

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
 A Limited Liability Partnership  
 2 Including Professional Corporations  
 STEPHEN S. KORNICZKY, Cal. Bar No.135532  
 3 skorniczky@sheppardmullin.com  
 MARTIN R. BADER, Cal. Bar No. 222865  
 4 mbader@sheppardmullin.com  
 ERICKA J. SCHULZ, Cal Bar No. 246667  
 5 eschulz@sheppardmullin.com  
 RYAN P. CUNNINGHAM, Cal Bar No. 275813  
 6 rcunningham@sheppardmullin.com  
 12275 El Camino Real, Suite 200  
 7 San Diego, California 92130-2006  
 Telephone: 858.720.8900  
 8 Facsimile: 858.509.3691

9 MONA SOLOUKI, Cal Bar No. 215145  
 msolouki@sheppardmullin.com  
 10 Four Embarcadero Center, Seventeenth Floor  
 San Francisco, CA 94111  
 11 Telephone: 415.434.9100  
 Facsimile: 415.434.3947

12  
13 Attorneys for Plaintiffs

14 UNITED STATES DISTRICT COURT  
 15 FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
 16

17 U-BLOX AG, U-BLOX SAN DIEGO,  
 18 INC., AND U-BLOX AMERICA,  
 INC.,

19 Plaintiffs,

20 v.  
21

22 INTERDIGITAL, INC.;  
 23 INTERDIGITAL  
 COMMUNICATIONS, INC;  
 24 INTERDIGITAL TECHNOLOGY  
 CORPORATION; INTERDIGITAL  
 25 PATENT HOLDINGS, INC.;  
 INTERDIGITAL HOLDINGS, INC.;  
 26 and IPR LICENSING, INC.,

27 Defendants.  
28

Case No. **'23CV0002 BEN DEB**

**COMPLAINT FOR:**

- (1) Breach Of Contract;**
- (2) Declaratory Judgment;**
- (3) Antitrust Monopolization In Violation Of Section 2 Of The Sherman Act; and**
- (4) Declaratory Judgment of Non-Infringement of U.S. Patent No. 8,155,067.**

**JURY TRIAL DEMANDED**

1 Plaintiffs u-blox AG, u-blox San Diego, Inc., and u-blox America, Inc.  
2 (collectively, “u-blox” or “Plaintiffs”), by and through the undersigned counsel, file this  
3 Complaint against InterDigital, Inc., InterDigital Communications, Inc., InterDigital  
4 Technology Corporation, InterDigital Patent Holdings, Inc., InterDigital Holdings, Inc.,  
5 and IPR Licensing, Inc. (collectively, “InterDigital” or “Defendants”) as follows.

6 **INTRODUCTION**

7 1. u-blox, a leading fabless semiconductor provider of embedded positioning  
8 and wireless communication products, brings this lawsuit against InterDigital because of  
9 InterDigital’s failure to license its alleged standard essential patents (“SEPs”) on fair,  
10 reasonable, and non-discriminatory (also known as “FRAND”) terms and conditions.

11 2. As explained herein, InterDigital has declared a number of its patents to be  
12 essential to the 3G and/or 4G cellular technology standards established by the European  
13 Telecommunications Standards Institute (“ETSI”), a standard setting organization  
14 (“SSO”). Indeed, InterDigital is a member of ETSI and has submitted over fifty (50) ETSI  
15 IPR Declaration forms declaring a large number of its United States and foreign patents  
16 and patent applications as essential to the standards for the 3G and 4G technologies.

17 3. As a condition of adopting and continuing to maintain proprietary  
18 technology, such as InterDigital’s purported SEPs, ETSI first requires binding  
19 commitments from potential SEP holders to license their purported SEPs on fair,  
20 reasonable and non-discriminatory terms and conditions. Clause 6.1 of ETSI’s Intellectual  
21 Policy Rights (“IPR”) Policy states:

22 When an ESSENTIAL IPR relating to a particular STANDARD or  
23 TECHNICAL SPECIFICATION is brought to the attention of ETSI, the  
24 Director-General of ETSI shall immediately request the owner to give within  
25 three months an irrevocable undertaking in writing that it is prepared to grant  
irrevocable licenses on fair, reasonable and non-discriminatory (“FRAND”) terms and conditions.

26 4. In addition, as an “Individual Member” of the 3rd Generation Partnership  
27 Project (“3GPP”), InterDigital is “bound by the IPR policy” of ETSI, the Organizational  
28 Partner through which InterDigital participated in 3GPP. To induce 3GPP to develop and

1 ETSI to adopt its technology into ETSI’s standards, InterDigital made public and binding  
2 commitments to ETSI and all potential implementers of the standards, including u-blox, to  
3 license its declared patents on FRAND terms, declaring that it is “prepared to grant  
4 irrevocable licenses under . . . terms and conditions which are in accordance with Clause  
5 6.1 of the ETSI IPR Policy.” However, those promises were false and/or misleading  
6 because InterDigital never intended and continually failed to abide by its FRAND  
7 licensing promises.

8         5. InterDigital thus intentionally induced ETSI, 3GPP, their members and  
9 affiliates, and anyone implementing any of the standards, including u-blox, to rely on  
10 InterDigital’s representation that it had granted and/or would grant licenses on FRAND  
11 terms and conditions to its declared SEPs that would be incorporated and adopted into the  
12 3G and 4G standards.

13         6. These standards have been and are implemented worldwide, including in the  
14 United States and California, in a variety of wireless electronic devices.

15         7. Consistent with the intent of ETSI’s IPR Policy, u-blox and other  
16 implementers of the technology standards relied on InterDigital’s FRAND commitment  
17 and invested significant resources to develop products that practice the 3G and 4G  
18 standards.

19         8. u-blox has invested substantial resources in developing and marketing  
20 cellular modules that implement the 3G and 4G standards worldwide, including in the  
21 United States and California, relying on the assurances of participating IPR holders —  
22 including InterDigital — that any patents identified pursuant to ETSI’s IPR Policy by such  
23 IPR holders would be licensed on FRAND terms to them, regardless of whether such IPR  
24 were, in fact, used in any particular implementation.

25         9. However, after intentionally locking in the industry, including implementers  
26 like u-blox, through the standard(s), InterDigital then breached its promises to ETSI, its  
27 members and affiliates, and implementers of the standard(s) such as u-blox, by refusing to  
28 agree to a patent license with a licensing rate that is consistent with Clause 6 of ETSI’s

1 IPR Policy. Instead, InterDigital has demanded royalties that are discriminatory and far  
2 higher than FRAND rates.

3 10. Thus, it has become clear that, now that the cellular standards have been  
4 approved incorporating InterDigital’s allegedly essential patented technology, and  
5 requiring all implementers of those portions of the standard to practice that technology and  
6 excluding alternative technologies, InterDigital’s promises to license its allegedly essential  
7 patents on FRAND terms and conditions were false, and made only to obtain monopoly  
8 power from the inclusion of its technology into the standards.

9 11. u-blox is a ready and willing licensee seeking a license to InterDigital’s  
10 alleged SEPs. Specifically, u-blox previously filed a lawsuit captioned *u-blox AG v.*  
11 *InterDigital, Inc.*, No. 3:19-cv-001-CAB-BLM (S.D. Cal. Jan. 1, 2019) (the “2019  
12 Litigation”) in an effort to obtain a license to InterDigital’s alleged SEPs from InterDigital  
13 on FRAND terms and conditions. The 2019 Litigation was dismissed upon joint request  
14 by the parties after a license agreement was reached.

15 12. The 2019 Litigation ensued because InterDigital refused to negotiate in good  
16 faith with u-blox for a license on FRAND terms. Among other things, InterDigital  
17 intended to pressure u-blox into a license that is not FRAND by interfering with u-blox’s  
18 important customer relationships.

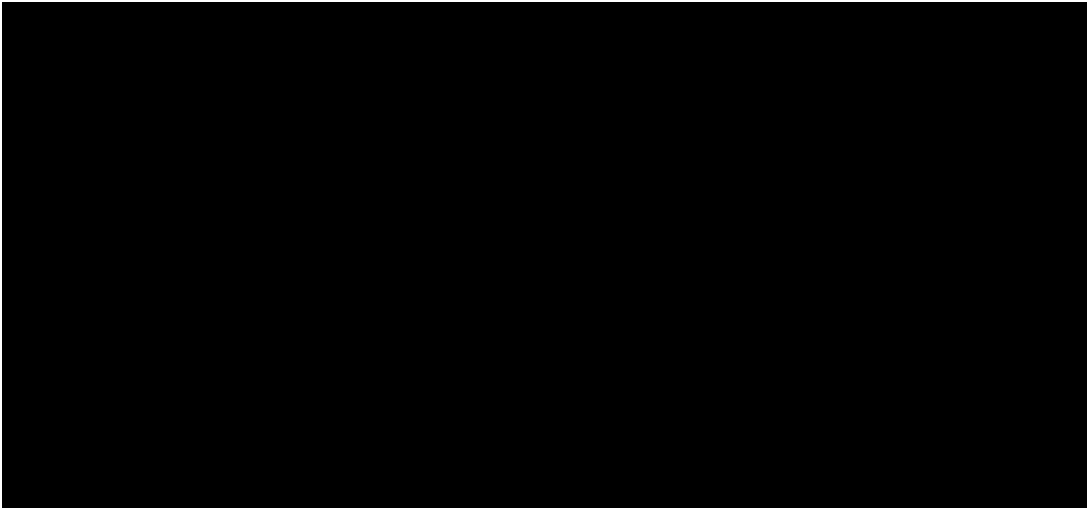
19 13. The patent license agreement that resulted in the dismissal of the 2019  
20 Litigation [REDACTED] and u-blox has demonstrated to InterDigital that  
21 u-blox is ready and willing to enter into a FRAND license with InterDigital on similar  
22 terms as the previous license, adjusting for patent expiration dates.

