

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NOKIA CORPORATION, NOKIA INC.,)	
INTELLISYNC CORPORATION, and)	
NAVTEQ NORTH AMERICA, LLC)	
)	
Plaintiffs,)	C.A. No. 12-550-LPS
)	
v.)	JURY TRIAL DEMANDED
)	
HTC CORPORATION, HTC AMERICA,)	
INC., and EXEDEA INC.,)	
)	
Defendants.)	

**DEFENDANTS HTC CORPORATION AND HTC AMERICA, INC.’S
ANSWER AND COUNTERCLAIMS TO PLAINTIFFS’ COMPLAINT**

Defendants HTC Corporation and HTC America, Inc.¹ (collectively “HTC”), by and through their attorneys of record, hereby answer the Complaint filed by Plaintiffs Nokia Corporation, Nokia Inc., Intellisync Corporation, and Navteq North American, LLC (collectively “Nokia”), as follows:

The Parties

1. HTC lacks knowledge or information sufficient to admit or deny the allegations of paragraph 1 and therefore denies the same.
2. HTC lacks knowledge or information sufficient to admit or deny the allegations of paragraph 2 and therefore denies the same.
3. HTC lacks knowledge or information sufficient to admit or deny the allegations of paragraph 3 and therefore denies the same.

¹ The undersigned counsel for HTC are not entering an appearance on behalf of Exedea Inc., which was dissolved in January 2012. The filing of this answer shall not constitute a notice of appearance by HTC on behalf of Exedea in this case.

4. HTC lacks knowledge or information sufficient to admit or deny the allegations of paragraph 4 and therefore denies the same.

5. HTC admits that HTC Corporation is a Taiwanese corporation, with its principal place of business at 23 Xinghua Road, Taoyuan City, Taoyuan County 330, Taiwan, Republic of China.

6. HTC admits that HTC America, Inc. is an indirect subsidiary of HTC Corporation and is incorporated in the State of Washington with its principal place of business at 13920 S.E. Eastgate Way, Suite 200, Bellvue, Washington 98005.

7. HTC denies the allegations of paragraph 7.

Nature of The Action

8. HTC admits that Nokia has brought this action for infringement of six patents arising under the patent laws of the United States, Title 35 of the United States Code.

Jurisdiction and Venue

9. HTC admits that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) over this action, but HTC specifically denies any wrongdoing or infringement.

10. Paragraph 10 contains legal conclusions to which no response is required. To the extent a response is required, HTC admits that HTC Corporation manufactures and HTC America, Inc. distributes products that may have been offered for sale, sold, purchased, and/or used within the state of Delaware but deny the remainder of the allegations in paragraph 10. To the extent venue is deemed proper, HTC denies that this judicial district is the most convenient forum for the parties and witnesses, or in the interest of justice.

The Patents-In-Suit

11. HTC admits that U.S. Patent No. 5,878,351 (“the ’351 patent”) is entitled “Methods And Apparatus For Providing Delayed Transmission Of SMS Delivery Acknowledgement, Manual Acknowledgement And SMS messages,” that the face of the ’351 patent indicates that it was issued by the United States Patent and Trademark Office (“USPTO”) on March 2, 1999, and that a copy of the ’351 patent is attached to the Complaint as Exhibit A. HTC lacks knowledge or information sufficient to admit or deny the remaining allegations of paragraph 11 and therefore denies the same.

12. HTC admits that U.S. Patent No. 6,349,263 (“the ’263 patent”) is entitled “Integrated Position And Direction System,” that the face of the ’263 patent indicates that it was issued by the USPTO on February 19, 2002, and that a copy of the ’263 patent is attached to the Complaint as Exhibit B. HTC lacks knowledge or information sufficient to admit or deny the remaining allegations of paragraph 12 and therefore denies the same.

13. HTC admits that U.S. Patent No. 6,587,788 (“the ’788 patent”) is entitled “Integrated Position And Direction System With Radio Communication For Updating Data,” that the face of the ’788 patent indicates that it was issued by the USPTO on July 1, 2003, and that a copy of the ’788 patent is attached to the Complaint as Exhibit C. HTC lacks knowledge or information sufficient to admit or deny the remaining allegations of paragraph 13 and therefore denies the same.

