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27  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

NOVA INTELLECTUAL SOLUTIONS, LLC, a Texas limited liability company,

Plaintiff,

v.

ZTE CORP., a China corporation, and ZTE (USA), Inc., a New Jersey corporation,

Defendant.

Case No. **'15CV0911 AJB NLS**

**COMPLAINT FOR PATENT INFRINGEMENT**

Jury Trial Demanded

Plaintiff Nova Intellectual Solutions, LLC files this complaint against ZTE Corp. and ZTE (USA), Inc. (collectively “Defendants”) for infringement of U.S. Patent No. 7,944,901 (“the ’901 patent”) and U.S. Patent No. 8,208,517 (“the ’517 patent”) (collectively “Asserted Patents”).

**THE PARTIES**

1. Nova Intellectual Solutions, LLC (“NIS” or “Plaintiff”) is a Texas limited liability company with its principal place of business at 8616 Turtle Creek Boulevard, Suite 521, Dallas, Texas 75225. NIS is the owner by assignment of U.S. Patent No. 7,944,901 (“the ’901 patent”) and U.S. Patent No. 8,208,517 (“the ’517 patent”) (collectively “Asserted Patents”).

2. ZTE Corp. (“ZTE”) is a China corporation with its principal place of business at ZTE Plaza, Keji Road South, Hi-tech Industrial Park, Nanshan District, Shenzhen, Guangdong, China 51807. ZTE is a provider of telecommunications equipment and network solutions.

3. ZTE conducts business in the United States through its wholly-owned U.S. entity ZTE (USA), Inc. (“ZTE USA”).

4. Upon information and belief, ZTE USA conducts research and

1 development activities, with respect to the infringing products, at its facilities in the  
2 Southern District of California at 10105 Pacific Heights Boulevard, Suite 250, San  
3 Diego, California 92121

4 **JURISDICTION AND VENUE**

5 5. NIS brings this action for patent infringement under the patent laws of the  
6 United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others. This  
7 Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

8 6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(d) and  
9 1400(b). ZTE USA resides in this District. ZTE is an alien that conducts business  
10 in this District through its wholly-owned subsidiary ZTE USA. A substantial part  
11 of the infringing conduct giving rise to this Complaint has occurred in this District.  
12 The patents at issue in this Complaint were formerly owned by, and formerly  
13 assigned to, Novatel Wireless, which is headquartered in this District.

14 7. Each Defendant is subject to this Court's specific and general personal  
15 jurisdiction pursuant to due process and/or the California Long Arm Statute, due at  
16 least to its substantial business in this State and judicial district, including: (A) at  
17 least part of its infringing activities alleged herein; and (B) regularly doing or  
18 soliciting business, engaging in other persistent conduct, and/or deriving  
19 substantial revenue from goods sold and services provided to California residents.

20 **COUNT I**

21 **(Patent Infringement - U.S. Patent No. 7,944,901)**

22 8. NIS incorporates paragraphs 1 through 7 herein by reference.

23 9. This cause of action arises under the patent laws of the United States, and in  
24 particular, 35 U.S.C. §§ 271, *et seq.*

25 10. NIS is the owner of the '901 patent, entitled "Systems and Methods for  
26 Automatic Connection with a Wireless Network," with ownership of all substantial  
27 rights in the '901 patent, including the right to exclude others and to enforce, sue, and  
28

1 recover damages for past and future infringement. A true and correct copy of the '901  
2 patent is attached as Exhibit A.

3 11. The '901 patent is valid, enforceable and was duly issued in full compliance  
4 with Title 35 of the United States Code.

5 **DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

6 12. Defendants have directly infringed, and continue to directly infringe, one or  
7 more claims of the '901 patent in this judicial district and elsewhere in California and  
8 the United States.

