

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

LONE STAR TECHNOLOGICAL  
INNOVATIONS, LLC,

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Plaintiff,

Civil Action No. 6:19-vc-00059-RWS

v.

**JURY TRIAL DEMANDED**

ASUSTEK COMPUTER INC.

Defendant.

**PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Lone Star Technological Innovations, LLC (“Lone Star” or “Plaintiff”), by and through its attorneys, for its First Amended Complaint against Defendant ASUSTeK Computer Inc. (“ASUS” or “Defendant”), hereby alleges as follows:

**I. NATURE OF THE ACTION**

1. This is a patent infringement action to end Defendant’s unauthorized and infringing manufacture, use, sale, offering for sale, and/or importation of methods and products incorporating Plaintiff’s patented inventions.
  
2. Lone Star is owner of all right, title, and interest in and to United States Patent No. 6,724,435 (the “’435 Patent”), issued April 20, 2004, for “Method For Independently Controlling Hue or Saturation of Individual Colors in a Real Time Digital Video Image.” A true and correct copy of the ’435 Patent is attached hereto as Exhibit “A.”

3. Defendant manufactures, provides, sells, offers for sale, imports, and/or distributes infringing products and services; and/or induces others to make and use its products and services in an infringing manner, including its customers, who directly infringe the '435 Patent ("Patent-in-Suit").

4. Plaintiff Lone Star seeks monetary damages and prejudgment interest for Defendant's past infringement of the Patent-in-Suit.

## **II. THE PARTIES**

5. Plaintiff Lone Star is a limited liability company organized and existing under the laws of the State of Texas, with its principal place of business located at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

6. Upon information and belief, Defendant ASUSTeK Computer Inc. is a Taiwanese company with its principal place of business at No. 15, Li-Te Rd., Peitou, Taipei, Taiwan, R.O.C.

## **III. JURISDICTION AND VENUE**

7. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§271, 281, 283, 284, and 285. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§1331 and 1338(a).

8. This Court has personal jurisdiction over ASUS because it has committed acts giving rise to this action within Texas and within this judicial district. The Court's exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice because Defendant has established minimum contacts with the forum with respect to both general and specific jurisdiction. Upon information and belief, Defendant transacts substantial business in the State of Texas and this Judicial District. For example, Defendant has committed acts of

infringement in this District, by among others things, offering to sell and selling products that infringe the asserted patents, including the accused devices as alleged herein, as well as providing service and support to Defendant's customers in this District.

9. Venue in the Eastern District of Texas is proper pursuant to 28 U.S.C. §§ 1391 (b), (c) and 1400(b) because upon information and belief Defendant ASUSTek Computer Inc. is a foreign entity; Defendant has committed acts within this judicial district giving rise to this action, and Defendant continues to conduct business in this judicial district, including one or more acts of selling, using, importing and/or offering for sale infringing products or providing service and support to Defendant's customers in this District. This district is familiar with the technology of the Patent-in-Suit having presided over several lawsuits involving the Patent-in-Suit.

#### **IV. PLAINTIFF'S '435 PATENT**

10. The Patent-in-Suit discloses systems and methods for controlling individual color saturation and/or hue of a digital video input image. The '435 Patent discloses independently controlling hue or saturation of individual colors by identifying input image pixels requiring adjustment and separately evaluating independent control functions for hue or saturation to form corresponding output image pixels with the desired hue or saturation.

11. The Patent-in-Suit describes and claims specific technological improvements including independently controlling hue or saturation of individual colors in a real time digital video image, without affecting the hue and saturation of any other color. These improvements embody inventive concepts that, at the time, involved more than the mere performance of well-understood, conventional activities known in the industry. The Patent-in-Suit describe this technological improvement over such conventional methods, "(s)elective color control using the just described method enables viewers of real time digital video images to do two things currently not achievable using conventional methods of color control of real time digital video images." '435

Patent, Col. 2, Lns. 31 – 34.

12. Lone Star has obtained all substantial right and interest to the Patent-in-Suit, including all rights to recover for all past and future infringements thereof.

## **VI. DEFENDANT'S ACTS**

13. Defendant manufactures, provides, sells, offers for sale, and/or distributes infringing devices, including monitors, and/or projectors. Such devices include, but are not limited to, ASUS PA27AC 27-inch WQHD Monitor, ASUS PA32UC 32-inch Ultra HD Monitor, ASUS PB328Q 32-inch 2K WQHD Professional Monitor, ASUS ProArt PA328Q 32-inch 4K UHD Professional Monitor, ASUS ProArt PA329Q 32-inch 4K UHD Professional Monitor, ASUS P3E Portable LED Projector, and all other substantially similar products.

14. Based on information and belief, Defendant's infringing devices contain hardware components (*e.g.* the display screen/output image, an internal processor and software components (*e.g.* firmware instructions) which specifically provide the ability to change the hue and/or saturation of an individual color in the output image. Upon information and belief, Defendant's manufacture, sale, offer for sale, and/or distribution of devices that selectively change the hue and/or saturation of an individual color in the output image in an infringing manner directly infringe one or more claims of the '435 Patent, including by way of example claim 17 of the '435 patent.

15. A chart detailing the infringement of the '435 Patent by an exemplary product – the ASUS PA32UC 32-inch Ultra HD Monitor – is attached hereto as Exhibit "B" and incorporated by reference.

16. Based on information and belief, Defendant has jointly infringed the Patent-in-Suit by directing and/or controlling other parties, including through a contractual relationship. Upon information and belief, Defendant contracts and/or enter into agreements with other parties

concerning the operation and use of infringing devices and functionality within this jurisdiction and elsewhere. Upon information and belief, Defendant's contracts and agreements enable Defendant to direct and/or control the infringing conduct of the third parties.

