

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

E-CONTACT TECHNOLOGIES LLC

Plaintiff,

v.

- (1) ACER AMERICA CORPORATION;
- (2) HTC AMERICA, INC.;
- (3) HUAWEI TECHNOLOGIES USA INC.;
- (4) KYOCERA COMMUNICATIONS,
INC.;
- (5) LENOVO (UNITED STATES) INC.;
- (6) SONY ERICSSON MOBILE
COMMUNICATIONS (USA) INC.; and
- (7) ZTE (USA) INC.

Defendants.

CIVIL ACTION NO. 1:12-cv-352

ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT

JURY TRIAL DEMANDED

Plaintiff E-Contact Technologies LLC (“E-Contact”), based on its own personal knowledge with respect to its own actions and based on information and belief as to all others’ actions, files this Original Complaint against the above-named defendants, alleging as follows:

PARTIES

1. E-Contact is a limited liability company formed under the laws of the State of State of Texas.

2. Defendant Acer America Corporation (“Acer”) is a corporation organized and existing under the laws of the State of California with a principal place of business located at 333 West San Carlos Street, Suite 1500, San Jose, California 95110. Acer can be served via its registered agent for service of process: CT Corporation System, 350 N. St. Paul St., Suite 2900; Dallas, Texas 75201-4234.

3. Defendant HTC America, Inc. (“HTC”) is a corporation organized under the laws of the state of Washington, with a principal place of business at 13920 SE Eastgate Way, Ste. 400; Bellevue, WA 98005. HTC can be served with process by serving its registered agent: National Registered Agents; 16055 Space Center, Ste. 235; Houston, TX 77062.

4. Defendant Huawei Technologies USA Inc. (“Huawei”) is a corporation organized under the laws of the state of Texas, with a principal place of business at 5700 Tennyson Parkway; Ste. 500; Plano, Texas 75024. Huawei can be served with process by serving its registered agent: CT Corporation System; 350 N. St. Paul Street, Ste. 2900; Dallas, TX 75201.

5. Defendant Kyocera Communications, Inc. (“Kyocera”) is a corporation organized under the laws of the state of Delaware, with a principal place of business at 10300 Campus Point Drive; San Diego, CA 92121. Kyocera can be served with process by serving its registered agent: Corporation Service Company dba CSC--Lawyers Incorporating Service Company; 211 East 7th Street, Ste. 620; Austin, TX 78701-3218.

6. Defendant Lenovo (United States) Inc. (“Lenovo”) is a corporation organized under the laws of the state of Delaware, with a principal place of business at 1009 Think Place, Bldg. 500, Box 29, Morrisville, North Carolina 27560. Lenovo can be served with process by serving its registered agent: CT Corporation System; 350 N. St. Paul Street, Ste. 2900; Dallas, TX 75201.

7. Defendant Sony Ericsson Mobile Communications (USA) Inc. (“Sony Ericsson”) is a corporation organized under the laws of the state of Delaware, with a principal place of business at 7001 Development Drive; PO Box 13969; Research Triangle

Park, NC 27709. Sony Ericsson can be served with process by serving its registered agent: Capitol Corporate Services, Inc.; 800 Brazos, Ste. 400; Austin, TX 78701.

8. Defendant ZTE (USA) Inc. (“ZTE”) is a corporation organized under the laws of the state of New Jersey, with a principal place of business at 2425 North Central Expressway, Ste. 600; Richardson, TX 75080. ZTE can be served with process by serving its registered agent: Li Mo; 4585 Spencer Drive; Plano, TX 75024.

JURISDICTION AND VENUE

9. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. §1331 and §1338(a).

10. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, each defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

11. Each defendant is subject to this Court’s specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to each defendant’s substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and/or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

JOINDER

12. Defendants are properly joined under 35 U.S.C. § 299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the same transaction, occurrence, or series of transactions or occurrences relating to the

making, using, importing into the United States, offering for sale, and/or selling the same accused products. Specifically, as alleged in detail below, defendants are alleged to infringe the patent in suit with respect to a large number of overlapping smartphone products.

13. Defendants are properly joined under 35 U.S.C. § 299(a)(2). Questions of fact will arise that are common to all defendants, including for example, whether the smartphone products using the Android operating systems alleged to infringe have features that meet the limitations of one or more claims of the patent-in-suit, and what reasonable royalty will be adequate to compensate the owner of the patent-in-suit for its infringement.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 5,347,579

14. On September 13, 1994, United States Patent No. 5,347,579 (“the 579 patent”) was duly and legally issued by the United States Patent and Trademark Office for an invention entitled “Personal Computer Diary”. A true and correct copy of the 579 patent is attached hereto as Exhibit A.

15. E-Contact is the owner of the 579 patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the 579 patent against infringers, and to collect damages for all relevant times.

16. Acer directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Acer beTouch 400, Liquid E, Liquid E Ferrari, Liquid mt, and Stream smartphones) that infringed one or more claims of the 579 patent, and/or induced infringement and/or contributed to the infringement of one or more of the claims of the 579

patent by its customers. Acer has had knowledge of the 579 patent since at least 2005 because the 579 patent was widely cited by Acer's competitors and other industry leaders in their own patent applications from 1995 on.

