

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

LEMKO CORPORATION,	)	
	)	Civil Action No. _____
Plaintiff,	)	
v.	)	JURY TRIAL DEMANDED
	)	
AT&T INC., AT&T ENTERPRISES LLC,	)	
AT&T COMMUNICATIONS LLC, AT&T	)	
MOBILITY LLC, AT&T MOBILITY LLC	)	
II, and AT&T SERVICES, INC.,	)	
	)	
Defendants.	)	
_____	)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lemko Corporation (“Lemko”) files this Complaint for Patent Infringement and Demand for Jury Trial against Defendants AT&T Inc., AT&T Enterprises LLC, AT&T Communications LLC, AT&T Mobility LLC, AT&T Mobility LLC II, and AT&T Services, Inc. (collectively, “AT&T” or “Defendants”) and alleges as follows:

1. Lemko is seeking to protect its valuable intellectual property from AT&T’s ongoing willful infringement. Lemko developed and patented novel technology that changed the way mobile networks operate. Lemko presented its ideas to AT&T and sought a partnership. AT&T chose to willfully infringe Lemko’s patents rather than take a license, necessitating this action.

THE PARTIES

2. Lemko is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business located at 935 National Parkway, Suite 93510, Schaumburg, IL 60173.

Second, they want their employees to have quick, low-latency access to their local databases and application servers. And third, they want to maintain the ability to communicate even if the carrier's network goes down.

26. Lemko's solutions with its local routing and ability to be deployed in smaller form factors on COTS servers enable these on-premises cellular networks while still allowing employees' devices to access the broader carrier cellular network when they leave the enterprise network.

LEMKO'S ASSERTED PATENTS

27. The United States Patent and Trademark Office ("USPTO") awarded to Lemko a series of patents covering its communications inventions.

28. On November 23, 2010, the USPTO duly and legally issued to Lemko U.S. Patent No. 7,840,230 (the "'230 Patent"), titled "Communications Using A Distributed Mobile Architecture." Lemko is the owner by assignment of the '230 patent. Lemko filed the application for the '230 Patent with the USPTO on May 22, 2009. A true and accurate copy of the '230 Patent is attached as Exhibit 1.

29. On July 12, 2011, the USPTO duly and legally issued to Lemko U.S. Patent No. 7,979,066 (the "'066 Patent"), titled "Multiple IMSI Connections." Lemko is the owner by assignment of the '066 Patent. Lemko filed the application for the '066 Patent with the USPTO on September 25, 2008. A true and accurate copy of the '066 Patent is attached as Exhibit 2.

30. On July 17, 2012, the USPTO duly and legally issued to Lemko U.S. Patent No. 8,224,322 (the "'322 Patent"), titled "Roaming Mobile Subscriber Registration in a Distributed Mobile Architecture." Lemko is the owner by assignment of the '322 Patent. Lemko filed the

application for the '322 Patent with the USPTO on June 12, 2006. A true and accurate copy of the '322 Patent is attached as Exhibit 3.

31. On November 13, 2012, the USPTO duly and legally issued to Lemko U.S. Patent No. 8,310,990 (the "'990 Patent"), titled "System, Method, and Device for Routing Calls Using a Distributed Mobile Architecture." Lemko is the owner by assignment of the '990 Patent. Lemko filed the application for the '990 Patent with the USPTO on November 9, 2010. A true and accurate copy of the '990 Patent is attached as Exhibit 4.

32. On December 25, 2012, the USPTO duly and legally issued to Lemko U.S. Patent No. 8,340,667 (the "'667 Patent"), titled "System and Method To Control Wireless Communications." Lemko is the owner by assignment of the '667 Patent. Lemko filed the application for the '667 Patent on June 26, 2008. A true and accurate copy of the '667 Patent is attached as Exhibit 5.

33. On January 22, 2013, the USPTO duly and legally issued to Lemko U.S. Patent No. 8,359,029 (the "'029 Patent"), titled "System, Method, and Device for Providing Communications Using a Distributed Mobile Architecture." Lemko is the owner by assignment of the '029 Patent. Lemko filed the application for the '029 Patent with the USPTO on November 15, 2010. A true and accurate copy of the '029 Patent is attached as Exhibit 6.

34. On November 24, 2015, the USPTO duly and legally issued to Lemko U.S. Patent No. 9,198,020 (the "'020 Patent"), titled "OAMP for Distributed Mobile Architecture." Lemko is the owner by assignment of the '020 Patent. Lemko filed the application for the '020 Patent with the USPTO on December 22, 2011. A true and accurate copy of the '020 Patent is attached as Exhibit 7.

35. The '230, '066, '322, '990, '667, '029, and '020 Patents are collectively referred to herein as the "Asserted Patents."

36. The Asserted Patents are not abstract and specifically claim inventive concepts that represent significant improvements over conventional networking technology. Each of the Asserted Patents describes specific software architectures that were not conventional at the time of their invention.

