

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SOMALTUS LLC

Plaintiff,

vs.

ASUS COMPUTER INTERNATIONAL

Defendant.

§
§
§
§
§
§
§
§
§
§

Case No:

PATENT CASE

COMPLAINT

Plaintiff Somaltus LLC (“Plaintiff” or “Somaltus”) files this Complaint against ASUS Computer International (“Defendant” or “ASUS”) for infringement of United States Patent No. 7,657,386 (hereinafter “the ‘386 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with its principal office located at 2591 Dallas Parkway, Suite 300, Frisco, Texas 75034.

4. Upon information and belief, Defendant is a California corporation with an address at 800 Corporate Way, Fremont, CA 94539.

5. This Court has personal jurisdiction over Defendant because Defendant has

committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the state of Texas, and/or has engaged in continuous and systematic activities in the state of Texas. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the Eastern District of Texas.

VENUE

6. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391(c) and 1400(b) because Defendant is deemed to reside in this district. In addition, and in the alternative, Defendant has committed acts of infringement in this District.

COUNT I **(INFRINGEMENT OF UNITED STATES PATENT NO. 7,657,386)**

7. Plaintiff incorporates paragraphs 1 through 6 herein by reference.

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

9. Plaintiff is the owner by assignment of the '386 patent with sole rights to enforce the '386 patent and sue infringers.

10. A copy of the '386 Patent, titled "Integrated Battery Service System," is attached hereto as Exhibit A.

11. The '386 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

12. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least claim 1, of the '386 patent by making, using, importing, selling, and/or offering for sale portable computers with a battery service system covered by one or more claims of the '386 patent.

13. Defendant sells, offers to sell, and/or uses portable computers including, without limitation, the ROG G75VW notebook computer (the “Product”), for example, and any similar devices, which infringe at least Claim 1 of the ‘386 Patent.

14. On information and belief, the Product includes a battery service system including a processor (e.g., the Intel Core i7), which is configured to receive signals from connectors coupled to a battery (e.g., the Product’s rechargeable battery).

15. The Product also includes an input device (e.g., keyboard) coupled to the processor.

16. The Product also includes a display (e.g., 17.3 inch HD display) coupled to the processor.

17. The Product also includes a memory (e.g., DDR3 1600 MHz SDRAM). On information and belief, the memory is configured to store control codes.

18. The Product includes an interface (e.g., USB interface) for communicating with other devices. The interface comprises one or more of a USB port, a serial port, and an IEEE-1394 port (e.g., the interface comprises a USB port).

19. On information and belief, the processor executes the control codes to continually adjust a charge level to the battery. The Product has a charging system according to which the battery drains to below 95% capacity before it starts charging again, even when otherwise plugged into an AC adaptor. In other words, the battery will charge to 100% under a certain charge level. Then the charge level is either reduced or dropped to zero while the battery charge capacity drains to 95%. Then the battery charge level is again increased to charge the battery to 100%. The purpose of the system is to minimize the recharge cycle in order to prolong battery life. Thus, the system adjusts the charging level applied to the battery

and does so continuously as the battery charge capacity repeatedly reaches 100% and then drains to 95%.

20. Defendant's actions complained of herein will continue unless Defendant is enjoined by this court.

21. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

22. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;

(b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 7,657,386 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

(c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;

(d) Award Plaintiff pre-judgment and post-judgment interest and costs; and

(e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: July 12, 2016

Respectfully submitted,

/s/Jay Johnson

JAY JOHNSON

State Bar No. 24067322

D. BRADLEY KIZZIA

State Bar No. 11547550

ANTHONY RICCIARDELLI

State Bar No. 24070493

KIZZIA JOHNSON, PLLC

1910 Pacific Ave., Suite 13000

Dallas, Texas 75201

(214) 451-0164

Fax: (214) 451-0165

jay@kjpllc.com

bkizzia@kjpllc.com

anthony@kjpllc.com

ATTORNEYS FOR PLAINTIFF

EXHIBIT A