

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

IMPLICIT, LLC,

Plaintiff,

v.

HUAWEI TECHNOLOGIES USA, INC.,

Defendant.

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CIVIL ACTION NO. 6:16-cv-1358

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT

Plaintiff Implicit, LLC (“Plaintiff” or “Implicit”), by and through its attorneys, for its Original Complaint against Huawei Technologies USA, Inc. (“Defendant” or “Huawei”), and demanding trial by jury, hereby alleges as follows:

I. NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, to enjoin and obtain damages resulting from Defendant’s unauthorized use, sale, and offer to sell in the United States of products, methods, processes, services and/or systems that infringe Implicit’s United States patents, as described herein.

II. PARTIES

2. Plaintiff Implicit is a limited liability corporation organized and existing under the laws of the State of Washington.

3. On information and belief, Defendant Huawei is a corporation organized under the laws of the State of Texas, having a principal place of business at 5700 Tennyson Parkway,

Suite 500, Plano, Texas 75024. Huawei's registered agent for service of process in Texas is CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

III. JURISDICTION AND VENUE

4. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§ 271, 281, 283, 284 and 285.

5. This Court has exclusive jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

6. On information and belief, venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because Defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

7. On information and belief, Defendant Huawei 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.

IV. FACTUAL ALLEGATIONS

8. Implicit, LLC ("Implicit") provides software platforms and products that enable OEMs and ISVs to build applications for networks. Its products include Strings OS, which enables OEMs and ISVs to build, deploy, and manage applications in the network and on the devices that access the network; and RADkit, a toolkit designed specifically to build applications for network infrastructure and for devices that access the network. The company was founded in 1996 and is based in Bellevue, Washington.

9. U.S. Patent No. 8,046,687 (the “’687 patent”), entitled “Direct Manipulation of Displayed Content,” issued on October 25, 2011. A true and correct copy of the ’687 patent is provided as **Exhibit 1** hereto.

10. U.S. Patent No. 6,507,349 (the “’349 patent”), entitled “Direct Manipulation of Displayed Content,” issued on January 14, 2003. A true and correct copy of the ’349 patent is provided as **Exhibit 2** hereto.

11. Together, the foregoing patents are referred to herein as the “Patents-in-Suit.” Implicit is the current assignee of the Patents-in-Suit, and has all rights to sue for infringement and collect past and future damages for the infringement thereof.

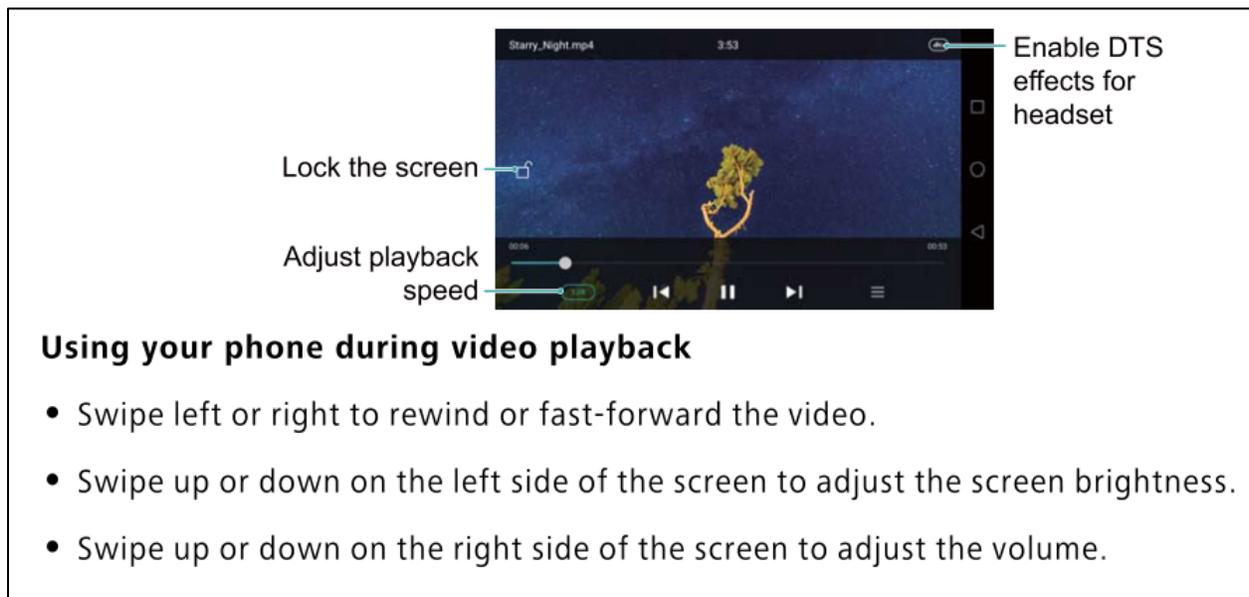
12. Defendant Huawei’s “Exemplary Accused Devices” include its smartphones and tablets running Huawei’s proprietary Emotion user interface (“EMUI”) versions 1.0-5.0, as reflected in the table below.

