

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

**GILMOUR INNOVATIONS
INTELLECTUAL PROPERTY, LLC,**

Plaintiff,

v.

TCT MOBILE (US) INC.,

Defendant.

Civil Action No. 2:16-cv-827

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Gilmour Innovations Intellectual Property, LLC (“Plaintiff”) makes the following allegations against TCT Mobile (US) Inc. (collectively, “Defendant”):

PARTIES

1. Plaintiff is a Texas limited liability company, having a principal place of business located at 800 Brazos St., Suite 400, Austin, TX 78701.
2. Upon information and belief, Defendant TCT Mobile (US) Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 25 Edelman, St. 200, Irvine, CA 92618. Defendant may be served via its registered agent: Corporation Service Company, 2711 Centerville Rd., Ste. 400, Wilmington, DE, 19808.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, Defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

5. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

COUNT 1
INFRINGEMENT OF U.S. PATENT NO. 7,234,010

1. Plaintiff is the owner by assignment of United States Patent No. 7,234,010 ("the '010 Patent") entitled "Body-Worn Data Storage Device." The '010 Patent issued on June 19, 2007. A true and correct copy of the '010 Patent is attached as Exhibit A.

2. Daniel A. Gilmour is listed as listed as the inventor of the '010 Patent.

3. The '010 Patent is valid and enforceable.

4. Upon Information and belief, to the extent any marking was required by 35 U.S.C. § 287, predecessors in interest to the '010 Patent complied with such requirements.

5. Defendant directly or through intermediaries, makes, uses, imports, sells, and/or offers for sale the Alcatel OneTouch Watch which infringes the '010 Patent, shown in Exhibit B.

6. Upon information and belief, Defendant has been and is now infringing claims 7, 8, 9, 14, 16, and 17 of the '010 Patent in the State of Texas, in this Judicial District, and elsewhere in the United States, by, among other things, directly or through intermediaries, making, using, importing, providing, supplying, distributing, selling, and/or offering for sale body-worn data

storage devices, including the Alcatel OneTouch Watch, covered by one or more claims of the '010 Patent to the injury of Plaintiff. Defendant is directly infringing, literally infringing, and/or infringing the '010 Patent under the doctrine of equivalents. Defendant is thus liable for infringement of the '010 Patent pursuant to 35 U.S.C. § 271(a).

6. The Alcatel OneWatch infringes claim 7 of the '010 Patent. It includes an electronic storage device comprising an electronic data storage unit having a first side and a second side, a first strap having a fixed end attached to the first side of the electronic data storage unit, the first strap further having a USB plug, a cable electronically connecting the USB plug to the electronic data storage unit, and a second strap having a fixed end attached to the second side of the electronic data storage unit, wherein the first strap and the second strap are removably attachable to each other, and wherein the device has a first configuration with the first strap attached to the second strap forming a closed loop with the first strap, the electronic data storage unit, and the second strap, and a second configuration with the first strap unattached from the second strap, wherein the USB plug is usable in the second configuration. *See* Ex. B, Figs. 1- 4.

7. The Alcatel OneWatch infringes claim 8 of the '010 Patent. It further includes a protective cover on the second strap, wherein the protective cover surrounds the USB plug in the first configuration. *See* Ex. B, Fig. 5.

8. The Alcatel OneWatch infringes claim 9 of the '010 Patent. It further includes a protective cover which frictionally surrounds the USB plug for protecting the plug from debris and damage. *See* Ex. B, Fig. 6.

9. The Alcatel OneWatch infringes claim 14 of the '010 Patent. It includes a first configuration sized for encircling a human wrist. *See* Ex. B, Fig. 7.

10. The Alcatel OneWatch infringes claim 16 of the '010 Patent. It further includes rechargeable batteries within the electronic data storage unit, wherein the rechargeable batteries are rechargeable when the USB plus is plugged into a USB port, and wherein power transmission is from the USB plug, through the cable, to the rechargeable batteries. *See* Ex. B, Fig. 2.

11. The Alcatel OneWatch infringes claim 17 of the '010 Patent. It further includes a cable embedded within the first strap. *See* Ex. B, Fig. 2.

12. As a result of Defendant's infringement of the '010 Patent, Plaintiff has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Defendant's infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendant, together with interest and costs as fixed by the court, and Plaintiff will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court.

13. Unless a permanent injunction is issued enjoining Defendant and its agents, servants, employees, representatives, affiliates, and all others acting on in active concert therewith from infringing the '010 Patent, Plaintiff will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that Defendant has infringed the '010 Patent;
2. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the '010 Patent, or such other equitable relief the Court determines is warranted;

3. A judgment and order requiring Defendant pay to Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '010 Patent as provided under 35 U.S.C. § 284, and an accounting of ongoing post-judgment infringement; and

4. Any and all other relief, at law or equity, to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

DATED July 27, 2016.

Respectfully submitted,

By: /s/ Hao Ni

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**ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of July, 2016, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, Marshall Division, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Hao Ni

Hao Ni