

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

OPTIMIZATION STRATEGIES, LLC

Plaintiff,

v.

MICROSOFT CORPORATION

Defendant.

Case No.:

COMPLAINT FOR PATENT INFRINGEMENT

1. This is an action for patent infringement under 35 U.S.C. § 271, et seq., by Optimization Strategies, LLC (“OSL”) against Microsoft Corporation (“Microsoft”) for infringement of United States Patent No. 9,388,952 (“the ’952 Patent”). A true and correct copy of the ’952 Patent is attached hereto as Exhibit “A”.

THE PARTIES

2. Optimization Strategies, LLC (“OSL”) is a Florida limited liability company with its offices based at 8836 Southeast North Passage Way, Tequesta, FL 33469, within this judicial district. OSL is the owner by assignment of all right, title, and interest in the ’952 Patent, including the right to recover for all past, present, and future infringement, including past damages.

3. Microsoft Corporation is a Washington corporation with its principal place of business located in Redmond, Washington. Microsoft is registered to do business in Florida and may be served by and through its registered agent, Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301. Microsoft has regular and established places of business in this judicial district (see paragraph 7 below).

4. Microsoft is in the business of selling and offering for sale in the United States,

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4. Microsoft is in the business of selling and offering for sale in the United States,

including on its web site which is accessible in this district, the infringing “HoloLens” unit, which is explained in greater detail below.

5. Microsoft offers the HoloLens unit for sale between \$3,000 and \$5,000 per unit. The following is an excerpt taken from Microsoft’s web site which demonstrates the pricing for the HoloLens:



Microsoft HoloLens

Choose the option that best suits your purpose.

Development Edition A good choice for Individual developers who are ready to get started. Documentation, tutorials, and community forums are standing by to support you*.	\$3,000
Commercial Suite Ideal for organizations. The Commercial Suite includes the Development Edition hardware, plus a warranty and enterprise features for added security and device management*.	\$5,000

<https://www.microsoft.com/en-us/hololens/buy> (last visited Aug. 30, 2017).

JURISDICTION AND VENUE

6. This is an action for infringement of a United States patent arising under 35 U.S.C. § 271, *et seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

7. Microsoft has regular and established places of business in the Southern District of Florida that include these Microsoft retail or innovation stores: (1) Microsoft Store—7535 Dadeland Mall, Suite 2416, Miami, FL 33156; (2) Microsoft Store—19575 Biscayne Blvd, Suite 1565, Aventura, FL 33180; and (3) Microsoft Store—6000 Glades Road, Boca Raton, FL 33431. As a result of its retail activities in this district, Microsoft employs people and maintains inventory

and equipment in this judicial district.

8. This Court has general and specific personal jurisdiction over Microsoft under the due process provisions of the United States and the Florida Constitutions, and under the Florida Long Arm Statute. Microsoft has done substantial business in this forum, including: (1) at least a portion of the infringing offers for sale, use, and sales alleged herein have occurred in Microsoft's physical locations in the judicial district and through Microsoft's interactive web sites; (2) regularly doing or soliciting business, engaging in other persistent courses of conduct, or by deriving substantial revenue from goods and services provided to individuals in Florida, including this judicial district; (3) Microsoft availed itself and continues to avail itself of the privilege of doing business in Florida, including in this judicial district; and (4) Microsoft has regular and established places of business throughout Florida, including within this judicial district. Moreover, Microsoft is registered to do business in the State of Florida, and Microsoft maintains offices and facilities in the State of Florida.

9. Upon information and belief, venue is proper pursuant to 28 U.S.C. § 1400(b) because Microsoft has committed acts of infringement of the '952 Patent in this district by offering for sale and selling the HoloLens through the interactive Microsoft web site to residents of this district, and by using the HoloLens in product demonstrations performed in this district, where Microsoft has more than one regular and established place of business.

BACKGROUND

10. Microsoft's HoloLens includes a holographic computer built into a headset that permits a wearer to see, hear, and interact with holograms within an environment such as a living room or an office space.

11. Microsoft has built the HoloLens without the need to be wirelessly connected to a

PC.

12. HoloLens employs high-definition lenses and creates an immersive, interactive holographic experience for the wearer.

13. The HoloLens development edition allows developers to make games and applications (Microsoft began shipping the HoloLens in the United States no later than August 2016).

COUNT I – INFRINGEMENT OF THE '952 PATENT

14. OSL herein incorporates the contents of the preceding paragraphs as if restated fully herein.

15. Claim 1 of the '952 Patent reads as follows [brackets added for reference]:

[1P] 1. A head-mountable portable device comprising:

[1A] a first light source configured to emit a beam of white light in a first direction that is away from a head of a user; and

[1B] a second light source configured to emit a beam of blue light in a second direction that is towards the head of the user and is different to the first direction.

