

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

FUNDAMENTAL INNOVATION  
SYSTEMS INTERNATIONAL LLC,

*Plaintiff,*

vs.

ZTE CORPORATION, ZTE (USA), INC.,  
and ZTE (TX), INC.,

*Defendants.*

Civil Action No. 17-cv-124

**JURY TRIAL DEMANDED**

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND**

Plaintiff Fundamental Innovation Systems International LLC (“Plaintiff” or “Fundamental”), by and through its undersigned counsel, hereby amends its Complaint against Defendants ZTE Corporation, ZTE (USA), Inc. and ZTE (TX), Inc. (collectively, “Defendants” or “ZTE”) as follows:

**PARTIES**

1. Plaintiff is a Delaware limited liability company with its principal place of business located at 2990 Long Prairie Road, Suite B, Flower Mound, Texas 75022.

2. Fundamental is the owner by assignment of all right, title, and interest in U.S. Patent Nos. 7,239,111 (the “111 Patent”), 7,834,586 (the “586 Patent”), 7,893,655 (the “655 Patent”), 8,232,766 (the “766 Patent”), and 8,624,550 (the “550 Patent”) (collectively, the “Patents-in-Suit”).

3. On information and belief, Defendant ZTE Corporation, is a Chinese corporation with a principal place of business located at No. 55, Hitech Road South, Shenzhen, China 518057. On information and belief, ZTE Corporation designs, manufactures, and sells consumer

electronics, mobile phones, and related accessories under the ZTE brand.

4. On information and belief, Defendant ZTE (USA), Inc. is a New Jersey Corporation that is headquartered and authorized to do business in Texas and may be served via its registered agent in Texas. On information and belief, Defendant ZTE (USA), Inc. is a wholly owned subsidiary of ZTE Corporation and sells consumer electronics, mobile phones, and related accessories under the ZTE brand.

5. On information and belief, Defendant ZTE (TX), Inc. is a Texas Corporation that is authorized to do business in Texas and may be served via its registered agent in Texas. On information and belief, Defendant ZTE (TX), Inc. is a wholly owned subsidiary of ZTE Corporation and sells consumer electronics, mobile phones, and related accessories under the ZTE brand.

6. All of the Defendants operate under and identify with the trade name “ZTE.” On information and belief, each of the Defendants directly or indirectly imports, develops, designs, manufactures, uses, distributes, markets, offers to sell and/or sells products and services in the United States, including in this district, and otherwise purposefully directs activities to the same. On information and belief, the Defendants have been and are acting in concert and are otherwise liable jointly, severally or in the alternative for a right to relief with respect to or arising out of the same transaction, occurrence or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale or selling of at least one infringing product. For example, on information and belief, ZTE Corporation distributes consumer electronics, mobile phones, and related accessories under the ZTE brand worldwide, including within the United States and this District, and such distribution includes acts conducted in connection with its domestic subsidiaries such as ZTE (USA), Inc. and ZTE (TX), Inc.

#### **JURISDICTION AND VENUE**

7. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. §1, et. seq., including 35 U.S.C. § 271. This Court has

subject matter jurisdiction under 28 U.S.C. § 1331 and §§ 1338(a).

8. This Court has personal jurisdiction over ZTE because it has substantial, systematic, and continuous contacts with this judicial district. On information and belief, ZTE regularly conducts business in the State of Texas and in this judicial district, and maintains facilities and employees within Texas. On information and belief, ZTE has sold and offered to sell infringing products in this State and judicial district and has committed acts of patent infringement and/or contributed to or induced acts of patent infringement by others in this judicial district and elsewhere in Texas. ZTE (USA), Inc. has offices and facilities in Texas and ZTE (USA), Inc. and ZTE (TX), Inc. maintain agents for service of process in Texas, as well as the presence of authorized retailers/repair facilities for the Accused Products in this judicial district. For example, ZTE has authorized retailers for the Accused Products in this judicial district such as Fry's Electronics, Inc., in Plano, Texas.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(d) and 1400(b). ZTE resides in and is subject to personal jurisdiction in this judicial district, and has a regular and established place of business in Texas. Further, certain of the acts giving rise to the claims alleged herein occurred in this judicial district. ZTE has committed acts of infringement in this judicial district by, among other things, selling, and offering for sale infringing products in this judicial district.

