

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

**SHERMAN DIVISION**

**PROXIMITY SENSORS OF TEXAS,  
LLC,**

Plaintiff,

v.

**AMS-TAOS USA, INC.,**

Defendant.

Case No.

PATENT CASE

JURY TRIAL DEMANDED

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Proximity Sensors of Texas, LLC (“PST” or “Plaintiff”) files this Complaint against AMS-TAOS USA, INC., (“AMS” or “Defendant”) for infringement of U.S. Patent No. 7,050,043 (“the ’043 patent,” “the patent-in-suit,” or “the asserted patent”).

**THE PARTIES**

1. PST is a Texas limited liability company with its principal place of business located at 1400 Preston Road, Suite 400, Plano, Texas 75093.

2. AMS-TAOS USA, INC., is a Texas corporation, having a principal, and regular and established, place of business at 5556 Tennyson Parkway, Plano, TX 75024. AMS offers its products and/or services, including those accused herein of infringement, to customers and potential customers located in Texas and in the Eastern District of Texas. Defendant is registered to do business in Texas and may be served with process through its registered agent for service in Texas: Timothy J. Menolia, 2017 E. Lamar Blvd., Suite 200, Arlington, TX 76006.

**JURISDICTION AND VENUE**

3. PST brings this action for patent infringement under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §1400(b). Defendant has committed acts of infringement in this judicial district and has a regular and established place of business in this district. Defendant maintains a regular and established place of business in this district at least at 5556 Tennyson Parkway, Plano, Texas 75024.

5. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this State and judicial district, including: (a) at least part of its infringing activities alleged herein; and (b) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents.

**COUNT I - INFRINGEMENT OF U.S. PATENT NO. 7,050,043**

6. PST incorporates paragraphs 1 through 5 herein by reference.

7. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

8. PST is the owner of the '043 patent, entitled "Optical Apparatus," with all substantial rights to the '043 patent, including the exclusive right to enforce, sue, and recover damages for past and future infringement. A copy of the '043 patent is attached as Exhibit 1.

9. The '043 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10. The '043 patent was subject to Reexamination Request No. 90/011,093, filed on July 14, 2010.

11. As a result of Reexamination Request No. 90/011,093, the United States Patent and Trademark Office issued Ex Parte Reexamination Certificate (8445th) on August 2, 2011.

12. Independent claims 1 and 7 of the '043 patent were amended in reexamination, and determined to be patentable in amended form as stated in Ex Parte Reexamination Certificate (8445th).

13. Independent Claim 1 of the '043 patent recites (as shown in Ex Parte Reexamination Certificate (8445th)):

An optical apparatus for use on an object surface, comprising:  
an IC package structure, having a first compartment and a second compartment, wherein the first compartment has a first opening and the second compartment has a second opening, and wherein at least one of said first opening and said second opening is a partial opening partially uncovering said corresponding first compartment or second compartment at a side thereof;  
a light emitting device bonded in the first compartment, wherein light emitted from the light emitting device passes through the first opening and is reflected by the object surface; and  
an optical sensor bonded in the second compartment, and receiving the light reflected through the second opening from the object surface.

14. Original claims 2-6 and 8-12 of the '043 patent were determined to be patentable as a part of Reexamination Request No. 90/011,093 and Ex Parte Reexamination Certificate (8445th).

**DIRECT INFRINGEMENT (35 U.S.C. § 271(a))**

15. Defendant has, and continues to, directly infringe one or more claims of the '043 patent in this judicial district and elsewhere in the United States, including at least claims 1 and 5 by, among other things, making, using, selling, offering to sell, selling within, and/or importing

into, the United States proximity sensors, including but not limited to AMS tmd2771 / tmd277x proximity sensors (“the AMS Accused Products”).

16. Attached hereto as Exhibit 2, and incorporated by reference, is an exemplary claim chart detailing how the AMS Accused Products infringe the ’043 patent.

17. Defendant is liable for these direct infringements pursuant to 35 U.S.C. § 271.

**INDIRECT INFRINGEMENT (35 U.S.C. § 271(c) – INDUCEMENT)**

18. PST also contends that, on information and belief, Defendant has, and continues to, indirectly infringe the ’043 patent by inducing manufacturers of devices that incorporate the AMS Accused Products (*e.g.*, smartphones, tablets, etc.) to infringe at least claim 1 through their use of the AMS Accused Products.

19. Defendant has had knowledge of the ’043 patent since at least March 22, 2018, when PST offered to license the ’043 patent to Defendant.

20. Despite having knowledge of the ’043 patent, Defendant has, on information and belief, specifically intended and continues to specifically intend for manufacturers of devices that include the AMS Accused Products to use, sell, offer to sell, and/or import such products in a manner that causes direct infringement of the ’043 patent, including at least claims 1 and 5.

21. More specifically, despite having knowledge of the ’043 patent, Defendant has, on information and belief, provided, and continues to provide, instructional materials, datasheets, and other technical information about the AMS Accused Products to manufacturers of devices that include the AMS Accused Products that specifically cause, teach, and encourage manufacturers to use, offer to sell, sell and/or import the AMS Accused Products via devices (*e.g.*, smartphones, tablets, etc.) that include the AMS Accused Products.

22. PST has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to PST in an amount that adequately compensates PST for Defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

## **COUNT II – WILLFUL INFRINGEMENT**

23. PST incorporates paragraphs 1 through 22 herein by reference.

24. Prior to the filing of this action Defendant was aware of the '043 patent.

25. Defendant has had knowledge of the '043 patent since at least March 22, 2018, when PST put Defendant on notice of the '043 patent via email to Defendant's counsel.

26. In addition, on June 28, 2018, PST provided Defendant with a detailed exemplary claim chart detailing Defendant's infringement of the '043 patent.

27. Defendant has been, or should have been, aware of its infringement of the '043 patent since at least June 28, 2018.

28. On information and belief, despite being aware of the '043 patent and its infringement of the '043 patent, Defendant has not changed or otherwise altered any of the AMS Accused Products in an effort to avoid infringing the '043 patent.

29. Rather, despite having notice of the '043 patent, Defendant has and continues to infringe the '043 patent in complete disregard to PST's patent rights.

30. Defendant has acted recklessly and/or egregiously and continues to willfully, wantonly, and deliberately engage in acts of infringement of the '043 patent, justifying an award to PST of increased damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

**JURY DEMAND**

PST requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**PRAYER FOR RELIEF**

PST asks that the Court find in its favor and against Defendant and that the Court grant

PST the following relief:

- a. Judgment that one or more claims of the '043 patent have been infringed directly or indirectly either literally and/or under the doctrine of equivalents by Defendant;
- b. Judgment that one or more claims of the '043 patent have been willfully infringed by Defendant;
- c. Judgment that Defendant account for and pay to Plaintiff all damages and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein;
- d. Judgment that Defendant account for and pay to Plaintiff a reasonable, ongoing, post-judgment royalty because of Defendant's infringing activities and other conduct complained of herein;
- e. That PST be granted pre-judgment and post judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- f. Find this case exceptional and award Plaintiff enhanced damages, attorneys' fees, and costs; and
- g. That PST be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: January 11, 2019

Respectfully submitted,



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