Exemplary Accused Devices			
Phone/Tablet Model	EMUI Version	Phone/Tablet Model	EMUI Version
Mate 9	5.0	MediaPad X2	3.0
Enjoy 6	4.1	Y635	3.0
Honor Pad 2	4.1	Y360	3.0 Lite
Honor 6x	4.1	Ascend GX1	3.0
Honor Holly 3	4.1	Honor 6 Plus	3.0
MediaPad M3 8.4	4.1	Ascend Mate 7 Monarch	3.0
Nova	4.1	Honor 4X	3.0
MediaPad T2 10.0 Pro	3.1	Honor Holly	2.3
MediaPad T2 7.0 Pro	3.1	MediaPad T1 10	3.0
MediaPad T2 7.0	4.0	MediaPad T1 8.0	1.6
G9 Plus	4.1	MediaPad T1 7.0	3.0
Honor Note 8	4.1	Honor 4 Play	2.3
Honor 8	4.1	Ascend G620s	3.0
Honor 5A	3.1	Ascend Y550	2.3
MediaPad T1 7.0 Plus	3.0	Ascend G7	3.0
Honor V8	4.1	Ascend P7 Sapphire Edition	2.3

Honor 5c	4.1	Ascend Mate 7	3.1
Y311	3.1 Lite	Honor 6	3.1
Y511	3.1	Honor 3C 4G	2.3
P9 Lite	4.1	Ascend G630	2.0 Lite
P9 Plus	4.1	Ascend Y330	2.0 Lite
P9	4.1	Ascend P7	2.3
Honor Holly 2 Plus	3.1	Ascend P7 Mini	2.0 Lite
MediaPad M2 10.0	3.1	Ascend G730	2.0
Enjoy 5s	3.1 Lite	MediaPad 10 Link+	1.6
Mate 8	4.0	Ascend G6 4G	2.0
G7 Plus	3.1	Ascend G6	2.0
Honor 5X	4.0	MediaPad M1	2.0
Y6 Pro	3.1	MediaPad X1	2.3
Mate S	3.1	Ascend Y530	1.6
Honor 7i	3.1	MediaPad 7 Youth2	1.6
Y6	3.1	Ascend P6 S	2.0
G8	3.1	Ascend Mate2 4G	2.0
Honor 7	3.1	Honor 3X G750	2.0
MediaPad M2 8.0	3.1	Honor 3C	2.0 Lite
Honor Bee	3.0 Lite	Valiant	1.0
Y560	3.1 Lite	Honor 3	1.6
Y625	2.3	MediaPad 7 Vogue	1.5
Honor 4C	3.0	Ascend P6	1.6
P8lite ALE-L04	3.0	Ascend P2	1.6
P8lite	3.1	Ascend Mate	1.5
P8	3.1	Ascend D2	3.0
SnapTo	2.3		

