

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

KT IMAGING USA, LLC,

Plaintiff

-against-

ACER AMERICA CORPORATION and
ACER INC.,

Defendants

Civil Action No.: 6:20-cv-299

Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff KT Imaging USA, LLC (“KTI” or “Plaintiff”), by way of this Complaint against Defendants Acer America Corporation and Acer Inc. (collectively “Acer” or “Defendants”), alleges as follows:

PARTIES

1. Plaintiff KT Imaging USA, LLC is a limited liability company organized and existing under the laws of the State of Texas, having its principal place of business at 106 E 6th Street, Suite 900, Austin, TX 78701.
2. On information and belief, Defendant Acer Inc. is a corporation organized and under the laws of Taiwan, with a principal place of business at 1F, 88, Sec. 1, Xintai 5th Rd., Xizhi, New Taipei City 221, Taiwan. On information and belief, Acer, Inc. can be served through its resident agent for service of process in Texas: Arthur Gentry, 5105 34th St., Lubbock, TX 79414.
3. On information and belief, Defendant Acer America Corporation is a corporation organized under the laws of California with a registered address at 333 W San Carlos St, Ste 1500,

San Jose Ca 95110.

JURISDICTION AND VENUE

4. This is an action under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*, for infringement by Acer of claims of U.S. Patent No. 8,004,602; and U.S. Patent No. 8,314,481 (collectively “the Patents-in-Suit”).

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Acer Inc. is subject to personal jurisdiction of this Court because, *inter alia*, on information and belief, independently and/or via its agents, (i) Acer Inc. sells and offers for sale its products in Texas, (ii) Acer Inc. sells and offers for sale its products by using distributors and sales representatives located in Texas; and/or (iii) Acer Inc. places its products in the stream of commerce with intent or knowledge that those products would end up in Texas. For example, Acer Inc. sells its products including its chromebooks and tablets (directly or through agents) in Texas and/or to residents of Texas.

7. Acer America Corporation is subject to personal jurisdiction of this Court because, *inter alia*, on information and belief, independently and/or via its agents, (i) Acer America Corporation sells and offers for sale its products in Texas, (ii) Acer America Corporation sells and offers for sale its products by using distributors and sales representatives located in Texas; and/or (iii) Acer America Corporation places its products in the stream of commerce with intent or knowledge that those products would end up in Texas. For example, Acer Inc. sells its products including its chromebooks and tablets (directly or through agents) in Texas and/or to residents of Texas.

8. Venue is proper in this district under 28 U.S.C. § 1391(c) because, *inter alia*, Acer Inc. is a foreign entity.

9. Venue is proper in this district under 35 U.S.C. § 1400(b) because Acer America

Corporation operates a regular and established place of business, which includes at least a repair and service facility within the Western District of Texas located at 1394 Eberhardt Rd, Temple, Texas 76504 and commits acts of infringement in this judicial district.

BACKGROUND

10. On August 23, 2011, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 8,004,602 (“the ’602 Patent”), entitled “Image Sensor Structure And Integrated Lens Module Thereof.”

11. On November 20, 2012, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 8,314,481 (“the ’481 Patent”), entitled “Substrate Structure for an Image Sensor Package and Method for Manufacturing the Same.”

12. KTI is the assignee and owner of the right, title, and interest in and to the Patents-in-Suit, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

13. Acer has infringed and continues to infringe the Patents-in-Suit. For example, as set forth below, Acer Chromebook 15.6 HD and Acer Iconia One 10 and all other products with substantially similar imaging sensors, including the products identified in Attachment A (“Accused Products”) infringe claims of the Patents-in-Suit.

NOTICE

14. By letter dated February 6, 2020, KTI notified Acer of the existence of the Patents-in-Suit, and of infringement thereof by Acer. KTI’s letter identified exemplary infringing Acer products and an exemplary infringed claim for each of these patents. KTI’s February 6, 2020 letter invited Acer to hold a licensing discussion with KTI.

15. Acer has had notice of the ’481 Patent at least as of the time of filing of this Complaint.

COUNT I: INFRINGEMENT OF THE '602 PATENT BY ACER

16. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

17. On information and belief, Acer has infringed the '602 Patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, offering to sell, selling in the United States, or importing into the United States the Accused Products.

18. For example, on information and belief, Acer has infringed and continues to infringe at least claim 1 of the '602 Patent by including an image sensor structure with an integrated lens module in the Accused Products. *See* Ex. 1 (Iconia One 10 Rear Facing Image Sensor Module). The image sensor structure in the Accused Products comprises a chip having a plurality of light-sensing elements arranged on a light sensing area of a first surface of the chip, a plurality of first conducting pads arranged around the light-sensing area and electrically connected to the light-sensing elements, and at least one conducting channel passing through the chip and electrically connected to the first conducting pads at one end as well as extending along with a second surface of the chip. *See* Exs. 1, 2-4 (all Iconia One 10 Rear Facing Image Sensor Module). The image sensor structure in the Accused Products comprises a lens module comprising a holder having a through hole and a contact surface on a bottom of the holder, wherein the contact surface is combined with the first surface, and at least one lens completely embedded inside the through hole and integrated with the holder. *See* Exs. 1, 4.