37. The Asserted Patents disclose so much more than just a simple combination of generic components to perform conventional activities, such that they claim patent eligible inventions. The Asserted Patents improve networking systems, especially for use in edge networks, and solve specific problems that arise from switching from a centralized, hierarchical network paradigm, where the base transceiver station (BTS) nodes have no ability to manage or route calls and depend on centralized mobile switching center (MSC) hubs to control network traffic, to the new DMA paradigm, where call management functionality is distributed.

38. Examples of the problems solved by the Asserted Patents to enable DMA networks and improve the efficiency, reliability, and affordability of networks include managing mobile device mobility within a distributed mobile architecture in order to allow for setup of group calls, managing devices which are associated with different networks in different countries, managing mobility and routing of calls between multiple private networks, and using distributed mobile architecture gateways (DMAG) to manage connections between separate DMA networks.

39. The technology disclosed in the Asserted Patents was not conventional in the art at the time of the inventions because then-conventional networking systems did not use DMAs

or any equivalent architecture where the call management functionality was distributed to the local nodes. In addition, then-conventional networks did not use the various specific network designs covered by the claims of the Asserted Patents, which are based on the novel DMA paradigm

40. Certain claims of the Asserted Patents variously recite elements not found in then-conventional networks, such as distributed mobile architecture systems, distributed mobile architecture servers, distributed mobile architecture gateways (DMAG) with interfaces to communicate with a legacy communication network, a home DMA register with a list of DMA nodes and designated to route communications to mobile devices, a visitor DMA register with a list of DMA nodes that are roaming with respect to the DMAG, and a community location register (CLR). Other claims of the Asserted Patents describe further specific and non-conventional functions and networking requirements of DMA servers and DMAGs.

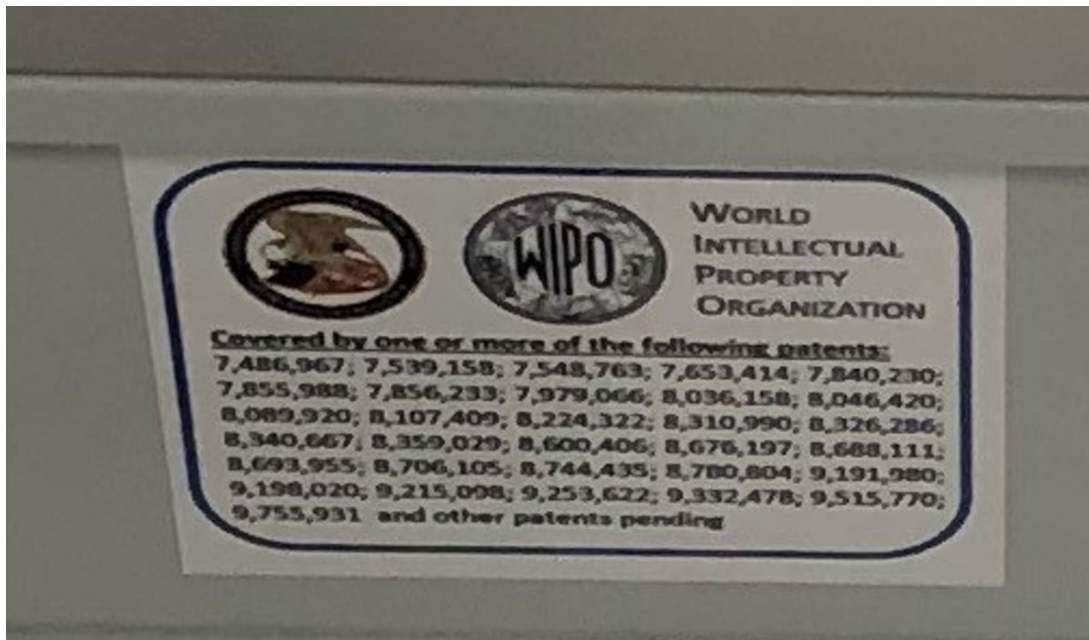
41. In addition, the Asserted Patents' claims are rooted in computer technology as they are directed to specific software architectures with different applications that improve communication between mobile devices and the hardware infrastructure supporting such communications. Thus, the claims of the Asserted Patents recite specific steps and components to accomplish the desired results and go beyond simply claiming results. Accordingly, the inventions of the Asserted Patents allow for a new kind of infrastructure and communications network that was not previously possible and that improves communications technology.

LEMKO MARKS ITS PATENT-PRACTICING PRODUCTS

42. At all times Lemko has complied with 35 U.S.C. § 287(a) by marking its patent-practicing products with stickers identifying the applicable Asserted Patents covering those products and further identifying in writing the applicable Asserted Patents in the

documentation for its software products. Lemko has not made, offered for sale, or sold any unmarked patent-practicing products.

43. The following is a representative example of Lemko's patent marking labelling, and identifies each of the Asserted Patents (in addition to other Lemko patents).



Detail of patent marking label listing the '230, '066, '322, '990, '667, '029, and '020 Patents.



Full view of Lemko's Node1 product with patent marking label.