16. Referring to the preamble of the claim **[1P]**, HoloLens is a head-mountable portable device, as shown in the following photo taken from the Microsoft web site:



<https://www.microsoft.com/en-us/Hololens/why-hololens> (lasted visited Aug. 30, 2017).

17. The foregoing picture shows that the HoloLens is head-mountable and portable. For at least these reasons, the preamble [1P] of Claim 1 reads on the HoloLens.

18. Regarding element [1A] of Claim 1, HoloLens includes “a first light source configured to emit a beam of white light in a first direction that is away from a head of a user.”

19. The support pages for HoloLens show that the headset comprises a battery indicator that has five lights. <https://support.microsoft.com/engb/help/12627/Hololens-charge-your-hololens> (lasted visited Aug. 30, 2017).

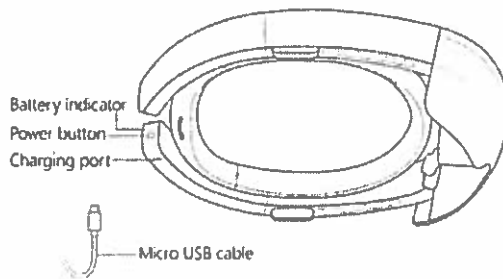
20. These battery-related lights are at the back of the device and point behind and to the side of a user wearing the device so the lights are directed away from the user.

Charge your HoloLens

Email

Print

To charge your HoloLens, connect the power supply to the charging port using the included Micro USB cable. Then plug the power supply into a power outlet. When the device is charging, the battery indicator will light up in a wave pattern.



When your HoloLens is on, the battery indicator shows the battery level in increments. When only one of the five lights is on, the battery level is below 20 percent. If the battery level is critically low and you try to turn on the device, one light will blink briefly, then go out.

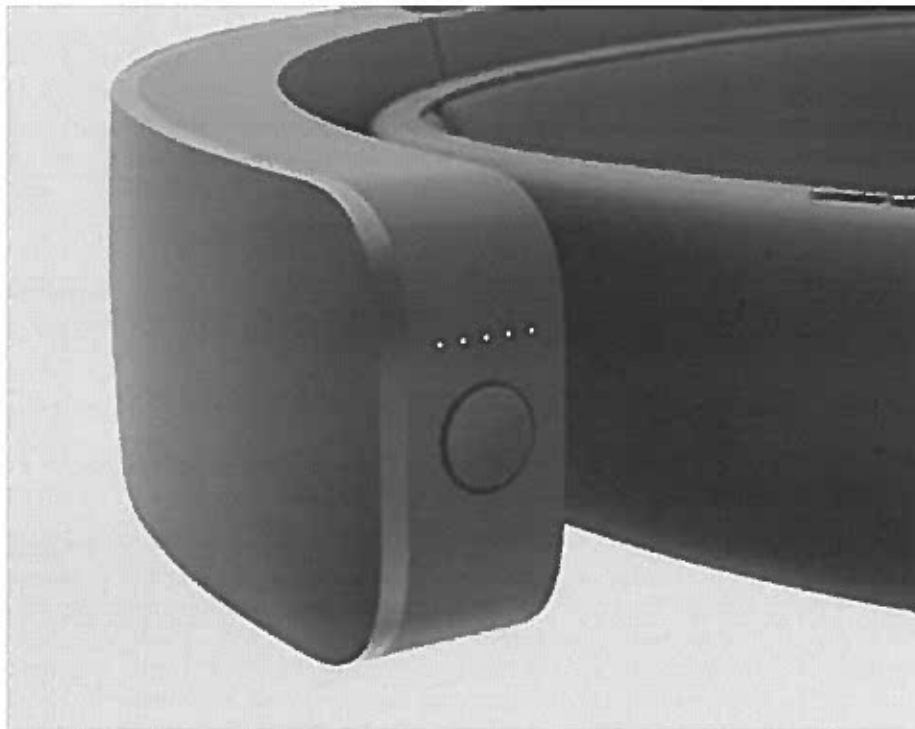
Tip

To get an estimate of your current battery level, say "Hey Cortana, how much battery do I have left?"