### **FACTUAL ALLEGATIONS**

#### ***The Patents-in-Suit***

10. The '550, '111, '586, and '766 Patents relate to, among other things, novel techniques for using Universal Serial Bus ("USB") in connection with wireless mobile devices to both facilitate data communication and allow for the charging of certain classes of devices. This technology represented a fundamental break from previous techniques for mobile device charging and has supported the rapid miniaturization of mobile devices, improved user experiences and led to a dramatic increase in performance and features.

11. The '655 Patent relates to, among other things, novel techniques for charging a battery with a limited capacity power source (such as a USB power source) while ensuring that the electronic device is provided with sufficient power needed for operation. Among other things, this technology enables receiving external power, supplying output power with a current of greater magnitude than the current of the external power, and restricting current of output power to a battery responsive to sensing a voltage level at an output node, thereby increasing power allocated to the electronic device, all without significantly increasing the area of the semiconductor chips that perform battery charging.

12. The Patents-in-Suit resulted from a large scale research and development program at Research In Motion Limited ("RIM"), later reorganized as BlackBerry Limited ("BlackBerry"). At the time of invention, RIM was a global leader and pioneer in the field of wireless mobile communications. The company was founded in 1984 and revolutionized the mobile industry when it launched the BlackBerry® 850 in 1999. Fundamental is responsible for protecting and licensing seminal BlackBerry innovations in the field of USB charging.

***ZTE's Accused Products***

13. On information and belief, ZTE makes, uses, sells, offers for sale and/or imports infringing products in the United States, including but not limited to infringing mobile devices and power adapters (the "Accused Products"). Examples of the Accused Products include the Axon, Axon 7, Axon 7 mini, ZMax, ZMax 2, Trek 2 HD, Nubia Z9, Maven, STC-A5915A-Z, STC-A5930A-Z, STC-A521A-Z, STC-A515S-Z, and other models that include similar functionality to the extent not licensed to the Patents-in-Suit.

14. On information and belief, certain of the Accused Products are mobile devices that can be used with a wireless telecommunications network. The mobile devices include USB interfaces, USB communication paths and charging sub-systems that are operably connected to the USB interface. The charging sub-systems are configured to receive power and use the power to charge a battery. The mobile devices are able to detect an identification signal received via the USB interface, which may be an abnormal USB data condition and is different than USB

enumeration. The identification signal enables the mobile device to draw current unrestricted by a USB specification limit.

15. On information and belief, certain of the Accused Products are devices that include a rechargeable battery and USB-compliant charging and power supply circuits. Such devices have functions unrelated to the rechargeable battery or battery charging. The Accused Products include switch-mode battery charging circuitry that receives power from an external source such as USB and supplies power through an output node of the switch-mode battery charging circuitry to the device and via a switch to the rechargeable battery. The switch-mode battery charging circuitry is able to supply output power with a current that is greater than the current from the external power source. The Accused Products also include battery isolation circuitry that can receive a reference voltage from the device, determine a minimum voltage value, sense that an output voltage at the output node is below the minimum value, and control the switch to restrict current to the rechargeable battery in order to increase power allocated to the device. The Accused Products comprise a battery charge controller configured to limit output power such that the device and rechargeable battery may not draw more than predetermined maximum current available from a USB port. The Accused Products include a voltage sensing circuit configured to measure a voltage drop across a battery charge controller and to respond to the voltage drop across the controller by modulating a switch to control an amount of current supplied to the rechargeable battery such that the device receives a predetermined amount of power needed to operate and the rechargeable battery receives a remainder of the power available from the controller.

16. On information and belief, certain of the Accused Products are USB adapters that are designed to provide power to a mobile device through a USB port. The Accused Products receive power from a power socket and include a power converter that regulates the received power to generate a DC power output. The Accused Products are configured to generate an identification signal that indicates to the mobile device that it is receiving power from a source that is not a USB host or hub. The Accused Products are able to supply current to a mobile

device without regard to at least one associated condition specified in a USB specification.

***ZTE's Knowledge of Patents-in-Suit and Infringement***

17. No later than December 11, 2015, ZTE had first received specific notice that it infringes the Patents-in-Suit via a letter from Fundamental to Mr. Jim Wang, Chief Legal Representative of ZTE USA, Inc.

18. On information and belief, subsequent to December 11, 2015, ZTE has continued to make, use, sell, offer for sale, and import into the United States the Accused Products. As an example, ZTE has continued to sell, offer to sell and import Accused Products via its own web sites, including <https://www.zteusa.com/>, and through authorized retailers and distributors. ZTE's making, using, selling, offering to sell and importing of the Accused Products into the United States constitute direct infringement under 35 U.S.C. § 271(a). On information and belief, ZTE also directly infringes one or more method claims in the Patents-in-Suit by testing, repairing, and using the Accused Products in the United States.