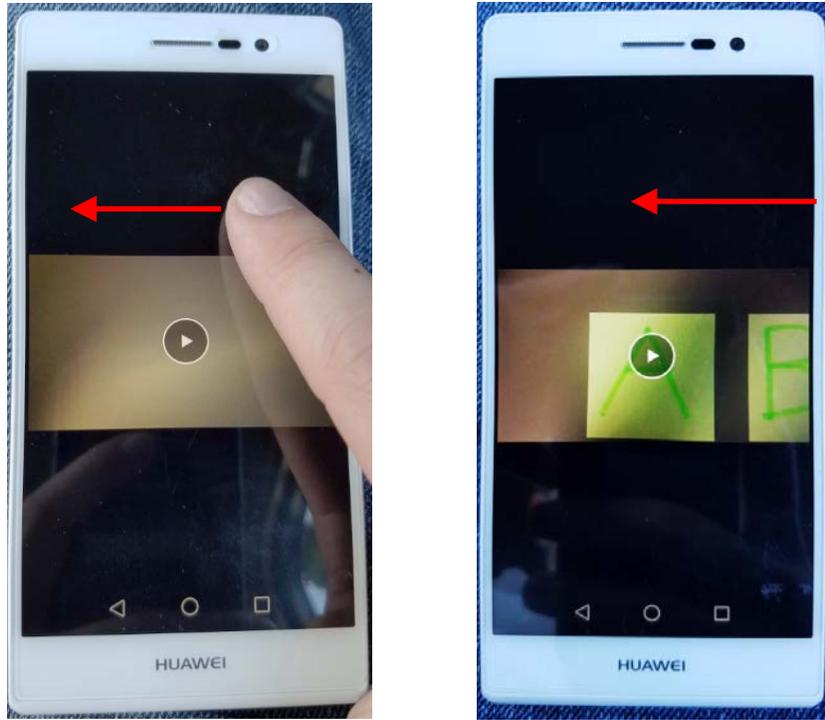
13. Defendant Huawei provides hardware, software, and services that allow the direct manipulation of displayed information without the use of separate manipulation controls on its Exemplary Accused Devices. For example, Huawei makes, uses, sells, and distributes its proprietary EMUI user interface on its Exemplary Accused Devices which enables users to drag displayed information in order to select a new group of information associated with a channel, change the amplitude of displayed information, and select a new group of information for display from a previously displayed group of information. For example, a user is able to drag portions of

the information displayed by EMUI's gallery and video player in order to select a video to watch, change the volume associated with the video playback, or change the temporal position of the displayed information within the video. This functionality is depicted in the following diagrams.



Huawei P9 User Guide for phones running EMUI

4.1, http://consumer.huawei.com/en/support/mobile-phones/p9_en-sup.htm



Source: Pictures of a Huawei P7 Ascend Smartphone running EMUI 3.0. The annotations indicate the selection of a video based on dragging.

14. On information of belief, Defendant Huawei also implements contractual protections in the form of license agreements with its customers to preclude the unauthorized reproduction, distribution and modification of its software. Moreover, on information and belief, Defendant Huawei implements technical precautions to attempt to thwart customers who would circumvent the intended operation of Huawei's products.

V. COUNT ONE

INFRINGEMENT OF U.S. PATENT NO. 8,046,687

15. Implicit incorporates by reference its allegations in Paragraphs 1-14 as if fully restated in this paragraph.

16. Implicit is the assignee and owner of all right, title and interest to the '687 Patent. Implicit has the legal right to enforce the patent, sue for infringement, and seek equitable relief and damages.

17. On information and belief, Defendant Huawei, without authorization or license from Implicit, has been and is presently directly infringing the '687 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling and offering for sale its Exemplary Accused Products that infringe one or more claims of the '687 Patent. Defendant Huawei is thus liable for direct infringement of the '687 Patent pursuant to 35 U.S.C. § 271(a).

