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

CYPRESS LAKE SOFTWARE, INC. *Plaintiff*, v. HP INC. *Defendant*.	§ § § § § § § § § §	Civil Case: 6:17-cv-462 JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Cypress Lake Software, Inc. ("Cypress") files this complaint against HP Inc. ("HP" or "Defendant") alleging infringement of the following validly issued United States patents (the "Patents-in-Suit"):

1. U.S. Patent No. 8,422,858, titled "Methods, systems, and computer program products for coordinating playing of media streams" (the "'858 Patent");

2. U.S. Patent No. 8,781,299, titled "Methods, systems, and computer program products for coordinating playing of media streams" (the "'299 Patent");

3. U.S. Patent No. 8,787,731, titled "Methods, systems, and computer program products for coordinating playing of media streams" (the "'731 Patent");

4. U.S. Patent No. 8,983,264, titled "Methods, systems, and computer program products for coordinating playing of media streams" (the "'264 Patent"); and

5. U.S. Patent No. 9,423,954, titled "Graphical user interface methods, systems, and computer program products" (the "'954 Patent").

NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

PARTIES

2. Plaintiff Cypress Lake Software, Inc., is a Texas company with its principal place of business at 318 W. Dogwood Street, Woodville, TX 75979. Cypress is the owner and assignee of the Patents-in-Suit.

3. On information and belief, HP Inc. is a company organized and existing under the laws of Delaware. HP Inc. may be served through its registered agent, CT Corporation System, at 1999 Bryan St., Suite 900, Dallas, TX 75201-3136.

JURISDICTION AND VENUE

4. This lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 *et seq*. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 1367.

5. The Court has personal jurisdiction over Defendant for at least four reasons: (1) Defendant has committed acts of patent infringement and contributed to and induced acts of patent infringement by others in this District and elsewhere in Texas; (2) Defendant regularly does business or solicits business in this District and in Texas; (3) Defendant engages in other persistent courses of conduct and derives substantial revenue from products and/or services provided to individuals in this District and in Texas; and (4) Defendant has purposefully established substantial, systematic, and continuous contacts with the District and should reasonably expect to be haled into court here.

6. Specifically, Defendant has partnered with numerous resellers and distributors to sell and offer for sale infringing products to consumers in this District and in Texas, both online and in stores (*see*, *e.g.*, Exhibits A & B); Defendant operates a website that solicits sales of infringing products by consumers in this District and Texas (*see* Exhibit C); Defendant offers various support services to customers in this District and Texas (*see* Exhibit D); Defendant offers software for download by customers in this District and Texas (*see* Exhibit E); Defendant has a large campus in Plano, Texas, in this District (*see* Exhibits F & G), and Defendant has a registered agent for service in Texas (*see* above). Given these extensive contacts, the Court's exercise of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice.

7. In addition to the facts above, Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because Defendant does business in the State of Texas, Defendant has committed acts of infringement in Texas and in the District, a substantial part of the events or omissions giving rise to Cypress's claims happened in the District, and Defendant venue is proper in the District. *See* Exhibits A-G.

8. Venue is proper because Defendant has a regular and established business in this District. For example, Hewlett Packard has at least two physical locations in this District: (1) 5400 Legacy Dr., Plano, TX 75024, 6901 and (2) 6901 Windcrest Dr., Plano, TX 75024. *See* Exhibits A-G.

(*HP's Campus in Plano, Texas*)

9. HP also represents, both internally and externally, that it has a presence in this District. For example, HP publishes news articles that advertise its activities in this District. In one article, HP advertised "the opening of HP's Sales University, a multimillion-dollar training facility" with a "campus that spans several thousand square feet at HP's site in Plano, Texas." (*see* Exhibit H).

10. Venue is also appropriate because HP receives considerable benefits from this district. HP receives revenue from the sales of its software and devices to businesses and consumers throughout this District. (*see* Exhibit I (showing multiple Walmart locations in Tyler where HP products may be purchased)). And HP targets this district by providing customer support for the sales of its products and services (*see* Exhibit D; Exhibit J (showing one of many HP authorized support providers located in this District)).