19. On information and belief, subsequent to December 11, 2015, ZTE has continued to make, use, sell, offer for sale, and import into the United States the Accused Products with knowledge that these Accused Products are a material part of inventions claimed by the Patents-in-Suit and are especially made or adapted for use in an infringement of the Patents-in-Suit. On information and belief, ZTE knows that the Accused Products are not a staple article or commodity of commerce suitable for substantial non-infringing use. ZTE's actions contribute to the direct infringement of the Patents-in-Suit by others, including customers of the Accused Products, in violation of 35 U.S.C. § 271(c). For example, the Accused Products include battery charging adapters, which are a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such components are a material part of the invention and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

20. On information and belief, subsequent to December 11, 2015, ZTE has continued to advertise and distribute the Accused Products, offer technical assistance, and publish user

manuals, specifications, promotional literature or instructions to customers, partners, and/or end users, advising them to use the Accused Products in a manner that directly infringes the Patents-in-Suit. On information and belief, by such acts, ZTE actively induced, and continues to actively induce, direct infringement of the Patents-in-Suit, in violation of 35 U.S.C. § 271(b). For example, Defendants' customers who purchase the Accused Products and operate the Accused Products in accordance with instructions provided by ZTE, directly infringe one or more claims of the Patents-in-Suit. ZTE provides such instructions through, for example, user guides, including user guides located at: [https://www.zteusa.com/support\\_page/](https://www.zteusa.com/support_page/).

21. On information and belief, ZTE has further actively induced infringement by remaining willfully blind to its customers' infringement despite believing there to be a high probability its customers, among others, infringe the Patents-in-Suit.

#### **FIRST CLAIM FOR RELIEF**

##### **(Infringement of U.S. Patent No. 8,232,766)**

22. Fundamental re-alleges and incorporates by reference the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

23. The '766 Patent, titled "Multifunctional Charger System and Method," was duly and legally issued on July 31, 2012. A true and correct copy of the '766 Patent is attached as Exhibit A.

24. The '766 Patent names Daniel M. Fischer, Dan G. Radut, Michael F. Habicher, Quang A. Luong, and Jonathan T. Malton as co-inventors.

25. The '766 Patent has been in full force and effect since its issuance. Fundamental owns by assignment the entire right, title, and interest in and to the '766 Patent, including the exclusive right to seek damages for past, current and future infringement thereof.

26. On information and belief, ZTE has been, and currently is, directly infringing the '766 Patent by making, using, selling, offering to sell, and/or importing into the United States Accused Products including, for example, Axon, Axon 7, Axon 7 mini, ZMax, ZMax 2, Trek 2 HD, Maven, Nubia Z9, and other models that include similar functionality to the extent not

licensed to the Patents-in-Suit.

27. On information and belief, ZTE has been, and currently is, inducing infringement of the '766 Patent, in violation of 35 U.S.C. § 271(b), by knowingly encouraging or aiding others to make, use, sell, or offer to sell the Accused Products in the United States, or to import the Accused Products into the United States, without license or authority from Fundamental, with knowledge of or willful blindness to the fact that ZTE's actions will induce others, including but not limited to its customers, partners, and/or end users, to directly infringe the '766 patent. ZTE induces others to infringe the '766 patent by encouraging and facilitating others to perform actions that ZTE knows to be acts of infringement of the '766 patent with intent that those performing the acts infringe the '766 patent.

28. On information and belief, ZTE has been, and currently is, contributorily infringing the '766 Patent, in violation of 35 U.S.C. § 271(c), by selling or offering for sale, in this judicial district and throughout the United States, components that embody a material part of the inventions described in the '766 Patent, are known by ZTE to be especially made or especially adapted for use in infringement of the '766 Patent, and are not staple articles of commerce or commodities suitable for substantial, non-infringing use, including at least the Accused Products. ZTE's actions contribute to the direct infringement of the Patents-in-Suit by others, including customers of the Accused Products, in violation of 35 U.S.C. § 271(c).

29. As a result of ZTE's infringement of the '766 Patent, Fundamental has been damaged. Fundamental is entitled to recover for damages sustained as a result of ZTE's wrongful acts in an amount to be determined.

