

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) and (b), as well as 28 U.S.C. §§ 2201 and 2202.

6. This Court has personal jurisdiction over Cypress because, on information and belief, Cypress is incorporated in the State of Delaware. Cypress has also filed and has pursued a patent infringement case here. *See Cypress Lake Software, Inc. v. LG Electronics U.S.A., Inc.*, 17-1133-GMS (Aug. 11, 2017).

7. At least because, on information and belief, Cypress is incorporated in the State of Delaware, venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), 1391(c), and to the extent required 1400(b).

FACTUAL BACKGROUND

8. On August 11, 2017, Cypress filed a complaint accusing LG Electronics U.S.A., Inc. (“LGEUS”) of infringement of ten patents, U.S. Patent Nos. 8,422,858 (“the ’858 patent”); 8,661,361 (“the ’361 patent”); 8,781,299 (“the ’299 patent”); 8,787,731 (“the ’731 patent”); 8,902,054 (“the ’054 patent”); 8,983,264 (“the ’264 patent”); 9,195,765 (“the ’765 patent”); 9,423,923 (“the ’923 patent”); 9,423,938 (“the ’938 patent”); and 9,423,954 (“the ’954 patent”), attached herein as Exhibits A-J. Shortly thereafter, LGEUS moved to dismiss the complaint for failure to state a claim upon which relief could be granted, and Cypress (without conferring with LGEUS), filed its first amended complaint on December 12, 2017, asserting three additional patents and bringing the total number of asserted patents to thirteen. The three additional patents are U.S. Patent Nos. 9,817,558 (“the ’558 patent”), 9,823,838 (“the ’838 patent”), and 9,841,878 (“the ’878 patent”), attached herein as Exhibits K-M. In response, LGEUS again moved to dismiss, because Cypress’s amended complaint did not address the deficiencies in the original

complaint and, in fact, raised additional deficiencies. LGEUS filed its second motion to dismiss on January 26, 2018. Rather than meet and confer with LGEUS to address the numerous deficiencies and issues with the original and first amended complaint, Cypress opposed LGEUS's motion based in part on its intent to seek leave to file yet another amended complaint. On February 21, 2018, Cypress filed a motion for leave to amend its complaint a second time. LGEUS opposed Cypress's motion for leave in part due to Cypress's failure to comply with the meet-and-confer requirements and in part because the proposed second amended complaint is still deficient.

9. In addition to the issues and deficiencies that LGEUS raised in its motions to dismiss and its opposition to Cypress's motion for leave to file a second amended complaint, Cypress's original, amended, and proposed second amended complaint all assert vague infringement allegations. Cypress asserts a total of thirteen patents, some of which have over 200 claims, and while Cypress identifies an exemplary claim from each of the asserted patents, it fails to provide sufficient detail to show how the accused LG devices map to the claims to support its infringement allegations.

10. In its amended complaint, for example, Cypress identified the following accused LG smartphone and tablet device models that run on the Android operating system: Access, Aristo, Classic, Escape 3, Escape 3, Fiesta, Fortune, Grace, G4, G5, G6, G Pad, K3, K4, K7, K8, K10, K20, Nexus 5X, Nexus 6P, Optimus Zone 3, Phoenix 2, Phoenix 3, premier, Rebel, Rebel 2, Risio, Risio 2, Spree, Stylo, Stylo 2, Stylo 3, Treasure, Tribute 5, Tribute HD, V20, XCharge, X Power, and X Venture (hereinafter "Accused LG Products"). LGEMU imports, offers for sale, and sells in the U.S. each of these accused LG smartphone and tablet devices.

11. Cypress and LGEUS were also engaged in a prior lawsuit involving LG-branded products running on Windows operating system and some of the same patents named in this complaint. Cypress sought to expand the scope of that lawsuit to include smartphone and tablet devices that run on the Android operating system. In response, LGEUS informed counsel for Cypress that LGEUS's business does not involve smartphones, and LGEMU is relevant to the smartphone business. LGEUS even suggested that LGEMU be carved out from the prior lawsuit or that an amended complaint be filed to add LGEMU. Cypress's counsel responded by confirming that the non-Microsoft products were not a part of that action.