THE ACCUSED DEVICES

11. Defendant designs, develops and/or manufactures "Chromebook" laptops, laptop computers that employ the Google Chrome operating system rather than Microsoft

Windows (*see* specific models listed in Exhibit 1, the "Accused Devices"). As illustrated below, the Accused Devices infringe the Patents-in-Suit.

COUNT 1:
INFRINGEMENT OF U.S. PATENT NO. 8,422,858

12. Cypress incorporates by reference the allegations in the paragraphs above.

13. The '858 Patent is valid, enforceable, and was duly and legally issued on April 16, 2013.

14. Without a license or permission from Cypress, Defendant has infringed and continues to infringe on one or more claims of the '858 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Devices, in violation of 35 U.S.C. § 271.

15. Defendant has been and now is directly infringing by, among other things, practicing all of the steps of the '858 Patent and/or directing, controlling, and obtaining benefits from its partners, distributors and retailers practicing all of the steps of the '858 Patent. Specifically, Defendant imports the Accused Devices into the United States; has partnered with numerous resellers to offer for sale and sell the Accused Devices in the United States, in numerous stores and websites (*see*, *e.g.*, Exhibits A, B & C); and Defendant generates revenue from sales of the Accused Devices to U.S. customers via those outlets (*see id.*).

16. Although Cypress is not obligated to identify specific claims or claim elements in its complaint, it does so here for Defendant's benefit. For example, the Accused Devices infringe at least Claim 14 of the '858 Patent which teaches

> A non-transitory computer readable medium embodying a computer program, executable by a machine, for coordinating playing of media streams, the computer program comprising executable instructions for:
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> detecting a first media player access to a first presentation device to play a first media stream;
>
> accessing first presentation focus information for determining whether the first media player has first presentation focus for playing the first media stream;
>
> determining based on the first presentation focus information that the first media player does not have first presentation focus;
>
> in response to determining the first media player does not have first presentation focus, indicating that the first media player is not allowed to play the first media stream;
>
> detecting a change in the first presentation focus information;
>
> determining, based on the detected change, that the first media player has first presentation focus; and
>
> indicating, in response to determining the first media player has first presentation focus, that the first media player is allowed to play the first media stream via the first presentation device.

The Accused Devices employ computer software—operating systems and applications—stored in their non-volatile memory systems ("[a] computer program product embodied on a non-transitory computer readable medium"). An Accused Device's operating system can tell when a user wishes to play a video or movie using a particular program ("detecting a first media player access to a first presentation device to play a first media stream … accessing first presentation focus information for determining whether the first media player has first presentation focus for playing the first media stream"). The operating system can tell whether a media player has priority to cast (it contains code for "determining based on the first presentation focus information that the first media player does not have first presentation focus").

17. Additionally, if a media player (e.g., YouTube) does not have presentation focus, the device indicates which media player has presentation focus (e.g., Google Play Video, etc.) (it contains code for "in response to determining the first media player does not have first presentation focus, indicating that the first media player is not allowed to play the first media stream;"). An Accused Device can also tell the user whether the video can be played on the television or other display (it contains code for "detecting a change in the first presentation focus information"), and can tell the user whether the video can be played on the device itself (it contains code for "determining, based on the detected change, that the first media player has first presentation focus").

18. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '858 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '858 Patent. Such products include, without limitation, one or more of the Accused Devices. Such products have no substantial non-infringing uses and are for use in systems that infringe the '858 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Cypress and is thus liable to Cypress for infringement of the '858 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Devices. *See Dynacore Holdings Corp. v. U.S. Philips Corp.*, 363 F.3d 1263, 1272 (Fed. Cir. 2004). Defendant had knowledge of the '858 Patent at least as early as the service of this complaint and is thus liable for infringement

of one or more claims of the '858 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '858 Patent under 35 U.S.C. § 271.

19. Defendant's acts of infringement of the '858 Patent have caused damage to Cypress, and Cypress is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 271. Defendant's infringement of Cypress's exclusive rights under the '858 Patent will continue to damage Cypress, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

20. The infringement of this patent by Defendant has been willful and continues to be willful. While Cypress did not previously assert this patent against defendant, the patents it did assert alerted defendant of Cypress patents in this technical field. *See Cypress Lake Software, Inc. v. HP, Inc.*, Case No. 6:16-cv-1249-RWS (E.D. Tex. Oct. 22, 2016) in 2016. Defendant continues to sell its infringing products without a license.