30. In addition, ZTE's infringing acts have caused and are causing immediate and irreparable harm to Fundamental.

31. ZTE has had actual knowledge of its infringement of the '766 Patent since no later than December 11, 2015. On information and belief, ZTE's infringement of the '766 Patent has been and continues to be deliberate and willful, and, therefore, this is an exceptional case warranting an award of treble damages and attorney's fees to Fundamental pursuant to 35 U.S.C.



§§ 284-285.

**SECOND CLAIM FOR RELIEF**

**(Infringement of U.S. Patent No. 7,834,586)**

32. Fundamental re-alleges and incorporates by reference the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

33. The '586 Patent, titled "Multifunctional Charger System and Method," was duly and legally issued on November 16, 2010. A true and correct copy of the '586 Patent is attached as Exhibit B.

34. The '586 Patent names Daniel M. Fischer, Dan G. Radut, Michael F. Habicher, Quang A. Luong, and Jonathan T. Malton as co-inventors.

35. The '586 Patent has been in full force and effect since its issuance. Fundamental owns by assignment the entire right, title, and interest in and to the '586 Patent, including the right to seek damages for past, current and future infringement thereof.

36. On information and belief, ZTE has been, and currently is, directly infringing the '586 Patent by making, using, selling, offering to sell, and/or importing into the United States the Accused Products including, for example, Axon, Axon 7, Axon 7 mini, ZMax, ZMax 2, Trek 2 HD, Maven, Nubia Z9, and other models that include similar functionality to the extent not licensed to the Patents-in-Suit.

37. On information and belief, ZTE has been, and currently is, inducing infringement of the '586 Patent, in violation of 35 U.S.C. § 271(b), by knowingly encouraging or aiding others to make, use, sell, or offer to sell the Accused Products in the United States, or to import the Accused Products into the United States, without license or authority from Fundamental, with knowledge of or willful blindness to the fact that ZTE's actions will induce others, including but not limited to its customers, partners, and/or end users, to directly infringe the '586 patent. ZTE induces others to infringe the '586 patent by encouraging and facilitating others to perform actions that ZTE knows to be acts of infringement of the '586 patent with intent that those

performing the acts infringe the '586 patent.

38. On information and belief, ZTE has been, and currently is, contributorily infringing the '586 Patent, in violation of 35 U.S.C. § 271(c), by selling or offering for sale, in this judicial district and throughout the United States, components that embody a material part of the inventions described in the '586 Patent, are known by ZTE to be especially made or especially adapted for use in infringement of the '586 Patent, and are not staple articles of commerce or commodities suitable for substantial, non-infringing use, including at least the Accused Products. ZTE's actions contribute to the direct infringement of the Patents-in-Suit by others, including customers of the Accused Products, in violation of 35 U.S.C. § 271(c).

39. As a result of ZTE's infringement of the '586 Patent, Fundamental has been damaged. Fundamental is entitled to recover for damages sustained as a result of ZTE's wrongful acts in an amount to be determined.

40. In addition, ZTE's infringing acts have caused and are causing immediate and irreparable harm to Fundamental.

41. ZTE has had actual knowledge of its infringement of the '586 Patent since no later than December 11, 2015. On information and belief, ZTE's infringement of the '586 Patent has been and continues to be deliberate and willful, and, therefore, this is an exceptional case warranting an award of treble damages and attorney's fees to Fundamental pursuant to 35 U.S.C. §§ 284-285.

### **THIRD CLAIM FOR RELIEF**

#### **(Infringement of U.S. Patent No. 7,239,111)**

42. Fundamental re-alleges and incorporates by reference the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

43. The '111 Patent, titled "Universal Serial Bus Adapter For A Mobile Device" was duly and legally issued on July 3, 2007. A true and correct copy of the '111 Patent is attached as Exhibit C.

44. The '111 Patent names Daniel M. Fischer, Dan G. Radut, Michael F. Habicher,

Quang A. Luong, and Jonathan T. Malton as co-inventors.

45. The '111 Patent has been in full force and effect since its issuance. Fundamental owns by assignment the entire right, title and interest in and to the '111 Patent, including the right to seek damages for past, current and future infringement thereof.

46. On information and belief, ZTE has been, and currently is, directly infringing the '111 Patent by making, using, selling, offering to sell, and/or importing into the United States Accused Products including, for example, STC-A5915A-Z, STC-A5930A-Z, STC-A521A-Z, STC-A515S-Z, and other models that include similar functionality to the extent not licensed to the Patents-in-Suit.

