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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HTC AMERICA, INC., a Washington corporation, HTC CORPORATION, a Taiwanese corporation, and EXEDEA INC., a Texas corporation,

Plaintiffs,

v.

SOFTVIEW LLC, a Washington limited liability company,

Defendant.

No. 2:11-cv-908

COMPLAINT FOR DECLARATORY RELIEF

JURY TRIAL DEMANDED

Plaintiffs HTC America Inc., HTC Corporation, and Exedea Inc. (collectively “HTC”) hereby allege for their Complaint against Defendant SoftView LLC (“Defendant”), on personal knowledge as to their own activities and on information and belief as to the activities of others, as follows:

THE PARTIES

1. Plaintiff HTC America, Inc. is a wholly-owned subsidiary of Plaintiff HTC Corp. and is incorporated under the laws of the State of Washington, with its principal place of business at 13920 S.E. Eastgate Way, Suite 400, Bellevue, Washington 98005.

1 the Western District of Washington, has purposely directed its activities at the State of
2 Washington, and this action arises out of and relates to those activities.

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5 9. On information and belief, among the federal judicial districts in the state of
6 Washington, Defendant has the most significant contacts with the Western District of
7 Washington.
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11 10. As alleged more fully below, there is an actual, immediate dispute existing
12 between HTC and Defendant regarding the invalidity and noninfringement of the '353 patent and
13 the '926 patent.
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17 11. This Court has subject matter jurisdiction over HTC's causes of action asserted
18 here pursuant to 28 U.S.C. §§ 1331 and 1338(a), because those claims arise under the patent laws
19 of the United States, 35 U.S.C. §§ 101, *et seq.*, and under the Federal Declaratory Judgment Act,
20 28 U.S.C. §§ 2201 and 2202.
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24 12. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c)
25 and 28 U.S.C. § 1400(b).
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27 28 29 **FACTUAL BACKGROUND**

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31 13. HTC repeats and realleges the allegations of paragraphs 1 through 12 in their
32 entirety.
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35 14. HTC's sales, marketing, and product-support activities targeted to the American
36 market are managed from Bellevue, Washington, a city within this District. HTC maintains its
37 sales-and-marketing documents, including sales literature, forecasts, and market analyses that
38 pertain to the United States market primarily in Bellevue and to a lesser degree in Taiwan. HTC
39 maintains engineering, development, and manufacturing documents that relate to the Accused
40 Products (the term is defined in paragraph 17 below), as well as related royalty and partner
41 agreements, primarily in Taiwan and to a lesser degree in Bellevue. Design documents that
42 relate to the Accused Products are maintained in Seattle and Bellevue, Washington, as well as in
43 Taiwan and San Francisco.
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1 15. Shortly before filing this complaint, HTC learned that Defendant has contended in
2
3 court filings in a separate lawsuit (to which HTC is not a party) that HTC's products infringe one
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5 or more claims of the '353 and '926 patents. Specifically, Defendant SoftView is the plaintiff in
6
7 a separate patent infringement lawsuit pending in Delaware against two other companies. HTC
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9 is informed and believes that, more than a year after commencing that suit, Defendant SoftView
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11 has petitioned the Delaware District Court for leave to amend its pleadings to add HTC and other
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13 parties as new defendants who it claims infringe the '353 and '926 patents. SoftView did not
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15 communicate these allegations to HTC before filing its motion to amend. Upon information and
16
17 belief, Defendant SoftView has not received leave to file such an amended complaint against
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19 HTC in the Delaware District Court, and Defendant SoftView's motion for leave to file its
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21 proposed amended complaint is still pending.

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23 16. In contrast to its extensive connections with this judicial district, HTC has no
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25 offices in Delaware. As of the date of this filing, HTC has no plans to open a facility, retain
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27 personnel, or otherwise establish business operations in Delaware. HTC has no corporate
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29 repository of any of the above documents in Delaware.

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31 17. In its proposed complaint, Defendant alleges for the first time that HTC infringes
32
33 the '353 and '926 patents through making, using, offering to sell or selling devices having the
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35 Android Operating System and a web browser, including but not limited to devices sold under
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37 the trade names Aria, Desire, Dream, Eris, EVO, Hero, Incredible, Inspire, G1, G2, Legend,
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39 Magic, MyTouch, Nexus, Tattoo, Thunderbolt, Shift, and Wildfire. Collectively, these devices
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41 are referred to as the "Accused Products."

42
43 18. HTC disputes the allegations of infringement and validity contained in Softview's
44
45 proposed amended complaint.

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47 19. HTC has sold and will continue to sell one or more of the Accused Products in the
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49 United States and seeks declaratory relief concerning the issues of noninfringement and validity
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51 surrounding these patents.

1 claims of the '926 patent are infringed by HTC's alleged manufacture, use, or sale of certain
2 Accused Products.
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5 28. Accordingly, a valid and justiciable controversy has arisen and exists between
6 HTC and Defendant, relating to the noninfringement of the '926 patent. HTC desires a judicial
7 determination and declaration of the respective rights and duties of the parties herein. Such a
8 determination and declaration is necessary and appropriate at this time in order that the parties
9 may ascertain their respective rights and duties.
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15 **THIRD CAUSE OF ACTION**
16 **(DECLARATORY JUDGMENT OF INVALIDITY ('353 PATENT))**
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18 29. HTC repeats and realleges the allegations in paragraphs 1 through 28 in their
19 entirety.
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22 30. HTC believes that the claims of the '353 patent are invalid because they fail to
23 satisfy the conditions and requirements for patentability as set forth, *inter alia*, in §§102, 103 and
24 112 of Title 35 of the United States Code.
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28 31. HTC is informed and believes, based on Defendant's allegations in the proposed
29 complaint it has sought leave to file against HTC, that Defendant contends that the claims of the
30 '353 patent are valid and enforceable.
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34 32. Accordingly, a valid and justiciable controversy has arisen and exists between
35 HTC and Defendant, relating to the validity of the '353 patent. HTC desires a judicial
36 determination and declaration of the respective rights and duties of the parties herein. Such a
37 determination and declaration is necessary and appropriate at this time in order that the parties
38 determination and declaration is necessary and appropriate at this time in order that the parties
39 may ascertain their respective rights and duties.
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44 **FOURTH CAUSE OF ACTION**
45 **(DECLARATORY JUDGMENT OF INVALIDITY ('926 PATENT))**
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47 33. HTC repeats and realleges the allegations in paragraphs 1 through 32 in their
48 entirety.
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DATED: May 31, 2011

Respectfully submitted,

By: /s/ Ryan J. McBrayer

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