

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

_____	:	
STRAIGHT PATH IP GROUP, INC.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 6:13-cv-605
	:	Jury Trial Demanded
HUAWEI INVESTMENT & HOLDING CO., LTD.,	:	
HUAWEI TECHNOLOGIES CO., LTD.,	:	
HUAWEI TECHNOLOGIES USA INC., &	:	
HUAWEI DEVICE USA, INC.	:	
	:	
Defendants.	:	
_____	:	

COMPLAINT

1. Plaintiff Straight Path IP Group, Inc. (“Straight Path” or “Plaintiff”), for its Complaint against Defendants Huawei Investment & Holding Co., Ltd. (“Huawei”), Huawei Technologies Co., Ltd. (“Huawei Ltd.”), Huawei Technologies USA, Inc. (“Huawei Technologies”), and Huawei Device USA, Inc. (“Huawei Device”) (collectively, “Defendants”), hereby alleges as follows:

PARTIES

2. Straight Path is a Delaware corporation with its principal place of business at 5300 Hickory Park Dr. Suite 218, Glen Allen, VA 23059.

3. Huawei is a corporation organized and existing under the laws of the People’s Republic of China, with its principal place of business located at HQ Office Building, Huawei Industrial Base, Bantian, Longgang District, Shenzhen 518129, People’s Republic of China. Huawei is in the business of manufacturing, selling for importation, offering for sale for

importation, and importing into the United States certain point-to-point network communications devices and products containing same.

4. Huawei Ltd. is a corporation organized under the laws of the People's Republic of China. Its principal place of business located in Huawei Industrial Base, Bantian, Longgang, Shenzhen, Guangdong, P.R. China 518129, where it can be served with process. Huawei Ltd. is wholly-owned by Huawei.

5. Huawei Technologies is a corporation organized under the laws of the State of Texas with a principal place of business at 5700 Tennyson Parkway, Suite 500, Plano, Texas 75024. Huawei Technologies USA Inc. has designated CT Corporation System, at 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201 as its agent for service of process.

6. Huawei Device is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 5700 Tennyson Pkwy 00, Plano, TX 75024-3583, United States. Huawei Device has designated CT Corporation System, at 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201 as its agent for service of process.

NATURE OF THE ACTION

7. This is a civil action for the infringement of United States Patent No. 6,009,469 (the "469 Patent") (attached as Exhibit A) entitled "Graphic User Interface for Internet Telephony Application," United States Patent No. 6,108,704 (the "704 Patent") (attached as Exhibit B) entitled "Point-to-Point Protocol," and United States Patent No. 6,131,121 (the "121 Patent") (attached as Exhibit C) entitled "Point-to-Point Computer Network Communication Utility Utilizing Dynamically Assigned Network Protocol Addresses" (collectively, the "Patents-in-Suit") under the patent laws of the United States, 35 U.S.C. § 1, et seq.

8. This action involves Defendants' manufacture, use, sale, offer for sale, and/or importation into the United States of infringing products, methods, processes, services and

systems that are primarily used or primarily adapted for use in point-to-point network communications devices and products containing same, including, for example but without limitation, smartphone handsets, tablet computers, and set-top boxes, that infringe one or more of the claims of the Patents-in-Suit.

JURISDICTION AND VENUE

9. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 1, et seq.

10. Defendants are subject to personal jurisdiction in the Tyler Division of the Eastern District of Texas because Defendants regularly transact business in this judicial district by, among other things, offering Defendants' products and services to customers, business affiliates and partners located in this judicial district. In addition, the Defendants have committed acts of direct infringement of one or more of the claims of one or more of the Patents-in-Suit in this judicial district.

11. Venue in this district is proper under 28 U.S.C. § 1400(b) and 1391(b) and (c), because the Defendants are subject to personal jurisdiction in this district and have committed acts of infringement in this district.

