

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

HITACHI MAXELL, LTD.,

Plaintiff,

v.

HUAWEI DEVICE USA, INC., and HUAWEI
DEVICE CO., LTD.,

Defendants.

Civil Action No. 5:16-CV-178-RWS

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Hitachi Maxell, Ltd. (“Hitachi Maxell”), by and through its undersigned counsel, files this complaint under 35 U.S.C. § 271 for Patent Infringement against Defendants Huawei Device USA, Inc. and Huawei Device Co., Ltd. (collectively, “Defendants”) and further alleges as follows, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters.

OVERVIEW

1. This is an action for patent infringement brought by Hitachi Maxell. Founded in 1961 as Maxell Electric Industrial Co., Ltd., Hitachi Maxell is a leading global manufacturer of information storage media products, including magnetic tapes, optical discs, and battery products such as lithium ion rechargeable micro batteries and alkaline dry batteries, and the company has over 50 years of experience producing industry-leading recordable media and energy products for both the consumer and the professional markets.

2. Hitachi Maxell has built an international reputation for excellence and reliability, for pioneering the power supplies and digital recording for today's mobile and multi-media devices, and leading the electronics industry in the fields of storage media and batteries.

3. Since being one of the first companies to develop alkaline batteries and Blu Ray camcorder discs, Hitachi Maxell has always assured its customers of industry leading product innovation and is one of the world's foremost suppliers of memory, power, audio, and visual goods.

4. In 2010, Hitachi Maxell became a subsidiary of Hitachi, Ltd. As set forth below, Hitachi, Ltd. assigned intellectual property, including the patents in this case, to Hitachi Consumer Electronics Co., Ltd., then Hitachi Consumer Electronics Co., Ltd. assigned the intellectual property, including the patents in this case, to Hitachi Maxell. This was an effort to align its intellectual property with the licensing, business development, and research and development efforts of Hitachi Maxell, including in the mobile and mobile-media device market (Hitachi, Ltd., Hitachi Consumer Electronics Co., Ltd., and Hitachi Maxell are referred to herein collectively as "Hitachi"). Hitachi Maxell continues to sell products in the mobile device market including wireless charging solutions, wireless flash drives, multimedia players, storage devices, and headphones. Hitachi Maxell also maintains intellectual property related to televisions, tablets, digital cameras, and mobile phones. As a mobile technology developer and industry leader, and due to its historical and continuous investment in research and development, Hitachi Maxell owns a portfolio of patents related to such technologies and actively enforces its patents through licensing and/or litigation. Hitachi Maxell is forced to bring this action against Defendants as a result of Defendants' knowing and ongoing infringement of Hitachi Maxell's patents.

5. As further detailed below, beginning in June 2013, Hitachi had numerous meetings and interactions with Defendants, providing Defendants' representatives with detailed information regarding Hitachi Maxell's patents, the technology that Hitachi had developed, and Defendants' ongoing use of this patented technology. Through this process, Defendants' representatives requested and Hitachi provided detailed explanations of its patents and allegations. For nearly three years, Hitachi answered multiple inquiries from Defendants, believing that a business transaction between the parties would be mutually beneficial. Defendants elected, however, not to enter into an agreement with Hitachi and/or license Hitachi Maxell's patents. Instead, Defendants continued, and continue today, to make, use, sell and offer for sale Hitachi Maxell's patented technology without license.

PARTIES

6. Plaintiff Hitachi Maxell, Ltd. is a Japanese corporation with a registered place of business at 1-1-88, Ushitora, Ibaraki-City, Osaka 567-8567 Japan.

7. On information and belief, Defendant Huawei Device Co., Ltd. is a Chinese corporation with a principal place of business at Bantian, Longgang District, Shenzhen, 518129 China.

8. On information and belief, Defendant Huawei Device USA, Inc. is a Texas company with a principal place of business located at 5700 Tennyson Parkway, Suite 500, Plano, Texas 75024.

9. On information and belief, Defendant Huawei Device USA, Inc. is in the business of providing information and communications technology solutions. Specifically, Huawei Device USA, Inc. provides wireless telecommunications equipment, including smart phones, tablets, and mobile phones.

NATURE OF THE ACTION, JURISDICTION, AND VENUE

10. Hitachi Maxell brings this action for patent infringement under the patent laws of the United States, 35 U.S.C. § 271 *et seq.*

11. This Court has subject matter jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the patent laws of the United States.

12. The Court has personal jurisdiction over the Defendants because (1) Hitachi Maxell's claims arise in whole or in part from Defendants' conduct in Texas; (2) Huawei Device USA, Inc. is organized under the laws of Texas, maintains its principal place of business in this jurisdiction, and has also filed suits against other parties in this jurisdiction; and (3) Defendants are subject to personal jurisdiction under the provisions of the Texas Long Arm Statute, TX CIV PRAC. & REM CODE §17.041 *et seq.*, by virtue of the fact that, upon information and belief, Defendants has availed themselves of the privilege of conducting and soliciting business within this State, including engaging in at least some of the infringing acts alleged herein through the sales and marketing of infringing products in this State. The allegations and claims set forth in this action arise out of Defendants' infringing activities in this State, as well as by others acting as Defendants' agents and/or representatives, such that it would be reasonable for this Court to exercise jurisdiction consistent with the principles underlying the U.S. Constitution, and would not offend traditional notions of fair play and substantial justice.

13. Upon further information and belief, Defendants have also established minimum contacts with this District and regularly transact and do business within this District, including advertising, promoting and selling products over the internet, through intermediaries, representatives and/or agents located within this District, that infringe Hitachi Maxell's patents,

which products are then sold, packaged and shipped directly to citizens residing within this State and this District. Upon further information and belief, Defendants have purposefully directed activities at citizens of this State and located within this District.