COUNT 2:
INFRINGEMENT OF U.S. PATENT NO. 8,781,299

21. Cypress incorporates by reference the allegations in the paragraphs above.

22. The '299 Patent is valid, enforceable, and was duly and legally issued on July 15, 2014.

23. Without a license or permission from Cypress, Defendant has infringed and continues to infringe on one or more claims of the '299 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Devices, in violation of 35 U.S.C. § 271.

24. Defendant has been and now is directly infringing by, among other things, practicing all of the steps of the '299 Patent and/or directing, controlling, and obtaining benefits from its partners, distributors and retailers practicing all of the steps of the '299 Patent. Specifically, Defendant imports the Accused Devices into the United States; has partnered with numerous resellers to offer for sale and sell the Accused Devices in the United States, in numerous stores and websites (*see*, *e.g.*, Exhibits A, B & C) and generates revenue from sales of the Accused Devices to U.S. customers via those outlets (*see id.*).

25. Although Cypress is not obligated to identify specific claims or claim elements in its complaint, it does so here for Defendant's benefit. For example, the Accused Devices infringe at least Claim 1 of the '299 Patent which teaches

> A computer program product embodied on a non-transitory computer readable medium, comprising:
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> code for working in association with a first presentation device having a touchscreen that is capable of providing access to a plurality of applications including a first media player and a second media player in an execution environment, the first presentation device capable of communication with a second presentation device including a display via a wireless local area network on which the first presentation device resides, where execution environment presentation focus information is accessible for identifying whether at least one of the first presentation device or the second presentation device is to be utilized for presentation in connection with the applications;
>
> code for detecting access to the first media player to play a first media stream that includes video;
>
> code for indicating, if the first presentation device is to be utilized for presentation based on the execution environment presentation focus information, that the first media player is allowed to play the first media stream via the first presentation device;
>
> code for indicating, if the second presentation device is to be utilized for presentation based on the execution environment presentation focus

> information, that the first media player is allowed to play the first media stream via the second presentation device;
>
> code for indicating, if both the first presentation device and the second presentation device are to be utilized for presentation based on the execution environment presentation focus information, that the first media player is allowed to play the first media stream via both the first presentation device and the second presentation device;
>
> wherein the computer program product is operable such that a change in presentation focus is capable of being based on at least one of a releasing of a first presentation focus in connection with the first media player, a detected user input indication for giving the second media player second presentation focus, a change in input focus, a change in an attribute of a user interface element, a count of media streams being played, a ranking of media streams being played, a transparency level of at least one of the user interface element, or another user interface element sharing a region of a display of the first presentation device.

The Accused Devices employ computer software—operating systems and applications—stored in their non-volatile memory systems ("[a] computer program product embodied on a non-transitory computer readable medium"). Using various technologies, an Accused Device can play or "cast" its audio and video media, or the contents of its screen, or other application(s), to other enabled devices such as stereos, televisions, projectors, and computers. An Accused Device therefore contains software that cooperates with it ("code for working in association with a first presentation device having a touchscreen") to provide a user access to multiple applications ("capable of providing access to a plurality of applications"), including at least two media players—e.g., two media playback programs such as Google Home app, Google Play Video, Chrome browser, a combination of a media play program with Chrome OS, etc.—("including a first media player and a second media player in an execution environment"), and communicate with a television or other display ("the first

presentation device capable of communication with a second presentation device including a display") over its wireless network ("via a wireless local area network on which the first presentation device resides").

26. An Accused Device's operating system can tell when a user wishes to play a video or movie using a particular program ("code for detecting access to the first media player to play a first media stream that includes video") and whether the video can be played on the device itself (it contains "code for indicating … that the first media player is allowed to play the first media stream via the first presentation"), if so desired ("if the first presentation device is to be utilized for presentation device based on the execution environment presentation focus information").

27. An Accused Device can tell the user whether the video can be played on the television or other display (it contains "code for indicating … that the first media player is allowed to play the first media stream via the second presentation device"), if so desired ("if the second presentation device is to be utilized for presentation based on the execution environment presentation focus information"). An Accused Device can also tell the user whether the video can be played on both the device and the television ("code for indicating … that the first media player is allowed to play the first media stream via both the first presentation device and the second presentation device"), if so desired ("if both the first presentation device and the second presentation device are to be utilized for presentation based on the execution environment presentation focus information").

