

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IMMERSION CORPORATION, a Delaware Corporation,

Plaintiff,

v.

HTC CORPORATION, a Taiwanese Corporation, and HTC AMERICA, INC., a Washington Corporation,

Defendants.

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Civil Action No. 12-259-RGA

JURY TRIAL DEMANDED

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Immersion Corporation (“Immersion”) brings this action against HTC Corporation (“HTC Corp.”) and HTC America, Inc. (“HTC America”) (collectively, “HTC”) and alleges as follows:

PARTIES

1. Immersion is a Delaware Corporation with its principal place of business located at 30 Rio Robles, San Jose, California 95134. Immersion is the owner of the intellectual property rights at issue in this action.

2. Immersion is a developer of haptic feedback technology and software products. Immersion develops products for the mobile electronic device industry, including creating software for implementing advanced haptic effects on cellular phones, smartphones, and handheld computers.

3. On information and belief, Defendant HTC Corp. is a corporation organized and existing under the laws of Taiwan with its principal place of business at 23 Xinghau Road, Taoyuan 330, Taiwan, Republic of China. Upon information and belief, Defendant HTC Corp. is engaged in the design, manufacture, importation into the United States, and sale after importation of mobile electronic devices incorporating haptic feedback technology.

4. On information and belief, Defendant HTC America is a wholly-owned subsidiary of HTC Corp. and is incorporated under the laws of the state of Washington, with its principal place of business at 13920 SE Eastgate Way, Suite 400, Bellevue, Washington 98005. Upon information and belief, Defendant HTC America performs services to support the importation and sale of mobile communication devices produced by HTC Corp. into and within the United States, including marketing, repair, and after-sale services of mobile electronic devices incorporating haptic feedback technology.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, including but not limited to 35 U.S.C. § 271.

6. This Court has subject-matter jurisdiction over this controversy under 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendants because each Defendant has established minimum contacts with the forum state of Delaware. Defendants, directly and/or through third parties, manufacture or assemble products that are and have been offered for sale, sold, purchased, and used within the state of Delaware. Defendants, directly and/or through their distribution networks, regularly place their products within the stream of commerce, with the knowledge and/or understanding that such products will be sold in Delaware. Thus,

Defendants have purposefully availed themselves of the benefits of the state of Delaware and the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice.

8. Defendants transact business in the state of Delaware because, among other things, Defendants manufacture and distribute products that are offered for sale, sold, purchased, and used within the state of Delaware. Defendants have also committed tortious acts of patent infringement in Delaware and are subject to personal jurisdiction in Delaware. Venue is thus proper in this judicial district pursuant to 28 U.S.C. §§ 1391(a)-(d) and 1400(b).

HAPTIC FEEDBACK TECHNOLOGY

9. Haptic feedback technology (“haptics”) provides touch or tactile sensations to users of electronic applications.

10. Haptic feedback effects may include tactile sensations produced by an actuator, such as a motor, a linear resonant actuator, or a piezoelectric actuator in an electronic device. Haptics is integrated into many mobile electronic devices, including many cellular phones, smartphones, and handheld computers.

11. In mobile electronic devices such as smartphones and tablet computers, haptic feedback technology is integrated into the applications and user interfaces. Applications running on a mobile electronic device implement the haptic effects the application designer wants the user to experience when using the application by causing specific haptic effect commands to be sent to an actuator in the electronic device, resulting in the associated haptic feedback effect.

12. A basic application using haptic feedback technology may provide confirmation that a user has pressed a virtual key or selected an icon in a graphical user interface, such as the

touchscreen of a smartphone or handheld computer. For example, when the key or icon is touched, the user may feel a short vibration.

13. More sophisticated applications may provide a variety of tactile sensations. For example, a user action may trigger different haptic effects and thus communicate different types of information. This could be conveyed by varying the duration, intensity, or frequency of the tactile sensation. This enables a user to easily distinguish, for example, a calendar alert from a text message alert, or an incoming call.

14. Haptic feedback is especially useful in electronic devices containing touchscreens, which tend to have primarily virtual buttons to control the device and very few physical buttons. Haptic feedback restores a mechanical feel to electronic devices, immediately reassuring a user that they have successfully engaged a virtual button and improving the interface for consumers.

15. Smartphones and tablet computers incorporate haptics into many of the common device features.

THE ASSERTED PATENTS

16. Immersion owns, by assignment, all title, right, and interest in and to United States Patent No. 6,429,846, entitled “Haptic Feedback for Touchpads and Other Touch Controls,” which was duly and legally issued on August 6, 2002. A certified copy of the ’846 patent is attached as Exhibit A.

17. Immersion owns, by assignment, all title, right, and interest in and to United States Patent No. 7,969,288, entitled “Force Feedback System Including Multi-Tasking Graphical Host Environment and Interface Device,” which was duly and legally issued on April 15, 1998. A certified copy of the ’288 patent is attached as Exhibit B.

18. Immersion owns, by assignment, all title, right, and interest in and to United States Patent No. 7,982,720, entitled “Haptic Feedback for Touchpads and Other Touch Controls,” which was duly and legally issued on July 19, 2011. A certified copy of the ’720 patent is attached as Exhibit C.