14. On information and belief, Defendants have purposefully and voluntarily placed their products into the stream of commerce with the expectation that they will be purchased and used by customers located in the State of Texas and the Eastern District of Texas. On information and belief, Defendants' customers in the Eastern District of Texas have purchased and used and continue to purchase and use Defendants' products.

15. Venue in the Eastern District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400 because a substantial part of the events giving rise to the claims in this action occurred in this District and Defendants' agent resides or may be found in this District.

COUNT 1 – INFRINGEMENT OF U.S. PATENT NO. 5,396,443

16. Hitachi Maxell incorporates paragraphs 1-15 above by reference.

17. U.S. Patent No. 5,396,443 (the "'443 Patent," attached hereto at Exhibit A) duly issued on March 7, 1995, and is entitled *Information Processing Apparatus Including Arrangements for Activation to and Deactivation from a Power-Saving State*.

18. Hitachi Maxell is the owner by assignment of the '443 Patent and possesses all rights of recovery under the '443 Patent, including the exclusive right to recover for past infringement.

19. On June 10, 2013, Hitachi contacted Mr. Ren Zhengfei, the CEO of Huawei Technologies Co., Ltd., to engage in discussions regarding the potential licensing of Hitachi's patents, including the '443 Patent. Hitachi provided Defendants with claim charts that mapped

the claim elements to Defendants' products. Specifically, at least one of the claim charts provided compared the '443 Patent claims to the Huawei myTouch product.

20. Defendants have directly infringed one or more claims of the '443 Patent in this judicial district and elsewhere in Texas, including at least claims 1-5 and 22 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling their telecommunications technology, including by way of example a product known as the Fusion 2.

21. The Fusion 2 is an information processing apparatus with a CPU enclosed in a housing. The Fusion 2 includes a processor programmed to automatically adjust the screen to save the phone's battery life. The Fusion 2 includes sensing means such as a proximity sensor for detecting when a user-associated medium approaches a part of the housing. It further includes a touchscreen that can detect when a user-associated medium, such as a user's finger, approaches the screen. This approach is detected using sensors that sense minor changes in electrical current generated by, for example, changes in electrostatic capacity.

22. The Fusion 2 is observed to transition from a power-saving state to a non-power-saving state when the touchscreen detects the approach of a user-associated medium. Further, the Fusion 2 is observed to transition from a non-power-saving state to a power-saving state when the user-associated medium is distant from the device for a set period of time.

23. The foregoing features and capabilities of the Fusion 2, and Defendants' description and/or demonstration thereof, including in user manuals and advertising, reflect Defendants' direct infringement by satisfying every element of at least claims 1-5 and 22 of the '443 Patent, under 35 U.S.C. § 271(a).

24. On information and belief, Defendants further infringe the '443 Patent through additional products utilizing the same or reasonably similar functionalities as described above with respect to the Fusion 2 (collectively, "the '443 Accused Products"). The '443 Accused Products include, by way of examples, Huawei MyTouch, Huawei Impulse 4G, Huawei Fusion phones (e.g. Fusion, Fusion 2), Huawei Ascend series phones (e.g. Ascend Y, Ascend II, Ascend Y200, Ascend W1, Ascend Q, Ascend P1, Ascend P6), Huawei IDEOS series (e.g. IDEOS S7, IDEOS X5), Huawei Mercury, and Huawei Summit. These additional products each include all necessary hardware and operating systems and work as described above with respect to the Fusion 2. Hitachi Maxell reserves the right to discover and pursue any additional infringing devices that incorporate infringing functionalities. For the avoidance of doubt, the '443 Accused Products are identified to describe the Defendants' infringement and in no way limit the discovery and infringement allegations against Defendants concerning other devices that incorporate the same or reasonably similar functionalities.

25. Defendants have indirectly infringed at least claims 1-5 and 22 of the '443 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the use, offering for sale, selling, or importation of at least the '443 Accused Products. Defendants' customers who purchase devices and components thereof and operate such devices and components in accordance with Defendants' instructions directly infringe one or more claims of the '443 Patent in violation of 35 U.S.C. § 271. Defendants instruct their customers through at least user guides, such as those for the Fusion 2 located at the following website: https://www.att.com/support_static_files/manuals/ATT_Fusion2.pdf. Defendants are thereby liable for infringement of the '443 Patent pursuant to 35 U.S.C. § 271(b).

26. Defendants have indirectly infringed at least claims 1-5 and 22 of the '443 Patent, by, among other things, contributing to the direct infringement of others, including customers of the '443 Accused Products by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '443 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

27. For example, the '443 Accused Products include power saving control software. This is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such software module is a material part of the invention and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement of the '443 Patent pursuant to 35 U.S.C. § 271(c).

28. Defendants have been on notice of the '443 Patent since at least the invitation for negotiations sent by Hitachi on June 10, 2013, and, at the latest, the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of at least claims 1-5 and 22 of the '443 Patent.

29. Defendants undertook and continue their infringing actions despite an objectively high likelihood that such activities infringed the '443 Patent, which has been duly issued by the USPTO, and is presumed valid. For example, since at least June 10, 2013, Defendants have been aware of an objectively high likelihood that their actions constituted and continue to constitute infringement of the '443 Patent, and that the '443 Patent is valid. On information and belief,

Defendants could not reasonably, subjectively believe that their actions do not constitute infringement of the '443 Patent, nor could they reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that their actions constitute infringement, Defendants have continued their infringing activities. As such, Defendants willfully infringe the '443 Patent.