28. An Accused Device's operating system can also switch where a particular video is being displayed, and which video that is ("wherein the computer program product is operable such that a change in presentation focus is"), based on a number of inputs

("capable of being based on at least one of"), including, for example, choosing "Cast" ("detected user input indication for giving the second media player second presentation focus"), selecting "Cast" from the actual Chrome Operating System ("another user interface element sharing a region of a display of the first presentation device"), or perhaps having a higher-priority video or advertisement pop up ("ranking of media streams being played").

29. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '299 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '299 Patent. Such products include, without limitation, one or more of the Accused Devices. Such products have no substantial non-infringing uses and are for use in systems that infringe the '299 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Cypress and is thus liable to Cypress for infringement of the '299 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Devices. *See Dynacore Holdings Corp. v. U.S. Philips Corp.*, 363 F.3d 1263, 1272 (Fed. Cir. 2004). Defendant had knowledge of the '299 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '299 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '299 Patent under 35 U.S.C. § 271.

30. Defendant's acts of infringement of the '299 Patent have caused damage to Cypress, and Cypress is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 271. Defendant's infringement of Cypress's exclusive rights under the '299 Patent will continue to damage Cypress, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

31. On information and belief, the infringement of the Patents-in-Suit by Defendant has been willful and continues to be willful. Cypress originally provided HP notice of its infringement in *Cypress Lake Software, Inc. v. HP, Inc.*, Case No. 6:16-cv-1249-RWS (E.D. Tex. Oct. 22, 2016). Cypress filed the executed summons with the Court on November 8, 2016. Case No. 6:16-cv-1249-RWS, Dkt. 4. During that lawsuit, Cypress served infringement contentions that included some infringing accused devices that were not included in the original complaint that indicated Windows 10 as the accused functionality. HP indicated that anything outside of Windows 10 was not properly disclosed in the original complaint as an accused product. Cypress agreed with HP. Then, Cypress settled with Microsoft in August 2017. This resulted in the dismissal of HP from the original lawsuit involving HP's accused products using Windows 10 in its accused products. Cypress filed this lawsuit to continue, without interruption, litigation of its other counts of infringement to accommodate HP's request that Android products not listed in the original complaint should be included in a separate lawsuit. *See Apple, Inc. v. Rensselaer Polytechnic Institute, et al.*, IPR2014-00319, Paper 12 at 6-7 (PTAB Jun. 12, 2014); *eBay, Inc. v. Advanced Auctions LLC*, IPR2014-00806, Paper 14 at 3, 7 (PTAB Sep. 25, 2014).

COUNT 3:
INFRINGEMENT OF U.S. PATENT NO. 8,787,731

32. Cypress incorporates by reference the allegations in the paragraphs above.

33. The '731 Patent is valid, enforceable, and was duly and legally issued on July 22, 2014.

34. Without a license or permission from Cypress, Defendant has infringed and continues to infringe on one or more claims of the '731 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Devices, in violation of 35 U.S.C. § 271.

35. Defendant has been and now is directly infringing by, among other things, practicing all of the steps of the '731 Patent and/or directing, controlling, and obtaining benefits from its partners, distributors and retailers practicing all of the steps of the '731 Patent. Specifically, Defendant imports the Accused Devices into the United States; has partnered with numerous resellers to offer for sale and sell the Accused Devices in the United States, in numerous stores and websites (*see*, *e.g.*, Exhibits A, B & C) and generates revenue from sales of the Accused Devices to U.S. customers via those outlets (*see id.*).