19. Immersion owns, by assignment, all title, right, and interest in and to United States Patent No. 8,031,181, entitled “Haptic Feedback for Touchpads and Other Touch Controls,” which was duly and legally issued on October 4, 2011. A certified copy of the ’181 patent is attached as Exhibit D.

20. Immersion owns, by assignment, all title, right, and interest in and to United States Patent No. 8,059,105, entitled “Haptic Feedback for Touchpads and Other Touch Controls,” which was duly and legally issued on November 15, 2011. A certified copy of the ’105 patent is attached as Exhibit E.

CLAIMS FOR RELIEF

CLAIM 1 – INFRINGEMENT OF THE ’846 PATENT

21. Immersion repeats and realleges each and every allegation above with the same force and effect as if here set forth in full.

22. On information and belief, HTC has infringed and continues to infringe, and has induced and continues to induce others to infringe, one or more of the claims of the ’846 patent. HTC’s infringing activities in the United States and this District include the development, manufacture, use, importation, sale, and/or offer for sale of products, including but not limited to the following HTC products: Amaze 4G, Droid DNA, Droid Incredible 4G LTE, EVO 3D, EVO 4G LTE, EVO Design 4G, EVO V 4G, Hero S, Jetstream, myTouch 4G, One, One S, One SV, One V, One VX, One X, One X+, Rezound, Rhyme, Sensation 4G, Status, Thunderbolt, Vivid,

and Wildfire S. HTC provides directions, instruction manuals, guides, and/or other materials that instruct and encourage the purchaser of an accused device to use the device in a manner that infringes certain claims of the '846 patent. Immersion placed HTC on notice of its infringing activities on or before August 16, 2011. HTC's infringing activities violate 35 U.S.C. § 271.

23. On information and belief, HTC's infringement has been, and continues to be, willful and deliberate, and has caused substantial damage to Immersion.

24. On information and belief, HTC's infringement in violation of the federal patent laws will continue to injure Immersion unless otherwise enjoined by this Court.

CLAIM 2 – INFRINGEMENT OF THE '288 PATENT

25. Immersion repeats and realleges each and every allegation above with the same force and effect as if here set forth in full.

26. On information and belief, HTC has infringed and continues to infringe, and has induced and continues to induce others to infringe, one or more of the claims of the '288 patent. HTC's infringing activities in the United States and this District include the development, manufacture, use, importation, sale, and/or offer for sale of products, including but not limited to the following HTC products: Amaze 4G, Droid DNA, Droid Incredible 4G LTE, EVO 3D, EVO 4G LTE, EVO Design 4G, EVO V 4G, Hero S, Jetstream, myTouch 4G, myTouch 4G Slide, One, One S, One SV, One V, One VX, One X, One X+, Rezound, Rhyme, Sensation 4G, Status, Thunderbolt, Vivid, and Wildfire S. HTC provides directions, instruction manuals, guides, and/or other materials that instruct and encourage the purchaser of an accused device to use the device in a manner that infringes certain claims of the '288 patent. Immersion placed HTC on notice of its infringing activities on or before August 16, 2011. HTC's infringing activities violate 35 U.S.C. § 271.

27. On information and belief, HTC's infringement has been, and continues to be, willful and deliberate, and has caused substantial damage to Immersion.

28. On information and belief, HTC's infringement in violation of the federal patent laws will continue to injure Immersion unless otherwise enjoined by this Court.

CLAIM 3 – INFRINGEMENT OF THE '720 PATENT

29. Immersion repeats and realleges each and every allegation above with the same force and effect as if here set forth in full.

30. On information and belief, HTC has infringed and continues to infringe, and has induced and continues to induce others to infringe, one or more of the claims of the '720 patent. HTC's infringing activities in the United States and this District include the development, manufacture, use, importation, sale, and/or offer for sale of products, including but not limited to the following HTC products: Amaze 4G, Droid DNA, Droid Incredible 4G LTE, EVO 3D, EVO 4G LTE, EVO Design 4G, EVO V 4G, Hero S, Jetstream, One, One S, One SV, One V, One VX, One X, One X+, Rezound, Rhyme, Sensation 4G, Status, Thunderbolt, Vivid, and Wildfire S. HTC provides directions, instruction manuals, guides, and/or other materials that instruct and encourage the purchaser of an accused device to use the device in a manner that infringes certain claims of the '720 patent. Immersion placed HTC on notice of its infringing activities on or before August 16, 2011. HTC's infringing activities violate 35 U.S.C. § 271.

31. On information and belief, HTC's infringement has been, and continues to be, willful and deliberate, and has caused substantial damage to Immersion.

32. On information and belief, HTC's infringement in violation of the federal patent laws will continue to injure Immersion unless otherwise enjoined by this Court.

CLAIM 4 – INFRINGEMENT OF THE '181 PATENT

33. Immersion repeats and realleges each and every allegation above with the same force and effect as if here set forth in full.