64. At an in-person meeting held at AT&T Labs' research institute in Middletown, New Jersey on September 24, 2013, Lemko demonstrated operating models of its patent-practicing Node1 products. Given AT&T's focus on developing network virtualization technology, over 70 AT&T representatives, including Ms. Chiosi, participated in the meeting and observed Lemko's demonstrations. Lemko informed AT&T that its Node1 technology was covered by Lemko's patent portfolio and Lemko marked those models with the numbers of its patents. Lemko's slides used in during the presentation reiterated that Lemko's technology was covered by patents and included an appendix describing three families of Lemko's patents covering its products and technology. Lemko also explained how its technology would cause AT&T to achieve a more than seven-fold reduction in its costs.

65. After observing this demonstration of Lemko's Node1 product, Ms. Chiosi stated that Lemko's patented technology had solved AT&T's problems addressed in her 2012 NFV Paper. Ms. Chiosi provided Lemko with a copy of her 2012 NFV Paper. Ms. Chiosi described Lemko's patent-practicing (and patent marked) Node1/DMA solution as "a radical design" that AT&T "should look at." Exhibit 18 at 1.

66. Ms. Chiosi directed AT&T's Sam Habiby and Saroj Panda to coordinate with Lemko's Chief Strategy Officer, Norman Fekrat, to conduct "an economic study based on Lemko's vision of fully distributed EPC," referring to the opportunity for a more than seven-fold reduction in its costs. *Id.*

67. As part of its economic study, AT&T investigated the distinguishing features of Lemko's technology. Exhibit 19 at 1-2. Lemko's "unique differentiators of [its] distributed mobile wireless network solution" included "Peer-to-Peer Communications," "[i]ndependent nodes that all act like one network," and software-based network functionality. *Id.* These

features specifically addressed AT&T's needs that it identified in its 2012 NFV White Paper and Domain 2.0 White Paper. Exhibits 15, 16.

68. As part of AT&T's investigation into Lemko's patented technology, Lemko provided to AT&T additional details regarding its technology. For example, Mr. Fekrat sent to AT&T's Sam Faraj (Assistant Vice Present for Content Delivery and Security Platforms) and Steven Nurenberg (Assistant Vice President for Network Platform Strategy and Incubation) a white paper further describing Lemko's technology. Exhibit 20 at 3. Lemko's white paper listed 13 US patents covering its products, including Lemko's asserted '230 and '322 Patents, and stated that "[o]ther patents are pending." Exhibit 21 (Lemko's 2012 White Paper) at 5. Mr. Nurenberg acknowledged the novelty of Lemko's combination of core functions with network function virtualization (NFV). Exhibit 20 at 2.

69. On October 11, 2013, Ms. Chiosi, Mr. Fekrat, and multiple AT&T employees held a multi-hour "Deep Drill Down" to discuss Lemko's technology. Exhibit 22 at 5. Lemko provided AT&T with product specification documents. *Id.* at 4. After thanking Lemko for "spending the time to help us better understand your product," AT&T requested additional details on multiple aspects of Lemko's technology including the details of its handover procedures. *Id.* at 3.

70. For the remainder of 2013 through 2015, Lemko continued to present its technology and patents to AT&T engineers and executives, including several Vice Presidents (John Medamana and others) and Igal Elbaz, then AT&T's Vice President and now its Network Chief Technology Officer.

71. During this time Lemko exchanged hundreds of emails with numerous AT&T personnel. Lemko included in the signature blocks of its emails a list of its patents covering

Lemko's "products, designs and architectures." This list identified sixteen US patents, including the asserted '230, '322, '990, '667, and '029 Patents, and stated that "Other patents pending." *See, e.g.*, Exhibit 23 at 1.

72. In 2015, when AT&T was considering launching a first responder technology project, Lemko demonstrated to AT&T a vehicle equipped with Lemko's mobile Node1 DMA product. Lemko's Node1 product was marked with Lemko's patents. Later that year, AT&T began development on its deployable product, which closely resembles the functionality of Lemko's Node1 product.

73. In sum, for more than two years, Lemko repeatedly disclosed its technology to AT&T, showed AT&T the benefits that it would obtain from using Lemko's technology, and notified AT&T that Lemko's technology was covered by its patent portfolio. Lemko demonstrated its patent-marked products to AT&T and responded to AT&T's repeated requests for additional information. Lemko's presentations stated that its products were patented, Lemko's emails included a list of Lemko's patents, and Lemko provided AT&T with a white paper listing its patents. Over 100 AT&T officers and engineers participated in these evaluations. When AT&T launched its infringing products, it did so fully aware that it was infringing Lemko's patents. Thus, AT&T's infringement of Lemko's Asserted Patents is willful.

COUNT I - DIRECT INFRINGEMENT OF THE '230 PATENT

74. Lemko repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

75. AT&T has infringed and continues to directly infringe at least exemplary Claim 8 of the '230 Patent in violation of 35 U.S.C. § 271(a) by making, using, importing, selling,

Respectfully submitted,

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