36. Although Cypress is not obligated to identify specific claims or claim elements in its complaint, it does so here for Defendant's benefit. For example, the Accused Devices infringe at least Claim 1 of the '731 Patent which teaches

> A computer program product embodied on a non-transitory computer readable medium, comprising:
>
> code for detecting a first media player access to a first presentation device to play a first media stream, where presentation focus information

> is accessible for identifying whether the first media player has first presentation focus for playing the first media stream;
>
> code for indicating, if the first media player has first presentation focus, that the first media player is allowed to play the first media stream via the first presentation device;
>
> code for detecting a second media player access to play a second media stream while the second media player does not have second presentation focus, where the second media stream is not played via the first presentation device while the second media player does not have second presentation focus; and
>
> code for indicating, if there is a change in the presentation focus information and the second media player has second presentation focus, that the second media player is allowed to play the second media stream via the first presentation device;
>
> wherein the computer program product is operable such that the change in the presentation focus information is based on at least one of a releasing of the first presentation focus in connection with the first media player, a detected user input indication for giving the second media player second presentation focus, a change in input focus, a change in an attribute of a user interface element, a count of media streams being played, a ranking of media streams being played, a transparency level of at least one of the user interface element, or another user interface element sharing a region of a display of the first presentation device.

The Accused Devices employ computer software—operating systems and applications—stored in their non-volatile memory systems ("[a] computer program product embodied on a non-transitory computer readable medium"). An Accused Device's operating system can tell when a user wishes to play a video or movie using a particular program ("code for detecting a first media player access to a first presentation device to play a first media stream") and whether the video can be played on the device itself (it contains "code for indicating … that the first media player is allowed to play the first media stream via the first presentation device"), if so desired ("if the first media player has first presentation focus").

37. An Accused Device's operating system can tell when a user wishes to play a video or movie using a particular program ("code for detecting a second media player access to play a second media stream"). Additionally, an Accused Device's operating system allows for a first media player (e.g. one of Home, Google Play Movies, YouTube, etc.) to stream a media stream while a second media player (e.g. a second one of Home, Google Play Movies, YouTube, etc.) may be used play a media stream on the Accused Device. An Accused Device can also tell the user whether the video can be played on the television or other display (it contains "code for indicating … that the second media player is allowed to play the second media stream via the first presentation device"), if so desired ("if there is a change in the presentation focus information and the second media player has second presentation focus").

38. An Accused Device's operating system can also switch where a particular video is being displayed, and which video that is ("the computer program product is operable such that the change in the presentation focus information is based on") based on a number of inputs, including, for example, choosing "Cast" ("detected user input indication for giving the second media player second presentation focus"), selecting "Cast" from the actual Chrome OS ("another user interface element sharing a region of a display of the first presentation device"), or perhaps having a higher-priority video or advertisement pop up ("a ranking of media streams being played").

39. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '731 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling,

without license or authority, products for use in systems that fall within the scope of one or more claims of the '731 Patent. Such products include, without limitation, one or more of the Accused Devices. Such products have no substantial non-infringing uses and are for use in systems that infringe the '731 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Cypress and is thus liable to Cypress for infringement of the '731 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Devices. *See Dynacore Holdings Corp. v. U.S. Philips Corp.*, 363 F.3d 1263, 1272 (Fed. Cir. 2004). Defendant had knowledge of the '731 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '731 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '731 Patent under 35 U.S.C. § 271.

40. Defendant's acts of infringement of the '731 Patent have caused damage to Cypress, and Cypress is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 271. Defendant's infringement of Cypress's exclusive rights under the '731 Patent will continue to damage Cypress, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

41. The infringement of this patent by Defendant has been willful and continues to be willful. While Cypress did not previously assert this patent against defendant, the patents it did assert alerted defendant of Cypress patents in this technical field. *See Cypress Lake*

Software, Inc. v. HP, Inc., Case No. 6:16-cv-1249-RWS (E.D. Tex. Oct. 22, 2016) in 2016. Defendant continues to sell its infringing products without a license.

COUNT 4:
INFRINGEMENT OF U.S. PATENT NO. 8,983,264

42. Cypress incorporates by reference the allegations in the paragraphs above.

43. The '264 Patent is valid, enforceable, and was duly and legally issued on March 17, 2015.

44. Without a license or permission from Cypress, Defendant has infringed and continues to infringe on one or more claims of the '264 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Devices, in violation of 35 U.S.C. § 271.

45. Defendant has been and now is directly infringing by, among other things, practicing all of the steps of the '264 Patent and/or directing, controlling, and obtaining benefits from its partners, distributors and retailers practicing all of the steps of the '264 Patent. Specifically, Defendant imports the Accused Devices into the United States; has partnered with numerous resellers to offer for sale and sell the Accused Devices in the United States, in numerous stores and websites (*see*, *e.g.*, Exhibits A, B & C) and generates revenue from sales of the Accused Devices to U.S. customers via those outlets (*see id.*).

