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*ATTORNEYS FOR PLAINTIFF
PRINCEPS SECUNDUS LLC*

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

PRINCEPS SECUNDUS LLC,

Plaintiff,

v.

ASUSTEK COMPUTER INC. and ASUS
COMPUTER INTERNATIONAL,

Defendants.

Case No.: 5:20-cv-00205-EMC

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

1 Plaintiff Princeps Secundus LLC (“Princeps” or “Plaintiff”), for its Complaint against AsusTeK
2 Computer Inc. (“ATC”) and Asus Computer International (“ACI”), (collectively “Asus” or
3 “Defendants”), alleges the following.

4 **NATURE OF THE ACTION**

5 1. This is an action for patent infringement arising under the Patent Laws of the United
6 States, 35 U.S.C. § 1 *et seq.*

7 **THE PARTIES**

8 2. Plaintiff Princeps is a limited liability company organized under the laws of the State of
9 Delaware with a place of business at Princeps Secundus LLC, 261 West 35th Street, Suite No. 1003,
10 New York, New York 10001.

11 3. AsusTeK Computer, Inc. (“ATC”) is a foreign corporation organized and existing under
12 the laws of Taiwan, with its principal place of business at No. 15, Li-Te Rd., Beitou District, Taipei
13 112, Taiwan, R.O.C. ATC produces and sells telecommunications, electronics and mobile phone
14 technologies worldwide, including in the United States.

15 4. Asus Computer International (“ACI”) is a corporation organized and existing under the
16 laws of California, with its principal place of business located at 800 Corporate Way, Fremont,
17 California 94539. Defendant ACI is a subsidiary of or otherwise controlled by ATC. Defendant ACI
18 may be served through its registered agent for service of process – CT Corporation System, 818 West
19 Seventh Street, Suite 930, Los Angeles, CA 90017. ACI manufactures, supplies and sells consumer
20 electronics and products throughout the United States including in this District. In addition to its
21 registered agent, on information and belief, ACI and/or ATC have other regular and established places
22 of business in this District including authorized service centers (See source: [https://www.service-](https://www.service-center-locator.com/asus/asus-service-center.htm)
23 [center-locator.com/asus/asus-service-center.htm](https://www.service-center-locator.com/asus/asus-service-center.htm) last accessed and downloaded on July 26, 2019.)
24 (“ASUS SERVICE CENTER CALIFORNIA”).

25 5. ACI is a subsidiary of ATC. Defendants ACI and ATC act in concert regarding the
26 allegations set forth in this Complaint and, therefore, the conduct described herein is fairly attributable
27 to either or both entities. More specifically, Defendants work collectively in the designing,
28 manufacturing, importing, distributing and selling of the Accused Instrumentalities described in more

1 detail below and in the attached claim charts (Exhibits A-1 and A-2).

2 **JURISDICTION AND VENUE**

3 6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4 7. Venue with respect to Defendant ATC is proper in this District under 28 U.S.C. §
5 1391(c)(3) because, upon information and belief, Defendant ATC is not a resident of the United States,
6 and also under 28 U.S.C. § 1391(b)(2) because ATC sells and offers to sell products and services
7 throughout the United States, including in this District, and introduces products and services into the
8 stream of commerce and effectuates these sales knowing that the products and services would be sold
9 in this District and elsewhere in the United States.

10 8. This Court has personal jurisdiction over ATC. ATC is amenable to service of
11 summons for this action. Defendant ATC has sought protection and benefit from the laws of the State
12 of California by maintaining one of its United States affiliates (Defendant ACI) in this District and/or
13 by placing infringing products into the stream of commerce through an established distribution channel
14 with the awareness and/or intent that they will be purchased by consumers in this District.

15 9. ATC – directly or through intermediaries (including distributors, retailers, and others),
16 subsidiaries, alter egos, and/or agents – ships, distributes, offers for sale, and/or sells its products in the
17 United States and this District. ATC has purposefully and voluntarily placed one or more of its
18 infringing products into the stream of commerce with the awareness and/or intent that they will be
19 purchased by consumers in this District. ATC knowingly and purposefully ships infringing products
20 into and within this District through an established distribution channel. These infringing products
21 have been and continue to be purchased by consumers in this District. Upon information and belief,
22 through those activities, ATC has committed the tort of patent infringement in this District.

