

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

EMERGENCY ALERTS
INNOVATIONS, LLC

Plaintiff,

v.

UNITED STATES CELLULAR CORP.

Defendant

Case No. 1:22-cv-3738

COMPLAINT FOR PATENT
INFRINGEMENT AND JURY TRIAL
DEMANDED

COMPLAINT

This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, against Defendant United States Cellular Corp. (“US Cellular” or “Defendant”) that relates to one U.S. patent owned by Emergency Alerts Innovations, LLC (“EAI” or “Plaintiff”): U.S. Patent No. 8,391,826.

THE PARTIES

1. Plaintiff Emergency Alerts Innovations, LLC is a limited liability company organized and existing under the laws of the State of Illinois, with its principal place of business at 125 S. Clark St., 17th Floor, Chicago, IL 60603. EAI was previously known as Emergency Alerts Innovations, LLC. The name change was duly filed with the Illinois Secretary of State and the United States Patent and Trademark Office.

2. Defendant US Cellular is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business at 8410 West Bryn Mawr Avenue, Chicago, Illinois 60631. On information and belief, US Cellular can be served with process at that address.

3. US Cellular is a wireless carrier that owns and operates a regional mobile cellular network, and provides phones and other devices that connect to and use its cellular network.

4. US Cellular is the fourth largest wireless carrier in the United States.

JURISDICTION AND VENUE

5. This Complaint states causes of action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and, more particularly 35 U.S.C. § 271.

6. This Court has subject matter jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a) in which the district courts have original and exclusive jurisdiction of any civil action for patent infringement.

7. Defendant US Cellular is subject to this Court's general personal jurisdiction due at least to its substantial business conducted in this District, including: its headquarters located in this District at 8410 W. Bryn Mawr Ave., Chicago, IL 60631. Defendant US Cellular has further committed acts of patent infringement giving rise to this action within this District.

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 1400(b). Defendant is subject to personal jurisdiction in this District, has an established place of business in this District, has transacted business in this District, and has committed acts of patent infringement in this District.

BACKGROUND FACTS REGARDING THE EAI PATENTS

9. On March 5, 2013, the '826 Patent entitled "System for controlling the operation of wireless multicasting systems to distribute an alarm indication to a dynamically configured coverage area" was duly and legally issued by the USPTO.

**US CELLULAR'S KNOWLEDGE OF THE PATENTS-IN-SUIT AND CONTINUED
INFRINGEMENT DESPITE THAT KNOWLEDGE**

10. On October 19, 2021, counsel for EAI sent a letter by both UPS and email to John Gockley, Vice President of Legal Affairs for US Cellular that included claim charts explaining how Defendant infringed EAI's patent. Defendant has been aware of the '826 Patent since at least October 19, 2021. Including a copy of the patent and claim chart, the letter was 33 pages long.

11. Counsel for EAI received an email on October 21, 2021 from Paul Veith of Sidley Austin, informing EAI that Sidley Austin was serving as counsel to US Cellular. Mr. Veith further informed EAI that future communications should be made to John McBride of Sidley Austin.

12. The parties had a telephone conversation on January 11, 2022, during which EAI informed US Cellular of its proposed licensing fee for the '826 Patent. US Cellular took the offer under advisement.

13. EAI again spoke with US Cellular on March 3, 2022, seeking an update on US Cellular's investigation. US Cellular did not provide a counteroffer during that conversation.

14. On April 8, 2022, EAI provided US Cellular by email with an updated claim chart for the '826 Patent that provided additional detailed descriptions of US Cellular's infringement. US Cellular responded on April 18, 2022 that it would review.

15. On May 9, 2022, EAI requested, by email, an update from US Cellular and whether US Cellular would make a counteroffer.

16. On May 13, 2022, US Cellular provided an email response which detailed its position for the first time. The email alleged that US Cellular did not infringe based on US

Cellular’s understanding of the claim language of the ’826 Patent. US Cellular did not provide a counteroffer.

17. US Cellular has not provided any position on invalidity.

18. US Cellular has not agreed to enter into a licensing agreement with EAI.

19. This Complaint serves as additional notice to US Cellular to the ’826 Patent and the manner in which the Patent-in-Suit is infringed.

20. Despite knowledge of the Patent-in-Suit and knowledge of the manner in which the Patent-in-Suit is infringed as demonstrated in the provided claim charts, US Cellular has continued to infringe, and/or induce the infringement of, the Patent-in-Suit.

COUNT I: INFRINGEMENT OF U.S. PATENT ’826 CLAIM 12

21. EAI incorporates by reference the allegations set forth in paragraphs 1-20 of this Complaint as though set forth in full herein.