23 14. Unfortunately, however, InterDigital is again refusing to negotiate in good  
24 faith with u-blox for a license on FRAND terms. [REDACTED]

25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]  
28 [REDACTED].

1           15.    InterDigital’s royalty demands for a patent license plainly violate its FRAND  
2 commitments, including but not limited to:

- 3                   •    Demanding royalty rates that far exceed the fair and reasonable  
4 value of InterDigital’s SEPs;
- 5                   •    Discriminating against u-blox and violating ETSI guidelines by  
6 demanding that u-blox pay higher royalty rates than other  
7 similarly-situated implementers, including free riders;



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15           16.    Absent InterDigital’s commitment to license on FRAND terms and  
16 conditions, u-blox would not have implemented the 3G and 4G technologies. But, based on  
17 InterDigital’s commitment, u-blox implemented the 3G and 4G technologies rather than  
18 pursuing alternative technologies. However, after inducing ETSI to adopt its technology to  
19 the exclusion of alternatives with its false promises to ETSI, InterDigital is now attempting  
20 to exploit its resulting market position to demand unreasonably high and discriminatory  
21 licensing terms from u-blox.

22           17.    As a result of the foregoing, u-blox has no choice but to turn to the Court to  
23 establish the FRAND rate, and enjoin InterDigital from engaging in anticompetitive  
24 conduct, including, but not limited to, stopping InterDigital from wrongfully interfering  
25 with u-blox’s customers and downstream manufacturers.

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**THE PARTIES**

**A. u-blox**

18. Plaintiff u-blox AG is a corporation organized and existing under the laws of Switzerland, having its principal place of business in Zürcherstrasse 68, 8800 Thalwil, Switzerland.

19. Plaintiff u-blox San Diego, Inc. is a wholly-owned subsidiary of u-blox AG. u-blox San Diego, Inc. is a corporation organized and existing under the laws of Delaware, having its principal place of business at 12626 High Bluff Drive #200, San Diego, California 92130.

20. Plaintiff u-blox America, Inc. is a wholly-owned subsidiary of u-blox AG. u-blox America, Inc. is a corporation organized and existing under the laws of Delaware, having its principal place of business at 1900 Campus Commons Drive Suite 401, Reston, Virginia 20191.

21. u-blox delivers leading wireless technology to reliably locate and connect people and devices. u-blox is a leading developer of global positioning technology, including products and services based on Global Navigation Satellite Systems (GNSS), including GPS and GALILEO, for the automotive, mobile communications, and infrastructure markets. u-blox develops cellular modules incorporating a variety of different cellular technologies, including GSM/GPRS, UMTS/HSPA(+), NB-IoT, and LTE Categories M1, 1, 4, and 6.

22. u-blox's wireless communications modules are capable of incorporating a wide variety of cellular technologies. Supported cellular technologies provide global geographic coverage and include 3G and 4G standards. Even within the 4G standard, u-blox offers a wide range of products practicing different iterations of the 4G standard designed for vastly different tasks, including NB-IoT (LTE Cat NB1), LTE Cat M1, LTE Cat 1, LTE Cat 4, and LTE Cat 6. These different cellular technologies offer different levels of performance and cost benefits. For example, u-blox's LTE Cat 1, LTE Cat M1, and NB-IoT modules are designed to support a wide range of IoT applications requiring

1 medium to very low data rates. This includes a broad spectrum of applications covering  
2 speeds high enough for voice and video streaming, as well as those that need optimized  
3 performance for ultra-low power consumption and extended in-building range. In contrast,  
4 u-blox’s high speed LTE Cat 4 and LTE Cat 6 modules meet the needs of applications  
5 requiring high data rates, such as for HD video transmission and infotainment solutions. u-  
6 blox sells standard compatible products in California and around the world.

7 **B. InterDigital**

8 23. Upon information and belief, defendant InterDigital, Inc. (“IDI”) is  
9 organized under the laws of Pennsylvania, with its principal place of business at 200  
10 Bellevue Parkway, Suite 300, Wilmington, DE 19809.

11 30. Upon information and belief, defendant InterDigital Communications, Inc.  
12 (“InterDigital Communications”) is a Delaware corporation, with its principal place of  
13 business at 200 Bellevue Parkway, Suite 300, Wilmington, DE 19809.

14 31. Upon information and belief, defendant InterDigital Technology  
15 Corporation (“InterDigital Technology”) is a Delaware corporation, with its principal place  
16 of business at 200 Bellevue Parkway, Suite 300, Wilmington, DE 19809.

17 32. Upon information and belief, defendant InterDigital Patent Holdings, Inc.  
18 (“InterDigital Patent Holdings”) is a Delaware corporation, with its principal place of  
19 business at 200 Bellevue Parkway, Suite 300, Wilmington, DE 19809.

20 33. Upon information and belief, defendant InterDigital Holdings, Inc.  
21 (“InterDigital Holdings”) is a Delaware corporation, with its principal place of business at  
22 200 Bellevue Parkway, Suite 300, Wilmington, DE 19809.

23 34. Upon information and belief, defendant IPR Licensing, Inc. (“IPR  
24 Licensing”) is a Delaware corporation, with its principal place of business at 200 Bellevue  
25 Parkway, Suite 300, Wilmington, DE 19809.

26 35. Upon information and belief, InterDigital Communications, InterDigital  
27 Technology, InterDigital Holdings, InterDigital Patent Holdings, and IPR Licensing are  
28 wholly-owned direct or indirect subsidiaries of IDI. IDI, InterDigital Communications,

1 InterDigital Technology, InterDigital Holdings, InterDigital Patent Holdings, and IPR  
2 Licensing (collectively, “InterDigital”) act as a common, unified economic enterprise.

3 36. Upon information and belief, IDI has and does dictate and control the actions  
4 of InterDigital Communications, InterDigital Technology, InterDigital Holdings,  
5 InterDigital Patent Holdings, and IPR Licensing, as described herein.

6 37. Upon information and belief, InterDigital has offices and employees in  
7 California and/or regularly conducts business in California, including an office located at  
8 4410 El Camino Real, Suite 120, Los Altos, California 94022, which supports  
9 InterDigital’s patent licensing business.

10 38. Upon information and belief, InterDigital derives revenues primarily from  
11 patent licensing and aggressively seeks to monetize its intellectual property portfolio—  
12 which includes patents declared essential to the 3G and 4G standards—by targeting  
13 companies like u-blox that sell standard-compliant products in California and around the  
14 world.

15 39. Upon information and belief, InterDigital purports to own approximately  
16 2,400 U.S. patents and 11,500 non-U.S. patents, including 440 families of patents  
17 purportedly directed to the 4G/LTE technology, spanning multiple jurisdictions and  
18 telecommunication technologies. InterDigital claims that its patents “relate predominantly  
19 to digital wireless radiotelephony technology (including, without limitation, 3G, 4G and  
20 5G technologies).”

21 **JURISDICTION AND VENUE**

22 40. u-blox brings this action for damages, declaratory relief, injunctive relief,  
23 costs of suit, and reasonable attorneys’ fees arising under, inter alia, the patent laws of the  
24 United States, 35 U.S.C. § 1 et seq.; Section 2 of the Sherman Antitrust Act and Sections 4  
25 and 16 of the Clayton Act, 15 U.S.C. §§ 2, 15, and 26; and the Declaratory Judgment Act,  
26 28 U.S.C. §§ 2201 and 2202. Accordingly, this Court has jurisdiction to hear this case  
27 pursuant to 28 U.S.C. §§ 1331 and 1337 and Section 4 of the Clayton Act, 15 U.S.C. § 15.  
28



1           41.     This Court has subject matter jurisdiction over u-blox's pendent state law  
2 claims pursuant to 28 U.S.C. § 1367, because u-blox's state law claims arise from the same  
3 factual nucleus as its federal law claims.

4           42.     This Court has personal jurisdiction over InterDigital pursuant to 15 U.S.C.  
5 § 22 based on InterDigital's national contacts. The Court also has personal jurisdiction  
6 over InterDigital because InterDigital regularly transacts business in this judicial district,  
7 directed its wrongful conduct described herein at and caused harm to u-blox in California,  
8 including, but not limited to, by intentionally directing negotiations and correspondence in  
9 connection with the license negotiations to u-blox entities in California and to u-blox's  
10 representative located in California. u-blox's claims arise from InterDigital's intentional  
11 conduct in this State and which threatens to harm u-blox's business in this State.  
12 Additionally, in the 2019 Litigation, InterDigital admitted that jurisdiction was proper over  
13 it in this same District. Because the present dispute involves substantially the same  
14 circumstances as the 2019 Litigation, personal jurisdiction is proper over InterDigital in  
15 the present dispute.

16           43.     Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 15  
17 U.S.C. § 22. Additionally, in the 2019 Litigation, InterDigital admitted that venue was  
18 proper in this District. Because the present dispute involves substantially the same  
19 circumstances as the 2019 Litigation, venue is proper in the present dispute.