23 10. On information and belief, Defendant ATC is subject to this Court’s general and
24 specific personal jurisdiction because ATC has sufficient minimum contacts within California and this
25 District, because Defendant ATC purposefully availed itself of the privileges of conducting business in
26 California and in this District, because Defendant ATC regularly conducts and solicits business within
27 California and within this District, and because Plaintiff’s causes of action arise directly from
28 Defendant ATC’s business contacts and other activities in California and this District. Having

1 purposefully availed itself of the privilege of conducting business within this District, Defendant ATC
2 should reasonably and fairly anticipate being brought into court here.

3 11. Venue with respect to Defendant ACI is proper in this District under 28 U.S.C. §
4 1400(b) because ACI is a California corporation and therefore resides in this District.

5 12. This Court has personal jurisdiction over ACI. ACI has conducted and regularly
6 conducts business within the United States and this District. ACI has purposefully availed itself of the
7 privileges of conducting business in the United States, and more specifically in California and this
8 District. ACI has sought protection and benefit from the laws of California by incorporating itself in
9 this District and/or by placing infringing products into the stream of commerce through an established
10 distribution channel with the awareness and/or intent that they will be purchased by consumers in this
11 District.

12 13. ACI – directly or through intermediaries (including distributors, retailers, and others),
13 subsidiaries, alter egos, and/or agents – ships, distributes, offers for sale, and/or sells its products in the
14 United States and this District. ACI has purposefully and voluntarily placed one or more of its
15 infringing products into the stream of commerce with the awareness and/or intent that they will be
16 purchased by consumers in this District. ACI knowingly and purposefully ships infringing products
17 into and within this District through an established distribution channel. These infringing products
18 have been and continue to be purchased by consumers in this District. Upon information and belief,
19 through those activities, ACI has committed the tort of patent infringement in this District.

20 14. On information and belief, Defendant ACI is subject to this Court's general and specific
21 personal jurisdiction because ACI has sufficient minimum contacts within California and this District,
22 because Defendant ACI purposefully availed itself of the privileges of conducting business in
23 California and in this District, because Defendant ACI regularly conducts and solicits business within
24 California and within this District, and because Plaintiff's causes of action arise directly from
25 Defendant ACI's business contacts and other activities in California and this District. Having
26 purposefully availed itself of the privilege of conducting business within this District, Defendant ACI
27 should reasonably and fairly anticipate being brought into court here.

28

BACKGROUND

The Inventions

15. Timothy B. Higginson is the sole inventor (hereinafter “the Inventor”) of U.S. Patent No. 6,703,963 (“the ’963 patent” or “the patent in suit”). A true and correct copy of the ’963 patent is attached hereto as Exhibit A.

16. The ’963 patent resulted from the pioneering efforts of the Inventor in the area of small-profile multifunctional input devices. These efforts resulted in the development of novel input devices, and methods for operating them. The input devices utilize one or more functional modes and one or more domain levels associated with entering input values into the devices. A provisional patent application directed to the inventions was filed in the United States in September 2001.

17. At the time of the Inventor’s pioneering efforts, the most widely implemented technology used to address keying input data still involved implementing variants of the traditional two-handed QWERTY keyboard. In that type of system, as explained in the ’963 patent:

The QWERTY keyboard has been used as an input means since the development of the very first electronic devices. However, with the development of smaller, portable electronic devices, use of the QWERTY keyboard with these devices has certain drawbacks. As electronic devices have become smaller through advances in integrated circuitry, the traditional QWERTY keyboard is simply too large for many of the smaller electronic devices as the keyboard must be large enough to accommodate both hands of the user. Moreover, due the large size of the traditional keyboard, it is not sufficiently portable for use in conjunction with many of these electronic devices.