9 13. Defendants have infringed the '901 patent, by using, selling, and/or offering  
10 to sell, within the United States, and/or by importing into the United States, products,  
11 including, but not limited to, mobile data hot spots and data modems, which embody  
12 and/or practice at least claim 15 of the '901 patent by using a wide area network  
13 configured to provide wireless communication between a wireless device and a  
14 wireless network hub in violation of 35 U.S.C. § 271 (the "'901 Accused Products").  
15 The '901 Accused Products include, but are not limited to, the Unite, Sonic 2.0  
16 Mobile Hotspot, Unite II, 4G Hotspot Z64, 4G LTE Router with Voice, Velocity, 4G  
17 LTE Hotspot Z915, Pocket WiFi, and LivePro.

18 14. Defendants are liable for these direct infringements pursuant to 35 U.S.C. §  
19 271.

20 **INDIRECT INFRINGEMENT (35 U.S.C. § 271(b))**

21 15. Defendants have indirectly infringed, and continue to indirectly infringe,  
22 one or more claims of the '901 patent by inducing direct infringement by distributors  
23 and the end users of the '901 Accused Products.

24 16. Defendants have had knowledge of the '901 patent and the infringing nature  
25 of their activities since at least April 2012, when Defendants were served with the  
26 Second Amended Complaint in *Novatel Wireless, Inc., et al. v. ZTE Corp., et al.*, Case  
27 No. 3:10-cv-02530, in the United States District Court for the Southern District of  
28

1 California. Despite this knowledge, Defendants have specifically intended for their  
2 distributors and/or end users to acquire and use the '901 Accused Products in a way  
3 that infringes the claims of the '901 patent. Defendants knew or should have known  
4 that their actions were inducing infringement.

5 17. For example, on information and belief, Defendants provide product user  
6 manuals to its distributors, such as T-Mobile, that T-Mobile then makes available to  
7 end users from its website. These manuals induce direct infringement.

8 18. Furthermore, Defendants have not implemented a design around or  
9 otherwise taken any remedial action with respect to the '901 patent. In accordance  
10 with FED. R. CIV. P. 11(b)(3), NIS will likely have additional evidentiary support after  
11 a reasonable opportunity for discovery on this issue.

12 **INDIRECT INFRINGEMENT (35 U.S.C. § 271(c))**

13 19. Defendants have indirectly infringed, and continue to indirectly infringe,  
14 one or more claims of the '901 patent by contributing to the direct infringement by  
15 users who use the '901 Accused Products.

16 20. Defendants have had knowledge of the '901 patent and the infringing nature  
17 of their activities since at least April 2012, when Defendants were served with the  
18 Second Amended Complaint in *Novatel Wireless, Inc., et al. v. ZTE Corp., et al.*, Case  
19 No. 3:10-cv-02530, in the United States District Court for the Southern District of  
20 California. Despite this knowledge, Defendants have knowingly sold and continue to  
21 offer for sale the Accused Products even though such devices have no substantial  
22 noninfringing use. Such devices infringe the '901 patent, including at least claim 15.

23 21. NIS has been damaged as a result of Defendants' infringing conduct  
24 described in this Count. Defendants are, thus, liable to NIS in an amount that  
25 adequately compensates NIS for their infringements, which, by law, cannot be less  
26 than a reasonable royalty, together with interest and costs as fixed by this Court under  
27 35 U.S.C. § 284.

**COUNT II**

**(Patent Infringement - U.S. Patent No. 8,208,517)**

22. NIS incorporates paragraphs 1 through 21 herein by reference.

23. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

24. NIS is the owner of the '517 patent, entitled "Systems and Methods For A Multi-Mode Wireless Modem," with ownership of all substantial rights in the '517 patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringement. A true and correct copy of the '517 patent is attached as Exhibit B.

25. The '517 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

26. Defendants have directly infringed, and continue to directly infringe, one or more claims of the '517 patent in this judicial district and elsewhere in California and the United States.