#### 20   **FACTUAL ALLEGATIONS**

21           44.     As explained below, u-blox brings this action because of InterDigital's  
22 breach of its false commitments to ETSI, 3GPP, and their members and affiliates—  
23 including u-blox—to license patents it has asserted to be essential to cellular technologies  
24 known as third generation ("3G") and fourth generation ("4G") technologies under  
25 FRAND terms and conditions.

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1                                    **Standard Setting Organizations and Intellectual Property Rules**

2            45.      SSOs, such as ETSI, are voluntary membership organizations whose  
3 participants engage in the development of industry standards for the benefit of their  
4 members and affiliates, third parties implementing the standards, and consumers.

5            46.      SSOs and the standards they promulgate play an important role in the  
6 technology market by allowing companies to agree on common technology standards so  
7 that compliant products implementing the standards will work together. Standards also  
8 lower costs by increasing product manufacturing volume and inter-brand competition and  
9 by eliminating switching costs for consumers and/or manufacturers who want to switch  
10 from products, services, or components provided by one company to those provided by  
11 another company.

12           47.      Compatibility standards are commonly adopted in industries in which  
13 complementary products or components, manufactured by different firms, must  
14 interoperate, interface, or communicate with each other. When many companies produce  
15 components that must interoperate in a complex system, the collaboration of industry  
16 participants is often the most efficient way to establish the requisite standards. This  
17 collaboration often takes place in the context of formal SSOs that promulgate standards  
18 and set participation rules for their members. The telecommunications industry has  
19 benefited from increased interoperability across devices and networks, and the 3G and 4G  
20 cellular communications standards at issue are examples of compatibility standards.

21           48.      While standards deliver economic benefits to innovators, firms that  
22 implement the standards, and consumers, standards also have the potential to impose  
23 excessive and unfair costs on these same constituencies, some of which stem from  
24 opportunistic behavior by owners of patents that cover or are declared to cover various  
25 technologies necessary to practice a standard. As a result, SSOs have adopted IPR policies  
26 to reduce those costs. When adhered to, these IPR policies benefit all of the constituencies.  
27 Standard setting participants receive the opportunity to have their technology incorporated  
28 into the standard and to receive compensation for its use in a larger number of devices that

1 operate using the standard. As the standard becomes more widely adopted and used, patent  
2 holders receive greater total compensation. SSO participants also enjoy benefits  
3 independent of potential royalty income, including recognition of leadership in the  
4 technology, increased demand for participants' products, advantage flowing from  
5 familiarity with the contributed technology potentially leading to shorter development lead  
6 times, and improved product compatibility.

7 49. Firms that implement the standard receive assurance that they will always  
8 have access to the SEPs and will not be exploited by patent holders or disadvantaged  
9 relative to other implementers if they invest in implementing the standard or developing  
10 innovative products that may operate with the standard. Likewise, consumers and  
11 businesses benefit from continued innovation, reduced costs, and other efficiencies from  
12 widespread interoperability and economies of scale and scope enabled by the standard.

13 50. By contrast, IPR policy breaches can chill standard-setting efforts, thus  
14 denying to standard setting participants, implementers, and consumers the many benefits  
15 of standard setting.

16 51. In addition, while there are many benefits to collaborative standard setting,  
17 such efforts can also raise antitrust concerns, because, for example, collaborative standard-  
18 setting has the potential to empower any individual firm that has IPR over one or more  
19 technologies that are declared essential to the standard to block other firms from practicing  
20 the standard or to significantly raise their costs of doing so. Outside of the standard setting  
21 context, the extent to which a patent holder will be able to profit from an invention is  
22 limited by competition from alternative, non-infringing technologies or products. Thus,  
23 even though a patent gives its owner the right to exclude unauthorized users, it does not  
24 necessarily confer monopoly power because constraining, non-infringing alternatives may  
25 be available. However, incorporating patented technology into a standard artificially  
26 removes competition from those alternatives for as long as the standard remains in use and  
27 provides the patent owner with exclusionary market power it otherwise would not possess.  
28 This exclusionary market power is due to the elimination of alternatives once the patented

1 technologies are incorporated into the standard, not the inherent technical value of the  
2 patents (i.e., the contribution of the patented technology relative to the alternatives — the  
3 ex-ante value).

4 52. SEP owners gain the power to exclude or exploit because the process of  
5 standardization transforms what may have been only marginally valuable IP into essential  
6 IP needed by all firms that intend to manufacture, use, or sell standard-based products. The  
7 U.S. Department of Justice and Federal Trade Commission have recognized the potential  
8 for SEP owners to abuse the power gained through standardization. The effect is that the  
9 competitive constraints on the SEP owner’s licensing behavior are eliminated after  
10 standardization. This elimination of alternatives confers market power on SEP owners  
11 relative to the pre-standard situation wherein alternatives (including the option of not  
12 including the relevant functionality at all) are potentially available in the technology  
13 market(s) and can constrain anticompetitive licensing behavior of the SEP owner.

14 53. Once a standard is set, and especially as manufacturers invest in and begin  
15 manufacturing products that can use or operate with the standard, it is often infeasible to  
16 revise the standard in order to avoid a SEP. Revising a standard can be very costly to the  
17 industry implementing that standard because it may involve breaking the compatibility and  
18 interoperability that the standard provides. Thus, changing a standard to eliminate a SEP  
19 whose owner attempts to unfairly exercise undue market power gained from  
20 standardization is generally not feasible. In sum, once an industry has adopted a particular  
21 standard, there are no alternative technologies that can implement a given functionality  
22 within the wording of the standard. The ex post relaxation of competitive constraints on  
23 the SEP owner through the elimination of alternatives, together with the ex post  
24 negotiation of licenses, can lead to some SEP owners to act opportunistically and “hold  
25 up” some or all standard implementers by extracting higher royalties ex post than they  
26 could have bargained for ex ante and in the absence of standardization.

27 54. To prevent the exploitation of the SEP owner’s market power in this  
28 situation, there must be other constraints on the SEP owner’s licensing behavior, such as

1 obligations to license on FRAND terms. To this end, SSOs typically impose IPR rules on  
2 their participants to protect against (or minimize the likelihood of) opportunistic,  
3 anticompetitive behavior by owners of standard-essential IP. Such opportunistic behaviors  
4 expropriate at least a portion of an implementer's returns from sunk investments in  
5 innovation. If an implementer or potential implementer anticipates that there is a material  
6 risk of opportunistic behavior, its incentives to engage in innovative activities will be  
7 reduced or potentially even eliminated, particularly when the opportunistic SEP holder  
8 seeks to hold up the implementer for all or a large part of the profits from the  
9 implementer's innovations, complementary products, or services. By protecting against  
10 opportunistic behavior, SSO rules pertaining to IPR are intended to provide an  
11 environment that promotes investment, innovation, and technological progress. These IPR  
12 rules typically call for SSO participants to identify through declaration any potential SEPs  
13 covering the proposed standard and agree to license all implementers of the standard on  
14 fair, reasonable, and non-discriminatory terms.

#### 15 **ETSI's IPR Policy**

16 55. ETSI is an independent, non-profit SSO that is responsible for the  
17 standardization of information and communication technologies, including mobile cellular  
18 technologies, for the benefit of its members, affiliates and the public.

19 56. 3GPP is a collaborative partnership among a group of recognized SSOs in  
20 the information and communication industry, including ETSI.

21 57. ETSI, in partnership with 3GPP, has been involved in standardizing a  
22 number of 3G and 4G mobile cellular technologies.

23 58. The ETSI IPR Policy,<sup>1</sup> which is part of the ETSI Directives, requires  
24 members to disclose on a timely, bona fide basis all intellectual property rights that they  
25 are aware of and believe may be essential to a proposed ETSI standard. In particular,  
26 Clause 4.1 of the ETSI IPR Policy provides that: "each [ETSI] MEMBER shall use its  
27

28 <sup>1</sup> Available at <https://www.etsi.org/images/files/IPR/etsi-ipr-policy.pdf>

1 reasonable endeavors, in particular during the development of a STANDARD or  
2 TECHNICAL SPECIFICATION where it participates, to inform ETSI of ESSENTIAL  
3 IPRs in a timely fashion.” This obligation to disclose extends to members’ affiliates as  
4 well.

5 59. ETSI’s IPR Policy requires that participants disclose their relevant IPR  
6 during the development of a standard so that they may request that members owning  
7 patents potentially essential for the practice of a standard irrevocably commit to license  
8 those patents on FRAND terms and conditions to anyone practicing the standard.

9 Specifically, clause 6 of ETSI’s IPR Policy states:

10 When an ESSENTIAL IPR relating to a particular STANDARD or  
11 TECHNICAL SPECIFICATION is brought to the attention of ETSI,  
12 the Director-General of ETSI shall immediately request the owner to  
13 give within three months an irrevocable undertaking in writing that it  
14 is prepared to grant irrevocable licences on fair, reasonable and non-  
discriminatory [FRAND] terms and conditions under such IPR...  
The above undertaking may be made subject to the condition that  
those who seek licences agree to reciprocate.

15 ETSI IPR Policy, § 6.1.

16 60. Clause 6.1 lists “MANUFACTURE, including the right to make or have  
17 made customized components and sub-systems to the licensee’s own design for use in  
18 MANUFACTURE,” as among the rights for which SEP holders must make mandatory  
19 FRAND licensing commitments.

20 61. FRAND commitments, pursuant to Clause 6 of the ETSI IPR Policy, “shall  
21 be interpreted as encumbrances that bind all successors-in-interest.”