22. Claim 12 of the ’826 Patent provides:

Claim 12 Preamble	A method of operating a Reverse 911 Alarm System for transmitting an alarm indication to individuals served by at least one cellular communication network, each of said cellular communication networks serving an associated plurality of cellular communication devices, each of said cellular communication devices being capable of generating a human sensible output to warn individuals who use said cellular communication devices of a hazard condition, comprising:
Element A	generating, in response to receipt of alarm data indicative of the presence of a hazard condition, at least one alarm indication;
Element B	dynamically defining a coverage area indicative of a geographical extent of the hazard condition, including a list of cell sites that provide cellular service to the coverage area indicative of the geographical extent of the hazard condition;
Element C	transmitting the alarm indication to cell site controllers which are associated with the cell sites in the list of cell sites having a communication coverage corresponding to the geographical extent of said hazard condition;

Element D	identifying, in each of the cell site controllers which are associated with the cell sites in the list of cell sites, all cellular communication devices which are active in the cell site; and
Element E	concurrently transmitting, from an alarm indication communication apparatus which is operational in the cell site controllers which are associated with the cell sites in the list of cell sites, the alarm indications via a single multicast to a plurality of the identified cellular communication devices to generate human sensible output to warn individuals who use said cellular communication devices of the hazard condition.

23. US Cellular has and continues to control, operate and use its cellular network for transmitting WEAs to user devices in a manner that meets each and every element of claim 12 of the '826 Patent.

24. US Cellular controls, uses and operates a cellular network that is used to transmit Wireless Emergency Alerts (“WEAs”) to its customers’ cellular network connected devices. US Cellular voluntarily complies with Federal requirements for implementing WEAs on its cellular network.

25. US Cellular’s network includes at least mobility management entities (“MMEs”) and equipment such as eNodeB (“eNBs”). MME’s communicate with eNBs, and eNBs communicate with devices connected to a given cell tower. The MMEs and eNBs are parts of a cell site controller. MMEs also identify which users are connected to which cell site to properly route data from the network to the user device. The MME is also responsible for transmitting WEA’s through the cellular network by routing WEAs to the appropriate eNBs and users connected to those eNBs.

26. WEAs appear on customer devices as text-like messages that are accompanied by a distinctive ring and/or vibration pattern, all of which can be detected by the user. WEAs alert

users of hazardous or life-threatening situations, such as severe weather and other natural or man-made disasters.

27. In operation, WEAs are originated from an Alert Originator (“AO”). The AO is typically an authorized public safety official. The AO originates the WEA process when a hazard condition is detected. The alarm data from the AO is then transmitted through FEMA’s Integrated Public Alert and Warning System (“IPAWS”) to participating wireless carriers, including US Cellular. US Cellular’s network further transmits the WEAs to devices within the identified hazard area by utilizing its MMEs and eNBs.

28. WEAs are designed to alert only those users within the geographic area of the hazard. The AO can designate a shape defining the boundaries of the geographic area corresponding to the hazard, and include this information as part of the WEA. US Cellular’s network determines which cell sites are within that geographic area, and transmits the WEA to the appropriate cell sites. The cell site controllers for the cell sites transmit the received WEA to the user devices that are served by those particular cell sites. WEAs are sent from the cell sites via cell broadcast to the user devices connected to those cell sites within the designated geographic area. The cell broadcast is a unidirectional wireless broadcast that qualifies as a single multicast. The geographic area of a hazard can be changed as the scope of the hazard changes, with any devices found within the updated area notified of the hazard via WEAs.

29. When the user device within the defined geographic area receives the WEA, the device generates the text message-like alert, as well as the unique sound and vibration pattern to alert the user of the hazard. In addition to simple text, WEAs can also include multimedia content, such as URL hyperlinks, pictures, or maps.

30. US Cellular directly infringes claim 12 of the '826 Patent by controlling, operating, and using its cellular network to transmit WEAs to user devices.

31. US Cellular has had knowledge of the '826 Patent since October 19, 2021.

32. US Cellular controls, operates, and uses its cellular network for transmitting WEAs knowing that it infringed and continues to infringe at least claim 12 of the '826 Patent under 35 U.S.C. § 271(a) directly.

33. As a direct and proximate result of US Cellular's acts of patent infringement, EAI has been and continues to be injured, and has sustained and will continue to sustain damages.

COUNT II: INFRINGEMENT OF U.S. PATENT '826 CLAIM 14

34. EAI incorporates by reference the allegations set forth in paragraphs 1-33 of this Complaint as though set forth in full herein.

35. Claim 14 of the '826 Patent provides:

	The method of operating a Reverse 911 Alarm System of claim 12, further comprising:
Element A	dynamically defining a geographical area for distribution of said alarm indication, wherein said geographical area for distribution of said alarm indication is not coextensive with said geographical extent of said hazard condition.

36. US Cellular has and continues to control, operate and use its cellular network for transmitting WEAs to user devices in a manner that meets each and every element of claim 14 of the '826 Patent.

37. US Cellular's network receives from an Alert Originator an indication of a hazard during WEA transmission. The indication includes an AO-defined geographical area for the hazard. Because the hazard itself will not follow the contours of a geometric shape (e.g., shape of

a storm or earthquake impact zone), the geographical extent of the hazard will not be co-extensive with the geographical area of the alert.

38. US Cellular directly infringes claim 14 of the '826 Patent by controlling, operating, and using its cellular network to transmit WEAs to user devices.