30. Hitachi Maxell has been damaged by Defendants' infringement of the '443 Patent.

COUNT 2 – INFRINGEMENT OF U.S. PATENT NO. 7,509,139

31. Hitachi Maxell incorporates paragraphs 1-30 above by reference.

32. U.S. Patent No. 7,509,139 (the "'139 Patent," attached hereto at Exhibit B) duly issued on March 24, 2009, and is entitled *Method for Selecting Base Station*.

33. Hitachi Maxell is the owner by assignment of the '139 Patent and possesses all rights of recovery under the '139 Patent, including the exclusive right to recover for past and future infringement.

34. Defendants have directly infringed one or more claims of the '139 Patent in this judicial district and elsewhere in Texas, including at least claims 1 and 7-14 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling their telecommunications technology, including by way of example the Honor 8.

35. The Honor 8 is configured to connect to wireless communications systems for example via cellular base stations using one or more of various cellular communications systems including GSM, UMTS and LTE. The Honor 8 is also configured to connect to wireless communications systems for example via wireless local area network (LAN) base stations or access points using one or more of various wireless LAN communication systems, including

several IEEE 802.11 standards. The Honor 8 is configured to measure and/or obtain and/or collect wireless communication quality information between the Honor 8 and the base stations and/or access points detected by the Honor 8 and classify the base stations and/or access points at least in accordance with communication quality criteria. On information and belief, the Honor 8 also classifies base stations and/or access points in accordance with acceptability criteria and suitability criteria. On information and belief, the Honor 8 selects a base station and/or access points from a plurality of base stations and/or access points based on a cell selection criteria, acceptability criteria and/or suitability criteria, including communication quality, and selects a base station based on those criteria.

36. The foregoing features and capabilities of the Honor 8, and Defendants' description and/or demonstration thereof, including in user manuals and advertising, reflect Defendants' direct infringement by satisfying every element of at least claims 1 and 7-14 of the '139 Patent, under 35 U.S.C. § 271(a).

37. On information and belief, Defendants further infringe the '139 Patent through additional products utilizing the same or reasonably similar functionalities as described above with respect to the Honor 8 (collectively, and including the Huawei Honor 8, "the '139 Accused Products"). The '139 Accused Products include, by way of examples, Huawei Honor series phones (e.g. Honor 8, Honor 5X, Honor 6X), Huawei Mate series phones (e.g. Ascend Mate 2, Mate 9), Huawei P series phones (e.g. P8 Lite, P9), Huawei Ascend series phones (e.g. Ascend P2, Ascend P7), Huawei G series phones (e.g. Huawei GX8), Huawei SnapTo phones (e.g. SnapTo), Huawei Raven phones, Huawei Pronto phones, Huawei Union phones, Huawei Glory phones, Huawei MediaPad series tablets (e.g. MediaPad T1 8.0, MediaPad T1 8.0 Pro, MediaPad M3 8.4), Huawei Matebook tablets, Huawei Magma phones, Huawei Inspira phones, and

Huawei Impulse 4G phones. These additional products each include all necessary hardware and operating systems and work as described above with respect to the Honor 8. Hitachi Maxell reserves the right to discover and pursue any additional infringing devices that incorporate infringing functionalities. For the avoidance of doubt, the '139 Accused Products are identified to describe the Defendants' infringement and in no way limit the discovery and infringement allegations against Defendants concerning other devices that incorporate the same or reasonably similar functionalities.

38. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1 and 7-14 of the '139 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the use, offering for sale, selling, or importation of at least the '139 Accused Products. Defendants' customers who purchase devices and components thereof and operate such devices and components in accordance with Defendants' instructions directly infringe one or more claims of the '139 Patent in violation of 35 U.S.C. § 271. Defendants instruct their customers through at least user guides, such as the Honor 8 manual located at the following website: <http://consumer.huawei.com/us/support/mobile-phones/honor8-us-sup.htm>. Defendants are thereby liable for infringement of the '139 Patent pursuant to 35 U.S.C. § 271(b).

39. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1 and 7-14 of the '139 Patent, by, among other things, contributing to the direct infringement of others, including customers of the '139 Accused Products by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or

especially adapted for use in infringement of the '139 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

40. For example, the '139 Accused Products in the LTE network connect to a base station from among a plurality of base stations. These are components of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such components are material parts of the invention and upon information and belief are not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement of the '139 Patent pursuant to 35 U.S.C. § 271(c).

41. Defendants have been on notice of the '139 Patent since at least the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of at least claims 1 and 7-14 of the '139 Patent.

42. Defendants undertook and continue their infringing actions despite an objectively high likelihood that such activities infringed the '139 Patent, which has been duly issued by the USPTO, and is presumed valid. For example, since at least the service of this complaint, Defendants have been aware of an objectively high likelihood that their actions constituted and continue to constitute infringement of the '139 Patent, and that the '139 Patent is valid. On information and belief, Defendants could not reasonably, subjectively believe that their actions do not constitute infringement of the '139 Patent, nor could they reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that their actions constitute infringement, Defendants have continued their infringing activities. As such, Defendants willfully infringe the '139 Patent.

43. Hitachi Maxell has been damaged by Defendants' infringement of the '139 Patent.

COUNT 3 – INFRINGEMENT OF U.S. PATENT NO. 6,754,440

44. Hitachi Maxell incorporates paragraphs 1-43 above by reference.

45. U.S. Patent No. 6,754,440 (the "'440 Patent," attached hereto at Exhibit C) duly issued on June 22, 2004, and is entitled *Video Reproducing Method and Apparatus*.

46. Hitachi Maxell is the owner by assignment of the '440 Patent and possesses all rights of recovery under the '440 Patent, including the exclusive right to recover for past and future infringement.