12. Because LGEUS informed Cypress that LGEMU is the party responsible for importing, offering for sale, and selling within the U.S. the Accused LG Products, and because Cypress has filed suit against LGEUS on those very products, LGEMU has reasonable apprehension of being sued for infringement of the patents Cypress has asserted against LGEUS.

COUNT ONE:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 8,422,858

13. LGEMU realleges and incorporates by reference each of paragraphs 1-11 above, as if fully set forth herein.

14. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 14 of the '858 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of "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,” as recited by the asserted claim of the ’858 patent. The Accused Products therefore do not infringe the claims of the ’858 patent.

15. LGEMU does not infringe and has not infringed the claims of the ’858 patent.

16. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the ’858 patent.

COUNT TWO:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 8,661,361

17. LGEMU realleges and incorporates by reference each of paragraphs 1-16 above, as if fully set forth herein.

18. In Cypress’s amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 199 of the ’361 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of “code for presenting a first navigation control, in a first navigation region determined based on the first application region, for navigating to a second visual component, of a second application in the plurality, in a second application region in the presentation space, wherein the first navigation region is determined based on a location of at least one of the first visual component, a parent visual component of the first visual component, and a child visual component of the first visual component,” as recited by the asserted claim of the ’361 patent. The Accused LG Products therefore do not infringe the claims of the ’361 patent.

19. LGEMU does not infringe and has not infringed the claims of the ’361 patent.

20. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the '361 patent.

COUNT THREE:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 8,781,299

21. LGEMU realleges and incorporates by reference each of paragraphs 1-20 above, as if fully set forth herein.

22. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 1 of the '299 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of "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," as recited by the asserted claim of the '299 patent. The Accused LG Products therefore do not infringe the claims of the '299 patent.

23. LGEMU does not infringe and has not infringed the claims of the '299 patent.

24. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the '299 patent.

COUNT FOUR:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 8,787,731

25. LGEMU realleges and incorporates by reference each of paragraphs 1-24 above, as if fully set forth herein.

26. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 1 of the '731 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of "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," as recited by the asserted claim of the '731 patent. The Accused LG Products therefore do not infringe the claims of the '731 patent.

27. LGEMU does not infringe and has not infringed the claims of the '731 patent.

28. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the '731 patent.

COUNT FIVE:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 8,902,054

29. LGEMU realleges and incorporates by reference each of paragraphs 1-28 above, as if fully set forth herein.

30. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 1 of the '054 patent. While Cypress identifies this claim as

allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting as LGEUS informed Cypress through its motion to dismiss in the related action, the Accused LG Products do not come preinstalled with the functionality Cypress contends practices the asserted claim of the '054 patent. *See Cypress Lake Software, Inc. v. LG Electronics U.S.A., Inc.*, 1:17-cv-01133-GMS, D.I. 20, 21. The Accused LG Products therefore do not infringe the claims of the '054 patent.

31. LGEMU does not infringe and has not infringed the claims of the '054 patent.

32. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the '054 patent.

COUNT SIX:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 8,983,264

33. LGEMU realleges and incorporates by reference each of paragraphs 1-32 above, as if fully set forth herein.

34. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 61 of the '264 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of "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,” as recited by the asserted claim of the ’264 patent. The Accused LG Products therefore do not infringe the claims of the ’264 patent.

35. LGEMU does not infringe and has not infringed the claims of the ’264 patent.

36. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the ’264 patent.

COUNT SEVEN:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 8,195,765

37. LGEMU realleges and incorporates by reference each of paragraphs 1-36 above, as if fully set forth herein.

38. In Cypress’s amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 1 of the ’765 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or to any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, as LGEUS informed Cypress through its motion to dismiss in the related action, the Accused LG Products do not come preinstalled with the functionality Cypress contends practices the asserted claim of the ’765 patent. *See Cypress Lake Software, Inc. v. LG Electronics U.S.A., Inc.*, 1:17-cv-01133-GMS, D.I. 20, 21. The Accused LG Products therefore do not infringe the claims of the ’765 patent.

39. LGEMU does not infringe and has not infringed the claims of the ’765 patent.

40. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the ’765 patent.

COUNT EIGHT:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 9,423,923

41. LGEMU realleges and incorporates by reference each of paragraphs 1-40 above, as if fully set forth herein.

42. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 4 of the '923 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or to any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of "utilize the display to display the menu in a second location with respect to the location of the first window, if the first user input takes the form of a second input and is predetermined to cause menu display, where the menu in the second location is outside the first window and includes the plurality of elements corresponding to the plurality of applications that are operating except the first application," as recited by the asserted claim of the '923 patent. The Accused LG Products therefore do not infringe the claims of the '923 patent.

