

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CORNING OPTICAL COMMUNICATIONS  
LLC,

Plaintiff,

v.

COMMUNICATIONS SYSTEMS, INC.,

Defendant.

Case No. 3:14-cv-2067

JURY TRIAL DEMANDED

**COMPLAINT**

This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Corning Optical Communications LLC makes the following allegations against Defendant Communications Systems, Inc.

**PARTIES AND JURISDICTION**

1. This action arises under the patent laws of the United States of America and is brought pursuant to 35 U.S.C. § 271, *et seq.*

2. This Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331, 1338.

3. Plaintiff is a limited liability company organized under the laws of North Carolina, with its principal place of business in Hickory, North Carolina.

4. Upon information and belief, Defendant is a Minnesota corporation, with its principal place of business in Minnetonka, Minnesota.

5. Defendant is engaged in competition with Plaintiff in the market for telecommunications products.

6. Upon information and belief, Defendant makes, uses, offers to sell, sells, and/or imports telecommunications products in the United States under its own name.

7. Upon information and belief, Defendant also makes, uses, offers to sell, sells, and/or imports telecommunications products in the United States under the assumed business name “Suttle.”

8. Upon information and belief, Defendant also makes, uses, offers to sell, sells, and/or imports telecommunications products in the United States under the assumed business name “Suttle Apparatus.”

9. Defendant has filed applications with the United States Patent & Trademark Office to register trademarks for use with telecommunications products that include the names “Suttle” and “Suttle Apparatus.”

10. Defendant is the registrant and owner of the domain name “suttleonline.com.”

11. Upon information and belief, Defendant has attended trade shows in Texas where it has advertised its telecommunications products.

12. Upon information and belief, Defendant has offered to sell and sold telecommunications products to customers in this Judicial District.

13. Upon information and belief, Defendant has shipped telecommunications products to its authorized distributors in this Judicial District.

14. Upon information and belief, ADI is an authorized distributor of Defendant’s telecommunications products with a place of business in Farmers Branch, Texas.

15. Upon information and belief, ADI has sold Defendant’s telecommunications products to customers in this Judicial District.

16. Upon information and belief, Communications Supply Corporation is an authorized distributor of Defendant's telecommunications products with a place of business in Irving, Texas.

17. Upon information and belief, Communications Supply Corporation has sold Defendant's telecommunications products to customers in this Judicial District.

18. Upon information and belief, TVC Communications is an authorized distributor of Defendant's telecommunications products with a place of business in Irving, Texas.

19. Upon information and belief, TVC Communications has sold Defendant's telecommunications products to customers in this Judicial District.

20. This Court has personal jurisdiction over Defendant because, *inter alia*, Defendant has purposefully availed itself of conducting business in this Judicial District.

21. This Court has personal jurisdiction over Defendant because, *inter alia*, Defendant has caused injury to Plaintiff in this Judicial District by its offers to sell and actual sales of infringing products in this Judicial District.

22. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(c), 1400 because, *inter alia*, personal jurisdiction over Defendant is proper in this Judicial District.

#### **PLAINTIFF'S INTELLECTUAL PROPERTY**

23. Plaintiff is the exclusive licensee of U.S. Patent No. 6,500,020 ("the '020 patent"), entitled "Top Loading Customer Bridge," which issued December 31, 2002 (attached herein as Exhibit A).

24. By virtue of its exclusive license, Plaintiff has standing to sue in its own name for past and present infringements of the '020 patent.

25. Plaintiff has sold in the past, and continues to sell, telecommunications products covered by the '020 patent.

26. On or about May 28, 2013, Plaintiff sent a letter to Defendant explaining that Defendant's product(s) infringed at least one claim of the '020 patent and enclosing a copy of the '020 patent.

27. Upon information and belief, Defendant has possessed knowledge of the '020 patent and its infringements of the '020 patent since at least about May 28, 2013.

28. Upon information and belief, Defendant possessed knowledge of the '020 patent and its infringements of the '020 patent prior to at least some of the acts of infringement described below.

#### **COUNT I: PATENT INFRINGEMENT**

29. Plaintiff incorporates the allegations set forth in Paragraphs 1 through 28 above as though fully set forth herein.

30. In violation of 35 U.S.C. § 271(a), Defendant has directly infringed and will continue to directly infringe at least one claim of the '020 patent by making, using, offering for sale, selling, and/or importing one or more customer bridges, connector modules, digital subscriber line ("DSL") modules, network interface devices, and/or wire terminating modules associated with Defendant, including, but not limited to, Defendant's VDSL2 NID Splitter Module.