Previous attempts to overcome this short coming of the keyboard have included the use of foldable keyboards as shown in U.S. Pat. No. 6,174,097 and the use of keyboards that allow for the direct connection of the electronic device to a full-size portable QWERTY keyboard as shown in U.S. Pat. No. 6,108,200. However, neither of these approaches reduces the area required for the use of the keyboard.

...An additional drawback to the QWERTY keyboard is that it was designed to accommodate the mechanical components of the first typewriters, as such, the layout of its keys does not facilitate the rapid input of data from the keyboard.

...Another drawback to the traditional QWERTY keyboard is that it has typically only had a single functionality, namely alphanumeric input. However, with the decrease in size of many of electronic devices, additional functions are required from a smaller keyboard that current keyboards cannot accommodate.

1 (See Exhibit A, '963 patent at 1:37 to 2:23.)¹

2 18. The Inventor conceived of the inventions claimed in the '963 patent as a way to address
3 the aforementioned drawbacks of the prior art. As explained in the '963 patent:

4 The miniaturization of many electronic devices has allowed them to be designed such
5 that they can be operated with only a single hand of the user or has made their use incompatible
6 with a full-sized QWERTY keyboard. Because the QWERTY keyboard was developed for
7 two-handed use with the original typewriter, it cannot be readily adapted for efficient use by
8 only a single hand, or one or both thumbs when used in conjunction with many electronic
9 devices.

10 ...Previous attempts to increase the speed and efficiency of data input into an electronic
11 device have included the development and use of voice-recognition software. However, the
12 error rate typically associated with this type of software has thus far prevented its large-scale
13 use as an effective input device.

14 ...Previous attempts to overcome shortcomings of the QWERTY keyboard have
15 included the use of alternative keyboards, such as the standard 12-key arrangement found on
16 most telephone and cellular phones. A drawback of using the standard telephone as a data-
17 input device is the slow rate of input due to use of only a single finger or thumb to activate the
18 keys.

19 (See Exhibit A, '963 patent at 1:56 to 2:30.)

20 The present invention provides a multifunctional input device. The input device
21 includes a functional mode which defines the mode of operation of the input device. Each
22 functional mode includes one or more domain levels with each domain level containing one or
23 more domain-level values. Each domain level-value within each functional mode is assigned to
24 one of a plurality of programmable input keys. The domain-level value assigned to each input
25 key controls the function of that input key within a given functionality and domain level. The
26 present invention also includes a display to indicate the domain-level value associated with
27 each of the programmable input keys within a given functionality.

28 (See Exhibit A, '963 patent at 2:33-45.)

Technological Innovation

19. The patented inventions disclosed in the '963 patent resolve technical problems related
to data input devices, and particularly, to problems related to the utilization of small-profile data input
devices. As the patent explains, there are several limitations of the prior art as regards full-sized
QWERTY keyboards in that:

¹ Citations to patents in this Complaint refer to columns and lines within columns of any cited patent. For example, the citation referenced by this footnote refers to column 1, at line 37 through column 2, at line 23 in the '963 patent.

1 [T]he keyboard must be large enough to accommodate both hands of the user.
2 Moreover, due the large size of the traditional keyboard, it is not sufficiently portable for use in
3 conjunction with many of these electronic devices.

4 ('963 patent at 1:40-48.)

5 The miniaturization of many electronic devices has allowed them to be designed such
6 that they can be operated with only a single hand of the user or has made their use incompatible
7 with a full-sized QWERTY keyboard.

8 ('963 patent at 1:56-59.)

9 Moreover, the size of the standard QWERTY keyboard, which can have in excess of
10 100 keys, often limits its versatility and utility as an input device.

11 ('963 patent at 1:64-66.)

12 20. The claims of the '963 patent do not merely recite the performance of some well-known
13 business practice from the pre-Internet world along with the requirement to perform it on the Internet.
14 Instead, the claims of the patent in suit recite inventive concepts that are deeply rooted in computerized
15 data input and data processing. They offer technology that overcomes problems specifically arising
16 out of how to maximize efficiency and versatility associated with entering data into a small profile data
17 input device.