47. On June 10, 2013, Hitachi contacted Mr. Ren Zhengfei, the CEO of Huawei Technologies Co., Ltd., to engage in discussions regarding the potential licensing of Hitachi's patents, including the '440 Patent. Specifically, Hitachi provided Defendants with a list of Hitachi Patents that Defendants were infringing dated June 3, 2013, which included the '440 Patent.

48. Defendants have directly infringed one or more claims of the '440 Patent in this judicial district and elsewhere in Texas, including at least claims 1-8 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling their telecommunications technology, including by way of example the Honor 8.

49. The Honor 8 has video reproducing capabilities and includes a processor programmed for reproducing moving and still pictures stored in internal memory in various formats, including for example MPEG and JPEG formats, respectively.

50. The Honor 8 incorporates hardware and software components configured to record and store moving and still pictures, to generate and store pictorial or thumbnail

representations of the recorded pictures, and to allow reproduction and display of the thumbnails and corresponding moving or still pictures associated with the thumbnails.

51. The foregoing features and capabilities of the Honor 8, and Defendants' description and/or demonstration thereof, including in user manuals and advertising, reflect Defendants' direct infringement by satisfying every element of at least claims 1-8 of the '440 Patent, under 35 U.S.C. § 271(a).

52. On information and belief, Defendants further infringe the '440 Patent through additional products utilizing the same or reasonably similar functionalities as described above with respect to the Honor 8 (collectively, "the '440 Accused Products"). The '440 Accused Products include, by way of examples, Huawei Honor series phones (e.g. Honor 8, Honor 5X, Honor 6X), Huawei Mate series phones (e.g. Ascend Mate 2, Mate 9), Huawei P series phones (e.g. P8 Lite, P9), Huawei Ascend series phones (e.g. Ascend P2, Ascend P7), Huawei G series phones (e.g. Huawei GX8), Huawei SnapTo phones (e.g. SnapTo), Huawei Raven phones, Huawei Pronto phones, Huawei Union phones, Huawei Glory phones, and Huawei MediaPad series tablets (e.g. MediaPad T1 8.0, MediaPad T1 8.0 Pro, MediaPad M3 8.4). These additional products each include all necessary hardware and operating systems and work as described above with respect to the Honor 8. Hitachi Maxell reserves the right to discover and pursue any additional infringing devices that incorporate infringing functionalities. For the avoidance of doubt, the '440 Accused Products are identified to describe the Defendants' infringement and in no way limit the discovery and infringement allegations against Defendants concerning other devices that incorporate the same or reasonably similar functionalities.

53. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-8 of the '440 Patent in this judicial district and elsewhere in the United States by,

among other things, actively inducing the use, offering for sale, selling, or importation of at least the '440 Accused Products. Defendants' customers who purchase devices and components thereof and operate such devices and components in accordance with Defendants' instructions directly infringe one or more claims of the '440 Patent in violation of 35 U.S.C. § 271. Defendants instruct their customers through at least user guides, such as the Honor 8 manual located at the following website: <http://consumer.huawei.com/us/support/mobile-phones/honor8-us-sup.htm>. Defendants are thereby liable for infringement of the '440 Patent pursuant to 35 U.S.C. § 271(b).

54. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-8 of the '440 Patent, by, among other things, contributing to the direct infringement of others, including customers of the '440 Accused Products by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '440 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

55. For example, the Huawei Honor 8 includes a reproducing function. This is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such component is a material part of the invention and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement of the '440 Patent pursuant to 35 U.S.C. § 271(c).

56. Defendants have been on notice of the '440 Patent since at least the invitation for negotiations sent by Hitachi on June 10, 2013, and, at the latest, the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of at least claims 1-8 of the '440 Patent.

57. Defendants undertook and continue their infringing actions despite an objectively high likelihood that such activities infringed the '440 Patent, which has been duly issued by the USPTO, and is presumed valid. For example, since at least June 10, 2013, Defendants have been aware of an objectively high likelihood that their actions constituted and continue to constitute infringement of the '440 Patent, and that the '440 Patent is valid. On information and belief, Defendants could not reasonably, subjectively believe that their actions do not constitute infringement of the '440 Patent, nor could they reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that their actions constitute infringement, Defendants have continued their infringing activities. As such, Defendants willfully infringe the '440 Patent.

58. Hitachi Maxell has been damaged by Defendants' infringement of the '440 Patent.

COUNT 4 – INFRINGEMENT OF U.S. PATENT NO. 6,928,292

59. Hitachi Maxell incorporates paragraphs 1-58 above by reference.

60. U.S. Patent No. 6,928,292 (the "'292 Patent," attached hereto at Exhibit D) duly issued on August 9, 2005, and is entitled *Mobile Handset with Position Calculation Function*.

61. Hitachi Maxell is the owner by assignment of the '292 Patent and possesses all rights of recovery under the '292 Patent, including the exclusive right to recover for past and future infringement.

62. Defendants have directly infringed one or more claims of the '292 Patent in this judicial district and elsewhere in Texas, including at least claims 1-2 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling their telecommunications technology, including by way of example the Honor 8.

63. The Honor 8 includes hardware and pre-installed software that allows the device to receive GPS information, cellular network information, and Wi-Fi network information, and to generate corresponding location data from the received information. The Honor 8 is advertised as having GPS receiving capability, cellular network positioning capability, and Wi-Fi positioning capability.

64. The Honor 8 is observed to operate in an autonomous mode or in a dependent mode to calculate its own location using the location data received from GPS networks, cellular networks, and/or Wi-Fi networks and assess the reliability of the received data.

65. The Honor 8 further provides the option of using GPS positioning information in combination with at least the cellular network positioning information for highly accurate positioning.

