

FILED

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

UNITED STATES DISTRICT COURT

for the

2024 SEP 23 P 2:17

Eastern District of Virginia

Alexandria Division

Mark Sandstrom

Case No.

1:24 CV 1682

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one) Yes No

-v-

ERICSSON INC. / ET AL.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Mark Sandstrom
Street Address	201 N Union St #110
City and County	Alexandria
State and Zip Code	VA 22314
Telephone Number	571 243 4680
E-mail Address	mark.h.sandstrom@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name ERICSSON INC.
Job or Title *(if known)*
Street Address 6300 Legacy Drive
City and County Plano
State and Zip Code TX 75024
Telephone Number 469 266 3661
E-mail Address *(if known)*

Defendant No. 2

Name TELEFONAKTIEBOLAGET LM ERICSSON
Job or Title *(if known)*
Street Address Torshamnsgatan 21
City and County Stockholm, Kista
State and Zip Code Sweden 164 83
Telephone Number
E-mail Address *(if known)*

Defendant No. 3

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

Defendant No. 4

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

- Federal question
- Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

Dispute under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, concerning the United States Patent Act, 35 U.S.C. § 1 et seq.

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, (name) _____, is a citizen of the State of (name) _____.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, (name) _____, is a citizen of the State of (name) _____ . Or is a citizen of (foreign nation) _____.

- b. If the defendant is a corporation
 The defendant, *(name)* _____, is incorporated under
 the laws of the State of *(name)* _____, and has its
 principal place of business in the State of *(name)* _____.
 Or is incorporated under the laws of *(foreign nation)* _____,
 and has its principal place of business in *(name)* _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

Court is asked to resolve the dispute of whether the Defendant, having acknowledged the necessity of the licenses but obtained their supposed licenses from a party (counter-claim defendant in 2:24-cv-00485) not in a position to grant licenses, may continue practicing the patents per the Attachment Table 1 without a license granted by or on behalf of the latest (or any) assignee in the USPTO-recorded chain of title.

Please see the Attachment to Complaint for additional pleadings, with exhibits.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Court declarations are requested to resolve the question per above.

Please see the Attachment to Complaint for additional pleadings, with exhibits.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: September 21, 2024

Signature of Plaintiff

Printed Name of Plaintiff

Mark Sandstrom

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

MARK SANDSTROM,

Plaintiff,

v.

ERICSSON, INC. AND
TELEFONAKTIEBOLAGET LM ERICSSON

Defendant.

Civil Action No. 1:24 CV 1682

ADDITIONAL FACTS FOR COMPLAINT FOR DECLARATORY JUDGMENT

Mark Sandstrom (“Plaintiff”) hereby alleges the following additional facts for its Complaint against Ericsson Inc., including its affiliates under common ownership or control, including its corporate parent Telefonaktiebolaget LM Ericsson, (“Ericsson”, or “Defendant”), collectively, the Parties.

INTRODUCTION

1. Plaintiff brings this declaratory judgment action based on Parties’ dispute over whether Defendant, claiming to have licensed the patents-in-suit from a 3rd party – apparently the counterclaim-defendant in 2:24-cv-0485 to whom the USPTO-recorded chain of assignments never went – may continue practicing these patents without a license from the patentee.

NATURE OF THE ACTION

2. This is an action under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, concerning patent infringement under 28 U.S.C. §§ 1331, 1338 and the United States Patent Act,

35 U.S.C. § 1 et seq., including 35 U.S.C. § 271. Specifically, based on Defendant's written statements that:

- i. they do not license patents unless shown to be practiced by them, and that
- ii. under that policy, they have purportedly licensed Plaintiff's patents from a third party¹ not in position to grant licenses to the patents at issue,

the Plaintiff requests a declaratory judgment (DJ) that Defendant may not continue practicing the patents at issue (per Table 1 below), unless and until licensed by or on behalf of the latest assignee in the USPTO-recorded chain of assignments, i.e., the patentee meant by 35 U.S.C. § 281.

3. The patents and standards at issue, coupled together with claim charts as indicated, are per Table 1 below:

Standard	U.S. Patent No.	Claim chart, referring to docket filings in 0:24-cv-02796-ECT-DJF (D. Minn.)
IETF RFC 6241 Network Configuration Protocol (NETCONF) and its content-layer companion RFC 7950 YANG 1.1 Data Modeling Language (YANG);	10848546 (the '546 patent);	Doc. 1-1
	10567474 (the '474 patent);	Doc. 1-2
ITU-T standard for Gigabit-capable Passive Optical Network; the Recommendation series G.984.x, specifically, G.984.3 (GPON)	7558260 (the '260 patent)	Doc. 1-3
	7333511 (the '511 patent);	Doc. 1-4
ITU-T Recommendation G.987.3 (10GPON, NG-PON or XG(S)-PON)	'260 patent	Doc. 1-5
	'511 patent	Doc. 1-6
ITU-T Recommendation G.989.3 (TWDM-PON, or NG-PON2)	'260 patent	Doc. 1-7
	'511 patent	Doc. 1-8

¹ The counterclaim-defendant in action 2:24-cv-00485-JKW-RJK, Xenogenic Development LLC, who is not in the USPTO-recorded chain of assignments for the patents at issue.