34. On information and belief, HTC has infringed and continues to infringe, and has induced and continues to induce others to infringe, one or more of the claims of the '181 patent. HTC's infringing activities in the United States and this District include the development, manufacture, use, importation, sale, and/or offer for sale of products, including but not limited to the following HTC products: Amaze 4G, Droid DNA, Droid Incredible 4G LTE, EVO 3D, EVO 4G LTE, EVO Design 4G, EVO V 4G, Hero S, Jetstream, One, One S, One SV, One V, One VX, One X, One X+, Rezound, Rhyme, Sensation 4G, Status, Thunderbolt, Vivid, and Wildfire S. HTC provides directions, instruction manuals, guides, and/or other materials that instruct and encourage the purchaser of an accused device to use the device in a manner that infringes certain claims of the '181 patent. Immersion placed HTC on notice of its infringing activities on or before August 16, 2011. HTC's infringing activities violate 35 U.S.C. § 271.

35. On information and belief, HTC's infringement has been, and continues to be, willful and deliberate, and has caused substantial damage to Immersion.

36. On information and belief, HTC's infringement in violation of the federal patent laws will continue to injure Immersion unless otherwise enjoined by this Court.

CLAIM 5 – INFRINGEMENT OF THE '105 PATENT

37. Immersion repeats and realleges each and every allegation above with the same force and effect as if here set forth in full.

38. On information and belief, HTC has infringed and continues to infringe, and has induced and continues to induce others to infringe, one or more of the claims of the '105 patent.

HTC's infringing activities in the United States and this District include the development, manufacture, use, importation, sale, and/or offer for sale of products, including but not limited to the following HTC products: Amaze 4G, Droid DNA, Droid Incredible 4G LTE, EVO 3D, EVO 4G LTE, EVO Design 4G, EVO V 4G, Hero S, Jetstream, myTouch 4G, One, One S, One SV, One V, One VX, One X, One X+, Rezound, Rhyme, Sensation 4G, Status, Thunderbolt, Vivid, and Wildfire S. HTC provides directions, instruction manuals, guides, and/or other materials that instruct and encourage the purchaser of an accused device to use the device in a manner that infringes certain claims of the '105 patent. Immersion placed HTC on notice of its infringing activities on or before December 21, 2011. HTC's infringing activities violate 35 U.S.C. § 271.

39. On information and belief, HTC's infringement has been, and continues to be, willful and deliberate, and has caused substantial damage to Immersion.

40. On information and belief, HTC's infringement in violation of the federal patent laws will continue to injure Immersion unless otherwise enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays as follows:

A. That the Court render judgment declaring that HTC has infringed, and induced the infringement of, the '846 patent, the '288 patent, the '720 patent, the '181 patent, and the '105 patent in violation of 35 U.S.C. § 271;

B. That the Court render judgment declaring HTC's infringement of the '846 patent, the '288 patent, the '720 patent, the '181 patent, and the '105 patent willful and deliberate;

C. That Immersion be awarded damages adequate to compensate Immersion for HTC's infringement of the '846 patent, the '288 patent, the '720 patent, the '181 patent, and the '105 patent;

D. That Immersion be awarded prejudgment interest on all damages awarded;

E. That the Court temporarily, preliminarily and permanently enjoin HTC, its successors, assigns, subsidiaries and transferees, and its officers, directors, agents, employees, from selling or offering to sell any product falling within the scope of the claims of the '846 patent, the '288 patent, the '720 patent, the '181 patent, and the '105 patent including but not limited to HTC products: Amaze 4G, Droid DNA, Droid Incredible 4G LTE, EVO 3D, EVO 4G LTE, EVO Design 4G, EVO V 4G, Hero S, Jetstream, myTouch 4G, myTouch 4G Slide, One, One S, One SV, One V, One VX, One X, One X+, Rezound, Rhyme, Sensation 4G, Status, Thunderbolt, Vivid, and Wildfire S;

F. That the Court temporarily, preliminarily and permanently enjoin HTC, their successors, assigns, subsidiaries and transferees, and their officers, directors, agents, employees, as follows:

1. from importing any product into the United States which falls within the scope of the claims of the '846 patent, the '288 patent, the '720 patent, the '181 patent, and the '105 patent;
2. from manufacturing any product falling within the scope of the claims of the '846 patent, the '288 patent, the '720 patent, the '181 patent, and the '105 patent;
3. from using any product or method falling within the scope of any of the claims of the '846 patent, the '288 patent, the '720 patent, the '181 patent, and the '105 patent;
4. from actively inducing others to infringe any of the claims of the '846 patent, the '288 patent, the '720 patent, the '181 patent, and the '105 patent; and

5. from all other acts of infringement of any of the claims of the '846 patent, the '288 patent, the '720 patent, the '181 patent, and the '105 patent;

F. That the Court award treble damages to Immersion for the unlawful practices described in this Complaint;

G. That the Court enter judgment against HTC for the maximum penalties determined by the Court to be just and proper;

H. That the Court render judgment declaring this to be an exceptional case;

I. That Immersion be awarded its costs of suit, including reasonable attorneys' fees.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury of all issues so triable under the law as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

June 10, 2013

BAYARD, P.A.

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