14. HTC admits that U.S. Patent No. 6,647,370 (“the ’370 patent”) is entitled “System And Methods For Scheduling And Tracking Events Across Multiple Time Zones,” that the face of the ’370 patent indicates that it was issued by the USPTO on November 11, 2003, and that a copy of the ’370 patent is attached to the Complaint as Exhibit D. HTC lacks knowledge or

information sufficient to admit or deny the remaining allegations of paragraph 14 and therefore denies the same.

15. HTC admits that U.S. Patent No. 6,865,404 (“the ’404 patent”) is entitled “Handset,” that the face of the ’404 patent indicates that it was issued by the USPTO on March 8, 2005, and that a copy of the ’404 patent is attached to the Complaint as Exhibit E. HTC lacks knowledge or information sufficient to admit or deny the remaining allegations of paragraph 15 and therefore denies the same.

16. HTC admits that U.S. Patent No. 7,460,953 (“the ’953 patent”) is entitled “Method Of Operating A Navigation System Using Images,” that the face of the ’953 patent indicates that it was issued by the USPTO on December 2, 2008, and that a copy of the ’953 patent is attached to the Complaint as Exhibit F. HTC lacks knowledge or information sufficient to admit or deny the remaining allegations of paragraph 16 and therefore denies the same.

17. HTC admits that the ’351 patent, ’263 patent, ’788 patent, ’370 patent, ’404 patent, and ’953 patent are collectively referred to in the Complaint as the “patents-in-suit.”

18-22. HTC lacks knowledge or information sufficient to admit or deny the allegations of paragraphs 18-22 and therefore denies the same.

COUNT I

Infringement of the ’351 Patent

23. HTC incorporates its responses to paragraphs 1-22 of the Complaint as if fully stated herein.

24. HTC denies the allegations of paragraph 24.

25. HTC denies the allegations of paragraph 25.

26. To the extent the allegations of paragraph 26 relate to HTC, HTC denies them . To the extent the allegations of paragraph 26 relate to third-parties, HTC lacks knowledge or information sufficient to admit or deny the allegations and therefore denies the same.

27. Paragraph 27 contains legal conclusions to which no response is required. To the extent a response is required, HTC admits that certain patents were listed in a February 2, 2012 presentation to HTC but that a copy of the presentation was not provided to HTC.

29. HTC denies the allegations of paragraph 28.

29. HTC denies the allegations of paragraph 29.

30. HTC denies the allegations of paragraph 30.

31. HTC denies the allegations of paragraph 31.

32. HTC denies the allegations of paragraph 32.

33. HTC denies the allegations of paragraph 33.

COUNT II

Infringement of the '263 Patent

34. HTC incorporates its responses to paragraphs 1-33 of the Complaint as if fully stated herein.

35. HTC denies the allegations of paragraph 35.

36. HTC denies the allegations of paragraph 36.

37. To the extent the allegations of paragraph 37 relate to HTC, HTC denies them . To the extent the allegations of paragraph 37 relate to third-parties, HTC lacks knowledge or information sufficient to admit or deny the allegations and therefore denies the same.

38. Paragraph 38 contains legal conclusions to which no response is required. To the extent a response is required, HTC admits that Nokia filed the Complaint on May 2, 2012. HTC

further admits that it received correspondence from Paul Melin of Nokia by electronic mail, dated May 2, 2012, purporting to attach a copy of the Complaint that Nokia planned to file the same day.

39. HTC denies the allegations of paragraph 39.

40. HTC denies the allegations of paragraph 40.

41. HTC denies the allegations of paragraph 41.

42. HTC denies the allegations of paragraph 42.

43. HTC denies the allegations of paragraph 43.

COUNT III

Infringement of the '788 Patent

44. HTC incorporates its responses to paragraphs 1-43 of the Complaint as if fully stated herein.

45. HTC denies the allegations of paragraph 45.

46. HTC denies the allegations of paragraph 46.

47. To the extent the allegations of paragraph 47 relate to HTC, HTC denies them . To the extent the allegations of paragraph 47 relate to third-parties, HTC lacks knowledge or information sufficient to admit or deny the allegations and therefore denies the same.