46. Although Cypress is not obligated to identify specific claims or claim elements in its complaint, it does so here for Defendant's benefit. For example, the Accused Devices infringe at least Claim 61 of the '264 Patent which teaches

> A computer program product embodied on a non-transitory computer readable medium, comprising:
>
> code for working in association with a first presentation device having a touchscreen that is capable of providing access to a first media player and a second media player in an execution environment, the first presentation device capable of communication with a second presentation device including a display via a wireless local area network on which the first presentation device resides, where presentation focus information is accessible for identifying whether at least one of the first presentation device or the second presentation device is to be utilized for presentation;
>
> code for detecting access to the first media player to play a first media stream that includes video;
>
> code for indicating, if the first presentation device is to be utilized for presentation based on the presentation focus information, that the first media stream is allowed to be presented via the first presentation device; and
>
> code for indicating, if the second presentation device is to be utilized for presentation based on the presentation focus information, that the first media stream is allowed to be presented via the second presentation device;
>
> wherein the computer program product is operable such that a change in presentation focus is capable of being based on at least one of a releasing of a first presentation focus in connection with the first media player, a detected user input indication for giving the second media player a second presentation focus, a change in input focus, a change in an attribute of a user interface element, a transparency level of at least one of the user interface element, or another user interface element sharing a region of a display of the first presentation device.

The Accused Devices employ computer software—operating systems and applications—stored in their non-volatile memory systems ("[a] computer program product embodied on a non-transitory computer readable medium"). Using various technologies, an Accused Device can play or "cast" its audio and video media, or the contents of its screen, or other application(s), to other enabled devices such as stereos, televisions,

projectors, and computers. An Accused Device therefore contains software that cooperates with it ("code for working in association with a first presentation device having a touchscreen") to provide a user access to multiple applications ("capable of providing access to a plurality of applications"), including at least two media players—e.g., two media playback programs such as Google Home app, Google Play Video, a combination of a media play program with Android OS, etc.—("including a first media player and a second media player in an execution environment"), and communicate with a television or other display ("the first presentation device capable of communication with a second presentation device including a display") over its wireless network ("via a wireless local area network on which the first presentation device resides").

47. An Accused Device's operating system can tell when a user wishes to play a video or movie using a particular program ("code for detecting access to the first media player to play a first media stream that includes video") and whether the video can be played on the device itself (it contains "code for indicating … that the first media player is allowed to play the first media stream via the first presentation device"), if so desired ("if the first presentation device is to be utilized for presentation based on the presentation focus information").

48. An Accused Device can also tell the user whether the video can be played on the television or other display (it contains "code for indicating … that the first media player is allowed to play the first media stream via the second presentation device"), if so desired ("if the second presentation device is to be utilized for presentation based on the presentation focus information").

49. An Accused Device's operating system can also switch where a particular video is being displayed, and which video that is ("the computer program product is operable such that a change in presentation focus is capable") based on a number of inputs, including, for example, choosing "Cast" ("detected user input indication for giving the second media player second presentation focus"), selecting "Cast" from the actual Chrome Operating System ("another user interface element sharing a region of a display of the first presentation device"), or perhaps having a higher-priority video or advertisement pop up ("ranking of media streams being played").

50. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '264 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '264 Patent. Such products include, without limitation, one or more of the Accused Devices. Such products have no substantial non-infringing uses and are for use in systems that infringe the '264 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Cypress and is thus liable to Cypress for infringement of the '264 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Devices. *See Dynacore Holdings Corp. v. U.S. Philips Corp.*, 363 F.3d 1263, 1272 (Fed. Cir. 2004). Defendant had knowledge of the '264 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '264 Patent by actively inducing infringement and/or is

liable as contributory infringer of one or more claims of the '264 Patent under 35 U.S.C. § 271.

