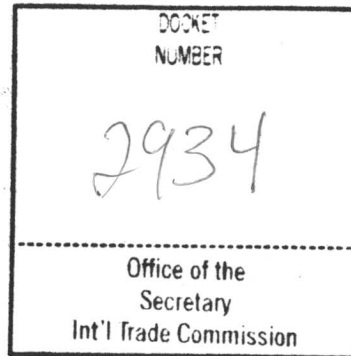


DANIEL E. YONAN
DIRECTOR
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CBI 13-137

January 24, 2013

The Honorable Lisa R. Barton
Acting Secretary to the Commission
U.S. International Trade Commission
500 E Street S.W.
Washington, DC 20436

Via Hand Delivery

Re: Certain Wireless Communications Base Stations and Components Thereof

Dear Secretary Barton:

Enclosed for filing on behalf of Complainant Adaptix Inc. ("Adaptix") are the following documents in support of Adaptix's request that the Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended.

Accordingly, Adaptix submits the following documents for filing:

1. An original and eight (8) paper copies of the verified Non-Confidential Complaint and the Statement of Public Interest (original unbound); one (1) CD of the accompanying Non-Confidential exhibits, and one (1) CD with Confidential exhibits (Commission Rules 201.6(c), 210.4(f)(2) and 210.8(a)(1)(i) and 210.8(b));
2. Two (2) additional paper copies of the verified Non-Confidential Complaint, the Statement of Public Interest and two (2) CDs of the Non-Confidential Exhibits for service upon each proposed respondents (Commission Rules 210.8(a)(1)(iii) and 210.11(a));
3. Two (2) additional copies of the Confidential Exhibits on CD for service upon each proposed respondent once appropriate subscriptions to a protective order have been filed (Commission Rules 210.8(a)(1)(iii));
4. One (1) additional paper copy of the verified Non-Confidential Complaint for service upon the Embassy of Sweden (Commission Rules 210.8(a)(1)(iv));

5. One (1) certified copy of the involved United States Patent Nos.: 6,870,808 ("the '808 patent"), listed as Exhibit 1 in the Complaint (Commission Rules 210.8(a)(1)(iii) and 210.12(a)(9)(i));
6. One (1) certified copy of the assignments for the '808 patent, listed as Exhibit 2 in the Complaint; (Commission Rules 210.8(a)(1)(iii) and 210.12(a)(9)(ii));
7. One (1) certified copy of the prosecution history of the '808 patent of the patents-at-issue, listed as Appendix A in the Complaint and four (4) additional copies on separate CDs (Commission Rules 210.12(c)); and
8. Four (4) copies of each reference document identified in the prosecution histories of the patents-at-issue, listed as Appendix B in the Complaint (Commission Rule 210.12(c)(2)).
9. A letter of certification pursuant to Commission Rules 201.6(b) and 210.5(d) requesting confidential treatment of information appearing in Confidential Exhibits 3, 10-13, and 44-46 to the verified Non-Confidential Complaint.

Please contact me if you have any questions about this request, or if this request is not granted in full. Thank you for your attention to this matter.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Daniel E. Yonan

DEY/hjr

Enclosures

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January 24, 2013

The Honorable Lisa R. Barton
Acting Secretary to the Commission
U.S. International Trade Commission
500 E Street S. W.
Washington, DC 20436

Via Hand Delivery

Re: Certain Wireless Communications Base Stations and Components Thereof

Dear Secretary Barton:

Sterne, Kessler, Goldstein & Fox P.L.L.C. represents Complainant Adaptix, Inc. ("Adaptix") in its action pursuant to Section 337 of the Tariff Act of 1930, as amended.

Pursuant to Commission Rules 201.6(b) and 210.5(d), Adaptix respectfully requests confidential treatment of Confidential Exhibits 3, 10-13, and 44-46 to the Complaint.

The information for which confidential treatment is sought is propriety and not otherwise publicly available. Specifically, Confidential Exhibits 3, 10-13, and 44-46 contain proprietary commercial information regarding the 4G LTE base station market at issue, Adaptix's patented technology and its infringement in the import trade by the proposed Respondents, as well as Adaptix's investments and employment activities made in furtherance of its domestic industry under 19 U.S.C. 1337(a)(3).

The Commission has routinely held that this type of information qualifies as confidential business information pursuant to Rule 201.6(a) because:

- (A) It is not publicly available;
- (B) Unauthorized disclosure of such information could cause substantial harm to the competitive position of Adaptix; and
- (C) The disclosure of such information could impair the Commission's ability to obtain information necessary to perform its statutory function.

The Honorable Lisa R. Barton
January 24, 2013
Page 2

Please contact me if you have any questions about this request, or if this request is not granted in full. Thank you for your attention to this matter.

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

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Daniel E. Yonan

DEY/hjr

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

**CERTAIN WIRELESS
COMMUNICATIONS BASE STATIONS
AND COMPONENTS THEREOF**

Investigation No. 337-TA - _____

STATEMENT OF PUBLIC INTEREST

Complainant Adaptix, Inc. (“Adaptix”) submits this Statement Regarding the Public Interest in compliance with 19 C.F.R. § 210.8. The issuance of the requested limited exclusion order and cease and desist order will not adversely impact the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. Thus, this case does not present an instance where the Commission, the parties, and the public should be required to undergo the time and expense of discovery and trial for a Recommended Determination by the ALJ on the public interest.