48. Paragraph 48 contains legal conclusions to which no response is required. To the extent a response is required, HTC admits that Nokia filed the Complaint on May 2, 2012. HTC further admits that it received correspondence from Paul Melin of Nokia by electronic mail, dated May 2, 2012, purporting to attach a copy of the Complaint that Nokia planned to file the same day.

49. HTC denies the allegations of paragraph 49.

50. HTC denies the allegations of paragraph 50.

51. HTC denies the allegations of paragraph 51.

52. HTC denies the allegations of paragraph 52.

53. HTC denies the allegations of paragraph 53.

COUNT IV

Infringement of the '370 Patent

54. HTC incorporates its responses to paragraphs 1-53 of the Complaint as if fully stated herein.

55. HTC denies the allegations of paragraph 55.

56. HTC denies the allegations of paragraph 56.

57. To the extent the allegations of paragraph 57 relate to HTC, HTC denies them. To the extent the allegations of paragraph 57 relate to third-parties, HTC lacks knowledge or information sufficient to admit or deny the allegations and therefore denies the same.

58. Paragraph 58 contains legal conclusions to which no response is required. To the extent a response is required, HTC admits that Nokia filed the Complaint on May 2, 2012. HTC further admits that it received correspondence from Paul Melin of Nokia by electronic mail, dated May 2, 2012, purporting to attach a copy of the Complaint that Nokia planned to file the same day..

59. HTC denies the allegations of paragraph 59.

60. HTC denies the allegations of paragraph 60.

61. HTC denies the allegations of paragraph 61.

62. HTC denies the allegations of paragraph 62.

63. HTC denies the allegations of paragraph 63.

COUNT V

Infringement of the '404 Patent

64. HTC incorporates its responses to paragraphs 1-63 of the Complaint as if fully stated herein.

65. HTC denies the allegations of paragraph 65.

66. HTC denies the allegations of paragraph 66.

67. the extent the allegations of paragraph 67 relate to HTC, HTC denies them. To the extent the allegations of paragraph 67 relate to third-parties, HTC lacks knowledge or information sufficient to admit or deny the allegations and therefore denies the same.

68. Paragraph 68 contains legal conclusions to which no response is required. To the extent a response is required, HTC admits that certain patents were listed in a February 2, 2012 presentation to HTC but that a copy of the presentation was not provided to HTC.

69. HTC denies the allegations of paragraph 69.

70. HTC denies the allegations of paragraph 70.

71. HTC denies the allegations of paragraph 71.

72. HTC denies the allegations of paragraph 72.

73. HTC denies the allegations of paragraph 73.

74. HTC denies the allegations of paragraph 74.

COUNT VI

Infringement of the '953 Patent

75. HTC incorporates its responses to paragraphs 1-74 of the Complaint as if fully stated herein.

76. HTC denies the allegations of paragraphs 76.

77. HTC denies the allegations of paragraphs 77.

78. To the extent the allegations of paragraph 78 relate to HTC, HTC denies them. To the extent the allegations of paragraph 78 relate to third-parties, HTC lacks knowledge or information sufficient to admit or deny the allegations and therefore denies the same.

79. Paragraph 79 contains legal conclusions to which no response is required. To the extent a response is required, HTC admits that Nokia filed the Complaint on May 2, 2012. HTC further admits that it received correspondence from Paul Melin of Nokia by electronic mail, dated May 2, 2012, purporting to attach a copy of the Complaint that Nokia planned to file the same day..