17. Defendant conditions participation in an activity or receipt of a benefit of its performance of a step or steps and establishes the manner or timing of that performance. For example, as shown in Exhibit B, the benefits of Defendant's products is obtained by a third-party by following the Defendant's instructions to effectuate a change to the hue and/or saturation of a selected color. Defendant, through its product, provides the software and systems that establish the manner and/or timing of the performance of the steps such as allowing for individual color change.

18. Defendant has had actual knowledge of the Patent-in-Suit at least as early as the filing of Plaintiff's Original Complaint on February 20, 2019. (Dkt. 1). Based on information and belief this actual notice is based in part on reporting services that report contemporaneous with the filing of the lawsuit. *See e.g.* Exhibit "C" (showing public notification of the lawsuit). Alternatively, Defendant has actual knowledge of the Patent-in-Suit by virtue of its counsel appearing in this matter.

19. With knowledge of the Patent-in-Suit, Defendant intentionally provide services and instructions for the installation and infringing operation of infringing products (including, by way of example, the resources, materials, and customer support available at <https://www.asus.com/us/Monitors/> to the customers of its products, who directly infringe one of more claims of the '435 Patents through the operation of those products as described below (and, as shown in the literature and instructions provided by Defendant as set forth in Exhibit B). Claims directly infringed by Defendant's customers and/or users include, by way of example only, claim 1 of the '435 Patent.

20. Through its actions, Defendant has infringed the Patent-in-Suit and actively promoted and/or induced others to infringe the Patent-in-Suit throughout the United States, including by customers within the Eastern District of Texas. As explained above, Defendant had actual knowledge of the Patent-in-Suit or in the alternative, was willfully blind to same. Therefore, Defendant knew or should have known that its products constitute infringement of the Patent-in-Suit. On information and belief, Defendant intentionally directs and encourages its customers to use within the United States one or more devices that embody the patented invention and the customers use the devices in the ordinary, customary, and intended way. Indeed, Defendant advertises this feature on its website: “6-axis independent color adjustment: Customized hue and saturation control with 6 color adjustment allows you to adjust six colors (red, green, blue, cyan, magenta and yellow) independently without effecting other colors.”<sup>1</sup> Defendant induces its customers to infringe and contributes to infringement by instructing or specifying that its customers operate its accused products in a manner to change the saturation and/or hue of individual colors through the product’s OSD (on-screen display). Defendant’s customers directly infringe the Patent-in-Suit by following Defendant’s instructions and technical support to operate the accused products. Defendant specifies that the infringing products operate in an infringing manner by providing manuals and customer support related to its infringing products. (*See e.g.* Exhibit B). Further, Defendant’s provide products, software, and hardware components specially configured to operate in an infringing manner, and Defendant’s customers use Defendant’s configurations to operate Defendant’s products in an infringing manner.

21. Defendant, with knowledge of the Patent-in-Suit, contribute to the infringement of the Patent-in-Suit, by having their direct and indirect customers sell, offer for sale, use, or import

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<sup>1</sup> <https://www.asus.com/us/Monitors/ProArt-PA249Q/>

its monitors, and/or projectors, including but not limited to ASUS PA27AC 27-inch WQHD Monitor, ASUS PA32UC 32-inch Ultra HD Monitor, ASUS PB328Q 32-inch 2K WQHD Professional Monitor, ASUS ProArt PA328Q 32-inch 4K UHD Professional Monitor, ASUS ProArt PA329Q 32-inch 4K UHD Professional Monitor, ASUS P3E Portable LED Projector, and all other substantially similar products, with actual knowledge that such products infringe the Patent-in-Suit. Defendant's accused devices are especially made or adapted for infringing the Patent-in-Suit. For example, Defendant's products contain the functionality to specifically allow changes to the hue and/or saturation of an individual color – functionality which is material to practicing the Patent-in-Suit. Based on information and belief, this functionality has no substantially non-infringing uses and is only used to change the hue and/or saturation of an individual color.

22. Lone Star has been and will continue to suffer damages as a result of Defendant's infringing acts.

### **COUNT ONE**

#### **PATENT INFRINGEMENT—U.S. PATENT NO. 6,724,435**

23. Plaintiff Lone Star realleges and incorporates herein paragraphs 1–22.

24. Defendant has directly infringed the '435 Patent.

25. Defendant has indirectly infringed the '435 Patent by inducing the infringement of the '435 Patent and contributing to the infringement of the '435 Patent.

26. Upon information and belief, Defendant has jointly infringed the '435 Patent, including by controlling and/or directing others to perform one or more of the claimed method steps.

27. Defendant's aforementioned acts have caused damage to Lone Star and will continue to do so.

**VII. JURY DEMAND**

28. Plaintiff Lone Star hereby demands a jury on all issues so triable.

**VIII. REQUEST FOR RELIEF**

WHEREFORE, Plaintiff Lone Star respectfully requests that the Court:

- A. Enter judgment that Defendant infringes one or more claims of the '435 Patent literally and/or under the doctrine of equivalents;
- B. Award Plaintiff Lone Star past and future damages together with prejudgment and post-judgment interest to compensate for the infringement by Defendant of the '435 Patent in accordance with 35 U.S.C. §284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. §284;
- C. Declare this case exceptional pursuant to 35 U.S.C. §285; and
- D. Award Plaintiff Lone Star its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Respectfully submitted,

Dated: September 3, 2019

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**CERTIFICATE OF SERVICE**

I certify this document was filed electronically pursuant to Local Rule CV-5(a) on September 3, 2019. Pursuant to Local Rule CV-5(a), this electronic filing acts to electronically serve all counsel who have consented to electronic service via the Court's CM/ECF system.

By: /s/ John D. Saba  
John D. Saba, Jr.