First, the proposed Respondents, Ericsson Inc. and its related companies (“Ericsson”) cannot reasonably allege a negative impact to the public interest would result from the Commission issuing relief in the requested investigation. Ericsson filed an eleven-patent complaint at the Commission on November 30, 2012 seeking an exclusion order against similar products made and sold by Complainant’s licensee, Samsung. In its accompanying Public Interest Statement, Ericsson admitted that the accused devices are “luxury devices” and “not necessary for any health or welfare need” and that “there are many like or directly competitive articles.” Additionally, Ericsson stated in its Comments in Investigation No. 337-TA-794 that generally a standard-essential patent should be eligible for entry of an exclusion order, but made

an exception for patent holders with a commitment to license on FRAND terms. Adaptix did not participate in the standard-setting process for LTE development, and Adaptix has no FRAND licensing obligations regarding the asserted patent. Thus, Ericsson has no proper basis to allege that any public interest weighs against institution or the relief sought by Adaptix here.

Second, Ericsson's wireless products do not implicate any particular public health, safety or welfare concerns. Consumers do not face any potential shortage of like or directly competitive products in the United States. Rather, Adaptix's licensees and third parties can meet the demand for the base station products that would be subject to the requested remedial orders.

Consequently, the requested Investigation does not present any special issues of public interest that would affect the Commission's issuance of the requested remedial orders.

I. Use of articles potentially subject to remedial orders in the United States.

Ericsson's products potentially subject to remedial orders in the proposed Investigation are wireless communications base stations for use with LTE applications. The base stations are used by wireless carriers in the United States to build wireless networks.

II. There are no public health, safety, or welfare concerns in the United States relating to the potential remedial orders.

Ericsson's base stations do not implicate any particular public health, safety, or welfare concerns. While stations capable of use with LTE applications are a useful convenience, they are not critical to public health, safety or welfare. Additionally, as discussed more fully below, there are many sources of like, directly competitive, and substitute alternatives in the United States and no health- or safety-related features that are unique to Ericsson's infringing products. Accordingly, the exclusion of Ericsson's infringing products would not prevent public safety personnel from using LTE and the enhancements that it provides to public safety. Accordingly,

there are no public health, safety, or welfare considerations that caution against excluding Ericsson's accused products.

III. Adaptix's licensees or third parties make like or directly competitive articles which could replace the subject articles if they were to be excluded from the United States, and have the capacity to replace the volume of articles potentially subject to remedial orders in a commercially reasonable time.

Adaptix's licensees, and others, make like and directly competitive articles that would replace Ericsson's products if excluded from the United States. There are a number of like and competing base station products available from Complainants and other manufacturers. Ericsson is one of many suppliers of LTE base stations in the United States.¹ Moreover, carriers using Ericsson's base stations in the United States already rely on other suppliers as well.² In addition, besides current suppliers of LTE base stations in the United States, there are manufacturers with strong markets abroad who are capable of diverting capacity to the United States in a commercially reasonable time.³ Additionally, Adaptix will not seek remedial measures against equipment already installed on U.S. networks. Thus, an exclusion of Ericsson's infringing

¹ See, LTE to Play Key Role in 2011 Vendor Outlook, RCRWIRELESS.COM (Dec. 24, 2010), <http://www.rcrwireless.com/article/20101224/networks/lte-to-play-key-role-in-2011-vendor-outlook/>; LTE Equipment Manufacturers, LTE ENCYCLOPEDIA, <https://sites.google.com/site/lteencyclopedia/lte-equipment-manufacturers> (last visited Jan. 4, 2013).

² See, e.g., Press Release, Sprint, Sprint Announces Network Vision (Dec. 6, 2010), <http://newsroom.sprint.com/news/sprint-announces-network-vision-network-evolution-plan.htm>; Ken Wieland, Verizon Names LTE Suppliers, TELECOMS.COM (Feb. 19, 2009), <http://www.telecoms.com/2187/verizon-names-lte-suppliers/>; Press Release, AT&T, AT&T Selects Equipment Suppliers (Feb. 10, 2010), <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30493>

³ See, e.g., L.C. Yee & H. Yantao, Huawei Targets Enterprise Deals at \$7 Billion by 2012, REUTERS (Sept. 14, 2011), <http://www.reuters.com/article/2011/09/15/us-wef-dalian-huawei-idUSTRE78E0LO20110915>; Samsung to Capture #1 Position from Ericsson in Asia Pacific Deployments of LTE Macro Base Stations in 2011, C114 (Nov. 30, 2011), <http://www.cn-c114.net/2503/a657468.html>.

products will not cause an interruption in service and will not have a harmful effect on United States wireless carriers or their customers.

IV. The requested remedial orders will not have a significant negative impact on consumers in the United States.

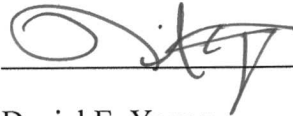
As indicated above, if Ericsson's infringing products were excluded, carriers would not be deprived of base stations and consumers will not experience an interruption in data transmission services provided using base stations, because Adaptix's licensees and other companies would easily meet U.S. market demand for base stations. Thus, the potential limited exclusion and cease and desist orders will have no meaningful impact on U.S. consumers.

V. Conclusion.

Issuing a permanent limited exclusion order and a cease and desist order in this Investigation against Ericsson's infringing products will not negatively affect the public health, safety or welfare in the United States, competitive conditions in the United States economy, the production of like or competitive articles in the United States, and the availability of such products to consumers. The accused base stations are not essential to public health and safety because, among other things, substitute products are available and Ericsson's infringing products do not contain any unique safety-related features. There are numerous other sources of like or directly competitive non-infringing base stations for U.S. carriers. The requested remedy will not impact existing infrastructure. Accordingly, there are no public interest concerns preventing the issuance of a permanent exclusion order and a cease and desist order or that would necessitate discovery and trial on this issue by the ALJ.