66. The foregoing features and capabilities of the Honor 8, and Defendants' description and/or demonstration thereof, including in user manuals and advertising, reflect Defendants' direct infringement by satisfying every element of at least claims 1 and 2 of the '292 Patent, under 35 U.S.C. § 271(a).

67. On information and belief, Defendants further infringe the '292 Patent through additional products utilizing the same or reasonably similar functionalities as described above with respect to the Honor 8 (collectively, "the '292 Accused Products"). The '292 Accused Products include, by way of examples, Huawei Honor series phones (e.g. Honor 8, Honor 5X, Honor 6X), Huawei Mate series phones (e.g. Ascend Mate 2, Mate 9), Huawei P series phones (e.g. P8 Lite, P9), Huawei Ascend series phones (e.g. Ascend P7, Ascend Plus), Huawei G series phones (e.g. Huawei GX8), Huawei SnapTo phones (e.g. SnapTo), Huawei Raven phones, Huawei Pronto phones, Huawei Union phones, Huawei Glory phones, Huawei Premia phones (e.g. Premia 4G), and Huawei MediaPad series tablets (e.g. MediaPad M3 8.4). These additional products each include all necessary hardware and operating systems and work as described above with respect to the Honor 8. Hitachi Maxell reserves the right to discover and pursue any additional infringing devices that incorporate infringing functionalities. For the avoidance of doubt, the '292 Accused Products are identified to describe the Defendants' infringement and in no way limit the discovery and infringement allegations against Defendants concerning other devices that incorporate the same or reasonably similar functionalities.

68. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-2 of the '292 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the use, offering for sale, selling, or importation of at least the '292 Accused Products. Defendants' customers who purchase devices and components thereof and operate such devices and components in accordance with Defendants' instructions directly infringe one or more claims of the '292 Patent in violation of 35 U.S.C. § 271. Defendants instruct their customers through at least user guides, such as the Honor 8 manual located at the following website: <http://consumer.huawei.com/us/support/mobile-phones/honor8->

us-sup.htm. Defendants are thereby liable for infringement of the '292 Patent pursuant to 35 U.S.C. § 271(b).

69. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-2 of the '292 Patent, by, among other things, contributing to the direct infringement of others, including customers of the '292 Accused Products by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '292 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

70. For example, the Honor 8 includes hardware components for receiving GPS data and network data for determining location information. These are components of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such components are material parts of the invention and upon information and belief are not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement of the '292 Patent pursuant to 35 U.S.C. § 271(c).

71. Defendants will have been on notice of the '292 Patent since at least the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of at least claims 1-2 of the '292 Patent.

72. Defendants undertook and continue their infringing actions despite an objectively high likelihood that such activities infringed the '292 Patent, which has been duly issued by the

USPTO, and is presumed valid. For example, since at least the filing of this complaint, Defendants have been aware of an objectively high likelihood that their actions constituted and continue to constitute infringement of the '292 Patent, and that the '292 Patent is valid. On information and belief, Defendants could not reasonably, subjectively believe that their actions do not constitute infringement of the '292 Patent, nor could they reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that their actions constitute infringement, Defendants have continued their infringing activities. As such, Defendants willfully infringe the '292 Patent.

73. Hitachi Maxell has been damaged by Defendants' infringement of the '292 Patent.

COUNT 5 – INFRINGEMENT OF U.S. PATENT NO. 7,203,517

74. Hitachi Maxell incorporates paragraphs 1-73 above by reference.

75. U.S. Patent No. 7,203,517 (the "'517 Patent," attached hereto at Exhibit E) duly issued on April 10, 2007, and is entitled *Mobile Communication Terminal Device*.

76. Hitachi Maxell is the owner by assignment of the '517 Patent and possesses all rights of recovery under the '517 Patent, including the exclusive right to recover for past and future infringement.

77. Defendants have directly infringed one or more claims of the '517 Patent in this judicial district and elsewhere in Texas, including at least claims 1-5, 9, and 10 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling their telecommunications technology, including by way of example the Honor 8.

78. The Honor 8 is observed to have multiple interfaces for communication, including 4G networks, 3G networks, 2G networks, and Wi-Fi networks.

79. The Honor 8 includes hardware and software components for monitoring communications networks at the multiple interfaces, and determining the availability of communications at these interfaces and selecting one or more of the interfaces for communications using location information and moving speed information, and notifying the user of the interface in use.

80. The foregoing features and capabilities of the Honor 8, and Defendants' description and/or demonstration thereof, including in user manuals and advertising, reflect Defendants' direct infringement by satisfying every element of at least claims 1-5, 9, and 10 of the '517 Patent, under 35 U.S.C. § 271(a).

81. On information and belief, Defendants infringe the '517 Patent through other telecommunications devices utilizing the same or reasonably similar functionalities as described above with respect to the Honor 8 (collectively, and including the Honor 8, "the '517 Accused Products"). The '517 Accused Products include, by way of examples, Huawei Honor series phones (e.g. Honor 8, Honor 5X, Honor 6X), Huawei Mate series phones (e.g. Ascend Mate 2, Mate 9), Huawei P series phones (e.g. P8 Lite, P9), Huawei Ascend series phones (e.g. Ascend P2, Ascend P7, Ascend Plus, Ascend W1), Huawei G series phones (e.g. Huawei GX8), Huawei SnapTo phones (e.g. SnapTo), Huawei Raven phones, Huawei Pronto phones, Huawei Magma phones, Huawei Union phones, Huawei Premia phones (e.g. Premia 4G), Huawei Glory phones, Huawei MediaPad series tablets (e.g. MediaPad T1 8.0, MediaPad T1 8.0 Pro, MediaPad M3 8.4), Huawei Matebook tablets, Huawei Inspira phones, and Huawei Impulse 4G phones. These additional products each include all necessary hardware and operating systems and work as described above with respect to the Honor 8. Hitachi Maxell reserves the right to discover and pursue any additional infringing devices that incorporate infringing functionalities. For the

avoidance of doubt, the '517 Accused Products are identified to describe the Defendants' infringement and in no way limit the discovery and infringement allegations against Defendants concerning other devices that incorporate the same or reasonably similar functionalities.

82. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-5, 9, and 10 of the '517 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the use, offering for sale, selling, or importation of at least the '517 Accused Products. Defendants' customers who purchase devices and components thereof and operate such devices and components in accordance with Defendants' instructions directly infringe one or more claims of the '517 Patent in violation of 35 U.S.C. § 271. Defendants instruct their customers through at least user guides, such as the Honor 8 manual located at the following website: <http://consumer.huawei.com/us/support/mobile-phones/honor8-us-sup.htm>. Defendants are thereby liable for infringement of the '517 Patent pursuant to 35 U.S.C. § 271(b).

83. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-5, 9, and 10 of the '517 Patent, by, among other things, contributing to the direct infringement of others, including customers of the '517 Accused Products by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '517 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

84. For example, the Huawei Honor 8 includes movement determination functionalities. This is a component of a patented machine, manufacture, or combination, or an

apparatus for use in practicing a patented process. Furthermore, such component is a material part of the invention and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement of the '517 Patent pursuant to 35 U.S.C. § 271(c).

85. Defendants have been on notice of the '517 Patent since at least the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of at least claims 1-5, 9, and 10 of the '517 Patent.

86. Defendants undertook and continue their infringing actions despite an objectively high likelihood that such activities infringed the '517 Patent, which has been duly issued by the USPTO, and is presumed valid. For example, since at least the filing of this complaint, Defendants have been aware of an objectively high likelihood that their actions constituted and continue to constitute infringement of the '517 Patent, and that the '517 Patent is valid. On information and belief, Defendants could not reasonably, subjectively believe that their actions do not constitute infringement of the '517 Patent, nor could they reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that their actions constitute infringement, Defendants have continued their infringing activities. As such, Defendants willfully infringe the '517 Patent.

87. Hitachi Maxell has been damaged by Defendants' infringement of the '517 Patent.

COUNT 6 – INFRINGEMENT OF U.S. PATENT NO. 7,671,901

88. Hitachi Maxell incorporates paragraphs 1-87 above by reference.

89. U.S. Patent No. 7,671,901 (the “’901 patent,” attached hereto at Exhibit F) duly issued on March 2, 2010, and is entitled *Image Processing Apparatus and Mobile Terminal Apparatus*.

90. Hitachi Maxell is the owner by assignment of the ’901 Patent and possesses all rights of recovery under the ’901 Patent, including the exclusive right to recover for past and future infringement.

91. Defendants have directly infringed one or more claims of the ’901 Patent in this judicial district and elsewhere in Texas, including at least claims 1-2 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling their telecommunications technology, including by way of example the Honor 8.

92. The Honor 8 includes imaging sensors, *e.g.* CMOS sensors that capture images and video and convert the captured images and videos into electrical signals that are processed by a central processing unit, a digital signal processor or an imaging processor. The Honor 8 also includes a processor programmed to decode image and video data and to generate electrical signals that are inputted for further processing to a central processing unit, a digital signal processor or an imaging processor. The Honor 8 executes control causing correction of the decoded image and video signals in accordance with a distribution of luminance, hue or saturation of the video signals.

93. The Honor 8 further includes an ambient light sensor for detecting illumination, and is observed to perform image and video processing and color management (including hue and/or saturation) based on the luminance and/or change in video signal detected and/or the change in ambient light detected by the ambient light sensor.

94. The foregoing features and capabilities of the Honor 8, and Defendants' description and/or demonstration thereof, including in user manuals and advertising, reflect Defendants' direct infringement by satisfying every element of at least claims 1-2 of the '901 Patent, under 35 U.S.C. § 271(a).

95. On information and belief, Defendants further infringe the '901 Patent through additional products utilizing the same or reasonably similar functionalities as described above with respect to the Honor 8 (collectively, "the '901 Accused Products"). The '901 Accused Products include, by way of examples, Huawei Honor series phones (e.g. Honor 8, Honor 8 Lite, Honor 8 Pro), Huawei Mate series phones (e.g. Mate 9), Huawei P series phones (e.g. P8 Lite, P9), and Huawei G series phones (e.g. Huawei GX8). These additional products each include all necessary hardware and operating systems and work as described above with respect to the Honor 8. Hitachi Maxell reserves the right to discover and pursue any additional infringing devices that incorporate infringing functionalities. For the avoidance of doubt, the '901 Accused Products are identified to describe the Defendants' infringement and in no way limit the discovery and infringement allegations against Defendants concerning other devices that incorporate the same or reasonably similar functionalities.

96. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-2 of the '901 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the use, offering for sale, selling, or importation of at least the '901 Accused Products. Defendants' customers who purchase devices and components thereof and operate such devices and components in accordance with Defendants' instructions directly infringe one or more claims of the '901 Patent in violation of 35 U.S.C. § 271. Defendants instruct their customers through at least user guides, such as the Honor 8 manual

located at the following website: <http://consumer.huawei.com/us/support/mobile-phones/honor8-us-sup.htm>. Defendants are thereby liable for infringement of the '901 Patent pursuant to 35 U.S.C. § 271(b).

97. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-2 of the '901 Patent, by, among other things, contributing to the direct infringement of others, including customers of the '901 Accused Products by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '901 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

98. For example, the Huawei Honor 8 includes an automatic brightness and camera function. This is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such component is a material part of the invention and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement of the '901 Patent pursuant to 35 U.S.C. § 271(c).