18. On information and belief, at least since the filing of this Complaint, Defendant Huawei, without authorization or license from Implicit, has been and is presently indirectly infringing the '687 Patent, including actively inducing infringement of the '687 Patent under 35 U.S.C. § 271(b). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use its Exemplary Accused Devices that Huawei knows or should know infringe one or more claims of the '687 Patent. Huawei instructs its customers to use the patented inventions of the '687 patent by operating Huawei's products in accordance with Huawei's specifications and directions. Huawei specifically intends its customers to infringe by instructing users to directly manipulate displayed information, without the use of separate manipulation controls, in order to change the information displayed by displaying a group of information from a new channel, changing the amplitude of the displayed information, and displaying information from a series of previously displayed groups of

information, and providing instructions on using the software and hardware in an infringing manner.

19. Huawei is accused of infringing the '687 Patent by satisfying every element and limitation of at least one or more of claim 1 and claims dependent therefrom.

20. As a result of Huawei's infringement of the '687 Patent, Implicit has suffered monetary damages, and is entitled to an award of damages adequate to compensate it for such infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

VI. COUNT TWO

INFRINGEMENT OF U.S. PATENT NO. 6,507,349

21. Implicit incorporates by reference its allegations in Paragraphs 1-20 as if fully restated in this paragraph.

22. Implicit is the assignee and owner of all right, title and interest to the '349 Patent. Implicit has the legal right to enforce the patent, sue for infringement, and seek equitable relief and damages.

23. On information and belief, Defendant Huawei, without authorization or license from Implicit, has been and is presently directly infringing the '349 Patent, as infringement is defined by 35 U.S.C. § 271(a), including through making, using, selling and offering for sale its Exemplary Accused Devices that infringe one or more claims of the '349 Patent. Defendant Huawei is thus liable for direct infringement of the '349 Patent pursuant to 35 U.S.C. § 271(a).

24. On information and belief, at least since the filing of this Complaint, Defendant Huawei, without authorization or license from Implicit, has been and is presently indirectly infringing the '349 Patent, including actively inducing infringement of the '349 Patent under 35 U.S.C. § 271(b). Such inducements include without limitation, with specific intent to encourage the infringement, knowingly inducing consumers to use the Exemplary Accused Devices that

Huawei knows or should know infringe one or more claims of the '349 Patent. Huawei instructs its customers to make and use the patented inventions of the '349 patent by operating Huawei's products in accordance with Huawei's specifications. Huawei specifically intends its customers to infringe by instructing users to directly manipulate displayed information, without the use of separate manipulation controls, in order to change the information displayed by displaying a group of information from a new channel, changing the amplitude of the displayed information, and displaying information from a series of groups of previously displayed information, and providing instructions on using the software and hardware in an infringing manner.

25. Huawei is accused of infringing the '349 Patent by satisfying every element and limitation of at least one or more of claims 1 and claims dependent therefrom.

26. As a result of Huawei's infringement of the '349 Patent, Implicit has suffered monetary damages, and is entitled to an award of damages adequate to compensate it for such infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

VII. JURY DEMAND

27. Plaintiff Implicit demands a trial by jury of all matters to which it is entitled to trial by jury, pursuant to FED. R. CIV. P. 38.

VIII. PRAYER FOR RELIEF

WHEREFORE, Implicit prays for judgment and seeks relief against Defendant as follows:

- A. That the Court determine that one or more claims of the Patents-in-Suit is infringed by Defendant Huawei, either literally or under the doctrine of equivalents;

- B. That the Court award damages adequate to compensate Implicit for the patent infringement that has occurred, together with prejudgment and post-judgment interest and costs, and an ongoing royalty for continued infringement;
- C. That the Court permanently enjoin Defendant pursuant to 35 U.S.C. § 283; and
- D. That the Court award such other relief to Implicit as the Court deems just and proper.

Dated: December 5, 2016

Respectfully submitted,

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