January 24, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Yonan', is written over a horizontal line.

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**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

**CERTAIN WIRELESS
COMMUNICATIONS BASE STATIONS
AND COMPONENTS THEREOF**

Investigation No. 337-TA - _____

**VERIFIED COMPLAINT UNDER SECTION 337 OF THE
TARIFF ACT OF 1930, AS AMENDED**

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EXHIBIT LIST

Exhibit	Description
Exhibit 1	Certified copy of U.S. Patent No. 6,870,808 (“the ’808 Patent”)
Exhibit 2	Certified copy of the Assignment(s) of the ’808 Patent
Confidential Exhibit 3	Confidential Declaration of Clayton Haynes
Exhibit 4	Shaping the Networked Society: Ericsson Annual Report 2011
Exhibit 5	Import Genius Report for Ericsson (consignee) retrieved on January 8, 2013 from http://app.importgenius.com/
Exhibit 6	The RBS 6000 family (http://www.ericsson.com/thecompany/sustainability_corporateresponsibility/reducing_our_environmental_impact/energy_efficient_portfolio/rbs_6000 , retrieved January 18, 2013)
Exhibit 7	Ericsson RBS 6000 in a Nutshell (http://learning.ericsson.net/dotcom_demos/rbs6000_nutshell/3F1B69FB-891E-4EA3-93AE-1BDA49FEF3E1/glrev_engine/44283/index.html , retrieved January 4, 2013)
Exhibit 8	Ericsson: Taking You Forward (http://www.ericsson.com/ericsson/investors/events/2009/cmd2009/day2/mobile_broadband_speed_of_change.pdf , retrieved January 18, 2013)
Exhibit 9	Foreign Counterparts to the ’808 Patent
Confidential Exhibit 10	Adaptix confidential list of licensees
Confidential Exhibit 11	Confidential Agreement with Licensee A
Confidential Exhibit 12	Confidential Agreement with Licensee B
Confidential Exhibit 13	Confidential Agreement with Licensee C
Exhibit 14	Ericsson: Demand for Tallinn-made 4G Base Stations Growing (http://www.vm.ee/?q=en/node/11776 , retrieved December 12, 2012)
Exhibit 15	ALU, Ericsson continue LTE momentum with AT&T win (http://connectedplanetonline.com/3g4g/news/ericsson-alu-att-0210/ , retrieved December 13, 2012)
Exhibit 16	Examining AT&T’s 3G-to-4G upgrade path (http://connectedplanetonline.com/3g4g/news/att-3g-to-4g-upgrade-path-0112/ , retrieved December 13, 2012)
Exhibit 17	Puerto Rico set to be LTE pioneer with AT&T, Open Mobile (http://www.rcrwireless.com/americas/20111118/carriers/puerto-rico-set-to-be-lte-pioneer-with-att-open-mobile/ , retrieved December 13, 2012)
Exhibit 18	Ericsson: LTE gear shipping in volume (http://connectedplanetonline.com/3g4g/news/ericsson-shipping-lte-gear-in-volume-0723/ , retrieved December 13, 2012)
Exhibit 19	IP In-depth information (http://www.ericsson.com/thecompany/press/mediakits/ip/information , retrieved

Exhibit	Description
	January 10, 2013)
Exhibit 20	LTE rollout for AT&T in the US (http://www.ericsson.com/thecompany/press/releases/2010/02/1382917 , retrieved January 10, 2013)
Exhibit 21	Base Stations – Ericsson (http://www.ericsson.com/us/ourportfolio/products/base-stations?nav=productcategory006 , retrieved January 5, 2013)
Exhibit 22	Claim Chart showing infringement of the '808 patent by the RBS 6000 family of products
Exhibit 23	Ericsson ITC Complaint (337-TA-862), Exhibit 092
Exhibit 24	Ericsson ITC Complaint (337-TA-862), Exhibit 096
Exhibit 25	Ericsson ITC Complaint (337-TA-862), Exhibit 097
Exhibit 26	About 3GPP (http://3gpp.org/about-3GPP , retrieved January 8, 2013)
Exhibit 27	3GPP Specifications (http://www.3gpp.org/specifications , retrieved January 18, 2013)
Exhibit 28	3GPP – LTE (http://www.3gpp.org/LTE , retrieved January 8, 2013)
Exhibit 29	RBS 6000 Training Programs (http://archive.ericsson.net/service/internet/picov/get?DocNo=193/03819-FAP130506 , retrieved January 22, 2013)
Exhibit 30	3GPP TS 36.211 V8.9.0 (2009-12)
Exhibit 31	3GPP TS 36.213 V8.8.0 (2009-09)
Exhibit 32	3GPP TS 36.300 V8.12.0 (2010-03)
Exhibit 33	3GPP TS 36.331 V8.9.0 (2010-03)
Exhibit 34	3GPP TS 36.423 V8.9.0 (2010-03)
Exhibit 35	3GPP TS 36.212 V8.8.0 (2009-12)
Exhibit 36	3GPP TS 36.201 V8.3.0 (2009-03)
Exhibit 37	3GPP TS 36.104 V8.8.0 (2009-12)
Exhibit 38	3GPP TS 36.141 V8.5.0 (2009-12)
Exhibit 39	3GPP TR 36.942 V8.1.0 (2008-12)
Exhibit 40	Excerpts from Dahlman, et al. 3G Evolution: HSPA and LTE for Mobile Broadband (2d ed. 2008)
Exhibit 41	Excerpts from Sesia et al. LTE – The UMTS Long Term Evolution: from theory to practice (2009)
Exhibit 42	MIMO and Smart Antennas for Mobile Broadband Systems, (http://www.4gamericas.org/documents/MIMO%20and%20Smart%20Antennas%20for%20Mobile%20Broadband%20Systems%20Oct%202012x.pdf , retrieved January 19, 2013)
Exhibit 43	“LTE test bed” from Ericsson Review No. 1, 2007
Confidential Exhibit 44	Confidential Declaration of Timothy Montgomery
Confidential Exhibit 45	Claim Charts Showing Adaptix Products Practice the '808 Patent
Confidential Exhibit 46	Internal Adaptix Presentation