99. Defendants have been on notice of the '901 Patent since at least the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of at least claims 1-2 of the '901 Patent.

100. Defendants undertook and continue their infringing actions despite an objectively high likelihood that such activities infringed the '901 Patent, which has been duly issued by the

USPTO, and is presumed valid. For example, since at least the service of this complaint, Defendants have been aware of an objectively high likelihood that their actions constituted and continue to constitute infringement of the '901 Patent, and that the '901 Patent is valid. On information and belief, Defendants could not reasonably, subjectively believe that their actions do not constitute infringement of the '901 Patent, nor could they reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that their actions constitute infringement, Defendants have continued their infringing activities. As such, Defendants willfully infringe the '901 Patent.

101. Hitachi Maxell has been damaged by Defendants' infringement of the '901 Patent.

COUNT 7 – INFRINGEMENT OF U.S. PATENT NO. 6,856,760

102. Hitachi Maxell incorporates paragraphs 1-101 above by reference.

103. U.S. Patent No. 6,856,760 (the "'760 Patent," attached hereto at Exhibit G) duly issued on February 15, 2005, and is entitled *Recording Medium*.

104. Hitachi Maxell is the owner by assignment of the '760 Patent and possesses all rights of recovery under the '760 Patent, including the exclusive right to recover for past infringement.

105. On June 10, 2013, Hitachi contacted Mr. Ren Zhengfei, the CEO of Huawei Technologies Co., Ltd., to engage in discussions regarding the potential licensing of Hitachi's patents, including the '760 Patent. Specifically, Hitachi provided Defendants with a list of Hitachi Patents that Defendants were infringing dated June 3, 2013, which included the '760 Patent.

106. Defendants have directly infringed one or more claims of the '760 Patent in this judicial district and elsewhere in Texas, including at least claims 1, 3, 4, 6, 7, 9, 10, 12, 13, and 15 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling their telecommunications technology, including by way of example the Mate 9.

107. The Mate 9 has still picture recording capabilities and includes a processor programmed for reproducing still pictures stored in internal memory in various formats, including for example RAW and JPEG formats.

108. The Mate 9 further includes software, hardware, or a combination of the two for storing descriptive information associated with still pictures.

109. The Mate 9 also incorporates hardware and software components configured to record and store still pictures, to generate and store pictorial or thumbnail representations of the recorded pictures, and to allow reproduction and display of the thumbnails and corresponding moving or still pictures associated with the thumbnails.

110. The foregoing features and capabilities of the Mate 9, and Defendants' description and/or demonstration thereof, including in user manuals and advertising, reflect Defendants' direct infringement by satisfying every element of at least claims 1, 3, 4, 6, 7, 9, 10, 12, 13, and 15 of the '760 Patent, under 35 U.S.C. § 271(a).

111. On information and belief, Defendants further infringe the '760 Patent through additional products utilizing the same or reasonably similar functionalities as described above with respect to the Mate 9 (collectively, "the '760 Accused Products"). The '760 Accused Products include, by way of examples, Huawei Honor series phones (e.g. Honor 8, Honor 8 Lite, Honor 8 Pro), Huawei Mate series phones (e.g. Mate 9), and Huawei P series phones (e.g. P9).

These additional products each include all necessary hardware and operating systems and work as described above with respect to the Mate 9. Hitachi Maxell reserves the right to discover and pursue any additional infringing devices that incorporate infringing functionalities. For the avoidance of doubt, the '760 Accused Products are identified to describe the Defendants' infringement and in no way limit the discovery and infringement allegations against Defendants concerning other devices that incorporate the same or reasonably similar functionalities.

112. Defendants have indirectly infringed at least claims 1, 3, 4, 6, 7, 9, 10, 12, 13, and 15 of the '760 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the use, offering for sale, selling, or importation of at least the '760 Accused Products. Defendants' customers who purchase devices and components thereof and operate such devices and components in accordance with Defendants' instructions directly infringe one or more claims of the '760 Patent in violation of 35 U.S.C. § 271. Defendants instruct their customers through at least user guides, such as the Honor 8 manual located at the following website: <http://consumer.huawei.com/us/support/mobile-phones/mate9-us-sup.htm>. Defendants are thereby liable for infringement of the '760 Patent pursuant to 35 U.S.C. § 271(b)

113. Defendants have indirectly infringed at least claims 1, 3, 4, 6, 7, 9, 10, 12, 13, and 15 of the '760 Patent, by, among other things, contributing to the direct infringement of others, including customers of the '760 Accused Products by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '760 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

114. For example, the Huawei Mate 9 has still picture recording and reproducing functionalities. This is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such component is a material part of the invention and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement of the '760 Patent pursuant to 35 U.S.C. § 271(c).

115. Defendants have been on notice of the '760 Patent since at least the invitation for negotiations sent by Hitachi on June 10, 2013, and, at the latest, the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of at least claims 1, 3, 4, 6, 7, 9, 10, 12, 13, and 15 of the '760 Patent.

116. Defendants undertook and continue their infringing actions despite an objectively high likelihood that such activities infringed the '760 Patent, which has been duly issued by the USPTO, and is presumed valid. For example, since at least June 10, 2013, Defendants have been aware of an objectively high likelihood that their actions constituted and continue to constitute infringement of the '760 Patent, and that the '760 Patent is valid. On information and belief, Defendants could not reasonably, subjectively believe that their actions do not constitute infringement of the '760 Patent, nor could they reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that their actions constitute infringement, Defendants have continued their infringing activities. As such, Defendants willfully infringe the '760 Patent.

