

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

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STRAIGHT PATH IP GROUP, INC.,	:	:
	:	:
Plaintiff,	:	:
	:	:
v.	:	Civil Action No. 6:13-cv-607
	:	:
ZTE CORPORATION &	:	:
ZTE USA, INC.	:	Jury Trial Demanded
	:	:
Defendants.	:	:
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**COMPLAINT**

1. Plaintiff Straight Path IP Group, Inc. (“Straight Path” or “Plaintiff”), for its Complaint against Defendants ZTE Corporation (“ZTE”) and ZTE USA, Inc. (“ZTE USA”) (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. ZTE is a corporation organized and existing under the laws of the People’s Republic of China, with its principal place of business located at ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nanshan District Shenzhen, Guangdong, People’s Republic of China. ZTE 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. ZTE USA is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 2425 North Central Expressway, Suite 600, Richardson, TX 75080. ZTE USA is a wholly-owned subsidiary of ZTE.

#### **NATURE OF THE ACTION**

5. 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.

6. 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 and tablet computers, that infringe one or more of the claims of the Patents-in-Suit.

#### **JURISDICTION AND VENUE**

7. 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.

8. 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.

9. 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**

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

11. 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)**

12. Paragraphs 1 through 11 are incorporated by reference as if fully restated herein.

13. 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.

14. 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 ZTE

V970M (which encompasses all ZTE Smartphones), as well as others of Defendants' smartphone handsets and tablet computers.

15. 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 some 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.

16. 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.

17. 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.

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

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

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

20. Paragraphs 1 through 19 are incorporated by reference as if fully restated herein.

21. 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.

22. 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 ZTE V970M (which encompasses all ZTE Smartphones), as well as others of Defendants' smartphone handsets and tablet computers.

23. 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 some 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.

24. 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.

25. 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.

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

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

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

28. Paragraphs 1 through 27 are incorporated by reference as if fully restated herein.

29. 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.

30. 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 ZTE V970M (which encompasses all ZTE Smartphones), as well as others of Defendants' smartphone handsets and tablet computers.

31. 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.

32. 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.

33. 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.

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

35. 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**

36. 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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