27. Defendants have infringed the '517 patent, by using, selling, and/or offering to sell, within the United States, and/or by importing into the United States, products, including, but not limited to, mobile data hot spots and data modems, which embody and/or practice at least claim 1 of the '517 patent by providing a wireless gateway device which allows multiple wireless devices to access the internet through a wireless communication system in violation of 35 U.S.C. § 271 (the "'517 Accused Products"). The Accused Products include, but are not limited to, the Unite, Sonic 2.0 Mobile Hotspot, Unite II, 4G Hotspot Z64, 4G LTE Router with Voice, Velocity, 4G LTE Hotspot Z915, Pocket WiFi, LivePro, Optik 2, Imperial II, Speed, ZMax, Warp Sync, Compel, Nubia 5S Mini LTE, Nubia 5, Grand X, Grand S, Grand S Pro, Max, Engage MT, Radiant, Source, Z998, Imperial, Avail 2, and Render.

1 28. Defendants are liable for these direct infringements pursuant to 35 U.S.C. §  
2 271.

3 **INDIRECT INFRINGEMENT (35 U.S.C. § 271(b))**

4 29. Defendants have indirectly infringed, and continue to indirectly infringe,  
5 one or more claims of the '517 patent by inducing direct infringement by distributors  
6 and the end users of the '517 Accused Products.

7 30. Defendants have had knowledge of the '517 patent and the infringing nature  
8 of their activities since at least December 2012, when Defendants were served with  
9 the Original Complaint in *Novatel Wireless, Inc., et al. v. ZTE Corp., et al.*, Case No.  
10 3:12-cv-02576, in the United States District Court for the Southern District of  
11 California. Despite this knowledge, Defendants have specifically intended for their  
12 distributors and/or end users to acquire and use the '517 Accused Products in a way  
13 that infringes the claims of the '517 patent. Defendants knew or should have known  
14 that their actions were inducing infringement.

15 31. For example, on information and belief, Defendants provide product user  
16 manuals to its distributors, such as T-Mobile, that T-Mobile then makes available to  
17 end users from its website. These manuals induce direct infringement.

18 32. Furthermore, Defendants have not implemented a design around or  
19 otherwise taken any remedial action with respect to the '517 patent. In accordance  
20 with FED. R. CIV. P. 11(b)(3), NIS will likely have additional evidentiary support after  
21 a reasonable opportunity for discovery on this issue.

22 **INDIRECT INFRINGEMENT (35 U.S.C. § 271(c))**

23 33. Defendants have indirectly infringed, and continue to indirectly infringe,  
24 one or more claims of the '517 patent by contributing to the direct infringement by  
25 users who use the '517 Accused Products.

26 34. Defendants have had knowledge of the '517 patent and the infringing nature  
27 of their activities since at least December 2012, when Defendants were served with  
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1 the Original Complaint in *Novatel Wireless, Inc., et al. v. ZTE Corp., et al.*, Case No.  
2 3:12-cv-02576, in the United States District Court for the Southern District of  
3 California. Despite this knowledge, Defendants have knowingly sold and continue to  
4 offer for sale the '517 Accused Products even though such devices have no substantial  
5 noninfringing use. Such devices infringe the '517 patent, including at least claim 1

6 35. NIS has been damaged as a result of Defendants' infringing conduct  
7 described in this Count. Defendants are, thus, liable to NIS in an amount that  
8 adequately compensates NIS for their infringements, which, by law, cannot be less  
9 than a reasonable royalty, together with interest and costs as fixed by this Court under  
10 35 U.S.C. § 284.

11 **COUNT III**

12 **(Willful Infringement)**

13 36. NIS incorporates paragraphs 1 through 35 herein by reference.

14 37. Upon information and belief, Defendants first offered the Unite, Sonic 2.0  
15 Mobile Hotspot, Unite II, 4G Hotspot Z64, 4G LTE Router with Voice, Velocity, 4G  
16 LTE Hotspot Z915, Pocket WiFi, and LivePro for sale sometime after April 2012.  
17 Prior to this date, Defendants had knowledge of the '901 patent and the infringing  
18 nature of their activities. Thus, since the release of the Unite, Sonic 2.0 Mobile  
19 Hotspot, Unite II, 4G Hotspot Z64, 4G LTE Router with Voice, Velocity, 4G LTE  
20 Hotspot Z915, Pocket WiFi, and LivePro, Defendants' infringement of the '901 patent  
21 has been willful.