117. Hitachi Maxell has been damaged by Defendants' infringement of the '760 Patent.

COUNT 8 – INFRINGEMENT OF U.S. PATENT NO. 7,116,438

118. Hitachi Maxell incorporates paragraphs 1-117 above by reference.

119. U.S. Patent No. 7,116,438 (the “’438 Patent,” attached hereto at Exhibit H) duly issued on October 3, 2006, and is entitled *Terminal for Information Processing*.

120. Hitachi Maxell is the owner by assignment of the ’438 Patent and possesses all rights of recovery under the ’438 Patent, including the exclusive right to recover for past and future infringement.

121. Defendants have directly infringed one or more claims of the ’438 Patent in this judicial district and elsewhere in Texas, including at least claims 1-3 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling their telecommunications technology, including by way of example the Mate 9.

122. The Mate 9 has an input unit (such as the device’s touch screen) for receiving input from a user in the form of hand gestures, screen touches, etc.

123. The Mate 9 also includes a first short-distance communication unit for carrying out a short-distance communication with a display apparatus.

124. The Mate 9 also includes a second communication unit for carrying out communication with a display device over a network.

125. The Mate 9 further carries out an authentication process for determining whether to allow usage of the display apparatus and carries out data exchange with the display apparatus if the authentication process is confirmed. If the authentication process is not confirmed, then the Mate 9 does not exchange data with the display apparatus.

126. The foregoing features and capabilities of the Mate 9, and Defendants’ description and/or demonstration thereof, including in user manuals and advertising, reflect Defendants’

direct infringement by satisfying every element of at least claims 1-3 of the '438 Patent, under 35 U.S.C. § 271(a).

127. On information and belief, Defendants further infringe the '438 Patent through additional products utilizing the same or reasonably similar functionalities as described above with respect to the Mate 9 (collectively, "the '438 Accused Products"). The '438 Accused Products include, by way of examples, the Huawei Mate series phones (e.g. Mate 9) and Honor 8 series phones. These additional products each include all necessary hardware and operating systems and work as described above with respect to the Mate 9. Hitachi Maxell reserves the right to discover and pursue any additional infringing devices that incorporate infringing functionalities. For the avoidance of doubt, the '438 Accused Products are identified to describe the Defendants' infringement and in no way limit the discovery and infringement allegations against Defendants concerning other devices that incorporate the same or reasonably similar functionalities.

128. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-3 of the '438 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the use, offering for sale, selling, or importation of at least the '438 Accused Products. Defendants' customers who purchase devices and components thereof and operate such devices and components in accordance with Defendants' instructions directly infringe one or more claims of the '438 Patent in violation of 35 U.S.C. § 271. Defendants instruct their customers through at least user guides, such as the Mate 9 manual located at the following website: <http://consumer.huawei.com/us/support/mobile-phones/mate9-us-sup.htm>. Defendants are thereby liable for infringement of the '438 Patent pursuant to 35 U.S.C. § 271(b).

129. Defendants have indirectly infringed and continue to indirectly infringe at least claims 1-3 of the '438 Patent, by, among other things, contributing to the direct infringement of others, including customers of the '438 Accused Products by making, offering to sell, or selling, in the United States, or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '438 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

130. For example, the Mate 9 includes authentication process functionality. These are components of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such components are material parts of the invention and upon information and belief are not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Defendants are liable for infringement of the '438 Patent pursuant to 35 U.S.C. § 271(c).

131. Defendants have been on notice of the '438 Patent since at least the service of this complaint. By the time of trial, Defendants will thus have known and intended (since receiving such notice), that their continued actions would actively induce and contribute to actual infringement of at least claims 1-3 of the '438 Patent.

132. Defendants undertook and continue their infringing actions despite an objectively high likelihood that such activities infringed the '438 Patent, which has been duly issued by the USPTO, and is presumed valid. For example, since at least the service of this complaint, Defendants have been aware of an objectively high likelihood that their actions constituted and continue to constitute infringement of the '438 Patent, and that the '438 Patent is valid. On

information and belief, Defendants could not reasonably, subjectively believe that their actions do not constitute infringement of the '438 Patent, nor could they reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that their actions constitute infringement, Defendants have continued their infringing activities. As such, Defendants willfully infringe the '438 Patent.

133. Hitachi Maxell has been damaged by Defendants' infringement of the '438 Patent.

PRAYER FOR RELIEF

WHEREFORE, Hitachi Maxell prays for relief as follows:

134. A judgment declaring that Defendants have infringed and are infringing one or more claims of the '443, '139, '440, '292, '517, '901, '760, and '438 Patents;

135. A judgment awarding Hitachi Maxell compensatory damages as a result of Defendants' infringement of one or more claims of the '443, '139, '440, '292, '517, '901, '760, and '438 Patents, together with interest and costs, consistent with lost profits and in no event less than a reasonable royalty;

136. A judgment awarding Hitachi Maxell treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendants' willful and deliberate infringement of one or more claims of the '443, '139, '440, '292, '517, '901, '760, and '438 Patents;

137. A judgment declaring that this case is exceptional and awarding Hitachi Maxell its expenses, costs, and attorneys' fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

138. A grant of preliminary and permanent injunctions enjoining Defendants from further acts of infringement of one or more claims of the '443, '139, '440, '292, '517, '901, '760, and '438 Patents; and

139. Such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Hitachi Maxell hereby demands a trial by jury.

Dated: August 31, 2017

By: /s/ Geoffrey Culbertson

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Counsel for Plaintiff Hitachi Maxell, Ltd.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 31st day of August, 2017, with a copy of this document via the Court's CM/ECF system.

/s/ Geoffrey Culbertson

Geoffrey Culbertson