43. LGEMU does not infringe and has not infringed the claims of the '923 patent.

44. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the '923 patent.

COUNT NINE:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 9,423,938

45. LGEMU realleges and incorporates by reference each of paragraphs 1-44 above, as if fully set forth herein.

46. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 1 of the '938 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claims) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of "utilize the display to display the menu in a second location with respect to the location of the first window, if it is determined that the first user input takes the form of the second input and is predetermined to cause menu display, where the menu in the second location is outside the first window and includes the plurality of elements corresponding to the plurality of applications that are operating except the first application since the first window is already displayed," as recited by the asserted claim of the '938 patent. The Accused LG Products therefore do not infringe the claims of the '938 patent.

47. LGEMU does not infringe and has not infringed the claims of the '938 patent.

48. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the '938 patent.

COUNT TEN:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 9,423,954

49. LGEMU realleges and incorporates by reference each of paragraphs 1-48 above, as if fully set forth herein.

50. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 14 of the '954 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products

map to this asserted claim (or any other claims) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of “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,” as recited by the asserted claim of the ’954 patent. The Accused LG Products therefore do not infringe the claims of the ’954 patent.

51. LGEMU does not infringe and has not infringed the claims of the ’954 patent.

52. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the ’954 patent.

COUNT ELEVEN:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 9,817,558

53. LGEMU realleges and incorporates by reference each of paragraphs 1-52 above, as if fully set forth herein.

54. In Cypress’s amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 1 of the ’558 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of “indicate, 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,” as recited by the asserted claim of the ’558 patent. The Accused LG Products therefore do not infringe the claims of the ’558 patent.

55. LGEMU does not infringe and has not infringed the claims of the ’558 patent.

56. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the ’558 patent.

COUNT TWELVE:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 9,823,838

57. LGEMU realleges and incorporates by reference each of paragraphs 1-56 above, as if fully set forth herein.

58. In Cypress’s amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 1¹ of the ’838 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of “said screen operatively coupled to the at least one processor configured to present, utilizing the at least one processor, an application window representation group including a plurality of application window representations including a second application window representation associated with the second application and a third application window representation associated with the third application,” as recited by the asserted claim of the ’838 patent. The Accused LG Products therefore do not infringe the claims of the ’838 patent.

¹ While the amended complaint identifies claim 21, the claim language provided in the amended complaint is that of claim 1.

59. LGEMU does not infringe and has not infringed the claims of the '838 patent.

60. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the '838 patent.

COUNT THIRTEEN:
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 9,841,878

61. LGEMU realleges and incorporates by reference each of paragraphs 1-60 above, as if fully set forth herein.

62. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 1 of the '878 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of "in response to the detection of the first user input, present, utilizing the at least one processor and the display, a representation of a second window of the second application in a menu, in a particular region of the presentation space of the display, for displaying the second window of the second application in the presentation space of the display in response to a detection of a second user input in connection with the representation of the second window, the particular region: located in a first location adjacent to a second location of the first window,," as recited by the asserted claim of the '878 patent. The Accused LG Products therefore do not infringe the claims of the '878 patent.

63. LGEMU does not infringe and has not infringed the claims of the '878 patent.

64. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the '878 patent.

PRAYER FOR RELIEF

- A. WHEREFORE, LGEMU requests that the Court enter judgment in their favor against Cypress as follows:
- B. Declare that the Accused LG Products do not meet the limitations of any claim of the '858, '361, '299, '731, '054, '264, '765, '923, '938, '954, '558, '838, and '878 patents.
- C. Declare that LGEMU has not infringed and is not infringing, jointly, individually, or otherwise, any claim of the '858, '361, '299, '731, '054, '264, '765, '923, '938, '954, '558, '838, and '878 patents.
- D. Pursuant to 35 U.S.C. § 285 and/or other applicable laws, find that this an exceptional case and award LGEMU its attorneys' fees incurred in connection with this action;
- E. Award LGEMU its cost of suit incurred herein;
- F. Grant LGEMU any such other and additional relief as this Court deems just and proper.

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Dated May 29, 2018

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