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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

TECHNOLOGY PROPERTIES LIMITED
LLC, PHOENIX DIGITAL SOLUTIONS
LLC, and PATRIOT SCIENTIFIC
CORPORATION,

Plaintiffs,

vs.

HUAWEI TECHNOLOGIES CO., LTD.,
HUAWEI DEVICE CO., LTD., HUAWEI
DEVICE USA INC., FUTUREWEI
TECHNOLOGIES, INC., and HUAWEI
TECHNOLOGIES USA INC.,

Defendants.

Case No. 3:12-cv-03865-VC

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

Technology Properties Limited LLC (“TPL”), Phoenix Digital Solutions LLC (“PDS”) and Patriot Scientific Corporation (“PTSC”) (collectively “Plaintiffs”) hereby allege for their First Amended Complaint for Patent Infringement (“Complaint”) against Defendants Huawei Technologies Co., Ltd., Huawei Device Co., Ltd., Huawei Device USA Inc., Futurewei Technologies, Inc., and Huawei Technologies USA Inc. (collectively “Defendants”) on personal knowledge as to their own actions and on information and belief as to the actions of Defendants, as follows:

PARTIES

1. Plaintiff Technology Properties Limited LLC is a California limited liability company with its principal place of business at 20883 Stevens Creek Blvd., Suite 100, Cupertino, California 95014.

2. Plaintiff Phoenix Digital Solutions LLC is a Delaware limited liability company with its principal place of business at 20883 Stevens Creek Blvd., Suite 100, Cupertino, California 95014.

3. Plaintiff Patriot Scientific Corporation is a Delaware limited liability company with its principal place of business at 701 Palomar Airport Road, Suite 170, Carlsbad, California 92011.

4. On information and belief, Defendant Huawei Technologies Co., Ltd. is a Chinese corporation with a principal place of business at Huawei Industrial Base, Bantian Longgang, Shenzhen, China.

5. On information and belief, Defendant Huawei Device Co., Ltd. is a Chinese corporation with a principal place of business at Section B, Huawei Administration Building, Bantian, Longgang, Shenzhen, Guangdong, P.R. China, 518129.

6. On information and belief, Defendant Huawei Device USA Inc. is a Texas corporation with a principal place of business at 5700 Tennyson Parkway, Suite 600, Plano, Texas 75024.

1 7. On information and belief, Defendant Futurewei Technologies, Inc. is a Texas
2 corporation with a principal place of business at 5700 Tennyson Parkway, Suite 4500, Plano, TX
3 75024.

4 8. On information and belief, Defendant Huawei Technologies USA Inc. is a Texas
5 corporation with a principal place of business at 5700 Tennyson Parkway, Suite 500, Plano, TX
6 75024.

7 **JURISDICTION, VENUE AND INTRADISTRICT ASSIGNMENT**

8 9. This is an action for damages and injunctive relief based on patent infringement
9 arising under the patent laws of the United States, Title 35 of the United States Code.

10 10. This Court has jurisdiction over the subject matter of this action pursuant to 28
11 U.S.C. § 1331 and 28 U.S.C. § 1338.

12 11. On information and belief, Defendants have transacted business in this District,
13 contracted to supply goods or services in this District directly or through their agents, have
14 offered for sale, sold and/or advertised their products and services in this District, and have
15 otherwise purposely availed themselves of the privileges and benefits of the laws of the State of
16 California. This Court has jurisdiction over Defendants because Defendants have committed
17 acts of patent infringement during the course of their business in this District.

18 12. Venue is proper in this District pursuant to 28 U.S.C. § 1400(a) and (b) and 28
19 U.S.C. § 1391.

20 13. This matter is an intellectual property action and is not subject to intradistrict
21 assignment under Civil L.R. 3-2(c).

22 **THE ASSERTED PATENTS**

23 **The '749 Patent**

24 14. United States Patent No. 5,440,749 (“the ’749 Patent”), entitled “High
25 Performance, Low Cost Microprocessor Architecture,” issued on August 8, 1995 to Charles H.
26 Moore and Russell H. Fish, III. A true and correct copy of the ’749 Patent is attached as Exhibit
27 A to this Complaint.

The '336 Patent

20. United States Patent No. 5,809,336 (“the ’336 Patent”), entitled “High Performance Microprocessor Having Variable Speed System Clock,” was duly and legally issued on September 15, 1998 to Charles H. Moore and Russell H. Fish, III. A true and correct copy of the ’336 Patent is attached as Exhibit C to this Complaint.

21. The ’336 Patent teaches the use of two independent clocks in a microprocessor system: (1) an on-chip clock to time the CPU; and (2) a second independent clock to time the input/output (I/O) interface. This innovation was widely adopted by the industry and became fundamental to the increased speed and efficiency of modern microprocessors. Decoupling the system clock from the I/O clock allows the clocks to run independently (or “asynchronously”).

22. Plaintiffs TPL, PDS and PTSC collectively hold all substantial rights to the ’336 Patent.

COUNT I**INFRINGEMENT OF THE ’749 PATENT**

23. Plaintiffs reallege and incorporate herein by reference the allegations contained in paragraphs 1-22.

24. On information and belief, without a license or permission from Plaintiffs, Defendants have infringed and continue to infringe at least claim 1 of the ’749 Patent. Defendants’ infringing activities in the United States and in this District include importing, making, using, offering to sell, and/or selling products and devices that embody and/or practice the patented invention, including but not limited to the M835.