22 38. Upon information and belief, Defendants first offered the Unite, Sonic 2.0  
23 Mobile Hotspot, Unite II, 4G Hotspot Z64, 4G LTE Router with Voice, Velocity, 4G  
24 LTE Hotspot Z915, Pocket WiFi, LivePro, Optik 2, Imperial II, Speed, ZMax, Warp  
25 Sync, Compel, Nubia 5S Mini LTE, Nubia 5, Grand X, Grand S, Grand S Pro, Max,  
26 Engage MT, Radiant, Source, Z998, Imperial, Avail 2, and Render for sale sometime  
27 after December 2012. Prior to this date, Defendants had knowledge of the '517 patent  
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1 and the infringing nature of their activities. Thus, since the release of the Unite, Sonic  
2 2.0 Mobile Hotspot, Unite II, 4G Hotspot Z64, 4G LTE Router with Voice, Velocity,  
3 4G LTE Hotspot Z915, Pocket WiFi, LivePro, Optik 2, Imperial II, Speed, ZMax,  
4 Warp Sync, Compel, Nubia 5S Mini LTE, Nubia 5, Grand X, Grand S, Grand S Pro,  
5 Max, Engage MT, Radiant, Source, Z998, Imperial, Avail 2, and Render, Defendants'  
6 infringement of the '517 patent has been willful.

7 **WHEREFORE**, Plaintiffs request that the Court:

8 NIS asks that the Court find in its favor and against Defendants, and that the  
9 Court grant NIS the following relief:

- 10 a. Judgment that one or more claims of the '901 patent and/or the '517  
11 patent have been infringed, either literally and/or under the doctrine of  
12 equivalents, by one or more Defendants;
- 13 b. Judgment that one or more claims of the '901 patent and/or the '517  
14 patent have been willfully infringed, either literally and/or under the  
15 doctrine of equivalents, by one or more Defendants;
- 16 c. Judgment that Defendants account for and pay to NIS all damages and  
17 costs incurred by NIS because of Defendants' infringing activities and  
18 other conduct complained of herein;
- 19 d. Judgment that Defendants account for and pay to NIS a reasonable, on-  
20 going, post judgment royalty because of Defendants' infringing activities  
21 and other conduct complained of herein;
- 22 e. That NIS be granted pre judgment and post judgment interest on the  
23 damages caused by Defendants' infringing activities and other conduct  
24 complained of herein; and
- 25 f. That NIS be granted such other and further relief as the Court may deem  
26 just and proper under the circumstances
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Dated: April 24, 2015

GARTMAN LAW GROUP, P.C.

By: /s/ John E. Gartman  
John E. Gartman  
*Attorney for Plaintiff Nova Intellectual Solutions, LLC*

**REQUEST FOR TRIAL BY JURY**

Plaintiffs claim trial by jury on all issues so triable.

Dated: April 24, 2015

GARTMAN LAW GROUP, P.C.

By: /s/ John E. Gartman  
John E. Gartman  
*Attorney for Plaintiff Nova Intellectual Solutions, LLC*

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

**'15CV0911 AJB NLS**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

NOVA INTELLECTUAL SOLUTIONS, LLC

(b) County of Residence of First Listed Plaintiff Tarrant County, TX  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
GARTMAN LAW GROUP, 490 Pine Needles Dr., Del Mar, CA 92014  
Telephone: 858.746.9092

**DEFENDANTS**

ZTE CORPORATION and ZTE(USA) INC.

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

35 U.S.C. 271 et seq.

Brief description of cause:

Patent Infringement

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Cathy Ann Bencivengo

DOCKET NUMBER 3:10-cv-02530-CAB-JMA;  
3:12-cv-02576-CAB-JMA

DATE 04/24/2015 SIGNATURE OF ATTORNEY OF RECORD

John E. Gartman

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_