22 62. ETSI defines “essential” as follows:

23 “ESSENTIAL” as applied to IPR means that it is not possible on  
24 technical (but not commercial) grounds, taking into account normal  
25 technical practice and the state of the art generally available at the  
26 time of standardization, to make, sell, lease, otherwise dispose of,  
27 repair, use or operate EQUIPMENT or METHODS which comply  
with a STANDARD without infringing that IPR. For the avoidance  
of doubt in exceptional cases where a STANDARD can only be  
implemented by technical solutions, all of which are infringements  
of IPRs, all such IPRs shall be considered ESSENTIAL.

28 ETSI IPR Policy, §15.6.

1           63.    Although ETSI defines what it means by “essential,” it does not make any  
 2 attempt (nor, in general, do any SSOs) to ascertain whether the patents declared as  
 3 “essential” to a standard are valid and enforceable, or whether they are, in fact, technically  
 4 essential. Which patents are deemed “essential” to a particular standard is self-proclaimed  
 5 by the SSO member that declares its patents to be “essential” to the standard.

6           64.    If the essential IPR owner refuses to undertake the requested commitment  
 7 and informs ETSI of that decision, the ETSI General Assembly must “review the  
 8 requirement for that STANDARD or TECHNICAL SPECIFICATION and satisfy itself  
 9 that a viable alternative technology is available for the STANDARD or TECHNICAL  
 10 SPECIFICATION” that is not blocked by that IPR and satisfies ETSI’s requirements.  
 11 ETSI IPR Policy, § 8.1.1. Absent such a viable alternative, the ETSI IPR Policy requires  
 12 that “work on the STANDARD or TECHNICAL SPECIFICATION shall cease.” Id., §  
 13 8.1.2. In other words, ETSI will not agree to incorporate a member’s technology in a  
 14 standard under consideration unless the member irrevocably binds itself to granting  
 15 licenses on FRAND terms.

#### 16                           InterDigital’s IPR Declarations

17           65.    As a member of ETSI and a participant in 3GPP standardization, in  
 18 conjunction with the adoption of the 3G and 4G standards, InterDigital made submissions  
 19 to the technical bodies within ETSI and 3GPP, declaring that certain of its patents or patent  
 20 applications may be or may become essential to the mobile device standards under  
 21 consideration.<sup>2</sup> InterDigital also undertook a commitment to license any such essential  
 22 patents it held on FRAND terms and conditions.

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23  
 24  
 25 <sup>2</sup> u-blox does not accept InterDigital’s representation that any (or all) of the patents  
 26 identified as “essential” are, in fact, necessary for the compliant implementations of 3G,  
 27 and 4G technologies; nor does u-blox concede that the particular implementations of such  
 28 technologies in its products practice any InterDigital’s patents, including those identified  
 by InterDigital in relation to these technologies. Nonetheless, u-blox has relied upon the  
 IPR declarations of InterDigital, and other holders of declared-essential patents.

1           66.     Indeed, InterDigital entered into an irrevocable undertaking to grant licenses  
2 to the disclosed allegedly essential patents on FRAND terms and conditions, including  
3 submitting at least the following declarations to ETSI, true and correct copies of which are  
4 attached as Exhibits 1 through 70.

Date	InterDigital Entity	Signatory	Place Executed	Project(s) or Standard(s)	Exh.	ISLD
10/4/01	InterDigital Technology	H. Goldberg	Philadelphia, PA	UMTS	1	ISLD-200105-001
4/8/04	InterDigital Technology	D. Boles	Wilmington, DE	UMTS (TS41.101 Rel. 5)	2	ISLD-200407-004
3/21/07	InterDigital Technology	B. Bernstein	n/a	UMTS; E-UMTS	3	ISLD-200802-001
9/19/08	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	UMTS; E-UMTS;	4	ISLD-200811-003
9/19/08	InterDigital Technology	B. Ditty	Wilmington, DE	GSM; UMTS; E-UMTS; GERAN	5	ISLD-200901-001
9/14/09	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	UMTS; E-UMTS; GERAN	6	ISLD-200910-006
9/14/09	InterDigital Technology	B. Ditty	Wilmington, DE	GSM; UMTS; E-UMTS; GERAN	7	ISLD-200911-005
9/16/10	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	UMTS; LTE; GERAN	8	ISLD-201010-010
10/31/11	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	UMTS; LTE; RRS; M2M	9	ISLD-201109-010
10/31/11	InterDigital Technology	B. Ditty	Wilmington, DE	UMTS; LTE	10	ISLD-201109-021
11/30/12	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	UMTS; LTE; RRS; M2M	11	ISLD-201210-008
11/30/12	InterDigital Technology	B. Ditty	Wilmington, DE	UMTS; LTE	12	ISLD-201210-010
11/26/13	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	UMTS; LTE; RRS; M2M	13	ISLD-201311-007
11/26/13	InterDigital Technology	B. Ditty	Wilmington, DE	GSM; UMTS; LTE	14	ISLD-201311-008
9/16/2010	InterDigital Technology	B. Ditty	Wilmington, DE	LTE; UMTS; GSM; GERAN;	15	ISLD-201010-011
9/26/2014	InterDigital Technology	B. Ditty	Wilmington, DE	UMTS; LTE	16	ISLD-201409-035
9/26/2014	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	UMTS; LTE; RRS; M2M	17	ISLD-201409-028
9/26/2014	IPR Licensing	B. Ditty	Wilmington, DE	LTE	18	ISLD-201409-039
11/12/2015	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	LTE; UMTS; RRS; M2M	19	ISLD-201511-004
12/22/2016	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	LTE; UMTS; M2M; RRS	20	ISLD-201706-015
12/11/2015	InterDigital Technology	B. Ditty	Wilmington, DE	LTE; UMTS; GERAN	21	ISLD-201511-026
12/22/2016	InterDigital Technology	B. Ditty	Wilmington, DE	LTE; UMTS; GERAN;	22	ISLD-201706-014
9/19/2008	IPR Licensing	B. Ditty	Wilmington, DE	UMTS; GERAN	23	ISLD-200811-004
9/14/2009	IPR Licensing	B. Ditty	Wilmington, DE	UMTS; E-UMTS	24	ISLD-200909-004
9/16/2010	IPR Licensing	B. Ditty	Wilmington, DE	GERAN; LTE; UMTS	25	ISLD-201009-002
10/31/2011	IPR Licensing	B. Ditty	Wilmington, DE	UMTS; LTE	26	ISLD-201109-018
11/30/2012	IPR Licensing	B. Ditty	Wilmington, DE	LTE; UMTS	27	ISLD-201210-011
11/26/2013	IPR Licensing	B. Ditty	Wilmington, DE	LTE	28	ISLD-201311-006
11/12/2015	IPR Licensing	B. Ditty	Wilmington, DE	LTE; UMTS	29	ISLD-201511-027
12/22/2016	IPR Licensing	B. Ditty	Wilmington, DE	LTE; UMTS	30	ISLD-201706-011
12/22/2017	IPR Licensing	B. Ditty	Wilmington, DE	LTE	31	ISLD-201711-009
12/15/2021	InterDigital Holdings	B. Ditty	Wilmington, DE	LTE	32	ISLD-202112-078
09/10/2021	InterDigital Holdings	B. Ditty	Wilmington, DE	OneM2M	33	ISLD-202108-022
12/31/2019	InterDigital Holdings	B. Ditty	Wilmington, DE	LTE, 3GPP-Release-15	34	ISLD-201912-087
10/31/2019	InterDigital Holdings	B. Ditty	Wilmington, DE	LTE	35	ISLD-201909-015
11/30/2012	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	ETSI RRS, LTE, UMTS, ETSI M2M,	36	ISLD-201210-008
10/31/2011	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	LTE, UMTS, ETSI RRS, ETSI M2M	37	ISLD-201109-010
9/16/2010	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	UMTS, LTE, GERAN,	38	ISLD-201010-010
9/14/2009	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	UMTS, GERAN, E- UMTS,	39	ISLD-200910-006
9/19/2008	InterDigital Patent Holdings	B. Ditty	Wilmington, DE	E-UMTS, GERAN, UMTS	40	ISLD-200811-003
12/22/2016	InterDigital Patent Holdings, Inc.	B. Ditty	Wilmington, DE	LTE, UMTS, ESTI M2M, RRS	41	ISLD-201706-015