Exhibit	Description
Exhibit 47	Claim Charts Showing Samsung Products Practice the '808 Patent
Exhibit 48	SAMSUNG progresses the future of wireless technology
Exhibit 49	Samsung 3GPP Compatibility v9
Exhibit 50	Samsung eNodeB Literature

APPENDICES

Appendix	Description
Appendix A	Certified copy of the File History of the '808 Patent
Appendix B	References cited in the certified file history of the '808 Patent

I. INTRODUCTION

1. Complainant Adaptix, Inc. (“Adaptix”) requests that the United States International Trade Commission (“Commission”) institute an investigation into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), based on the unlawful importation into the United States, the sale for importation into the United States, and the sale within the United States after importation, by the proposed Respondents of certain wireless-communications base stations and components thereof that infringe U.S. Patent No. 6,870,808 (“the ’808 patent”). *See Exhibit 1.*

2. Adaptix is an innovator of wireless-communications technologies. It researched, developed, manufactured, and acquired patented wireless-communication solutions that use traffic-channel-allocation logic to increase the throughput (i.e., the amount of data that may be transmitted per time period for a given frequency band) between a base station and mobile-subscriber units. Many of these solutions—which were conceived of, developed, and patented in the early 2000s—are now part of a 2008 wireless-communications standard for implementing Fourth Generation – Long Term Evolution (“4G LTE”) wireless-communication networks.¹

3. The proposed Respondents Telefonaktiebolaget LM Ericsson (“LM Ericsson”) and Ericsson Inc. (“Ericsson”) (collectively, “Respondents”) manufacture, import, sell for importation, and sell after importation, among other things, wireless communications base stations and components thereof used in those systems, such as Ericsson’s RBS 6000 family of products (collectively, the “Accused Products”). These Accused Products infringe at least claims 1, 2, 4, 9, 13-16, 20, 21, 31, 32, 34, and 41 (“the Asserted Claims”) of the ’808 patent.

¹ Adaptix has no obligation with respect to any standards body to provide licenses on fair, reasonable, and non-discriminatory terms (“FRAND”) or reasonable and non-discriminatory terms (“RAND”).

4. A domestic industry as required by 19 U.S.C. § 1337(a)(2) and (a)(3) exists, based on Adaptix's and its licensees' (i) significant investments in the United States in plant and equipment, (ii) significant employment in the United States of labor and capital, and (iii) substantial investment in the United States in the exploitation of the technologies covered by the '808 patent, including engineering, research and development, and licensing—as set forth more fully in Section VII *infra*.

5. Adaptix seeks as relief a permanent limited exclusion order under 19 U.S.C. § 1337(d) barring from entry into the United States directly infringing or indirectly infringing wireless communications base stations and components thereof manufactured or sold by or on behalf of Respondents. Adaptix further seeks as relief a permanent cease and desist order under 19 U.S.C. § 1337(f) prohibiting Respondents from marketing, distributing, selling, offering for sale, warehousing inventory for distribution, or otherwise transferring or bringing into the United States infringing wireless communications base stations and components thereof.

II. THE PARTIES

A. The Complainant

6. Adaptix is a Delaware corporation with its headquarters at 4100 Midway Road, Suite 2010, Carrollton, Texas 75007. Adaptix is the assignee of the '808 patent with the right to sue for all past, present, and future infringement thereof. *See Exhibit 2*.

7. Adaptix has been in the business of researching, developing, and acquiring wireless-communication technologies. In April 2004, Adaptix acquired Broadstorm Telecommunications, Inc. ("Broadstorm"), which had researched, conceived of, manufactured, and patented wireless-communication systems that use OFDMA techniques.

8. From 2004 to 2007, Adaptix continued Broadstorm's activities, and invested in advanced research and development, simulation, and testing of wireless-communication base stations. *See* Section VII.B, *infra*. Around 2007, Adaptix reoriented its business toward licensing its intellectual property, including the '808 patent. *See* Section VII.B, *infra*. Adaptix made this business-model transition because of the significant amount of additional capital investment required to effectively compete as a wireless-communication equipment vendor. *See* Section VII.B, *infra*.

9. Today, several worldwide leaders in the wireless-communication industry license Adaptix's patented technology. *See Confidential Exhibit 3, ¶ 5*. Adaptix's licensees have substantial operations in the United States with respect to Adaptix's patented technology. Additionally, Adaptix and its licensees have also made and continue to make significant investment in the design and development of products protected by the '808 patent. In the United States, Adaptix, its licensees, and its licensees' partners and contractors exploit the technologies covered by the '808 patent by various activities, including research and development, engineering, manufacturing, assembly, installation, and warranty support among others, as discussed more fully below. In this regard, Adaptix and its licensees have made significant investments in the United States in facilities, equipment, labor, and capital, as described in Section VII *infra*.