39. US Cellular has had knowledge of the '826 Patent since October 19, 2021.

40. US Cellular controls, operates, and uses its cellular network for transmitting WEAs knowing that it infringed and continues to infringe at least claim 14 of the '826 Patent under 35 U.S.C. § 271(a) directly.

41. As a direct and proximate result of US Cellular's acts of patent infringement, EAI has been and continues to be injured, and has sustained and will continue to sustain damages.

COUNT III: INFRINGEMENT OF U.S. PATENT '826 CLAIM 17

42. EAI incorporates by reference the allegations set forth in paragraphs 1-33 of this Complaint as though set forth in full herein.

43. Claim 17 of the '826 Patent provides:

	The method of operating a Reverse 911 Alarm System of claim 12, further comprising:
Element A	enabling a human operator to input alarm data indicative of the presence of a hazard condition; and
Element B	wherein said step of generating is responsive to receipt of said human operator input alarm data indicative of the presence of a hazard condition, for generating at least one alarm indication.

44. US Cellular has and continues to control, operate and use its cellular network for transmitting WEAs to user devices in a manner that meets each and every element of claim 17 of the '826 Patent.

45. US Cellular's network supports transmission of WEAs. WEAs are initiated by a human operator as an Alert Originator, typically an authorized public safety official. The Alert Originator sends the hazard indication to US Cellular's network, and US Cellular's network transmits a WEA to impacted users.

46. US Cellular directly infringes claim 17 of the '826 Patent by controlling, operating, and using its cellular network to transmit WEAs to user devices.

47. US Cellular has had knowledge of the '826 Patent since October 19, 2021.

48. US Cellular controls, operates, and uses its cellular network for transmitting WEAs knowing that it infringed and continues to infringe at least claim 17 of the '826 Patent under 35 U.S.C. § 271(a) directly.

49. As a direct and proximate result of US Cellular's acts of patent infringement, EAI has been and continues to be injured, and has sustained and will continue to sustain damages.

COUNT IV: INFRINGEMENT OF U.S. PATENT '826 CLAIM 18

50. EAI incorporates by reference the allegations set forth in paragraphs 1-33 of this Complaint as though set forth in full herein.

51. Claim 18 of the '826 Patent provides:

	The method of operating a Reverse 911 Alarm System of claim 12, further comprising:
Element A	transmitting, over at least one unidirectional forward broadcast path that extends from said cell site to said plurality of cellular communication devices, said alarm indications to said individuals who are equipped with said cellular communication devices.

52. US Cellular has and continues to control, operate and use its cellular network for transmitting WEAs to user devices in a manner that meets each and every element of claim 18 of the '826 Patent.

53. US Cellular uses cell broadcast technology to transmit WEAs from cell sites to impacted user devices that support the receipt of WEAs. Cell broadcast is a type of unidirectional forward broadcast path, in that the communication is only received by the end user device. The end user device cannot send any information back using the cell broadcast path.

54. US Cellular directly infringes claim 18 of the '826 Patent by controlling, operating, and using its cellular network to transmit WEAs to user devices.

55. US Cellular has had knowledge of the '826 Patent since October 19, 2021.

56. US Cellular controls, operates, and uses its cellular network for transmitting WEAs knowing that it infringed and continues to infringe at least claim 18 of the '826 Patent under 35 U.S.C. § 271(a) directly.

57. As a direct and proximate result of US Cellular's acts of patent infringement, EAI has been and continues to be injured, and has sustained and will continue to sustain damages.

WILLFUL INFRINGEMENT

58. US Cellular has infringed and continues to infringe the above identified claims of each of the Patents-in-Suit despite its knowledge of the '826 Patent and its knowledge that its implementations of WEAs were and are using the technology claimed by the '826 Patent since October 19, 2021, and the objectively high likelihood that its acts constitute patent infringement.

59. US Cellular's infringement of the Patents-in-Suit is willful and deliberate, entitling EAI to enhanced damages under 35 U.S.C. § 284.

60. US Cellular's willful infringement and unwillingness to enter into license negotiations with EAI make this an exceptional case such that EAI should be entitled to recover its attorneys' fees and costs incurred in relation to this matter pursuant to 35 U.S.C. §285.

JURY DEMAND

EAI demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff EAI requests that this Court enter judgment in its favor and against US Cellular as follows:

- A. Adjudging, finding, and declaring that US Cellular has infringed of the above-identified claims of each of the Patents-in-Suit under 35 U.S.C. § 271;
- B. Awarding the past and future damages arising out of US Cellular’s infringement of the Patents-in-Suit to EAI in an amount no less than a reasonable royalty, together with prejudgment and post-judgment interest, in an amount according to proof;
- C. Adjudging, finding, and declaring that US Cellular’s infringement is willful and enhanced damages and fees as a result of that willfulness under 35 U.S.C. § 284;
- D. Adjudging, finding, and declaring that this is an “exceptional” case pursuant to 35 U.S.C. § 285;
- E. Awarding attorney’s fees, costs, or other damages pursuant to 35 U.S.C. §§ 284 or 285 or as otherwise permitted by law; and
- F. Granting EAI such other further relief as is just and proper, or as the Court deems appropriate.

Date: July 19, 2022

Respectfully submitted,

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