1	11/12/2015	InterDigital Patent Holdings, Inc.	B. Ditty	Wilmington, DE	LTE, UMTS, ETSI RRS, OneM2M, ETSI M2M	42	ISLD-201511-004
2	09/26/2014	InterDigital Patent Holdings, Inc.	B. Ditty	Wilmington, DE	LTE, UMTS, ETSI RRS, ETSI M2M	43	ISLD-201409-028
3	11/26/2013	InterDigital Patent Holdings, Inc.	B. Ditty	Wilmington, DE	UMTS, LTE, ETSI, M2M, ETSI M2M, ETSI RRS,	44	ISLD-201311-007
4	09/14/2009	InterDigital Technology Corp.	B. Ditty	Wilmington, DE	GSM, UMTS, GERAN, E-UMTS,	45	ISLD-200911-005
5	09/16/2010	InterDigital Technology Corp.	B. Ditty	Wilmington, DE	UMTS, LTE, GSM, GERAN	46	ISLD-201010-011
6	10/31/2011	InterDigital Technology Corp.	B. Ditty	Wilmington, DE	LTE, UMTS,	47	ISLD-201109-021
7	09/09/2008	InterDigital Technology Corp.	B. Ditty	Wilmington, DE	GSM, UMTS, GERAN, E-UMTS,	48	ISLD-200901-001
8	11/30/2012	InterDigital Technology Corp.	B. Ditty	Wilmington, DE	LTE, UMTS,	49	ISLD-201210-010
9	04/08/2004	InterDigital Technology Corp.	D. Boles	Wilmington, DE	UMTS	50	ISLD-200407-004
10	03/21/2007	InterDigital Technology Corp.	B. Bernstein	Wilmington, DE	UMTS, E-UMTS	51	ISLD-200802-001
11	10/04/2001	InterDigital Technology Corp.	H. Goldberg	Wilmington, DE	UMTS	52	ISLD-200105-001
12	12/22/2016	InterDigital Technology Corporation	B. Ditty	Wilmington, DE	LTE, GERAN, UMTS	53	ISLD-201706-014
13	11/12/2015	InterDigital Technology Corporation	B. Ditty	Wilmington, DE	LTE, UMTS, GERAN	54	ISLD-201511-026
14	11/26/2013	InterDigital Technology Corporation	B. Ditty	Wilmington, DE	GSM, LTE, UMTS,	55	ISLD-201311-008
15	11/30/2012	IPR Licensing Inc.	B. Ditty	Wilmington, DE	LTE, UMTS,	56	ISLD-201210-011
16	10/31/2011	IPR Licensing Inc.	B. Ditty	Wilmington, DE	UMTS, LTE	57	ISLD-201109-018
17	09/16/2010	IPR Licensing Inc.	B. Ditty	Wilmington, DE	GERAN, LTE, UMTS	58	ISLD-201009-002
18	09/14/2009	IPR Licensing Inc.	B. Ditty	Wilmington, DE	UMTS, E-UMTS	59	ISLD-200909-004
19	09/19/2008	IPR Licensing Inc.	B. Ditty	Wilmington, DE	UMTS, GERAN	60	ISLD-200811-004
20	04/08/2004	IPR Licensing Inc.	B. Ditty	Wilmington, DE	UMTS	61	ISLD-200407-006
21	12/22/2017	IPR Licensing, Inc.	B. Ditty	Wilmington, DE	LTE	62	ISLD-201711-009
22	12/22/2016	IPR Licensing, Inc.	B. Ditty	Wilmington, DE	LTE, UMTS	63	ISLD-201706-011
23	12/11/2015	IPR Licensing, Inc.	B. Ditty	Wilmington, DE	LTE, UMTS	64	ISLD-201511-027
24	09/26/2014	IPR Licensing, Inc.	B. Ditty	Wilmington, DE	LTE	65	ISLD-201409-039
25	11/26/2013	IPR Licensing, Inc.	B. Ditty	Wilmington, DE	LTE	66	ISLD-201311-006
26	12/22/2017	IDAC Holdings	B. Ditty	Wilmington, DE	3GPP-Release-15 (LTE-Advanced Pro, NR release 15)	67	ISLD-201712-041
27	12/22/2016	IDPA Holdings, Inc	B. Ditty	Wilmington, DE	LTE	68	ISLD-201706-010
28	12/22/2016	IDTP Holdings, Inc.	B. Ditty	Wilmington, DE	LTE	69	ISLD-201706-013
	12/11/2015	IDTP Holdings, Inc.	B. Ditty	Wilmington, DE	UMTS, LTE,	70	ISLD-201511-028

67. InterDigital made these declarations to ensure that the 3G and 4G standards incorporated InterDigital's technologies to the exclusion of alternative technologies, and so that manufactures of standard-compliant devices would require a license to InterDigital's alleged SEPs.

68. While making the above declarations to ETSI, InterDigital concealed its intent to, among other things, charge supra-competitive royalty rates and demand discriminatory terms and conditions for a license to its alleged SEPs. The intent of this

1 concealment was to deceive ETSI members so that technologies InterDigital claims to  
2 have patented were included in the standards. Pursuant to the ETSI IPR Policy, if  
3 InterDigital had been honest regarding its intent to refuse to license its alleged SEPs on  
4 FRAND terms and conditions, ETSI would have looked for alternative solutions to  
5 InterDigital's technology or omitted that particular portion of the standard. See ETSI IPR  
6 Policy, § 8.1.3. Thus, but for InterDigital's deceptive IPR declarations, alternative  
7 technologies would have been adopted into the standards by ETSI or no particular  
8 technology would have been specified.

9       69. The relevant markets pre-standardization included technologies covered by  
10 InterDigital patents that are essential, or alleged to be essential, to the 3G and 4G cellular  
11 standards, together with all other alternative technologies to the InterDigital patents that  
12 could have been used in the cellular standards. Because standardization necessarily  
13 eliminates all non-standardized alternatives, the relevant markets post-standardization are  
14 congruent with the scope of InterDigital's allegedly essential patents.

15       70. Once allegedly adopted into the standards, InterDigital became the only  
16 commercially viable technology supplier in each of the relevant technology markets for  
17 which its patented technology became standardized, and standards implementers, including  
18 u-blox, could no longer substitute the adopted technologies with any other alternatives.  
19 Thus, InterDigital possesses monopoly power in the relevant technology markets for its  
20 standardized 3G and 4G patented technologies, and a dominant share of such markets,  
21 allowing it to extract supra-FRAND royalties and exclude companies in the downstream  
22 markets that utilize the standards.

### **Overview of Cellular Standards**

24       71. InterDigital's unlawful and anticompetitive behavior pertains to patents that  
25 it claims are essential to the 3G and 4G cellular standards, which are described below.

26  
27  
28

### **The 3G Standard**

1  
2 72. In the mid to late 1990s, the cellular industry started a push towards a  
3 newer, more advanced system, able to support more users with improved reliability and  
4 better handling of data services.

5 73. Originally the hope was to adopt a single, global standard. However, over  
6 time, it became apparent that diverging regional interests would prevent a single system  
7 from being adopted. On the one hand, supporters of the GSM-based standards pushed to  
8 have a system based on the GSM core network, but with an enhanced Radio Access  
9 Network incorporating a new CDMA-based air interface known as Wideband CDMA  
10 (“WCDMA”). This standard is known as Universal Mobile Telecommunications System,  
11 or “UMTS.” On the other hand, supporters of the IS-95 family of standards pushed to  
12 enhance the existing IS-95 core network and CDMA air interface, to develop a new  
13 standard known as CDMA2000.

14 74. The first UMTS standard developed by 3GPP was called Release 99, and  
15 was followed by a minor “cleanup” revision called Release 4. The first major upgrade  
16 came in 2002 with Release 5, including a new feature called High Speed Downlink Packet  
17 Access (“HSDPA”), which was followed by Release 6 in and around early 2005 that  
18 introduced High Speed Uplink Packet Access (“HSUPA”). Together HSDPA and HSUPA  
19 (collectively known as High Speed Packet Access or “HSPA”) enhanced the download and  
20 upload speeds as compared to the original baseline specification. In 2007, Release 7  
21 included an enhancement named High Speed Packet Access Evolution (“HSPA+”), which  
22 includes a number of technical modifications to support even higher data rates. More  
23 recent releases have further improved functionality.

24 75. UMTS, as improved through the various releases, remains in widespread use  
25 around the world today.

### **The 4G Standard**

26  
27 76. For the first time in the evolution of cellular standards, the global cellular  
28 industry converged to a single wireless standard for use worldwide in the late 2000s: Long

1 Term Evolution (“LTE”). This standard was developed by 3GPP, and it provides a natural  
2 evolutionary path for both UMTS and CDMA2000 network operators and their customers.  
3 Similar to the earlier generations, LTE also continues to evolve, including advances such  
4 as LTE-Advanced.

5 77. Work began in earnest on developing LTE around 2006, under the leadership  
6 of 3GPP. The first technical specifications, known as Release 8, were published in 2008.  
7 Release 8 includes functionality that theoretically supports downlink data rates of about  
8 300 Mbps and uplink data rates of about 75 Mbps.

9 78. In 2011, an upgrade to LTE was published, referred to as Release 10,  
10 incorporating many features of what was known as LTE-Advanced. This upgrade includes  
11 a number of major technical enhancements to considerably increase LTE functionality.  
12 Commercial deployments of LTE-Advanced are in progress today.

13 79. Development of the LTE standard continued beyond Release 10 with  
14 incremental improvements to the standard, including many relevant to u-blox’s cellular  
15 modules.

16 80. In Release 12, 3GPP specified low-price machine-communication terminals  
17 as LTE terminal Category 0. These terminals feature a maximum data rate of 1Mbps,  
18 support for frequency division duplex and half duplex, and support for single antenna  
19 reception.

20 81. In Release 13, 3GPP defined two new terminal categories. Category M1  
21 includes the features of Category 0, with the transceiver bandwidth limited to 1.08 MHz  
22 and support for coverage extension of approximately 15db. These limitations have cost  
23 reduction effects for chipsets compared to Category 0. Second, Release 13 defined the  
24 Narrowband IoT (“NB-IoT”) category of devices. NB-IoT is a subset of the LTE standard  
25 focused on indoor coverage, low cost, long battery life, and high connection density. The  
26 NB-IoT category features transceiver bandwidth limited to 180kHz and support for  
27 coverage extension greater than 20db.