B. The Respondents

10. LM Ericsson is a Swedish corporation with its headquarters at Torshamnsgatan 23, Kista, 164 83 Stockholm, Sweden. LM Ericsson imports into the United States, sells for importation into the United States, and sells within the United States after importation wireless

communications base stations and components thereof, including Ericsson's RBS 6000 family of products.

11. Ericsson is a Delaware corporation with its headquarters at 6300 Legacy Drive, Plano, Texas 75024. Ericsson imports into the United States, sells for importation into the United States, and sells within the United States after importation wireless communications base stations and components thereof, including Ericsson's RBS 6000 family of products. Additionally, Ericsson is a wholly owned subsidiary of LM Ericsson.

12. Respondents collectively import, sell for importation, and sell within the United States after importation wireless communications base stations and components thereof for use with 4G LTE networks and articles therein, including Ericsson's RBS 6000 family of products, as further described in Section V *infra*.

III. THE TECHNOLOGY AND ACCUSED PRODUCTS

A. The Technology

13. The claimed inventions of the '808 patent generally relate to wireless-communications base stations that allocate communications channels between base stations and mobile-subscriber units. The claimed inventions include traffic-channel-allocation logic that increases the throughput between a base station and mobile-subscriber units.

14. To make more efficient use of the wireless channels allocated to multiple mobile-subscriber units, the claimed inventions of the '808 patent use OFDMA-based channel-allocation logic. This OFDMA-based channel-allocation logic provides for more-efficient and higher-throughput communications compared to other techniques by taking into consideration spatial characteristics of the channels of the mobile-subscriber units and the resulting relative complex gains across multiple antennas.

B. The Accused Products

15. The Accused Products are wireless communications base stations and components thereof for use with next-generation wireless-communication technologies, such as, for example, 4G LTE. One of the hallmarks of 4G LTE is its use of an OFDMA-based data transmission scheme within the physical layer and utilization of multi-antenna transmission arrangements. On information and belief, the Accused Products are imported into and offered for sale in the United States through at least Ericsson's website, Ericsson's sales representatives, dealers, and/or other distribution channels. *See Exhibit 4 at 2; Exhibit 5; Exhibit 6.* The Accused Products are collectively referred to as the RBS 6000 product family, which include on best information and belief, but are not limited to, the following model numbers:

- (a) RBS 6102 - Outdoor macro RBS;
- (b) RBS 6101 - Compact outdoor macro RBS;
- (c) RBS 6201 - Indoor cabinet system;
- (d) RBS 6601 – Small indoor main unit; and
- (e) RBS 6301 - Compact high capacity main unit.

See Exhibit 7 at 15-24; Exhibit 8 at 25.

IV. THE ASSERTED PATENT AND NON-TECHNICAL DESCRIPTION

A. Overview, Asserted Claims, and Ownership of the '808 Patent

16. The '808 patent issued on March 22, 2005 to inventors Hui Liu, Hujun Yin, Xiaodong Li, and Fuqi Mu. The '808 patent issued from United States Patent Application No. 09/692,681, filed on October 18, 2000. A certified copy of the '808 patent is attached hereto as **Exhibit 1.**

17. The '808 patent has 42 claims, including 8 independent claims and 34 dependent claims. Claims 1, 2, 4, 9, 13-16, 20, 21, 31, 32, 34, and 41 are directly and/or indirectly infringed by the Respondents' manufacture, importation, use, offer to sell, or sale of the Accused Products in the United States as set forth below in Section V.

18. Pursuant to Commission Rule 210.12(c), a certified copy of the File History of the '808 patent is included as Appendix A. Copies of the references cited in the certified file history of the '808 patent are included as Appendix B.

19. Adaptix is the assignee of the '808 patent and has the exclusive right to enforce it. A certified copy of the assignment history and records of the '808 patent is included as **Exhibit 2**.

B. Non-Technical Description and the Asserted Claims of the '808 Patent

20. The '808 patent is generally directed to techniques for increasing the throughput (i.e., the amount of data that may be transmitted per time period for a given frequency band) between a base station and mobile-subscriber units. The '808 patent achieves this increased throughput by using traffic-channel-allocation logic to allocate OFDMA channels based on the spatial characteristics of the channels (i.e., the relative complex gains across multiple antennas).

21. Ultimately, the approaches embodied in the '808 patent were adopted by the wireless-communication industry when the 4G LTE standard was released. Importantly, the International Telecommunication Union released the 4G LTE standard in March 2008—nearly eight years *after* the filing date of the application that issued as the '808 patent. Adaptix's activities occurred before any FRAND or RAND obligations.

C. Foreign Counterparts

22. Pursuant to Commission Rule 210.12(a)(9)(v), lists of all foreign patents and patent applications corresponding to the '808 patent, including an indication of status, are attached as **Exhibit 9**. There are no other foreign counterpart applications that have been issued, abandoned, denied, withdrawn, or that remain pending.

D. Licenses to the '808 Patent

23. Adaptix has entered into multiple license agreements that directly relate to the '808 patent. A confidential list of licensees that are parties to these license agreements, together with their royalty payments, is attached hereto as **Confidential Exhibit 10**. *See also Confidential Exhibit 11; Confidential Exhibit 12; Confidential Exhibit 13*. Adaptix has not entered into any other license agreements that relate to the '808 patent.

V. RESPONDENTS' UNLAWFUL AND UNFAIR ACTS

A. Importation and Sale

24. On information and belief, Ericsson manufactures its accused wireless-communications base stations at factories based in Estonia, China, India, and Brazil. *See Exhibit 14*.