47. On information and belief, ZTE has been, and currently is, inducing infringement of the '111 Patent, in violation of 35 U.S.C. § 271(b), by knowingly encouraging or aiding others to make, use, sell, or offer to sell the Accused Products in the United States, or to import the Accused Products into the United States, without license or authority from Fundamental, with knowledge of or willful blindness to the fact that ZTE's actions will induce others, including but not limited to its customers, partners, and/or end users, to directly infringe the '111 patent. ZTE induces others to infringe the '111 patent by encouraging and facilitating others to perform actions that ZTE knows to be acts of infringement of the '111 patent with intent that those performing the acts infringe the '111 patent.

48. On information and belief, ZTE has been, and currently is, contributorily infringing the '111 Patent, in violation of 35 U.S.C. § 271(c), by selling or offering for sale, in this judicial district and throughout the United States, components that embody a material part of the inventions described in the '111 Patent, are known by ZTE to be especially made or especially adapted for use in infringement of the '111 Patent, and are not staple articles of commerce or commodities suitable for substantial, non-infringing use, including at least the Accused Products. ZTE's actions contribute to the direct infringement of the Patents-in-Suit by others, including customers of the Accused Products, in violation of 35 U.S.C. § 271(c).

49. As a result of ZTE's infringement of the '111 Patent, Fundamental has been

damaged. Fundamental is entitled to recover for damages sustained as a result of ZTE's wrongful acts in an amount to be determined.

50. In addition, ZTE's infringing acts have caused and are causing immediate and irreparable harm to Fundamental.

51. ZTE has had actual knowledge of its infringement of the '111 Patent since no later than December 11, 2015. On information and belief, ZTE's infringement of the '111 Patent has been and continues to be deliberate and willful, and, therefore, this is an exceptional case warranting an award of treble damages and attorney's fees to Fundamental pursuant to 35 U.S.C. §§ 284-285.

#### **FOURTH CLAIM FOR RELIEF**

##### **(Infringement of U.S. Patent No. 8,624,550)**

52. Fundamental re-alleges and incorporates by reference the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

53. The '550 Patent, titled "Multifunctional Charger System and Method" was duly and legally issued on January 7, 2014. A true and correct copy of the '550 Patent is attached as Exhibit D.

54. The '550 Patent names Daniel M. Fischer, Dan G. Radut, Michael F. Habicher, Quang A. Luong, and Jonathan T. Malton as co-inventors.

55. The '550 Patent has been in full force and effect since its issuance. Fundamental owns by assignment the entire right, title and interest in and to the '550 Patent, including the right to seek damages for past, current and future infringement thereof.

56. On information and belief, ZTE has been, and currently is, directly infringing the '550 Patent by making, using, selling, offering to sell, and/or importing into the United States the Accused Products including, for example, STC-A5915A-Z, STC-A5930A-Z, STC-A521A-Z, STC-A515S-Z, and other models that include similar functionality to the extent not licensed to the Patents-in-Suit.

57. On information and belief, ZTE has been, and currently is, inducing infringement of the '550 Patent, in violation of 35 U.S.C. § 271(b), by knowingly encouraging or aiding others to make, use, sell, or offer to sell the Accused Products in the United States, or to import the Accused Products into the United States, without license or authority from Fundamental, with knowledge of or willful blindness to the fact that ZTE's actions will induce others, including but not limited to its customers, partners, and/or end users, to directly infringe the '550 patent. ZTE induces others to infringe the '550 patent by encouraging and facilitating others to perform actions that ZTE knows to be acts of infringement of the '550 patent with intent that those performing the acts infringe the '550 patent.

58. On information and belief, ZTE has been, and currently is, contributorily infringing the '550 Patent, in violation of 35 U.S.C. § 271(c), by selling or offering for sale, in this judicial district and throughout the United States, components that embody a material part of the inventions described in the '550 Patent, are known by ZTE to be especially made or especially adapted for use in infringement of the '550 Patent, and are not staple articles of commerce or commodities suitable for substantial, non-infringing use, including at least the Accused Products. ZTE's actions contribute to the direct infringement of the Patents-in-Suit by others, including customers of the Accused Products, in violation of 35 U.S.C. § 271(c).

59. As a result of ZTE's infringement of the '550 Patent, Fundamental has been damaged. Fundamental is entitled to recover for damages sustained as a result of ZTE's wrongful acts in an amount to be determined.