80. HTC denies the allegations of paragraph 80.

81. HTC denies the allegations of paragraph 81.

82. HTC denies the allegations of paragraph 82.

83. HTC denies the allegations of paragraph 83.

84. HTC denies the allegations of paragraph 84.

RESPONSE TO PRAYER FOR RELIEF

HTC denies that Nokia is entitled to any of the relief sought in its prayer for relief against HTC on account of any action or omission of HTC. Nokia's prayer, therefore, should be denied in its entirety and with prejudice. HTC asks that judgment be entered for HTC and that this action be found to be an exceptional case under 35 U.S.C. § 285 entitling HTC to be awarded attorneys' fees in defending against Nokia's Complaint, together with such other and further relief the Court deems appropriate.

DEFENSES

By asserting the following Defenses, the burden of proof has not shifted from Nokia for any issue where Nokia bears the burden, including, without limitation, infringement. HTC reserves the right to raise additional affirmative and other defenses as they may be discovered or otherwise become available. HTC, for its Defenses to the Complaint of Nokia, states as follows:

First Defense: Non-Infringement

HTC has not infringed, either directly, indirectly, by inducing infringement by others, by contributing to the infringement of others, or at all, any valid and enforceable claim of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent, literally or under the doctrine of equivalents.

Second Defense: Invalidity

One or more claims of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent are invalid because they fail to satisfy the conditions of patentability specified in Title 35 of the United States Code, including but not limited to §§ 101, 102, 103, and/or 112.

Third Defense: Equitable Defenses

On information and belief, Nokia's claims are barred, in whole or in part, by the equitable doctrines of laches, unclean hands, estoppel, and/or waiver, due to, among other acts or omissions, Nokia's failure to disclose its essential patents to various standards setting organizations and/or failure to license its essential patents on fair, reasonable, and non discriminatory terms.

Fourth Defense: License and Exhaustion

On information and belief, Nokia's claims are barred, in whole or in part, as a result of express or implied licenses to the Patents-In-Suit and/or other exhaustion of remedies.

Fifth Defense: Prosecution History Estoppel

On information and belief, Nokia is barred, under the doctrine of Prosecution History Estoppel, from construing any claim of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, or the '953 patent in such a way as may cover any of HTC's products or processes.

Sixth Defense: Statutory Damages Limitation

Nokia's claim for damages is statutorily limited by 35 U.S.C. §§ 286, 287 and/or 288.

Seventh Defense: Government Sales

Nokia's remedies are limited by 28 U.S.C. § 1498(a).

Eighth Defense: No Injunctive Relief

Nokia's claim for injunction relief is barred because there exists an adequate remedy at law and Nokia's claims otherwise fail to meet the requirements for such relief.

Ninth Defense: No Standing to Sue

Nokia lacks standing to sue, including, on information and belief, the lack of good title to one or more of the Patents-In-Suit.

Tenth Defense: Failure to State a Claim

Nokia's Complaint fails to state any claim against HTC upon which relief can be granted.

COUNTERCLAIMS FOR DECLARATORY RELIEF

In accordance with Federal Rule of Civil Procedure 13, HTC asserts the following counterclaims against Nokia:

1. Counterclaimant HTC Corporation is a Taiwanese corporation, with its principal place of business as 23 Xinghua Road, Taoyuan City, Taoyuan County 330, Taiwan, Republic of China.

2. Counterclaimant HTC America, Inc. is a Washington corporation with its principal place of business at 13920 S.E. Eastgate Way, Suite 200, Bellvue, Washington 98005.

3. On information and belief, based on statements in its Complaint, Counter-Defendant Nokia Corporation is a company organized under the laws of Finland, with its principal place of business at Keilalahdentie 4, P.O. Box 226, Espoo, Finland.

4. On information and belief, based on statements in its Complaint, Counter-Defendant Nokia Inc. is a corporation existing under the laws of the State of Delaware, with its principal place of business in Sunnyvale, California, and is a wholly-owned subsidiary of Nokia Corporation.

5. On information and belief, based on statements in its Complaint, Counter-Defendant Intellisync Corporation is a corporation existing under the laws of the State of California, with its principal place of business in Sunnyvale, California, and is a wholly-owned subsidiary of Nokia Inc.

6. On information and belief, based on statements in its Complaint, Counter-Defendant Navteq North America, LLC is a corporation existing under the laws of the State of Delaware, with its principal place of business in Chicago, Illinois, and is a wholly-owned subsidiary of Nokia Inc.