25. Ericsson then imports the accused wireless-communications base stations into the United States and sells them to domestic wireless-service providers. *See Exhibit 4 at 2; Exhibit 5; Exhibit 6*. Specifically, on information and belief, Ericsson has imported the RBS 6000 family of products into the United States since 2010. *See Exhibit 4 at 2; Exhibit 5*. On information and belief, the RBS 6000 family of base stations has accounted for close to 100% of Ericsson's radio base stations that have been imported into the United States since the end of 2011. *See Exhibit 4 at 2; Exhibit 6*.

26. On information and belief, after importation Ericsson sells its RBS 6000 family of products to many different wireless providers in the United States, including AT&T, Verizon Wireless, and MetroPCS. For example, in February 2010 Ericsson contracted with AT&T to provide 4G LTE network deployment with its RBS 6000 base stations. *See Exhibit 15; Exhibit 16.* AT&T planned to launch 4G LTE networks in Puerto Rico in November 2011, and Open Mobile hired Ericsson to deploy the RBS 6000 series for launch in mid-2012. *See Exhibit 17.* Ericsson has deployed or will deploy RBS 6000 networks in 4G LTE configuration for Verizon, MetroPCS, and AT&T. *See Exhibit 18; Exhibit 19 at 4; Exhibit 20.* The Accused Products are offered for sale in the United States through Ericsson's websites and/or other United States distribution channels. *See Exhibit 6; Exhibit 21.*

B. Direct Infringement

27. On information and belief, Ericsson manufactures the Accused Products outside of the United States and then imports, sells, and/or offers for sale the Accused Products into the United States. Exemplary claim charts comparing the '808 patent's asserted independent claims 1, 14, 16, 31, and 41 to Ericssons' wireless base-station products are attached at **Exhibit 22.**²

28. On information and belief, Ericsson directly infringes at least claims 31, 32 and 34 of the '808 patent by making, using, selling, offering for sale within the United States and/or importing into the United States, Accused Products for use with 4G LTE applications that implement the 4G LTE wireless-communications standards, including:

- TS 36.211 Evolved Universal Terrestrial Radio Access (E-UTRA); Physical channels and modulation (*See, Exhibit 30*);

² Adaptix does not allege that the importation of the RBS 6000 series, by itself, directly infringes method claims 14, 16, and 41. Rather, Adaptix alleges that these method claims are indirectly infringed as set forth in the next section.

- TS 36.213 Evolved Universal Terrestrial Radio Access (E-UTRA); Physical layer procedures (*See, Exhibit 31*);
- TS 36.300 Evolved Universal Terrestrial Radio Access (E-UTRA) and Evolved Universal Terrestrial Radio Access Network (E-UTRAN); Overall description; Stage 2 (*See, Exhibit 32*);
- TS 36.331 Evolved Universal Terrestrial Radio Access (E-UTRA); Radio Resource Control (RRC); Protocol specification (*See, Exhibit 33*); and
- TS 36.423 Evolved Universal Terrestrial Radio Access Network (E-UTRAN); X2 Application Protocol (X2AP) (*See, Exhibit 34*).

C. Indirect Infringement

29. On information and belief, Ericsson and its affiliates induce others, such as service providers who deploy the Accused Products in their 4G LTE networks, to infringe claims 1, 2, 4, 9, 13-16, 20, 21, 31, 32, 34, and 41 of the '808 patent under 35 U.S.C. § 271(b) by encouraging and facilitating others to perform actions known to infringe and with the intent that performance of the actions will infringe. Ericsson had knowledge of the '808 patent since at least as early as January 10, 2013, when Adaptix filed a complaint against, among others, LM Ericsson and Ericsson.³ Ericsson and its affiliates knew or should have known that their actions would induce actual infringement because of Ericsson's adherence to the 4G LTE standards, a standard that Ericsson adopted knowing that its 4G LTE products would be covered by third-party patents, including Adaptix's patents.

30. Ericsson and its affiliates actively encourage, promote, distribute, provide instruction for, and support the use of the RBS 6000 family of products that directly infringe the

³ *See Adaptix, Inc. v. Telefonaktiebolaget LM Ericsson*, Case No. 6:13-cv-00050 (E.D. Tex.).

'808 patent, knowing that the service providers, such as, for example, AT&T Mobility LLC, AT&T, Inc., and MetroPCS Communications, Inc., will commit infringing acts in such a manner as to directly infringe claims 1, 2, 4, 9, 13-16, 20, 21, 31, 32, 34, and 41 of the '808 patent. These service providers routinely acquire RBS 6000 base-station products and deploy them into their networks. These RBS 6000 base-station products are then used to establish and maintain wireless connections between the base stations and mobile-subscriber units, thereby directly infringing claims 1, 2, 4, 9, 13-16, 20, 21, 31, 32, 34, and 41.

31. On information and belief, Ericsson and its affiliates contribute to the infringement of claims 1, 2, 4, 9, 13-16, 20, 21, 31, 32, 34, and 41 of the '808 patent under 35 U.S.C. § 271(c) by their manufacture, importation, sale for importation, and/or sale in the United States after importation of one or more components of the Accused Products. Ericsson had knowledge of the '808 patent since at least as early as January 10, 2013, when Adaptix filed a complaint against, among others, LM Ericsson and Ericsson.⁴ Ericsson knew that the combination for which their respective accused components were especially made was both patented and infringing because of Ericsson's adherence to the 3GPP LTE standards in their wireless base-station products. Further, on information and belief, Ericsson induced service providers who deploy the Accused Products in their 4G LTE networks, by providing at least manuals, training, guides, and/or demonstrations, to perform acts intended by Ericsson to cause direct infringement of at least claims 1, 2, 4, 9, 13-16, 20, 21, 31, 32, 34, and 41 of the '808 patent. The components imported by Ericsson embody a material part of the invention claimed in the '808 patent, and are not staple articles of commerce suitable for substantial non-infringing use.

