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GLOBAL TOUCH SOLUTIONS, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

GLOBAL TOUCH SOLUTIONS, LLC

Plaintiff,

v.

TOSHIBA CORPORATION, *et al.*,

Defendants.

Case No. 3:15-cv-02746-JD

**PLAINTIFF’S FIRST AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

This is an action for patent infringement in which Global Touch Solutions, LLC (“GTS” or “Plaintiff”) makes the following allegations against Toshiba Corporation and Toshiba America Information Systems, Inc. (collectively “Toshiba” or “Defendants”).

PARTIES

1. Plaintiff GTS is a Delaware Limited Liability Company with its principal place of business at 8133 Leesburg Pike, Suite 310, Vienna, VA 22182.

2. On information and belief, Toshiba Corporation is a Japanese corporation with its principal place of business at 1-1, Shibaura 1-chome, Minato-ku, Tokyo 105-8001, Japan.

1 through, among other things, the manufacture, use, sale, offers for sale within the United States,
2 and importation of products into the United States, including, without limitation, Toshiba 1300U
3 Series television; Toshiba 2300U Series Television; Toshiba 7300U Series television; Toshiba
4 L410US television; Toshiba L412U television; Toshiba L415U television; Toshiba L417U
5 television; Toshiba TL515U television; Toshiba Encore Tablet; Toshiba Excite 7c Tablet;
6 Toshiba Excite Pure; Toshiba Satellite Laptops and Ultrabooks; Toshiba Portege Ultrabook;
7 Toshiba Tecra Laptop, which at minimum include every element of claims 1, 3, and 52 of the
8 '970 Patent. Toshiba is thereby liable for infringement of the '970 Patent pursuant to 35 U.S.C.
9 § 271.

10 10. Toshiba manufactures, uses, sells, offers for sale, and imports products, including,
11 but not limited to its Toshiba 1300U Series television; Toshiba 2300U Series Television;
12 Toshiba 7300U Series television; Toshiba L410US television; Toshiba L412U television;
13 Toshiba L415U television; Toshiba L417U television; Toshiba TL515U television; Toshiba
14 Encore Tablet; Toshiba Excite 7c Tablet; Toshiba Excite Pure; Toshiba Satellite Laptops and
15 Ultrabooks; Toshiba Portege Ultrabook; Toshiba Tecra Laptop, that include an energy
16 consuming load, a power circuit, a microchip, a switch, and an indicator. Toshiba thereby has
17 been and is presently directly and literally infringing the '970 Patent.

18 11. Should Toshiba proffer an interpretation of any claim element that differs from
19 GTS's, GTS intends to show direct infringement of those elements by demonstrating that there
20 are no more than insubstantial differences between the element and the features of the accused
21 products.

22 12. On information and belief, Toshiba's instructions and marketing materials
23 directed to end users of its products encourage use of the claimed features of the '970 Patent.
24 After the date of this action, such actions will constitute inducement of infringement by others
25 pursuant to 35 U.S.C. § 271(b). For example, but not limited thereto, Toshiba's user guides refer
26 to a load that is automatically turned off and a switch that performs different specific functions
27 based on the duration of time it is activated, which encourages the end user to use claimed
28

1 features of the '970 Patent. More specifically, but not limited thereto, user guides for the
2 products listed under Count I, such as the Encore WT8-A, describe how to use a "Power button"
3 that can be pressed and held to turn the device on or to operate device functions, how to use a
4 touch button that may be pressed to put the device to "Sleep," and how a load is automatically
5 turned off, thereby encouraging the end user to use claimed features of the '970 Patent.

6 13. GTS has been damaged as a result of Toshiba's infringing conduct described in
7 this Count. Toshiba is thus, liable to GTS in the amount that adequately compensates GTS for
8 Toshiba's infringement, which by law, cannot be less than a reasonable royalty, together with
9 interest and costs as fixed by this Court under 35 U.S.C. §284.

10 **COUNT II**

11 **INFRINGEMENT OF U.S. PATENT NO. 7,265,494**

12 14. GTS re-alleges and incorporates by reference the allegations set forth in
13 paragraphs 1 through 5.

14 15. This cause of action arises under the patent laws of the United States, and in
15 particular, 35 U.S.C. §§271 *et seq.*

16 16. GTS is the owner by assignment of United States Patent No. 7,265,494 (the "'494
17 Patent") entitled "Intelligent User Interface technology." The '494 Patent was issued on
18 September 4, 2007. Plaintiff has all rights to recover for past and future acts of infringement of
19 the '494 Patent. A true and correct copy of the '494 Patent is attached hereto as Exhibit B.

20 17. On information and belief, Toshiba has been and now is infringing the '494 Patent
21 in this judicial district, and elsewhere in the United States, including at least claim 1 through,
22 among other things, the manufacture, use, sale, offers for sale within the United States, and
23 importation of products into the United States, including, without limitation, Toshiba L410US
24 television; Toshiba L412U television; Toshiba L415U television; Toshiba L417U television;
25 Toshiba TL515U television; Toshiba Encore Tablet; Toshiba Excite 7c Tablet; Toshiba Excite
26 Pure; Toshiba Satellite Laptops and Ultrabooks; Toshiba Portege Ultrabook; Toshiba Tecra
27
28

1 Laptop, which at minimum include every element of claim 1 of the '494 Patent. Toshiba is
2 thereby liable for infringement of the '494 Patent pursuant to 35 U.S.C. § 271.