51. Defendant's acts of infringement of the '264 Patent have caused damage to Cypress, and Cypress is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 271. Defendant's infringement of Cypress's exclusive rights under the '264 Patent will continue to damage Cypress, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

52. On information and belief, the infringement of the Patents-in-Suit by Defendant has been willful and continues to be willful. Cypress originally provided HP notice of its infringement in *Cypress Lake Software, Inc. v. HP, Inc.*, Case No. 6:16-cv-1249-RWS (E.D. Tex. Oct. 22, 2016). Cypress filed the executed summons with the Court on November 8, 2016. Case No. 6:16-cv-1249-RWS, Dkt. 4. During that lawsuit, Cypress served infringement contentions that included some infringing accused devices that were not included in the original complaint that indicated Windows 10 as the accused functionality. HP indicated that anything outside of Windows 10 was not properly disclosed in the original complaint as an accused product. Cypress agreed with HP. Then, Cypress settled with Microsoft in August 2017. This resulted in the dismissal of HP from the original lawsuit involving HP's accused products using Windows 10 in its accused products. Cypress filed this lawsuit to continue, without interruption, litigation of its other counts of infringement to accommodate HP's request that Android products not listed in the original complaint should be included in a separate lawsuit. *See Apple, Inc. v. Rensselaer Polytechnic Institute, et al.*, IPR2014-00319, Paper 12 at 6-7 (PTAB

Jun. 12, 2014); *eBay, Inc. v. Advanced Auctions LLC*, IPR2014-00806, Paper 14 at 3, 7 (PTAB Sep. 25, 2014).

COUNT 5:
INFRINGEMENT OF U.S. PATENT NO. 9,423,954

53. Cypress incorporates by reference the allegations in the paragraphs above.

54. The '954 Patent is valid, enforceable, and was duly and legally issued on August 23, 2016.

55. Without a license or permission from Cypress, Defendant has infringed and continues to infringe on one or more claims of the '954 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Devices, in violation of 35 U.S.C. § 271.

56. Defendant has been and now is directly infringing by, among other things, practicing all of the steps of the '954 Patent and/or directing, controlling, and obtaining benefits from its partners, distributors and retailers practicing all of the steps of the '954 Patent. Specifically, Defendant imports the Accused Devices into the United States; has partnered with numerous resellers to offer for sale and sell the Accused Devices in the United States, in numerous stores and websites (*see*, *e.g.*, Exhibits A, B & C) and generates revenue from sales of the Accused Devices to U.S. customers via those outlets (*see id.*).

57. Although Cypress is not obligated to identify specific claims or claim elements in its complaint, it does so here for Defendant's benefit. For example, the Accused Devices infringe at least Claim 14 of the '954 Patent which teaches

An apparatus, comprising:

> at least one processor configured for coupling with memory and a touchscreen, and further configured for:
>
> storage of a plurality of applications including a first application, a second application, and a third application, utilizing the memory, the applications including a first program component and a second program component;
>
> detection of a first user input;
>
> in response to the first user input, presentation of, utilizing the touchscreen, a first window associated with the first program component including at least one user interface element;
>
> detection of a second user input in connection with the at least one user interface element of the first window;
>
> in response to the second user input in connection with the at least one user interface element of the first window, creation of a second window associated with the second program component and presentation thereof, utilizing the touchscreen, adjacent to and not overlapping with respect to the first window, for presenting, in the second window, data associated with the at least one user interface element of the first window;
>
> detection of a third user input; and
>
> in response to the third user input, change, utilizing the touchscreen, the presentation of the first window and the second window, such that a first size of the first window and a second size of the second window are both changed, and the second window remains adjacent to and not overlapping with respect to the first window.

Each of HP's Accused Devices running the Chrome Operating System is an apparatus comprised of at least one processor (e.g., Intel Core i5) configured to connect to a display (e.g., 14" LCD) and memory (RAM and hard drive), memory (RAM and hard drive), and at least one input device (mouse, keyboard, touchpad and/or touchscreen).

58. An Accused Device running Chrome OS can store three (or more) applications in its memory ("storage of a first application, a second application, and a third application, utilizing the memory"), the applications including at least two instances running ("the applications including a first program component and a second program component") in

separate tabs. An Accused Device can detect a user input via the touchscreen ("detection of a first user input") to move and re-size an application window to either side of the screen. This is accomplished by of using the Alt "]" command to move the application window to the right half of the screen. The Accused Device will display the first instance of the Chrome application ("present[], utilizing the touchscreen, a first window associated with the first program component"), for instance, and its graphical user interface "tab" ("including at least one user interface element").