7. Nokia Corporation, Nokia Inc., Intellisync Corporation, and Navteq North America, LLC are collectively referred to herein as “Nokia.”

JURISDICTION AND VENUE

8. These Counterclaims arise under the Federal Declaratory Act, 28 U.S.C. § 2201 *et seq.*, and the United States Patent laws, 35 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, 2201, and 2202. This Court also has personal jurisdiction over Nokia because, among other reasons, Nokia brought suit alleging infringement of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and the '953 patent in this Court.

9. To the extent this action remains in this District, venue is appropriate pursuant to 28 U.S.C. § 1391 (b)-(c) because Nokia brought its Complaint for infringement of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and the '953 patent in this Court.

Background

10. Nokia's Complaint herein alleges that Nokia Corporation is the assignee of the '351 patent and the '404 patent, that Nokia, Inc. is the exclusive licensee of the '351 patent and the '404 patent, that Intellisync Corporation is the assignee of the '370 patent, that Navteq North America, LLC is the assignee of the '953 patent, and that Nokia is an exclusive licensee of the '263 patent and the '788 patent.

11. Nokia's Complaint herein alleges that HTC has infringed the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and the '953 patent.

12. The allegations of infringement in the Complaint have created an actual and justiciable controversy between HTC and Nokia concerning whether HTC infringes any valid and enforceable claim of the patents asserted against HTC.

FIRST COUNTERCLAIM

Declaratory Judgment of Non-Infringement

13. The allegations of paragraphs 1-12 of this Counterclaim are incorporated by reference as though set forth in full therein.

14. HTC does not infringe and has not infringed (either directly, jointly, contributorily, by inducement, or under the doctrine of equivalents) any valid and enforceable claim of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent.

15. HTC is entitled to a declaratory judgment that it has not infringed and does not infringe the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent so that HTC can ascertain its rights and duties with respect to designing, developing, marketing and selling any products and/or services that Nokia may allege infringe the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent

SECOND COUNTERCLAIM

Declaratory Judgment of Invalidity

16. The allegations of paragraphs 1-15 of this Counterclaim are incorporated by reference as though set forth in full therein.

17. One or more of the asserted claims of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent are invalid because they fail to

satisfy the conditions of patentability specified in Title 35 of the United States Code, including but not limited to §§ 101, 102, 103, and/or 112.

18. HTC is entitled to a declaratory judgment that the asserted claims of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent are invalid so that HTC can ascertain its rights and duties with respect to designing, developing, marketing and selling any products and/or services that Nokia may allege infringe the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and the '953 patent.

Prayer For Relief

WHEREFORE, Defendant and Counterclaimant HTC requests relief as follows:

- A. That Nokia take nothing by its Complaint;
- B. That judgment be entered against Nokia and in favor of HTC, and that Nokia's Complaint be dismissed with prejudice;
- C. That the Court declare that HTC does not infringe and has not infringed, directly or indirectly, any claim of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent;
- D. That the Court declare each claim of the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent is invalid and/or unenforceable;
- E. That the Court enjoin Plaintiff, its assigns, and all those in privity therewith from asserting the '351 patent, the '263 patent, the '788 patent, the '370 patent, the '404 patent, and/or the '953 patent against HTC or any of its customers or suppliers;
- F. That this case be declared exceptional and HTC be awarded its costs, expenses, and reasonable attorneys fees in this action under 35 U.S.C. § 285; and
- G. That the Court grant HTC such further relief the Court may deem just and proper.

DEMAND FOR JURY TRIAL

HTC hereby requests a trial by jury on all issues so triable.

YOUNG CONAWAY STARGATT &
TAYLOR, LLP

/s/ Adam W. Poff

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DATED: July 9, 2012

CERTIFICATE OF SERVICE

I, Adam W. Poff, Esquire, hereby certify that on July 9, 2012, I caused to be electronically filed a copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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I further certify that on July 9, 2012, I caused a copy of the foregoing document to be served by e-mail on the above-listed counsel and on the following:

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