28

1 82. As of Release 13, the LTE standard defines 19 separate categories of user  
2 equipment (“UE”). These categories depend on maximum peak data rate and MIMO  
3 capabilities supported by the UE.

4 83. In Release 14, the LTE standard introduced improvements to its Cellular  
5 Internet of Things (CIoT) aspects, with 2G, 3G and 4G support of Machine-Type of  
6 Communications (MTC), support for Vehicle-to-Everything (V2X) communications, in  
7 particular Vehicle-to-Vehicle (V2V), along with other incremental improvements.

### 8 **Hold-up and Royalty Stacking**

9 84. Despite SSOs adopting IPR Policies incorporating FRAND commitments,  
10 some SEP owners have unfortunately attempted to exploit their monopoly power to extract  
11 supra-competitive royalty rates after implementers are locked into the standardized  
12 technology.

13 85. The exploitation of SEPs to extract unreasonable or discriminatory royalties  
14 is referred to as patent “hold-up.” The cumulative royalty burden required to satisfy all  
15 SEP holders is referred to as royalty stacking.

16 86. Hold-up harms competition and impedes implementation of standards,  
17 diminishing any benefits that flow from widespread adoption of the standard. The  
18 anticompetitive effects of hold-up are magnified when the total aggregate royalty stack is  
19 analyzed. The total royalty stack must be reasonable when viewed in the aggregate. The  
20 demands of individual SEP owners must be assessed in light of the total number of SEPs  
21 included in the standard and their relative technical contributions.

22 87. A number of cases that have been litigated in U.S. courts demonstrate that  
23 patent hold-up is a widespread problem, with SEP owners violating their FRAND  
24 commitments by making royalty demands significantly above the adjudicated FRAND  
25 rates. *See, e.g., TCL Commun. Tech. Holdings, LTD v. Telefonaktiebolaget LM Ericsson,*  
26 *2017 WL 6611635*, at \*51-52 (C.D. Cal. Dec. 21, 2017) (determining FRAND rates of  
27 0.314%-0.45% for 4G, 0.224%-0.30% for 3G, and 0.09%-0.16% for 2G, as compared to  
28 Ericsson’s demand of 1.5% for 4G, 1.2%for 3G, and 0.8%-1.0% for 2G); *In re Innovation*

1 *IP Ventures, LLC Patent Litig.*, 2013 WL 5593609, at \*43 (N.D. Ill. Oct. 3, 2013) (for 19  
2 asserted patents, assessing damages of \$0.0956 per unit as compared to the proposed  
3 royalty of \$16.17 per unit for tablet computers); *Microsoft Corp. v. Motorola, Inc.*, 2013  
4 WL 2111217, at \*100 (W.D. Wash. Apr. 25, 2013) (determining FRAND rate of \$0.03471  
5 per Microsoft's x Box unit, as compared to Motorola's initial demand of \$6-\$8 per x Box  
6 unit).

7 88. Courts, regulators, and economists have also made clear that to be effective,  
8 the FRAND commitments in ETSI's IPR policy should: (a) limit royalties to the value that  
9 the SEP(s) had prior to inclusion in the ETSI standard and in light of other patented and  
10 unpatented technology essential to the standard; (b) prohibit charging royalties that are  
11 higher based upon the technology being written into the standard or that capture the value  
12 of the standard itself; and (c) require non-discriminatory treatment of licensees and  
13 potential licensees.

14 89. As explained below, and like the SEP owners from the aforementioned  
15 cases, an analysis of InterDigital's non-FRAND offers to u-blox for a new license  
16 demonstrates that InterDigital is attempting to abuse its monopoly power to extract the  
17 hold-up value of its alleged SEPs. InterDigital's offers to u-blox are completely untethered  
18 to the ex-ante value of InterDigital's alleged SEPs, and would create an unsustainable  
19 royalty stack. In light of InterDigital's continued unreasonable demands for a license and  
20 related conduct, u-blox had no choice but to seek a judicial determination of the terms for a  
21 fair, reasonable, and non-discriminatory license.

22 **InterDigital's Refusal to Offer u-blox A New License on FRAND Terms**

23 90. As explained above, InterDigital is required to license its declared essential  
24 patents consistent, in all respects, with its binding commitment to ETSI, 3GPP, and  
25 participants and implementers of the applicable standards. However, in disregard of its  
26 binding obligations, InterDigital is refusing to license its declared essential patents to u-  
27 blox on FRAND terms and conditions. Instead, InterDigital is attempting to exploit its  
28

1 market power gained as a result of its deceptive and intentionally false FRAND  
2 commitments to attempt to extract supra-competitive royalties from u-blox.

3 91. [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]

11 92. [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]

24 93. [REDACTED]  
25 [REDACTED]

26 Rather, its demands can only be explained by InterDigital's attempt to exploit its undue  
27 market power to extract supra-competitive royalties that in no way reflect the value of the  
28 patented technology. As described, the inherent entry barriers imposed by standardization

1 empower InterDigital to exploit its resulting market power to extract supra-competitive,  
2 and non-FRAND prices.

3 94. [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED].

8 95. [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
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12 [REDACTED]  
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19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED].

25 96. [REDACTED]  
26 [REDACTED]. Instead,  
27 InterDigital has negotiated in bad faith to exploit its monopoly power and attempted to  
28 maximize the hold-up value it can extract from u-blox.



1 97. Put simply, in breach of its FRAND commitment, InterDigital is attempting  
2 to exploit the monopoly power it gained from standardization to demand supra-competitive  
3 royalty rates which are grossly disproportionate to the value of the technical contribution  
4 of its small number of SEPs.

5 98. In addition, as explained below, InterDigital’s conduct during negotiations  
6 with u-blox for a new license cannot be reconciled with its FRAND commitment.

7 **InterDigital's Repeated and Unjustified Efforts to Interfere with u-blox's Customer**  
8 **Relationships to Coerce a Non-FRAND Agreement**

9 99. [REDACTED]  
10 [REDACTED]

11 100. [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 101. [REDACTED]  
15 [REDACTED]  
16 [REDACTED]

17 102. [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]

24 103. Therefore, because the rates that u-blox was paying were not FRAND rates,  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED].

28

1           104. Such a true-up provision is commonly agreed to by patent owners'  
2 negotiating in good faith with licensees or potential licensees, in order to allow licensees to  
3 negotiate without the licensee being unfairly locked into paying non-FRAND rates without  
4 any chance to be made whole. [REDACTED]  
5 [REDACTED].

6           105. But, even more troubling, while the parties were still negotiating,  
7 InterDigital contacted u-blox's customers and downstream manufacturers, [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED].

11           106. InterDigital's conduct was unnecessarily destructive and outrageous because  
12 InterDigital knew that: (i) u-blox's customers and downstream manufacturers [REDACTED]  
13 [REDACTED],  
14 and (ii) u-blox was a ready and willing InterDigital licensee once the FRAND rate was  
15 determined. As such, there was no legitimate reason for InterDigital to reach out to u-  
16 blox's customers or downstream manufacturers.

17           107. In addition, InterDigital was and is well aware of the fact that: (i) u-blox  
18 entered into relationships with its customers in reliance on InterDigital's commitment to  
19 offer a license to its alleged SEPs on FRAND terms, and (ii) u-blox's customers and  
20 downstream manufacturers had relied on u-blox to enter into a FRAND license with  
21 InterDigital prior to designing and incorporating u-blox's technology into their products.

22           108. In sum, because u-blox was willing to enter into a FRAND license, there was  
23 no legitimate reason why InterDigital should have or needed to contact u-blox's customers  
24 and downstream manufacturers.

25           109. Because InterDigital's threats to u-blox's customers and their downstream  
26 manufacturers not only threatened to profoundly impact u-blox's critical customer  
27 relationships, but the very existence of u-blox, [REDACTED]  
28 [REDACTED]

1 **Interdigital Is Again Refusing To Renew u-blox’s License On FRAND Terms And**  
2 **Conditions**

3 110. [REDACTED]  
4 [REDACTED]  
5 [REDACTED].

6 111. [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED].

14 112. [REDACTED]  
15 [REDACTED]  
16 [REDACTED].

17 113. [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED].

22 114. [REDACTED]  
23 [REDACTED]  
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115. [REDACTED]

116. [REDACTED]

117. [REDACTED]

118. [REDACTED]

119. [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

120. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

121. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

122. u-blox is ready, willing, and able to enter into a license with InterDigital once the FRAND terms and conditions for a license to InterDigital’s 3G and 4G SEPs are determined.

1 123. However, it has become clear that InterDigital has no intention of granting u-  
2 blox a license to its allegedly essential 3G and 4G patents on FRAND terms and  
3 conditions.

4 124. Given InterDigital's past practices of targeting u-blox's customers, u-blox  
5 believes that InterDigital will, again, begin targeting u-blox's customers [REDACTED]  
6 [REDACTED].

7 125. In addition, InterDigital has no incentive to conclude negotiations for a  
8 license with u-blox on FRAND rates because, as explained above, [REDACTED]  
9 [REDACTED], InterDigital could revert to its prior tactics of pressuring u-blox by targeting u-blox  
10 customers, which would, at that point, not have a license to InterDigital's patents. As such,  
11 u-blox must make an entirely unfair Hobson's choice: refuse to capitulate to InterDigital's  
12 unfair demands and risk losing its customers and business or agree to a new license that is  
13 not on FRAND terms. Given these clear hold-up conditions, u-blox has no choice but to  
14 file this action.