59. The user may then (the Accused Device "detect[s] a second user input") select and "pull" the second tab out of the first window ("in connection with the at least one user interface element of the first window") and the Device will display it in a window ("creat[e] a second window associated with the second program component and presentation thereof, utilizing the touchscreen [and] present[], in the second window, data associated with the at least one user interface element of the first window") in the other half of the screen ("adjacent to and not overlapping with respect to the first window").

60. The user may then select the vertical border between the two windows and drag it left or right to re-size the second window relative to the first (the Accused Device "detect[s] a third user input") and the Accused Device will then re-size the windows on the screen accordingly ("in response to the third user input, change, utilizing the touchscreen, the presentation of the first window and the second window, such that a first size of the first window and a second size of the second window are both changed, and the second window remains adjacent to and not overlapping with respect to the first window").

61. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '954 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '954 Patent. Such products include, without limitation, one or more of the Accused Devices. Such products have no substantial non-infringing uses and are for use in systems that infringe the '954 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Cypress and is thus liable to Cypress for infringement of the '954 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Devices. *See Dynacore Holdings Corp. v. U.S. Philips Corp.*, 363 F.3d 1263, 1272 (Fed. Cir. 2004). Defendant had knowledge of the '954 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '954 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '954 Patent under 35 U.S.C. § 271.

62. Defendant's acts of infringement of the '954 Patent have caused damage to Cypress, and Cypress is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 271. Defendant's infringement of Cypress's exclusive rights under the '954 Patent will continue to damage Cypress, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

63. On information and belief, the infringement of the Patents-in-Suit by Defendant has been willful and continues to be willful. Cypress originally provided HP notice of its infringement in *Cypress Lake Software, Inc. v. HP, Inc.*, Case No. 6:16-cv-1249-RWS (E.D. Tex. Oct. 22, 2016). Cypress filed the executed summons with the Court on November 8, 2016. Case No. 6:16-cv-1249-RWS, Dkt. 4. During that lawsuit, Cypress served infringement contentions that included some infringing accused devices that were not included in the original complaint that indicated Windows 10 as the accused functionality. HP indicated that anything outside of Windows 10 was not properly disclosed in the original complaint as an accused product. Cypress agreed with HP. Then, Cypress settled with Microsoft in August 2017. This resulted in the dismissal of HP from the original lawsuit involving HP's accused products using Windows 10 in its accused products. Cypress filed this lawsuit to continue, without interruption, litigation of its other counts of infringement to accommodate HP's request that Android products not listed in the original complaint should be included in a separate lawsuit. *See Apple, Inc. v. Rensselaer Polytechnic Institute, et al.*, IPR2014-00319, Paper 12 at 6-7 (PTAB Jun. 12, 2014); *eBay, Inc. v. Advanced Auctions LLC*, IPR2014-00806, Paper 14 at 3, 7 (PTAB Sep. 25, 2014).

REQUEST FOR RELIEF

Cypress incorporates each of the allegations in paragraphs 1 through 60 above and respectfully asks the Court to:

(a) enter a judgment that Defendant has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of each of the Patents-in-Suit;

(b) enter a judgment awarding Cypress all damages adequate to compensate it for Defendant's infringement of, direct or contributory, or inducement to infringe, the Patents-in-Suit, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;

(c) enter a judgment awarding treble damages pursuant to 35 U.S.C. § 284 for Defendant's willful infringement of one or more of the Patents-in-Suit;

(d) issue a preliminary injunction and thereafter a permanent injunction enjoining and restraining Defendant, its directors, officers, agents, servants, employees, and those acting in privity or in concert with them, and their subsidiaries, divisions, successors, and assigns, from further acts of infringement, contributory infringement, or inducement of infringement of the Patents-in-Suit;

(e) enter a judgment requiring Defendant to pay the costs of this action, including all disbursements, and attorneys' fees as provided by 35 U.S.C. § 285, together with prejudgment interest; and

(f) award Cypress all other relief that the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Cypress demands a jury trial on all issues that may be determined by a jury.

Respectfully submitted,

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