19. On information and belief, Acer has induced infringement of the '602 Patent pursuant to 35 U.S.C. § 271(b), by actively and knowingly inducing, directing, causing, and encouraging others, including, but not limited to, its partners, resellers, distributors, customers, and end users, to make, use, sell, and/or offer to sell in the United States, and/or import into the United States, the Accused Products by, among other things, providing the accused products and incorporated image sensor technology, specifications, instructions, manuals, advertisements, marketing

materials, and technical assistance relating to the installation, set up, use, operation, and maintenance of said products.

20. On information and belief, Acer has committed the foregoing infringing activities without a license.

21. On information and belief, Acer knew the '602 Patent existed, knew of an exemplary infringed claim of the '602 Patent, and knew of exemplary infringing Acer products while committing the foregoing infringing acts while committing the foregoing infringing acts, thereby willfully, wantonly and deliberately infringing the '602 Patent.

COUNT II: INFRINGEMENT OF THE '481 PATENT BY ACER

22. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

23. On information and belief, Acer has infringed the '481 Patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, offering to sell, selling in the United States, or importing into the United States the Accused Products.

24. For example, on information and belief, Acer has infringed and continues to infringe at least claim 1 of the '481 Patent by including a substrate structure for an image sensor package in each of the Accused Products. *See* Ex. 5 (Acer Chromebook 15.6 HD Front Facing Image Sensor Module). *See also* Exs. 6-8. The substrate structure in the Accused Products comprises a bottom base having an upper surface formed with a plurality of first electrodes, and a lower surface formed with a plurality of second electrodes, wherein an insulation layer is coated between first electrodes and in direct surface contact with the upper surface of the bottom base. *See* Ex. 5. The substrate structure in the Accused Products comprises a frame layer arranged on and in direct surface contact with the first electrodes and the insulation layer to form a cavity together with the bottom base, wherein the insulation layer is interposed between the bottom base and the frame layer. *See* Ex. 5.

25. On information and belief, Acer has induced infringement of the '481 Patent pursuant to 35 U.S.C. § 271(b), by actively and knowingly inducing, directing, causing, and encouraging others, including, but not limited to, its partners, resellers, distributors, customers, and end users, to make, use, sell, and/or offer to sell in the United States, and/or import into the United States, the Accused Products by, among other things, providing the accused products and incorporated image sensor technology, specifications, instructions, manuals, advertisements, marketing materials, and technical assistance relating to the installation, set up, use, operation, and maintenance of said products.

26. On information and belief, Acer has committed the foregoing infringing activities without a license.

PRAYER FOR RELIEF

WHEREFORE, KTI prays for judgment in its favor against the Acer for the following relief:

- A. Entry of judgment in favor of KTI against Acer on all counts;
- B. Entry of judgment that Acer has infringed the Patent-in-Suit;
- C. Entry of judgment that Acer's infringement of the Patents-in-Suit has been willful;
- D. An order permanently enjoining Acer from infringing the Patent-in-Suit;
- E. Award of compensatory damages adequate to compensate KTI for Acer's infringement of the Patent-in-Suit, in no event less than a reasonable royalty trebled as provided by 35 U.S.C. § 284;
- F. Award of reasonable attorneys' fees and expenses against Acer pursuant to 35 U.S.C. § 285;
- G. KTI's costs;

- H. Pre-judgment and post-judgment interest on KTI's award; and
- I. All such other and further relief as the Court deems just or equitable.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Fed. R. Civ. Proc., Plaintiff hereby demands trial by jury in this action of all claims so triable.

Dated: April 20, 2020

Respectfully submitted,

/s/ Stafford Davis
Stafford Davis
State Bar No. 24054605
sdavis@stafforddavisfirm.com
Catherine Bartles
State Bar No. 24104849
cbartles@stafforddavisfirm.com
THE STAFFORD DAVIS FIRM, PC
815 South Broadway
Tyler, Texas 75702
Tel: (903) 593-7000
Fax: (903) 705-7369

Dmitry Kheyfits
(*pro hac vice* to be filed)
dkheyfits@kblit.com
KHEYFITS BELENKY LLP
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111
Tel: 415-429-1739
Fax: 415-429-6347

Brandon G. Moore
KHEYFITS BELENKY LLP
7500 Rialto Boulevard, Bldg. 1
Suite 250
Austin, TX 78735
Tel: 737-228-1838
Fax: 737-228-1843

Andrey Belenky
abelenky@kblit.com
KHEYFITS BELENKY LLP
1140 Avenue of the Americas, 9th Floor
New York, NY 10036
Tel: 212-203-5399
Fax: 212-203-5399

*Attorneys for Plaintiff
KT Imaging USA, LLC*