Properties

Article ID: 12627 - Last Review: 10 May 2016 - Revision: 16

21. The hardware page of the HoloLens website shows that the lights of the battery indicator are white lights:

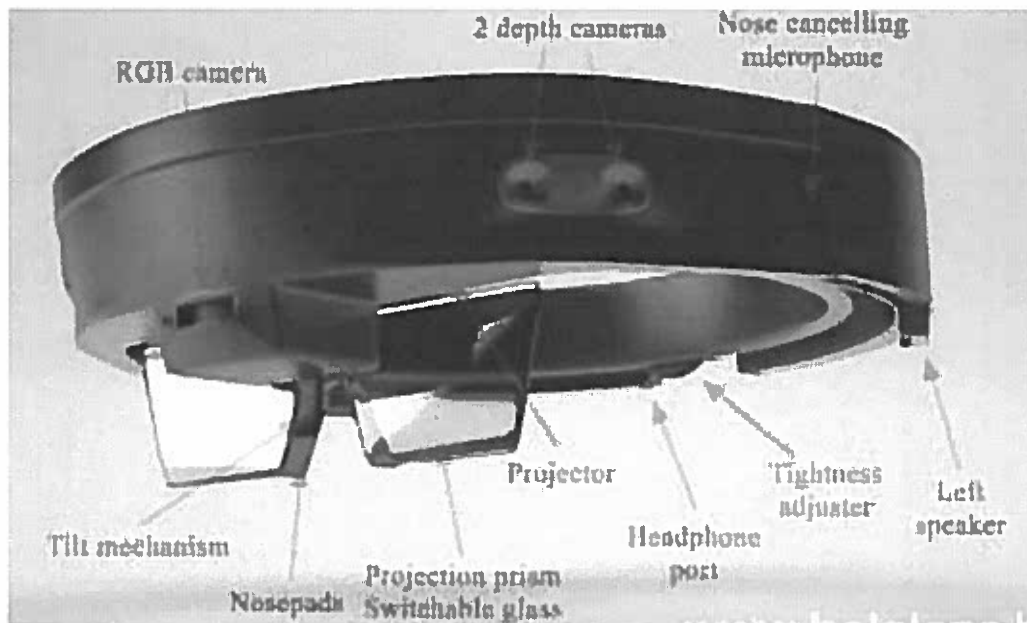


<https://www.microsoft.com/microsoft-hololens/en-us/hardware> (lasted visited Aug. 30, 2017).

22. For at least these reasons, the HoloLens comprises a light source that emits white light in a direction that is away from the user, satisfying element [1A] either literally or under the doctrine of equivalents.

23. Regarding element [1B], the HoloLens has “a second light source configured to emit a beam of blue light in a second direction that is towards the head of the user and is different to the first direction.”

24. The HoloLens comprises a projector that emits light onto glass in front of a user’s eyes, per the diagram below.



25. As described in the HoloLens website, the projection system generates “full-color images”. “Full-color” includes blue colors.

26. Alex Kipman, one of the creators of the HoloLens, has stated: “Realistic holograms work by tricking your brain into perceiving light as matter. Ultimately, you perceive the world because of light. . . . Eventually [the photons] hit the back of your eyes, and through that, you reason out what the world is.” <https://www.youtube.com/watch?v=NwY-6sQDYnk> (lasted visited Aug. 30, 2017).

27. To create holographic images in the HoloLens for the user to see, upon information and belief, light particles bounce around millions of times in a light engine within the HoloLens. These photons enter the HoloLens goggles to the HoloLens lenses, where they are passed between layers of blue, green and red glass on their way to the back of the user’s eyes.

28. For at least these reasons, the HoloLens comprises a second light source configured to emit a beam of blue light in a second direction that is towards the head of the user and is different to the first direction, satisfying element **[1B]** either literally or under the doctrine of equivalents.

29. Because all elements of at least Claim 1 are present in the HoloLens, either literally

or under the doctrine of equivalents, Microsoft's demonstration (use), sale, and offer for sale of HoloLens units infringes at least Claim 1 of the '952 Patent.

30. By reason of these infringing activities, OSL has suffered, and will continue to suffer, substantial damages in an amount to be determined at trial, including but not limited to a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, OSL respectfully requests the Court to enter judgment as follows:

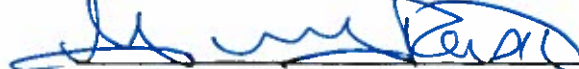
- A. That Microsoft has directly infringed the '952 Patent;
- B. That Microsoft be ordered to pay damages adequate to compensate OSL for its infringement of the '952 Patent, but in no event less than a reasonable royalty, together with prejudgment and post-judgment interest thereon;
- C. That Microsoft be ordered to account for any post-verdict infringement;
- D. That this case be declared exceptional under 35 U.S.C. §285 and that OSL be awarded its reasonable attorneys' fees, costs, and expenses; and
- E. That OSL be granted such other and additional relief as the Court deems just and proper.

JURY DEMAND

OSL hereby demands a jury trial as to all issues so triable.

Dated this 20 day of September, 2017.

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