25. On information and belief, Defendants’ direct infringement of the ’749 Patent has caused and continues to cause substantial damage to Plaintiffs.

26. On information and belief, Defendants’ direct infringement of the ’749 Patent has been and continues to be willful and deliberate, entitling Plaintiffs to enhanced damages and attorneys’ fees.

COUNT II

INFRINGEMENT OF THE '890 PATENT

27. Plaintiffs reallege and incorporate herein by reference the allegations contained in paragraphs 1-26.

28. On information and belief, without a license or permission from Plaintiffs, Defendants have infringed and continue to infringe at least claim 7 of the '890 Patent. Defendants' infringing activities in the United States and in this District include importing, making, using, offering to sell, and/or selling products and devices that embody and/or practice the patented invention, including but not limited to the M835.

29. On information and belief, Defendants' direct infringement of the '890 Patent has caused and continues to cause substantial damage to Plaintiffs.

30. On information and belief, Defendants' direct infringement of the '890 Patent has been and continues to be willful and deliberate, entitling Plaintiffs to enhanced damages and attorneys' fees.

COUNT III

INFRINGEMENT OF THE '336 PATENT

31. Plaintiffs reallege and incorporate herein by reference the allegations contained in paragraphs 1-30.

32. On information and belief, without a license or permission from Plaintiffs, Defendants have infringed and continue to infringe, induced others to infringe and continue to induce others to infringe, and/or have committed and continue to commit acts of contributory infringement, literally or under the doctrine of equivalents, at least claim 1 of the '336 Patent. Defendants' infringing activities in the United States and in this District include importing, making, using, offering to sell, and/or selling products and devices that embody and/or practice the patented invention, including but not limited to the M835, and contributing to, and inducing consumers and users to make and use the patented invention and to practice the claimed methods.

1 33. On information and belief, Defendants induce others to infringe at least claim 1 of
2 the '336 Patent by encouraging and facilitating others to perform actions known by Defendants
3 to infringe and with the intent that performance of the actions will infringe. TPL provided
4 Defendants notice of the '336 Patent by letter (with an enclosed disk identifying the MMP
5 patents) dated September 18, 2006.

6 34. On information and belief, Defendants induce consumers to make and use the
7 claimed inventions and to practice the claimed methods by (i) providing the M835 with a USB
8 input/output interface for connecting the accused devices to a peripheral device, the peripheral
9 device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the
10 central processing unit on the microprocessors of the M835, and (ii) instructing consumers to
11 connect the accused product to a peripheral device such that the combination includes each
12 element of the asserted apparatus claims of the '336 Patent and use of the combination, as
13 intended, practices each of the elements of at least claim 1 of the '336 Patent.

14 35. On information and belief, consumers make and use the claimed inventions and
15 practice the claimed methods by using the M835 in combination with a peripheral device having
16 a clock that originates clock signals from a source other than the clock connected to the central
17 processing unit on the microprocessors of the M835, thereby directly infringing at least claim 1
18 of the '336 Patent.

19 36. On information and belief, Defendants' direct, induced and/or contributory
20 infringement of the '336 Patent has caused and continues to cause substantial damage to
21 Plaintiffs.

22 37. On information and belief, Defendants' direct, induced and/or contributory
23 infringement of the '336 Patent has been and continues to be willful, entitling Plaintiffs to
24 enhanced damages and attorneys' fees.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs Technology Properties Limited, Phoenix Digital Solutions
27 LLC, and Patriot Scientific Corporation pray for judgment and relief as follows:

1 A. A judgment that Defendants have infringed one or more claims of the Asserted
2 Patents;

3 B. An award of damages in an amount adequate to compensate Plaintiffs for
4 Defendants' infringement of the Asserted Patents;

5 C. A declaration that Defendants' infringement of the Asserted Patents was willful
6 and that this case is exceptional pursuant to 35 U.S.C. § 285;

7 D. An award of Plaintiffs' costs, expenses and attorney fees incurred in bringing and
8 prosecuting this action;

9 E. An award of enhanced damages resulting from Defendants' willful infringement,
10 and all other categories of damages allowed by 35 U.S.C. § 284;

11 F. An award of pre-judgment interest; and

12 G. Such other and further relief as this Court may deem just and appropriate.

13
14 **DEMAND FOR JURY TRIAL**

15 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a jury
16 trial as to all issues so triable.

17 Dated: November 12, 2014

Respectfully submitted,

18 AGILITY IP LAW, LLP

19 /s/ James C. Otteson

20 James C. Otteson

21 Attorneys for Plaintiffs
22 TECHNOLOGY PROPERTIES LIMITED LLC
and PHOENIX DIGITAL SOLUTIONS LLC

23 KIRBY NOONAN LANCE & HOGE LLP

24 /s/ Charles T. Hoge

25 Charles T. Hoge

26 Attorneys for Plaintiff
27 PATRIOT SCIENTIFIC CORPORATION

FILER'S ATTESTATION PURSUANT TO L.R. 5-1(i)(3)

I, James C. Otteson am the ECF User whose ID and password are being used to file the
"FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT." I hereby attest that
concurrence in the filing of this document has been obtained from each of the other signatories.

Dated: November 12, 2014

By: /s/ James C. Otteson
James C. Otteson