31. Upon information and belief, Defendant has provided customers, distributors, and/or end users with instructions on using one or more customer bridges, connector modules, DSL modules, network interface devices, and/or wire terminating modules associated with

Defendant, including, but not limited to, Defendant's VDSL2 NID Splitter Module, in a manner that infringes at least one claim of the '020 patent.

32. Upon information and belief, Defendant has provided customers, distributors, and/or end users with such instructions with knowledge of the '020 patent and a specific intent that one or more customer bridges, connector modules, DSL modules, network interface devices, and/or wire terminating modules associated with Defendant, including, but not limited to, Defendant's VDSL2 NID Splitter Module, will be used to infringe at least one claim of the '020 patent.

33. In violation of 35 U.S.C. § 271(b), Defendant has indirectly infringed and will continue to indirectly infringe at least one claim of the '020 patent by inducing direct infringement of the '020 patent by customers, distributors, and/or end users.

34. Upon information and belief, one or more customer bridges, connector modules, DSL modules, network interface devices, and/or wire terminating modules associated with Defendant, including, but not limited to, Defendant's VDSL2 NID Splitter Module, are not staple articles or commodities of commerce suitable for any substantial uses that do not infringe the '020 patent.

35. Upon information and belief, Defendant has made, used, offered to sell, sold, and/or imported one or more customer bridges, connector modules, DSL modules, network interface devices, and/or wire terminating modules associated with Defendant, including, but not limited to, Defendant's VDSL2 NID Splitter Module, with knowledge that the same are especially adapted for use in infringing at least one claim of the '020 Patent.

36. In violation of 35 U.S.C. § 271(c), Defendant has indirectly infringed and will continue to indirectly infringe at least one claim of the '020 patent by contributing to direct infringement of the '020 patent by customers, distributors, and/or end users.

37. Defendant will continue its infringements of the '020 patent unless enjoined by this Court.

38. Plaintiff has suffered and will continue to suffer irreparable harm as a result of Defendant's infringements of the '020 patent.

39. Plaintiff is entitled to all remedies at law and equity, including, but not limited to, an injunction against Defendant's infringement of the '020 patent pursuant to 35 U.S.C. § 283.

40. Plaintiff has also suffered and will continue to suffer monetary damages as a result of Defendant's infringements of the '020 patent.

41. Upon information and belief, at least some of Defendant's infringements of the '020 patent have been with actual knowledge of the '020 patent.

42. Based upon this information and belief, at least some of Defendant's infringements of the '020 patent have been willful.

43. Plaintiff is entitled to damages, costs, expenses, and pre-judgment and post-judgment interest for Defendant's infringements of the '020 patent, including, but not limited to, damages pursuant to 35 U.S.C. §§ 284, 285.

#### **DEMAND FOR JURY TRIAL**

44. Pursuant to the Federal Rules of Civil Procedure, Rule 38, Plaintiff demands a trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Corning Optical Communications LLC prays that this Court:

A. Enter judgment in favor of Plaintiff and against Defendant on all claims, counterclaims, and defenses at issue in this dispute, and hold that Defendant has directly and indirectly infringed the '020 patent;

B. Preliminarily and permanently enjoin Defendant and its officers, agents, servants, and employees, and those in active concert or participation with them who receive actual notice from making, using, offering for sale, selling, and/or importing devices which infringe the '020 patent and from contributing to and inducing infringement of the '020 patent;

C. Award Plaintiff monetary damages adequate to compensate it for Defendant's infringements of the '020 patent, direct and indirect, consistent with 35 U.S.C. § 284 and to the fullest extent allowed by law;

D. Declare this case exceptional and award, up to and including, treble the amount of damages, together with fees, costs, and prejudgment interest;

E. Award Plaintiff's costs and expenses of this suit, including reasonable attorneys' and expert fees, pursuant to 35 U.S.C. § 285; and

F. Award Plaintiff all other just and proper relief that the Court may deem appropriate under the circumstances.

Respectfully Submitted,

Dated: June 6, 2014

By: /s/ Charles E. Phipps  
Charles E. Phipps  
Texas State Bar No. 00794457  
cphipps@lockelord.com  
LOCKE LORD LLP  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201  
(214) 740-8000 Telephone  
(214) 740-8800 Facsimile

*Attorney for Plaintiff*  
*CORNING OPTICAL COMMUNICATIONS LLC*