3 18. Toshiba manufactures, uses, sells, offers for sale, and imports products, including
4 but not limited to its Toshiba L410US television; Toshiba L412U television; Toshiba L415U
5 television; Toshiba L417U television; Toshiba TL515U television; Toshiba Encore Tablet;
6 Toshiba Excite 7c Tablet; Toshiba Excite Pure; Toshiba Satellite Laptops and Ultrabooks;
7 Toshiba Portege Ultrabook; Toshiba Tecra Laptop, that include an energy consuming load, a
8 power circuit, a microchip, a switch, a touch sensor and an indicator. Toshiba thereby has been
9 and is presently directly and literally infringing the '494 Patent.

10 19. Should Toshiba proffer an interpretation of any claim element that differs from
11 GTS's, GTS intends to show direct infringement of those elements by demonstrating that there
12 are no more than insubstantial differences between the element and the features of the accused
13 products.

14 20. On information and belief, Toshiba's instructions and marketing materials
15 directed to end users of its products encourage use of the claimed features of the '494 Patent.
16 After the date of this action, such actions will constitute inducement of infringement by others
17 pursuant to 35 U.S.C. § 271(b). For example, but not limited thereto, Toshiba's user guides refer
18 to touch sensor controls which encourages the end user to use claimed features of the '494 Patent.
19 More specifically, but not limited thereto, user manuals for the products listed in Count II, such
20 as the Encore WT8-A, describe touch operation of various functions of the device and describe a
21 status indicator which indicates product state, thereby encouraging the end user to use claimed
22 features of the '494 Patent.

23 21. GTS has been damaged as a result of Toshiba infringing conduct described in this
24 Count. Toshiba is thus, liable to GTS in the amount that adequately compensates GTS for their
25 infringement, which by law, cannot be less than a reasonable royalty, together with interest and
26 costs as fixed by this Court under 35 U.S.C. §284.

27 **COUNT III**

INFRINGEMENT OF U.S. PATENT NO. 7,498,749

22. GTS re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 5.

23. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§271 *et seq.*

24. GTS is the owner by assignment of United States Patent No. 7,498,749 (the “’749 Patent”) entitled “Intelligent Electrical Switching Device Including a Touch Sensor User Interface Switch.” The ’749 Patent was issued on March 3, 2009. GTS has all rights to recover for past and future acts of infringement of the ’749 Patent. A true and correct copy of the ’749 Patent is attached hereto as Exhibit C.

25. On information and belief, Toshiba has been and now is infringing the ’749 Patent in this judicial district, and elsewhere in the United States, including at least claims 1 and 21 through, among other things, the manufacture, use, sale, offers for sale within the United States, and importation of products into the United States, including, without limitation, Toshiba L410US television; Toshiba L412U television; Toshiba L415U television; Toshiba L417U television; Toshiba TL515U television; Toshiba Encore Tablet; Toshiba Excite 7c Tablet; Toshiba Excite Pure; Toshiba Satellite Laptops and Ultrabooks; Toshiba Portege Ultrabook; Toshiba Tecra Laptop, which at minimum include every element of claims 1 and 21 of the ’749 Patent. Toshiba is thereby liable for infringement of the ’749 Patent pursuant to 35 U.S.C. § 271.

26. Toshiba manufactures, uses, sells, offers for sale, and imports products, including but not limited to its Toshiba L410US television; Toshiba L412U television; Toshiba L415U television; Toshiba L417U television; Toshiba TL515U television; Toshiba Encore Tablet; Toshiba Excite 7c Tablet; Toshiba Excite Pure; Toshiba Satellite Laptops and Ultrabooks; Toshiba Portege Ultrabook; Toshiba Tecra Laptop, that include an energy consuming load, a power circuit, a microchip, a touch switch, and an indicator. Toshiba thereby has been and is presently directly and literally infringing the ’749 Patent.

1 32. Defendants' infringement occurring after the date of this action will constitute
2 willful infringement.

3 33. Defendants' unauthorized use of GTS's patented-technology causes GTS harm.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, in consideration of the foregoing, GTS respectfully request that this
6 Honorable Court enter judgment against Defendant, and in favor of GTS. GTS prays that this
7 Court:

8 A. judgment in favor of GTS that each Defendant has infringed the '970, '494, and
9 '749 Patents, directly and indirectly, as aforesaid;

10 B. award GTS all relief available under § 284 of the Patent Act, including monetary
11 damages, for Defendants' infringement in an amount to be determined by the trier of fact;

12 C. award GTS all relief available under § 285 of the Patent Act, including the costs
13 of this litigation as well as expert witness and attorneys' fees;

14 D. order payment of all applicable interests, including prejudgment interest; and

15 E. award GTS any equitable relief the Court may deem appropriate.

16 **DEMAND FOR JURY TRIAL**

17 GTS demands a trial by jury of any and all issues triable of right before a jury pursuant to
18 Fed. R. Civ. P. 38.

19
20 Dated: September 9, 2015

Respectfully submitted,

21 /s/ Wilson W. Lin

22 Wilson W. Lin

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