

JURISDICTION AND VENUE

3. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a) because this action arises under the patent laws of the United States.

4. Upon information and belief, Defendant T-Mobile has submitted to the personal jurisdiction of this Court by committing acts that establish its legal presence within the State of New York, including acting directly to sell and offer for sale to New York residents infringing products that practice, embody, and/or facilitate unauthorized use of the claimed inventions of the patent-in-suit. Upon information and belief, T-Mobile has also generally acted to place these infringing products into the stream of commerce with the intent, purpose, and reasonably foreseeable result of supplying the New York market therewith. By virtue of its above-described actions, T-Mobile has transacted business (as that term is construed under N.Y. C.P.L.R. §§ 301 and 302(a)(1)), performed services, contracted to supply services, caused tortious injury, regularly done or solicited business, engaged in a persistent course of conduct, and/or derived substantial revenues from infringing products used in New York. In light of T-Mobile's aforementioned contacts with the State of New York and its purposeful availment of the rights and benefits of New York law, maintenance of this suit in this Court would not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b), (c), and (d) and 1400(b) because, inter alia, a substantial part of the events or omissions giving rise to the claim occurred in this judicial district, Defendant T-Mobile is subject to personal jurisdiction in and therefore resides in this judicial district, and T-Mobile has committed acts of patent infringement and has a regular presence in this judicial district.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 6,045,043

6. On April 4, 2000, United States Patent No. 6,045,043 (“the ‘043 patent”), entitled “Contact/contactless data transaction card,” was duly and legally issued by the United States Patent and Trademark Office to inventors Oded Bashan, Nehemya Itay, Ronnie Gilboa and Moshe Aduk. OTI Ltd. is the sole owner by assignment of the entire rights, title, and interest in and to the ‘043 patent, including the rights to sue on and recover damages for any past, current, or future infringements thereof. A true and correct copy of the ‘043 patent is attached hereto as Exhibit A.

7. Upon information and belief, T-Mobile participates in Isis, a joint venture that allows phone subscribers to pay for purchases through contactless payments between a phone and a payment terminal.

8. On or about November 14, 2013, T-Mobile publicly announced the launch of the Isis Mobile Wallet. A printout of T-Mobile’s website page entitled Isis Mobile Wallet FAQ is attached as Appendix B.

9. Upon information and belief, T-Mobile sells and offers to sell to its subscribers phones having Near Field Communications (NFC) capabilities (“NFC-capable phones”), including at least the following: HTC One, LG Optimus F6, LG G2, Samsung Galaxy S Relay 4G, Samsung Galaxy S2, Samsung Galaxy S3, Samsung Galaxy S3 LTE, Samsung Galaxy S4, Samsung Galaxy Light, Samsung Note 2, Samsung Note 3, and Sony Xperia Z (See Exhibit B).

10. Upon information and belief, in order to operate within the Isis mobile payment environment, T-Mobile’s NFC-capable phones are required to be fitted with an Advanced SIM card (See Exhibit B).

11. Upon information and belief, T-Mobile's NFC-capable phones when fitted with an Advanced SIM card infringe at least claims 1, 2, 12, 24, and 25 of the '043 patent.

Direct Infringement

12. Upon information and belief, T-Mobile's sale and offer for sale of NFC-capable phones with an Advanced SIM card constitutes direct infringement, under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, of at least claim 1 of the '043 patent in this judicial district, and elsewhere in the United States.

13. The filing of the original Complaint in this action on March 26, 2012 constituted notice to T-Mobile of the '043 patent, pursuant to 35 U.S.C. § 287.

Indirect Infringement

14. T-Mobile sells, distributes, and/or offers to sell and distribute Advanced SIM cards to its subscribers and instructs them to fit the Advanced SIM card into their NFC-capable phones. (See Exhibit B).

15. T-Mobile actively encourages subscribers to visit T-Mobile's retail stores to receive an Advanced SIM card to be fitted into their NFC-capable phones. (See Exhibit B).

16. Upon information and belief, the only substantial use for the Advanced SIM card by subscribers having NFC-capable phones is insertion into an NFC-capable phone.

17. Upon information and belief, T-Mobile sells or distributes Advanced SIM cards to subscribers with NFC-capable phones with the intent that these Advanced SIM cards be inserted into NFC-capable phones.