15 **The Irreparable Harm to u-blox**

16 126. In justifiable reliance upon InterDigital's promises that it would license its  
17 technology to u-blox and others on FRAND terms, [REDACTED]  
18 [REDACTED]  
19 [REDACTED].

20 127. However, InterDigital's wrongful non-FRAND demands of u-blox and  
21 wrongful interference with u-blox's current and potential future customer relationships will  
22 not only lead to a loss of business for u-blox, but InterDigital's threats to u-blox's  
23 customer relationships, and related loss of trust, reputation, and goodwill [REDACTED]  
24 [REDACTED]  
25 [REDACTED].

26 128. Damages are not adequate to fully compensate and address u-blox's injuries,  
27 including, inter alia, its reputational harm and harm to its customer relationships.  
28



1 would license those patents on FRAND terms and conditions. ETSI's IPR Policy does not  
2 limit the right to obtain a license on FRAND terms and conditions to ETSI members; third  
3 parties that are not ETSI members also have the right to be granted licenses under those  
4 patents on FRAND terms and conditions. Each and every party with products that  
5 implement the 3G and 4G standards promulgated by ETSI is an intended third-party  
6 beneficiary of InterDigital's contractual commitments, including u-blox, its suppliers, and  
7 its customers.

8 133. However, despite u-blox's good faith efforts to negotiate a license to  
9 InterDigital's alleged SEPs, InterDigital is refusing to offer u-blox a license on FRAND  
10 terms and conditions.

11 134. InterDigital has breached its FRAND obligations by refusing to agree to  
12 license its SEPs to u-blox at reasonable rates, with reasonable terms, and on a non-  
13 discriminatory basis.

14 135. As a result of InterDigital's contractual breach, u-blox has been injured in its  
15 business or property and is threatened by imminent loss of profits, loss of customers and  
16 potential customers, and loss of goodwill and product image.

17 136. u-blox has suffered and will continue to suffer irreparable injury by reason of  
18 the acts, practices, and conduct of InterDigital alleged above until and unless the Court  
19 enjoins such acts, practices, and conduct.

20 **SECOND CAUSE OF ACTION**  
21 **(Declaratory Judgment)**

22 137. u-blox re-alleges and incorporates by reference the allegations set forth in the  
23 foregoing paragraphs.

24 138. InterDigital is contractually obligated to license its 3G and 4G SEPs on  
25 FRAND terms and conditions. There is a dispute between the parties concerning whether  
26 InterDigital has offered u-blox a license to its 3G and 4G SEPs on FRAND terms and  
27 conditions consistent with InterDigital's irrevocable commitments in its declarations to  
28 ETSI and the referenced policy of ETSI and 3GPP.



1 139. As a result of the acts described in the foregoing paragraphs, there exists a  
2 definite and concrete, real and substantial, justiciable controversy between u-blox and  
3 InterDigital regarding what constitutes FRAND terms and conditions for a license to  
4 InterDigital’s 3G and 4G SEPs with respect to u-blox’s products. This dispute is of  
5 sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

6 140. u-blox is entitled to a declaratory judgment that InterDigital has not offered  
7 license terms to u-blox conforming to applicable legal requirements, including failing to  
8 offer u-blox a license to its 3G and 4G SEPs on FRAND terms and conditions. Moreover,  
9 u-blox is entitled to a declaratory judgment that sets the FRAND terms and conditions,  
10 including but not limited to the FRAND royalty rate, for a license to InterDigital’s 3G and  
11 4G SEPs.

12 **THIRD CAUSE OF ACTION**  
13 **(Monopolization In Violation Of Section 2 Of The Sherman Act)**

14 141. u-blox re-alleges and incorporates by reference the allegations set forth in the  
15 foregoing paragraphs.

16 142. This is an action for monopolization in violation of Section 2 of the Sherman  
17 Act.

18 143. As a member of ETSI and an active participant in 3G and 4G consensus  
19 standardization efforts through 3GPP, InterDigital was obligated to comply with the ETSI  
20 IPR Policy. That policy requires the owner of patents that might be essential to a standard  
21 to file an IPR disclosure statement that among other things contains an irrevocable  
22 commitment to license its disclosed IPRs on FRAND terms and conditions to those who  
23 implement the relevant standards. Over time, to secure inclusion of its own proposed  
24 technology in the evolving 3G and 4G standards, as well as other technology allegedly  
25 covered by its patents, InterDigital submitted IPR Declarations in which it falsely  
26 promised to license its patents on FRAND terms and conditions. As a result of  
27 InterDigital’s IPR disclosures, its alleged patented technology was incorporated into the  
28

1 standards and other alternative technologies that might otherwise have been considered for  
2 inclusion in the standard were not adopted.

3 144. InterDigital's promises to license its allegedly essential patents on FRAND  
4 terms and conditions were intentionally false and misleading. InterDigital had no intention  
5 of licensing its alleged SEPs on FRAND terms and conditions.

6 145. Indeed, as explained above, with u-blox, InterDigital is attempting to exploit  
7 its undue monopoly power by attempting to extract supra-competitive royalty rates, to  
8 force u-blox to pay royalties on expired patents, and to charge u-blox the same royalty  
9 rates for high-speed LTE categories and low-speed LTE which may not even practice  
10 InterDigital's alleged SEPs, among other FRAND violations.

11 146. As a result of the alleged incorporation of its patented technology into the  
12 3G, and 4G standards, InterDigital has monopoly power in the markets for those  
13 technologies. As a result of its alleged incorporation in the standards, this technology is not  
14 interchangeable with or substitutable for other technologies, and those who comply with  
15 the 3G and 4G standards are locked in to those technologies. As a result, InterDigital has  
16 the power to extract supra-competitive prices for licenses for those technologies.  
17 Accordingly, InterDigital has a dominant market share in the markets for these  
18 technologies and the markets have significant barriers to entry post-standardization.

19 147. InterDigital has obtained and maintained its market power in these  
20 technology markets willfully and not as a consequence of a superior product, business  
21 acumen, or historic accident. InterDigital excluded competition through its intentional false  
22 promise to license the relevant technologies on FRAND terms, which ETSI and its  
23 members relied on in choosing InterDigital's allegedly patented technology for  
24 incorporation into ETSI standards. InterDigital's deceptive conduct induced 3GPP and  
25 ETSI, through their voluntary consensus driven processes, to incorporate technology into  
26 the 3G and 4G standards that they would not have absent a FRAND licensing  
27 commitment.

28

1           148. InterDigital’s actions show that it never intended to comply with its promises  
2 to license its allegedly essential patents on FRAND terms and conditions. InterDigital  
3 refuses to engage with u-blox’s good faith efforts to determine fair, reasonable, and non-  
4 discriminatory terms and conditions. Instead, InterDigital is insisting that u-blox pay  
5 royalty rates that are several times higher than justified by the strength of InterDigital’s  
6 SEPs.

7           149. These anticompetitive acts are an abuse of InterDigital’s monopoly power in  
8 the relevant worldwide markets and establish a violation of Section 2 of the Sherman Act.

9                                   **Relevant Technology Markets**

10          150. For the purposes of u-blox’s antitrust claim, the relevant markets pre-  
11 standardization included the technologies covered by the InterDigital declared essential  
12 patents—inclusive of those issued in the United States and elsewhere—that InterDigital  
13 has asserted against u-blox for products that implement the 3G and 4G standards, together  
14 with all other alternative technologies to the InterDigital technologies that could have been  
15 incorporated into the standards. Because standardization eliminated all other alternatives,  
16 the the Relevant Technology Markets *post*-standardization include only InterDigital’s  
17 alleged SEPs and are thus congruent with the scope of InterDigital’s SEPs.

18          151. Once ETSI adopts technology for a mobile standard, the owner of each  
19 essential patent whose technology is incorporated into that standard obtains monopoly  
20 power in a relevant technology market. When patented technology is incorporated in a  
21 standard, adoption of the standard eliminates alternatives to the patented technology, and  
22 companies wanting to market devices that comply with the standard are locked in and must  
23 use the SEPs.

24          152. As previously discussed, InterDigital has declared many of its patents to be  
25 essential to one or more of the standards and made irrevocable undertakings to license  
26 those patents on FRAND terms. If InterDigital’s declarations are correct, then the market  
27 encompassed within the Relevant Technology Markets can be identified from  
28

1 InterDigital’s declarations to ETSI and InterDigital’s allegations of essentiality during  
2 licensing negotiations with u-blox.

3 153. Before the adoption of the standards, competitors in the Relevant  
4 Technology Markets included companies with technology capable of performing the same  
5 or equivalent functions that could have been adopted by ETSI and its members. These  
6 additional competitors include the companies that offered technologies that could have  
7 been used in alternative mobile standards that were foreclosed once ETSI members  
8 adopted a standard that included InterDigital’s technologies. Because of the lock-in effect  
9 described above, InterDigital became the only commercially viable seller inside and  
10 outside the United States in each of the Relevant Technology Markets.

11 154. After the standards were set and InterDigital’s technology was adopted into  
12 the standard, implementers such as u-blox invested significant revenue and other resources  
13 developing products that practice the standard. Those investments were made in reliance  
14 on the commitment InterDigital and other SEP owners made to license their patents on  
15 FRAND terms and conditions. u-blox and other implementers were effectively locked into  
16 practicing InterDigital’s technology when it was adopted into the standard, and, as a result,  
17 alternatives to the patent technologies no longer constrain InterDigital’s ability to demand  
18 royalty rates far in excess of the value of the patented technology as the alternative  
19 technologies would have prior to the adoption of the standard (“ex ante”).