60. In addition, ZTE's infringing acts have caused and are causing immediate and irreparable harm to Fundamental.

61. ZTE has had actual knowledge of its infringement of the '550 Patent since no later than December 11, 2015. On information and belief, ZTE's infringement of the '550 Patent has been and continues to be deliberate and willful, and, therefore, this is an exceptional case warranting an award of treble damages and attorney's fees to Fundamental pursuant to 35 U.S.C. §§ 284-285.

**FIFTH CLAIM FOR RELIEF**

**(Infringement of U.S. Patent No. 7,893,655)**

62. Fundamental re-alleges and incorporates by reference the allegations of the preceding paragraphs of this Complaint as if fully set forth herein.

63. The '655 Patent, titled "Charging and Power Supply for Mobile Devices" was duly and legally issued on February 22, 2011. A true and correct copy of the '655 Patent is attached as Exhibit E.

64. The '655 Patent names Dusan Veselic as inventor.

65. The '655 Patent has been in full force and effect since its issuance. Fundamental owns by assignment the entire right, title and interest in and to the '655 Patent, including the right to seek damages for past, current and future infringement thereof.

66. On information and belief, ZTE has been, and currently is, directly infringing the '655 Patent by making, using, selling, offering to sell, and/or importing into the United States the Accused Products including, for example, the ZTE Z Max 2, and other models that include similar functionality to the extent not licensed to the Patents-in-Suit.

67. On information and belief, ZTE has been, and currently is, inducing infringement of the '655 Patent, in violation of 35 U.S.C. § 271(b), by knowingly encouraging or aiding others to make, use, sell, or offer to sell the Accused Products in the United States, or to import the Accused Products into the United States, without license or authority from Fundamental, with knowledge of or willful blindness to the fact that ZTE's actions will induce others, including but not limited to its customers, partners, and/or end users, to directly infringe the '655 patent. ZTE induces others to infringe the '655 patent by encouraging and facilitating others to perform actions that ZTE knows to be acts of infringement of the '655 patent with intent that those performing the acts infringe the '655 patent.

68. On information and belief, ZTE has been, and currently is, contributorily infringing the '655 Patent, in violation of 35 U.S.C. § 271(c), by selling or offering for sale, in

this judicial district and throughout the United States, components that embody a material part of the inventions described in the '655 Patent, are known by ZTE to be especially made or especially adapted for use in infringement of the '655 Patent, and are not staple articles of commerce or commodities suitable for substantial, non-infringing use, including at least the Accused Products. ZTE's actions contribute to the direct infringement of the Patents-in-Suit by others, including customers of the Accused Products, in violation of 35 U.S.C. § 271(c).

69. As a result of ZTE's infringement of the '655 Patent, Fundamental has been damaged. Fundamental is entitled to recover for damages sustained as a result of ZTE's wrongful acts in an amount to be determined.

70. In addition, ZTE's infringing acts have caused and are causing immediate and irreparable harm to Fundamental.

71. ZTE has had actual knowledge of its infringement of the '655 Patent since no later than December 11, 2015. On information and belief, ZTE's infringement of the '655 Patent has been and continues to be deliberate and willful, and, therefore, this is an exceptional case warranting an award of treble damages and attorney's fees to Fundamental pursuant to 35 U.S.C. §§ 284-285.

#### **PRAYER FOR RELIEF**

WHEREFORE, Fundamental prays for judgment against ZTE as follows:

- A. That ZTE has infringed, and continues to infringe, each of the Patents-in-Suit;
- B. That ZTE pay Fundamental damages adequate to compensate Fundamental for ZTE's infringement of the Patents-in-Suit, together with interest and costs under 35 U.S.C. § 284.
- C. That ZTE be ordered to pay pre-judgment and post-judgment interest on the damages assessed;
- D. That ZTE be ordered to pay supplemental damages to Fundamental, including interest, with an accounting, as needed;

E. That ZTE's infringement is willful and that the damages awarded to Fundamental should be trebled;

F. That this is an exceptional case under 35 U.S.C. § 285 and that ZTE pay Fundamental's attorney's fees and costs in this action; and

G. That Fundamental be awarded such other and further relief, including equitable relief, as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Fundamental hereby demands a trial by jury on all issues triable by jury.

Dated: May 12, 2017

*/s/ S. Calvin Capshaw*

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*Attorneys for Plaintiff Fundamental Innovation  
Systems International LLC*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic services are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 12<sup>th</sup> day of May, 2017.

*/s/ S. Calvin Capshaw*  
\_\_\_\_\_  
S. Calvin Capshaw