IEEE 802.3ah (EPON) and	'260 patent	Doc. 1-9
802.3av (10G-EPON).	'511 patent	Doc. 1-10

Table 1. The Internet standards that the '474 and '546 patents are charted to are referred to as the NETCONF standards, while the ITU-T standards that the '511 and '260 patents are claim charted to are collectively referred to as the xPON standards.

4. The terms Standards and Patents, as used herein with respect to each other, refer to the pairing of the individual ones among the Standards and Patents per the Table 1 above.

5. Besides the claim charts per Table 1, Defendant has been made aware of, and been offered for evaluation under an NDA, legal opinions concluding that the '546 patent is likely practiced by the NETCONF, and the '511 patent by the GPON, standard implementations, via letters regarding the Patents and Standards sent to Defendant, and acknowledged via email responses by Defendant's in-house counsel.

6. Each of the Patents is valid, enforceable and in full force and effect.

THE PARTIES

7. Plaintiff Sandstrom is the named inventor of each of the above patents, with a mailing address of 201 N Union St #110, Alexandria VA 22314.

8. Plaintiff has the rights to enforce and sublicense the Patents. Exhibit 1.

9. Defendant Telefonaktiebolaget LM Ericsson is a corporation organized under the laws of the Kingdom of Sweden with its principal place of business at Torshamnsgatan 21, Kista, 164 83, Stockholm, Sweden, as its US-subsiidiary, a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 6300 Legacy Drive, Plano, TX 75024.

10. Defendant may be served with process via delivery to office of their in-house counsel, who the Defendant, in response to letters sent to Chairman of Telefonaktiebolaget LM Ericsson, requested Plaintiff to direct all future communications to.²

JURISDICTION AND VENUE

1. This is a declaratory judgement action under 28 U.S.C. §§ 2201-2202, concerning patent infringement under 35 U.S.C. § 1 et seq. This Court has subject matter jurisdiction at least under 28 U.S.C. §§ 1331, 1332 and/or 1338.

2. Venue is proper in this District under 28 U.S.C. § 1391 and/or 1400(b) because Defendant as a foreign-based entity may be sued in any judicial district in the US.

3. This Court has personal jurisdiction over Defendant pursuant to due process and/or because Defendant, in the D. Minn. action 0:24-cv-02796 Doc. 36, invoked the mentioned civil action in this district, 2:24-cv-00485-JKW-RJK, in an effort to stay the D. Minn. action 0:24-cv-03118, stating “*Ericsson moves to stay pending action in the United States District Court for the Eastern District of Virginia in a related ongoing litigation.*”

BACKGROUND

4. Per the complaint of the mentioned 0:24-cv-02796 (D. Minn.) action, while Plaintiff has informed Defendant that they need a license for the Patents to the degree they use the respective Standards in the U.S., and that claim-charts and legal opinions to such effects exist, Defendant has denied needing to bid for acquisition or otherwise obtain a license for the Patents, irrespective of whether they would be using the respective Standards in the US, and notwithstanding that, as shown at D. Minn. action 0:24-cv-02796, Doc. 1 ¶¶ 23-26, the Defendant appears to at least be planning to use the claim-charted Standards in the US and in this District.

² On February 8, 2023, in response to a letter regarding the Patents and Standards per Table 1 addressed to Chair of the Board of Directors of Telefonaktiebolaget LM Ericsson, Defendant's in-house counsel wrote: “*Please address all future correspondence regarding this matter to my attention.*”

5. On August 22, 2024, Defendant wrote to Plaintiff that “*Ericsson ... has a license to two of the patents and you have not identified how the other two patents could be infringed by an Ericsson product.*” Exhibit 2, page 3.

6. Thus, Defendant was:

- i. claiming, under their policy of not licensing patents unless shown to be infringed by Defendant’s products as repeatedly communicated to Plaintiff³, to have licensed “*two of the patents*”, understood per Defendant’s letters to Plaintiff to refer to the NETCONF standard-charted ‘546 and ‘474 patents per Table 1, from a purported licensor, who appears to be the counterclaim defendant in the action 2:24-cv-00485-JKW-RJK, Xenogenic Development LLC⁴, and
- ii. arguing⁵ for non-infringement only for “*the other two patents*”, understood per Defendant’s letters to Plaintiff, to refer to the xPON standard-charted ‘260 and ‘512 patents per Table 1.

7. Accordingly, in limiting their (unevidenced) non-infringement arguments to just the ‘260 and ‘511 patents, while noting the ‘474 and ‘546 patents as meeting their licensing criteria, Defendant has acknowledged that their products practice these NETCONF-standard charted patents in the US.⁶

8. Plaintiff informed Defendant of the above via email on September 18, 2024. However, Defendant has kept rejecting any negotiations for licensing the Patents from the patentee. Exhibit 2.

