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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

|                                   |   |                                      |
|-----------------------------------|---|--------------------------------------|
| DIGITAL TECHNOLOGY LICENSING LLC, | : |                                      |
|                                   | : |                                      |
| Plaintiff,                        | : |                                      |
| v.                                | : | Civil Action No. 07-5273 (SRC) (MAS) |
|                                   | : |                                      |
| T-MOBILE USA, INC.,               | : | District Judge Stanley R. Chesler    |
|                                   | : | Magistrate Judge Michael A. Shipp    |
| Defendant.                        | : |                                      |
|                                   | : |                                      |
|                                   | : |                                      |
|                                   | : | X                                    |

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**FIRST AMENDED COMPLAINT AND DEMAND FOR TRIAL BY JURY**

Plaintiff Digital Technology Licensing LLC, for its complaint, hereby alleges as follows:

1. Digital Technology Licensing LLC (hereinafter "DTL"), is a limited liability company organized and existing under the laws of the State of New York, having its principal place of business at 75 Montebello Park, Suffern, New York 10901-3740.

2. Defendant T-Mobile USA, Inc. (hereinafter "T-Mobile"), is organized and existing under the laws of the State of Delaware, having its principal place of business at

12920 SE 38th Street, Bellevue, Washington 98006, and is currently conducting business in the State of New Jersey.

3. T-Mobile is engaged in the marketing and sale of digital cellular telephones and digital cellular telephone service in the United States generally, and in the District of New Jersey.

4. This action is for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* Subject matter jurisdiction is conferred upon this Court under 28 U.S.C. § 1338(a).

5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

6. Personal jurisdiction over the defendant comports with the United States Constitution because T-Mobile is committing and/or contributing to the acts of patent infringement alleged in this Complaint in this district.

7. On September 24, 1991, United States Patent No. 5,051,799 ("the '799 Patent"), entitled "Digital Output Transducer," was duly and lawfully issued based upon an application filed by the inventors, Jon D. Paul, Mark D. Clayton, and Anthony M. Agnello.

8. DTL is the owner by assignment of the '799 Patent, and has the right to sue and recover damages for infringement thereof.

9. T-Mobile has directly and/or contributorily infringed, and/or induced infringement of, and is continuing to directly and/or contributorily infringe, and/or induce infringement of, the '799 Patent, by selling and offering to sell products and by using and

inducing others to use, sell, offer to sell, products that come within the scope of claim 20 of the '799 Patent. Upon information and belief, such products include, but are not limited to, digital cellular telephones; infrastructure used for the implementation of digital cellular telephones and placing digital telephone calls, accessories for digital cellular telephones, including headsets for same; Bluetooth compatible electronics for transmission of audio signals; Bluetooth telephone headsets; and such other and further devices that come within the scope of claim 20 of the '799 Patent.

10. Upon information and belief, after reasonable opportunity for further investigation and discovery, it is likely that the evidence will show that the acts of infringement of T-Mobile have occurred with knowledge of the '799 Patent and are willful and deliberate. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285.

11. DTL has been damaged by the infringement by T-Mobile and is suffering, and will continue to suffer, irreparable harm and damage as a result of this infringement, unless such infringement is enjoined by this Court.

12. DTL has no adequate remedy at law.

WHEREFORE, DTL demands judgment as follows:

- A. An order adjudging Defendant T-Mobile to have infringed the '799 Patent;
- B. A permanent injunction enjoining T-Mobile, together with its officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with any of them who receive actual notice of the order by personal service or otherwise, from infringing the '799 Patent;

C. An award of damages adequate to compensate DTL for the infringement of T-Mobile, along with prejudgment and postjudgment interest, but in no event less than a reasonable royalty, such damages to be trebled pursuant to the provisions of 35 U.S.C. § 284;

D. An award of DTL's reasonable attorney fees and expenses, pursuant to the provisions of 35 U.S.C. § 285;

E. An award of DTL's costs; and

F. Such other and further relief as this Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Fed. R. Civ. P. 38(b), DTL hereby demands a jury trial on all issues so triable raised in this action.

LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
*Attorneys for Plaintiff Digital Technology  
Licensing LLC*

Dated: January 24, 2008

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**AMENDED CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2**

The undersigned hereby certifies, pursuant to Local Civil Rule 11.2, that with respect to the matter in controversy herein, neither Plaintiff nor Plaintiff's attorney is aware of any other action pending in any court, or of any pending arbitration or administrative proceeding, to which this matter is subject, except that the patent in suit has been asserted against parties in separate actions, namely:

- *Digital Technology Licensing LLC v. Cellco Partnership d/b/a Verizon Wireless*, Civil Action No. 05-1922 (D.N.J. filed April 11, 2005);
- *Digital Technology Licensing LLC v. Sprint Nextel Corp.* Civil Action No. 07-cv-05432 (D.N.J. filed November 9, 2007);
- *Digital Technology Licensing LLC v. AT&T Mobility, LLC*, Civil Action No. 07-cv-05454 (D.N.J. filed November 9, 2007) (motion for dismissal with prejudice currently pending); and
- *Motorola, Inc. v. Digital Technology Licensing LLC*, Civil Action No. 07-10436 (S.D.N.Y. filed November 19, 2007.)

Dated: January 24, 2008

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By: s/ Stephen F. Roth  
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