### 20 **InterDigital’s Antitrust Violations**

21 155. Courts, regulators, and economists have made clear that to be effective, the  
22 FRAND commitments in ETSI’s IPR policy should: (a) limit royalties to the value that the  
23 SEP(s) had prior to inclusion in the ETSI standard and in light of other patented and  
24 unpatented technology essential to the standard; (b) prohibit charging royalties that are  
25 higher based upon the technology being written into the standard or that capture the value  
26 of the standard itself; and (c) require non-discriminatory treatment of licensees and  
27 potential licensees.

28

1           156. ETSI’s FRAND licensing requirements ensure that implementers can obtain  
2 the rights to practice claimed SEPs in return for paying FRAND royalties. Participants in  
3 standards development and third-party implementers rely on these irrevocable contractual  
4 undertakings to ensure that the widespread adoption of the standard will not be hindered by  
5 SEP owners attempting to extract unreasonable royalties and terms from those  
6 implementing the standard.

7           157. U-blox asserts this claim to obtain a FRAND license and enjoin InterDigital  
8 from continuing its abusive licensing practices and InterDigital’s unlawful monopolization  
9 in certain relevant markets for 3G and 4G cellular technologies. InterDigital has engaged  
10 in an unlawful scheme to exploit its undue market power over technologies necessary for  
11 implementers, including u-blox, to practice the 3G and 4G standards. InterDigital’s market  
12 power is due solely to its false commitments to license its alleged SEPs on FRAND terms  
13 and conditions, which was a necessary step in locking its technology into the standard(s).

14           158. Participants in the 3G and 4G standardization, including all ETSI members  
15 and u-blox in particular, relied on InterDigital’s intentionally false promises to license its  
16 alleged SEPs on FRAND terms and conditions in choosing to incorporate those allegedly  
17 essential patented technologies into the standards. As a result of InterDigital’s FRAND  
18 commitments, its allegedly essential patent technology was included in the standards and  
19 alternative technologies were excluded. Through its deceptive acts and practices,  
20 InterDigital is unlawfully monopolizing the Relevant Technology Markets.

21           159. After acquiring its unlawful monopolization of the Relevant Technology  
22 Markets, InterDigital has exploited this ill-gotten power against u-blox by refusing to offer  
23 a license on FRAND terms, by among other things:

- 24           • Refusing to honor its obligation to license its alleged SEPs on  
25           FRAND terms and conditions;



- 26  
27  
28           • Attempting to seek supra-competitive royalty rates from u-blox  
for a license to its 3G and 4G patents;

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160. InterDigital’s actions injure competition by (i) excluding alternate technologies which could have been included in the standard; (ii) raising the cost of implementing and using the standards for all standards users; increasing consumer prices; and reducing and/or eliminating incentives to invest and innovate in standard-compliant products, such as those offered by u-blox. As a direct and proximate consequence of InterDigital’s unlawful monopolization, customers of the Relevant Technology Markets (implementers of the standards such as u-blox) face drastically higher costs for access to cellular technologies necessary for the manufacture of standard-compliant products than they would have paid in a competitive marketplace.

161. InterDigital’s wrongful conduct prevents u-blox from obtaining access to alternative technologies in the Relevant Technology markets. The antitrust injury associated with InterDigital’s unlawful monopolization also extends to consumers in the downstream market for the technology, such as u-blox’s cellular modules, in the form of higher prices, reduced innovation, and more limited choice for such standard-compliant products. Indeed, the necessary result of raising costs to some competing manufacturers in the marketplace for standard-compliant products and diverting resources that otherwise would have fueled additional innovation is to limit consumer choices in complementary technologies and other technology used in standard-compliant products.

162. InterDigital has leverage over manufacturers of standard-compliant products that it would not possess but for its false promises to ETSI to license its alleged SEPs on FRAND terms and conditions, and its unlawful acquisition of monopoly power in the Relevant Technology Markets. As a result of said leverage, manufacturers of standard-compliant products, including u-blox, must either capitulate to InterDigital’s demand for

1 supra-competitive royalty rates or face the costs and risks of protracted patent litigation on  
2 a global scale.

3 163. Absent InterDigital’s wrongful conduct, which resulted in alternate  
4 technologies being excluded from the Relevant Technology Markets, , ETSI would have  
5 standardized alternative technologies that would have been available on FRAND terms, or  
6 would have foregone that portion of the standard if a viable technology could not be found  
7 that would be available on FRAND terms.

8 164. Therefore, to prevent harm to u-blox’s business and property, including its  
9 cellular module products, and further harm to competition and consumers more generally  
10 u-blox brings this action for treble damages, declaratory relief, and injunctive relief under  
11 Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15, 26.

12 **FOURTH CAUSE OF ACTION**  
13 **(Declaratory Judgment of Non-Infringement of U.S. Patent No. 8,155,067)**

14 165. u-blox re-alleges and incorporates by reference the allegations set forth in the  
15 foregoing paragraphs.

16 166. U.S. Patent No. 8,155,067 (“’067 Patent”), attached hereto as Exhibit 71,  
17 entitled “METHOD AND APPARATUS FOR SIGNALING THE RELEASE OF A  
18 PERSISTENT RESOURCE,” indicates that it issued on April 10, 2012. U.S. Patent and  
19 Trademark Office (“USPTO”) records indicate that InterDigital is the assignee of the ‘067  
20 Patent.

21 167. There is a dispute between the parties concerning whether certain u-blox  
22 products infringe one or more claims of the ‘067 Patent. During the course of licensing  
23 negotiations, [REDACTED]

24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]

27 168. u-blox alleges that the ‘067 Patent is not essential to the LTE standard and,  
28 therefore, u-blox’s products, which implement the LTE standard, do not practice one or

1 more claims of the ‘067 Patent. By way of non-limiting example, the LTE standard does  
2 not require at least the claimed technique of releasing at least one persistent resource,  
3 including “determining whether to explicitly or implicitly acknowledge the persistent  
4 resource release based on whether the persistent resource release is applicable to the DL  
5 persistent resource of the UL persistent resource,” wherein “DL” refers to downlink and  
6 “UL” refers to uplink.

7 169. No claim of the ‘067 Patent has been or is infringed, either directly,  
8 contributorily, or by inducement, literally or under the doctrine of equivalents, by u-blox or  
9 the purchasers of u-blox’s products through the manufacture, use, importation, sale, and/or  
10 offer for sale of u-blox’s products, at least because, by way of non-limiting example, u-  
11 blox’s products do not satisfy the following claim limitation “determining whether to  
12 explicitly or implicitly acknowledge the persistent resource release based on whether the  
13 persistent resource release is applicable to the DL persistent resource of the UL persistent  
14 resource.”

15 170. An actual and justiciable controversy exists between u-blox and InterDigital  
16 with respect to whether u-blox’s products infringe one or more claims of the ‘067 Patent.

17 171. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 et seq.,  
18 u-blox requests the declaration of the Court that u-blox’s products do not infringe one or  
19 more claims of the ‘067 Patent.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, u-blox prays for relief as follows:

22 A. Adjudge and decree that InterDigital is liable for breach of its contractual  
23 commitments to ETSI;

24 B. Adjudge and decree that InterDigital has not offered u-blox a new license to  
25 its 3G and/or 4G SEPs under reasonable rates, with reasonable terms and conditions, and  
26 that are demonstrably free of any unfair discrimination;

27 C. Adjudge, set, and decree the FRAND terms and conditions that u-blox is  
28 entitled to for a license to InterDigital’s 3G and 4G SEPs;



1 D. Enjoin InterDigital from demanding excessive royalties from u-blox that are  
2 not consistent with InterDigital’s FRAND obligations;

3 E. Adjudge and decree that u-blox is entitled to a license from InterDigital for  
4 any and all patents that InterDigital deems “essential” and/or has declared “essential” to  
5 the 3G and 4G standards under reasonable rates, with reasonable terms and conditions that  
6 are demonstrably free of any unfair discrimination;

7 F. Enjoin InterDigital from enforcing its 3G and/or 4G SEPs against u-blox or  
8 any of its downstream manufactures or customers;

9 G. Enjoin InterDigital from forcing u-blox to take a bundled license to  
10 InterDigital’s SEPs that are not implemented by the portions of the 3G and/or 4G standards  
11 practiced by u-blox’s products;

12 H. Adjudge and decree that InterDigital has violated Section 2 of the Sherman  
13 Act and enjoin InterDigital from further violations of that statute;

14 I. Adjudge and decree that u-blox does not infringe the ‘067 Patent;

15 J. Enter judgment against InterDigital for the amount of damages that u-blox  
16 proves at trial, including, as appropriate, exemplary damages;

17 K. Enter a judgment awarding u-blox its expenses, costs, and attorneys’ fees  
18 under applicable laws;

19 L. Award u-blox pre-judgment and post-judgment interest to the full extent  
20 allowed under the law, as well as its costs; and

21 M. For such other and further relief as the Court deems just and proper.

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1 Dated: January 1, 2023

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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By                     /s/ Stephen S. Korniczky                    

STEPHEN S. KORNICZKY  
MARTIN R. BADER  
ERICKA J. SCHULZ  
RYAN P. CUNNINGHAM  
MONA SOLOUKI

*Attorneys for Plaintiffs*