³ See e.g. the D. Minn. action 0:24-cv-02796 Doc. 1-13.

⁴ This entity, or any other Intellectual Ventures (IV) affiliates, are not in the chain of assignments for any of the Patents, and thus not in a position to grant licenses to the Patents, as established in the Affirmative Defenses in action 2:24-cv-00485-JKW-RJK Document 15-1 pages 3-12.

⁵ Without counter evidence to the claim charts and legal opinions evidencing essentiality of both subsets of the patents per the D. Minn. action 0:24-cv-02796 Doc. 1 ¶¶ 10-12 and the associated exhibits.

⁶ Noting that the purported licensor, Xenogenic Development LLC (IV) claims to “own” each of the four Patents in Table 1 (though not being in the chain of assignments for any of them), the fact that Ericsson claims to have licensed just two (the NETCONF-charted) of these four patents shows that this alleged licensing was not a form of “portfolio licensing”, but rather a licensing of just the patents Ericsson had deemed were practiced by their own products.

9. Accordingly, Plaintiff requests the Court to adjudicate the parties' dispute of whether Defendant, having acknowledged necessity of a license to at least two of Patents for their operations, but not having such a license granted by any entity in the USPTO-recorded chain of title for the Patents (or any party authorized by such assignee to sublicense any of the Patents), may continue practicing the Patents, without a license from the patentee.

10. This controversy is of sufficient immediacy and reality to warrant the issuance of a DJ on whether Defendant's may continue to use the Patents without being licensed by or on behalf of the patentee. The Patents, as US government issued rights to exclude unlicensed implementers, will begin expiring starting in July 2025, and for these rights to exclude unlicensed usage to serve their Congressional intended purpose, the controversy of whether Defendant may use the Patents without a license from the patentee has to be resolved speedily. And while the present controversy, concerning application of US patent laws to the question of whether Defendant may use the Patents, e.g. via the Standards in the US, without a legally valid license, is evidently justiciable, the requested DJ will effectively resolve and terminate that controversy, such that the DJ is appropriate under F.R.C.P. 57.

**COUNT I: DECLARATORY JUDGMENT THAT DEFENDANT NEEDS LICENSE
FROM THE PATENTEE FOR THE PATENTS TO USE THE RESPECTIVE
STANDARDS IN THE U.S.**

11. Plaintiff incorporates by reference the preceding paragraphs as though fully set forth herein.

12. Plaintiff has informed Defendant that their expressed policy to not license patents unless shown to be practiced by them, and their claim to have, under that policy, licensed the Patents from a non-assignee third party (IV), constitute an admission of necessity of licenses to the Patents for their activities, concurring with the claim-charts and legal opinions per ¶¶ 3-5.

13. However, the Defendant has refused any license negotiations to obtain license to the Patents from the Plaintiff, who, per the chain of assignments for each of the Patents, has the

authority to grant the licenses for the Patents, necessary e.g. for Defendant's usage of the claim-charted Standards per above.

14. This controversy is of sufficient immediacy and reality to warrant the issuance of a declaratory judgment on whether Defendant may continue to practice the Patents, e.g. via using the Standards per Table 1, without a license from the patentee.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- (a) adjudge and declare that Defendant, having acknowledged necessity of the license to the Patents but having obtained their purported license from a third party (IV) who has not been in a position to grant licenses to the Patents, may not continue to use the Patents, including via the Standards, without a license granted by or on behalf of the latest assignee in the USPTO-recorded chain of assignments for the Patents;
- (b) award Plaintiff the costs of this action, along with reasonable expenses to the fullest extent permitted by law; and,
- (c) award Plaintiff all other relief, in law or equity, to which Plaintiff is entitled.

I state under penalty of perjury that the foregoing is true and correct.

Dated: September 21, 2024



Mark Sandstrom
201 N Union St #110
Alexandria VA 22314
Telephone: 571 243 4680

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria DIVISION

2024 SEP 23 P 2:13

Mark Sandstrom
Plaintiff(s),

v.

Civil Action Number:

1:24 CV 1682

ERICSSON INC.
Defendant(s),

ET AL.

LOCAL RULE 83.1 (N) CERTIFICATION

I declare under penalty of perjury that:

No attorney has prepared or assisted in the preparation of Complaint; Attachment
(Title of Document)

Mark Sandstrom
Name of *Pro Se* Party (Print or Type)


Signature of *Pro Se* Party

Executed on: September 21, 2024 (Date)

OR

The following attorney(s) prepared or assisted me in preparation of Complaint; Attachment
(Title of Document)

(Name of Attorney)

(Address of Attorney)

(Telephone Number of Attorney)
Prepared, or assisted in the preparation of, this document.

(Name of *Pro Se* Party (Print or Type)

Signature of *Pro Se* Party

Executed on: _____ (Date)