⁴ See *Adaptix, Inc. v. Telefonaktiebolaget LM Ericsson*, Case No. 6:13-cv-00050 (E.D. Tex.).

VI. HARMONIZED TARIFF SCHEDULE

32. Ericsson's Accused Products are believed to fall within at least the following headings and subheadings of the Harmonized Tariff Schedules of the United States ("HTS"): 8517.61.00 and 8529.90.86. These HTS numbers are illustrative only, and not intended to limit the scope of the investigation. The exact 10-digit HTS codes (headings/subheadings and suffixes) are dependent on and vary according to the scientific capabilities and features of the Accused Products.

VII. THE DOMESTIC INDUSTRY

33. On information and belief, with respect to the '808 patent, a domestic industry in the United States exists or is being established under 19 U.S.C. § 1337(a)(3)(A), (B), and (C) based on the investments of Adaptix and its licensees related to articles protected by the '808 patent, including significant investments in plant and equipment, significant employment of labor or capital, and substantial investments in exploitation of the patent including engineering, research and development, and licensing.

34. Adaptix's business has changed over the years, from developing and manufacturing wireless-communications access technology to licensing and enforcing patents in that technology. Adaptix's history in the wireless-communications industry traces back to Broadstorm, the original assignee of the application that matured into the '808 patent.

A. Broadstorm's Domestic Investments in Plants and Equipment, Labor and Capital, and Engineering, Research and Development, and Licensing Related to the '808 Patent

35. Broadstorm was formed in 2000. Throughout its three-year existence, Broadstorm's entire business was directed to researching, developing, manufacturing, and testing wireless-communications access technologies relating to the '808 patent. As a result of these

efforts, Broadstorm made substantial investments in plants and equipment as well as labor and capital with respect to the '808 patent. *See Confidential Exhibit 44, ¶¶ 5, 6.* Broadstorm also made substantial investments in exploiting the '808 patent through engineering and research and development. *See id., ¶¶ 3, 4.*

B. Adaptix's Domestic Investments in Plants and Equipment, Labor and Capital, and Engineering, Research and Development, and Licensing Related to the '808 Patent

36. In April 2004, Adaptix was formed and acquired all of Broadstorm's previously owned assets, including its intellectual property. This intellectual property included the '808 patent. *See Confidential Exhibit 44, ¶ 7.*

37. From 2004 to 2007, Adaptix continued Broadstorm's activities, and invested in advanced research and development, simulation, and testing of wireless-communication base stations. As a result of these efforts, Adaptix made substantial investments in plants and equipment as well as labor and capital. *See id., ¶¶ 11, 12.* And like Broadstorm, Adaptix also made substantial investments in exploiting the '808 patent through engineering and research and development. *See id., ¶¶ 8-10.*

38. Adaptix developed several products leading up to its base station technology practicing the '808 patent. Representative claim charts comparing claims 1, 14, 16, 31, and 41 of the '808 patent to these products are submitted as **Confidential Exhibit 45.**

39. Around 2007, Adaptix reoriented its business toward exploiting the '808 patent through licensing efforts and, if necessary, enforcement proceedings. **Confidential Exhibit 44, ¶ 13.** To support its efforts, Adaptix continued to make investments during this time. *See id., ¶¶ 14-16.*

40. In January 2012, a subsidiary of Acacia Research Group LLC (“Acacia”) acquired Adaptix’s patent portfolio. *See id.*, ¶ 17. Today, Adaptix is a wholly owned subsidiary of Acacia and continues in the business of licensing and, if necessary, enforcing wireless-communications access technology. *See id.*; **Confidential Exhibit 3, ¶ 3.**

41. After its acquisition by Acacia, Adaptix continued to make substantial investments in licensing activities related to the ’808 patent. It employed personnel to monitor the market, identify potential manufacturers and users of its wireless-communications access technology, establish contacts with those potential manufacturers and users, provide pre-licensing technical services, negotiate licenses, monitor licensee compliance with the licensing program, and enforce and litigate Adaptix’s rights when necessary. *See Confidential Exhibit 3, ¶ 3.* Adaptix expended resources to acquire the ’808 patent and has received substantial revenue from its licensing efforts. *See id.*, ¶¶ 4-7.

C. Adaptix’s Licensees’ Domestic Investments Related to Products Practicing the ’808 Patent

42. On information and belief, Adaptix’s licensees are worldwide leaders in a variety of wireless-communications products, including wireless base-station technology. Representative claim charts comparing the ’808 patent to one licensee’s products are submitted as **Exhibit 47.**

43. In addition, these licensees have made substantial investments in plants and equipment as well as labor and capital with respect to the ’808 patent. *See Confidential Exhibit 3, ¶¶ 7-11.* They have also made substantial investments in exploiting the ’808 patent through engineering and research and development. *See id.*

44. Adaptix intends to rely on the products of additional licensees which practice the ’808 patent. *See id.*, ¶ 11. Adaptix will supplement these facts later in the investigation as it learns more through discovery.

