Portfolio Media. Inc. | 648 Broadway, Suite 200 | New York, NY 10012 | www.law360.com
Phone: +1 212 537 6331 | Fax: +1 212 537 6371 | customerservice@portfoliomedia.com

AT&T, Sprint Hit Over Cell Phone Locator Patent

By **Melissa Lipman**

Law360, New York (March 13, 2009) -- Tendler Cellular of Texas LLC has slapped five major cellular carriers — including AT&T Mobility LLC, Sprint Nextel Corp. and T-Mobile USA Inc. — with a suit accusing the telephonic giants of infringing a patent for a system to identify the location of a wireless caller with their E911 services.

The complaint, filed Thursday in the U.S. District Court for the Eastern District of Texas, also names Cellco Partnership, doing business as Verizon Wireless and U.S. Cellular Corp.

Longview, Tex.-based Tendler has accused the companies of infringing U.S. Patent Number 7,447,508, called "location-based information system." Tendler owns the patent — which issued Nov. 4 — through assignment, according to the complaint.

The suit focuses on the E911 services the defendants use to provide "location-based services" to their cellular subscribers.

The U.S. Federal Communications Commission requires cellular carriers to provide E911, or Enhanced 911, information to public safety answering points. This allows emergency calls to be routed to the right local center with information regarding the caller's location.

The complaint alleges that the companies either make, sell or use products and systems that infringe the '508 patent or that induce or contribute to infringement by others.

The patent describes a system in a wireless device that can find the user's location using global positioning system technology and send that information to a company — such as a towing service or emergency services organization. The system can also arrange for payment of the services as necessary.

The complaint seeks declaratory and injunctive relief, compensatory damages of no less than a reasonable royalty, pre- and post-judgment interest, along with costs and attorneys' fees.

It also requests treble damages from the date of filing forward based on allegations that infringement occurring after that point would be willful.

In August, Tendler asserted a related patent — called "location-based service request system" — against BMW of North America LLC, Toyota Motor Sales USA Inc., Cross Country Automotive Services Inc. and ATX Group Inc.

That suit accuses the defendants of infringing U.S. Patent Number 7,050,818, which covers systems that allow drivers to request emergency services on the road.

The '508 patent is a continuation of the '818 patent, according to court documents.

The '818 patent describes a system that allows users to find services, such as gas stations or drugstores, by using a wireless phone to call a predetermined number and send information about its location provided by a GPS receiver. In one embodiment, the phone is in a car.

Tendler alleges that BMW's BMW Assist and Toyota's Lexus Link systems, which are installed in cars and automatically alert emergency services in the event of an accident, infringe the '818 patent.

The suit also targets Cross Country's MERJ product, which provides drivers with a range of services, including roadside assistance and navigation.

Tendler provides its own location-based service request system, FoneFinder, which allows users to request emergency assistance using GPS technology, according to the company's Web site.

Spokesmen for AT&T, U.S. Cellular and Verizon Wireless declined to comment on the suit. Representatives for Sprint Nextel and T-Mobile did not immediately respond to requests for comment Friday.

The patent-at-issue is U.S. Patent Number 7,447,508.

Tendler is represented by Friedman Suder & Cooke. Counsel information for the defendants was not available at the time of publication.

The case is Tendler Cellular of Texas LLC v. AT&T Mobility LLC, et al., case number 6:09-cv-00115, in the U.S. District Court for the Eastern District of Texas.

--Additional reporting by Brendan Pierson

All Content © 2003-2009, Portfolio Media, Inc.