FACTUAL BACKGROUND

12. Plaintiff Straight Path is the lawful assignee of all right, title and interest in and to the Patents-in-Suit.

13. All maintenance fees for the Patents-in-Suit have been timely paid, and there are no fees currently due.

COUNT I
(Defendants' Infringement of the '469 Patent)

14. Paragraphs 1 through 13 are incorporated by reference as if fully restated herein.

15. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '469 Patent.

16. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Huawei U9200 Ascend (which encompasses all Huawei Smartphones), as well as others of Defendants' smartphone handsets, tablet computers, and set-top boxes.

17. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '469 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '469 Patent and its claims; with knowledge that its customers and end users, including same in the Eastern District of Texas, will directly infringe the '469 Patent by using, marketing, selling, offering to sell, and importing infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

18. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '469 Patent, knowing those products to be especially made or adapted to infringe the '469 Patent, knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and knowing that end users of those products, including end users in the Eastern District of Texas, would directly infringe the '469 Patent.

19. Defendants have had knowledge of and notice of the '469 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

20. Defendants have been and continue to be infringing one or more of the claims of the '469 Patent through the aforesaid acts.

21. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT II
(Defendants' Infringement of the '704 Patent)

22. Paragraphs 1 through 21 are incorporated by reference as if fully restated herein.

23. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '704 Patent.

24. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Huawei U9200 Ascend (which encompasses all Huawei Smartphones), as well as others of Defendants' smartphone handsets, tablet computers, and set-top boxes.

25. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '704 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '704 Patent and its claims; with knowledge that its customers and end users, including same in the Eastern District of Texas, will directly infringe the '704 Patent by using, marketing, selling, offering to sell, and importing infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

26. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '704 Patent, knowing those products to be especially made or adapted to infringe the '704 Patent, knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and knowing that end

users of those products, including end users in the Eastern District of Texas, would directly infringe the '704 Patent.

27. Defendants have had knowledge of and notice of the '704 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

28. Defendants have been and continue to be infringing one or more of the claims of the '704 Patent through the aforesaid acts.

29. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT III
(Defendants' Infringement of the '121 Patent)

30. Paragraphs 1 through 29 are incorporated by reference as if fully restated herein.

31. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '121 Patent.

32. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Huawei U9200 Ascend (which encompasses all Huawei Smartphones), as well as others of Defendants' smartphone handsets, tablet computers, and set-top boxes.

33. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '121 Patent by making, using,

offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '121 Patent and its claims; with knowledge that its customers and end users, including same in the Eastern District of Texas, will directly infringe the '121 Patent by using, marketing, selling, offering to sell, and importing infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

34. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '121 Patent, knowing those products to be especially made or adapted to infringe the '121 Patent, knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and knowing that end users of those products, including end users in the Eastern District of Texas, would directly infringe the '121 Patent.

35. Defendants have had knowledge of and notice of the '121 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

36. Defendants have been and continue to be infringing one or more of the claims of the '121 Patent through the aforesaid acts.

37. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

PRAYER FOR RELIEF

Wherefore, Straight Path IP Group, Inc., respectfully requests the following relief:

- a) A judgment that Defendants have infringed the '469 Patent;
- b) A judgment that Defendants have infringed the '704 Patent;
- c) A judgment that Defendants have infringed the '121 Patent;
- d) A judgment that awards Straight Path all appropriate damages under 35 U.S.C. § 284 for the Defendants' past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Straight Path for Defendants' infringement; and
- e) An adjudication:
 - i. that this case is exceptional within the meaning of 35 U.S.C. § 285;
 - ii. that Straight Path be awarded the attorneys' fees, costs, and expenses it incurs in prosecuting this action; and
 - iii. that Straight Path be awarded such further relief at law or in equity as the Court deems just and proper.

DEMAND FOR JURY TRIAL

38. Straight Path hereby demands trial by jury on all claims and issues so triable.

DATED: August 23, 2013

Respectfully submitted

WARD & SMITH LAW FIRM

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