17. HTC directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least HTC Hero, Click, DesireC, Bravo, Incredible, Legend, Buzz, Espresso, Liberty, Supersonic, Ace, Vision, Glacier, Gratia, Stallion, Mecha, Speedy, Vivo, Marvel, Saga, VivoW, Lexikon, Pyramid, Status, Icon and Shooter smartphones) that infringed one or more claims of the 579 patent, and/or induced infringement and/or contributed to the infringement of one or more of the claims of the 579 patent by its customers. HTC has had knowledge of the 579 patent since at least 2005 because the 579 patent was widely cited by HTC's competitors and other industry leaders in their own patent applications from 1995 on.

18. Huawei directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Huawei T-Mobile Pulse U8220/CHT8000, U8320, T-Mobile Pulse Mini, Ascend, U8120 Joy, Vodafone 845, and U8650 Sonic smartphones) that infringed one or more claims of the 579 patent, and/or induced infringement and/or contributed to the infringement of one or more of the claims of the 579 patent by its customers. Huawei has had knowledge of the 579 patent since at least 2005 because the 579 patent was widely cited by Huawei's competitors and other industry leaders in their own patent applications from 1995 on.

19. Kyocera directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least the Kyocera Sanyo Zio and Echo smartphones) that infringed one or more claims of the 579 patent, and/or induced infringement and/or contributed to the infringement of one or more of the claims of the 579 patent by its customers. Kyocera has had knowledge of the 579 patent since at least 2005 because the 579 patent was widely cited by Kyocera's competitors and other industry leaders in their own patent applications from 1995 on.

20. Lenovo directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least the Lenovo IdeaPad smartphones, IdeaPad K1 tablets, and ThinkPad tablets) that infringed one or more claims of the 579 patent, and/or induced infringement and/or contributed to the infringement of one or more of the claims of the 579 patent by its customers. Lenovo has had knowledge of the 579 patent since at least December 28, 1995 because the 579 patent is cited Lotus Development Corporation's patent application that issued as U.S. Patent No. 5,664,099. Lenovo additionally knew of the 579 patent because it was cited in International Business Machines Corporation's patent application that issued as U.S. Patent No. 5,912,974.

21. Sony Ericsson directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Sony Ericsson Xperia X10 Mini, Xperia X10 Mini Pro, Xperia X8, Xperia neo, Xperia arc, and Xperia Play smartphones) that infringed one or more claims of the 579 patent, and/or induced infringement and/or contributed to the

infringement of one or more of the claims of the 579 patent by its customers. Sony Ericsson has had knowledge of the 579 patent since at least January 14, 2004 because the inventor of the 579 patent sent Sony Corporation a letter that discussed the 579 patent. Sony Ericsson additionally knew of the 579 patent because U.S. Patent No. 6,470,449, which is related to the 579 patent was cited in a Sony Ericsson Mobile Communications AB patent application that issued as U.S. Patent No. 7,793,135 and a Sony Corporation patent application that issued as U.S. Patent No. 8,145,700.

22. ZTE directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least ZTE Racer, Skate, and Warp smartphones) that infringed one or more claims of the 579 patent, and/or induced infringement and/or contributed to the infringement of one or more of the claims of the 579 patent by its customers. ZTE has had knowledge of the 579 patent since at least 2005 because the 579 patent was widely cited by ZTE's competitors and other industry leaders in their own patent applications from 1995 on.

JURY DEMAND

E-Contact hereby requests a trial by jury on all issues so triable by right.

PRAYER FOR RELIEF

E-Contact requests that the Court find in its favor and against defendants, and that the Court grant E-Contact the following relief:

a. Judgment that one or more claims of the 579 patent have been infringed, either literally and/or under the doctrine of equivalents, by the defendants and/or by others to whose infringement defendants have contributed and/or by others whose infringement has been induced by defendants;

b. A permanent injunction enjoining defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing infringement of, or contributing to infringement of the 579 patent;

c. Judgment that defendants account for and pay to E-Contact all damages to and costs incurred by E-Contact because of defendants' infringing activities and other conduct complained of herein;

d. That E-Contact be granted pre-judgment and post-judgment interest on the damages caused by defendants' infringing activities and other conduct complained of herein;

e. That this Court declare this an exceptional case and award E-Contact its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and

f. That E-Contact be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: July 13, 2012

Respectfully submitted,

/s/ Zachariah S. Harrington
Zachariah S. Harrington (lead attorney)
Texas Bar No. 24057886
zac@ahtlawfirm.com
Matthew J. Antonelli
Texas Bar No. 24068432
matt@ahtlawfirm.com
Larry D. Thompson, Jr.
Texas Bar No. 24051428
larry@ahtlawfirm.com
ANTONELLI, HARRINGTON &
THOMPSON LLP
4200 Montrose Blvd., Ste. 430
Houston, TX 77006
(713) 581-3000

Attorneys for E-Contact Technologies LLC