VIII. RELATED LITIGATION

45. Adaptix has asserted the '808 patent in seven related litigations.

46. On January 13, 2012, Adaptix filed a complaint against Nokia Siemens Networks US LLC, Lightsquared, Inc., and Lightsquared GP, Inc., alleging infringement of the '808 patent and other patents. *See Adaptix, Inc. v. Nokia Siemens Networks US, LLC et al*, Case No: 6:12-cv-00021-LED (E.D. Tex.). On June 5, 2012, Adaptix filed a Notice of Voluntary Dismissal, which was granted on June 6, 2012. No substantive rulings were made.

47. On January 13, 2012, Adaptix filed a complaint against, among others, Alcatel-Lucent USA, Inc. and AT&T Mobility LLC, alleging infringement of the '808 patent and other patents. *See Adaptix, Inc. v. Alcatel-Lucent USA, Inc. et al.*, Case No: 6:12-cv-00022-LED (E.D. Tex.). That case is pending and is currently in the discovery phase. The remaining defendants are Alcatel-Lucent USA, Inc. and AT&T Mobility LLC.

48. On March 9, 2012, Adaptix filed a complaint against, among others, Alcatel-Lucent USA, Inc. and Cellco Partnership d/b/a Verizon Wireless, alleging infringement of the '808 patent and other patents. *See Adaptix, Inc. v. Alcatel-Lucent USA, Inc. et al.*, Case No: 6:12-cv-00122-LED (E.D. Tex.). That case is pending and is currently in the discovery phase. The remaining defendants are Alcatel-Lucent USA, Inc. and Cellco Partnership d/b/a Verizon Wireless.

49. On March 9, 2012, Adaptix filed a complaint against Alcatel-Lucent USA, Inc. and Sprint Spectrum L.P., alleging infringement of the '808 patent and other patents. *See Adaptix, Inc. v. Alcatel-Lucent USA, Inc. et al.*, Case No: 6:12-cv-00123-LED (E.D. Tex.). That case is pending and is currently in the discovery phase.

50. On May 11, 2012, Adaptix filed a complaint against Nokia Siemens Networks US, LLC and T-Mobile USA, Inc., alleging infringement of the '808 patent and other patents. *See Adaptix, Inc. v. Nokia Siemens Networks US, LLC et al.*, Case No: 6:12-cv-00318-LED (E.D. Tex.). On June 5, 2012, Adaptix filed a Notice of Voluntary Dismissal and the action was terminated. No substantive rulings were made.

51. On June 5, 2012, Adaptix filed a complaint against T-Mobile USA, Inc., alleging infringement of the '808 patent and other patents. *See Adaptix, Inc. v. T-Mobile USA, Inc. et al.*, Case No: 6:12-cv-00369-LED (E.D. Tex.). That case is still pending.

52. On January 10, 2013, Adaptix filed a complaint against Ericsson, Inc., Telefonaktiebolaget LM Ericsson, AT&T, Inc., AT&T Mobility LLC, and MetroPCS Communications, Inc., alleging infringement of the '808 patent. *See Adaptix, Inc. v. Telefonaktiebolaget LM Ericsson*, Case No. 6:13-cv-00050 (E.D. Tex.). That case is still pending.

53. There have not been any litigations in any foreign court or agency involving the '808 patent or any of its counterparts.

IX. RELIEF REQUESTED

54. **WHEREFORE**, by reason of the foregoing, Complainant Adaptix requests that the United States International Trade Commission:

A. Institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to Respondents' violations of that section based on the unlawful importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of Accused Products, and all

components thereof, that infringe claims 1, 2, 4, 9, 13-16, 20, 21, 31, 32, 34, and 41 of the '808 patent;

B. Determine that there has been a violation of Section 337 by all Respondents;

C. Schedule and conduct a hearing on permanent relief pursuant to 19 U.S.C. §§ 1337(d) and (f) of the Tariff Act of 1930, as amended;

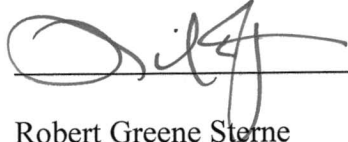
D. Issue a permanent exclusion order pursuant to 19 U.S.C. § 1337(d) barring and excluding from entry into the United States Respondents' Accused Products that infringe the '808 patent;

E. Issue permanent cease and desist orders pursuant to 19 U.S.C. § 1337(f) prohibiting any and all Respondents and/or their affiliates, subsidiaries, successors, or assigns, from engaging in the importation, sale for importation, marketing, demonstrating, distributing, offering for sale, sale after importation, or transferring, including the movement or shipment of inventory in the United States, of Respondents' Accused Products that infringe the '808 patent; and

F. Issue such other and further relief as the Commission deems just and proper based upon the facts determined by the investigation and the authority of the Commission.

January 24, 2013

Respectfully submitted,



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VERIFICATION OF COMPLAINT

I, Marvin Key, Chief Executive Officer of Complainant Adaptix, Inc. ("Adaptix"), for and on behalf of Adaptix, in accordance with the provisions of Rule 210.4 and 210.12(a), declare that:

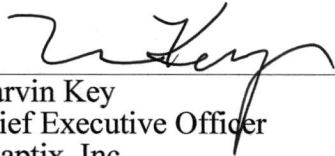
1. I am duly authorized to execute this verification.
2. I have read the complaint and am familiar with the allegations and statements contained therein, and that to the best of my knowledge, information and belief founded after reasonable inquiry, the allegations and statements made in the complaint are well grounded in fact and are warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

This document is not being filed for any improper purpose.

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

Executed on

1/22/2015



Marvin Key
Chief Executive Officer
Adaptix, Inc.