

VI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer, and upon final hearing hereof, that Plaintiffs be awarded all actual, statutory, and punitive damages, be awarded temporary and permanent injunctive relief as sought herein, as well as awarded all attorneys' fees to which it may be entitled, and for all other relief, in law or in equity, to which Plaintiffs may be justly entitled. Plaintiffs further respectfully request that the Court enter preliminary and final orders, declarations, and judgments against Defendants as are necessary to provide Plaintiffs with the following relief:

a. A declaration that Plaintiffs, in their history of negotiations with the Service Providers since the Original Infringement Claim have negotiated in good faith and have complied with the ETSI IPR Policy.

b. A declaration that Service Providers have not negotiated in good faith, have not complied with the ETSI IPR Policy, and have waived any rights they may have under the ETSI IPR Policy.

c. A declaration that Ericsson has not complied with the SSO patent policies and has waived any rights they may have under these policies.

DATED: December 6, 2024

Respectfully submitted,

/s/ *Jason G. Sheasby*

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