18 21. In addition, the claims of the patent in suit recite inventive concepts that improve the
19 functioning of electronic data input devices catalogs, particularly as they recite a combination of
20 controls by which a user can dynamically generate user-specific data input interfaces for the devices.

21 22. Moreover, the claims of the '963 patent recite inventive concepts that are not merely
22 routine or a conventional use of computer technology or transaction processing. Instead, the patented
23 inventions disclosed in the patent in suit provide a new and novel solution to specific problems related
24 to automating and customizing the process of entering data into small profile input devices by
25 dynamically utilizing user specified control combinations. The claims of the patent in suit thus specify
26 how interfaces for entering user data are manipulated to yield a desired result.

27 23. And finally, the patented inventions disclosed in the patent in suit do not preempt all the
28 ways that user-specific interface selections may be used to improve entering data into small profile
input devices, nor does the patent in suit preempt a well-known or prior art technology, such as a

1 standard QWERTY keyboard.

2 24. Accordingly, the claims in the '963 patent recite a combination of elements sufficient to
3 ensure that the claims, in substance and in practice, amount to significantly more than a patent-
4 ineligible abstract idea.

5 **COUNT I - INFRINGEMENT OF U.S. PATENT NO. 6,703,963**

6 25. The allegations set forth in the foregoing paragraphs are incorporated herein by
7 reference.

8 26. On March 9, 2004, the '963 patent was duly and legally issued by the United States
9 Patent and Trademark Office under the title "Universal Keyboard."

10 27. Princeps is the assignee and owner of the right, title and interest in and to the '963
11 patent, including the right to assert all causes of action arising under said patent and the right to any
12 remedies for infringement of it.

13 28. Upon information and belief, Defendants have directly infringed and continue to
14 directly infringe at least claims 1, 2, 3, 9, 12 and 60 of the '963 patent under 35 U.S.C. § 271(a) by
15 making, using, selling, offering to sell and/or importing information input devices such as Asus phones
16 with proprietary and/or third-party apps utilizing keyboard functionalities (e.g., via the ZenUI
17 keyboard) and an operating system such as the Android operating system (the "Accused
18 Instrumentalities"), as set forth in detail in the attached preliminary and exemplary claim charts
19 provided in Exhibits A-1 and A-2. (*See* Princeps' Claim Charts for claims 1, 2, 3, 9, 12 and 60 of the
20 '963 patent, Exhibits A-1 and A-2.)

21 29. The Accused Instrumentalities infringed and continue to infringe claims 1, 2, 3, 9, 12
22 and 60 of the '963 patent during the pendency of the '963 patent.

23 30. Asus was made aware of the '963 patent and its infringement thereof at least as early as
24 August 2, 2019, when it was served a Complaint based on the '963 patent in an earlier action brought
25 in this District, C.A. No. 5:19-cv-04298-NC, dismissed without prejudice.

26 31. Users in California and elsewhere in the United States have used and interacted with
27 Defendants' systems as recited in claims 1, 2, 3, 9, 12 and 60 of the '963 patent.

1 32. On information and belief, collective Defendant Asus is a for-profit organization with
2 revenues of approximately \$14 billion U.S.D. per year. Moreover, Defendant Asus, including their
3 employees and/or agents, make, use, sell, offer to sell, import, provide and cause to be used the
4 Accused Instrumentalities for Defendants' customers, leading to direct and indirect revenues and
5 profit. As one example of indirect profit, entities such as Defendants will frequently offer the Accused
6 Instrumentalities at reduced pricing as an inducement to attract select categories of customers, such as
7 students, who then purchase additional products or services. On information and belief, without the
8 availability of infringing tools such as the Accused Instrumentalities, Defendants would be at a
9 disadvantage in the marketplace and would generate less revenue overall.

10 33. Princeps has been harmed by Asus's infringing activities.

11 34. Princeps reserves the right to modify its infringement theories as discovery progresses
12 in this case. It shall not be estopped for purposes of its infringement contentions or its claim
13 constructions by the claim charts it provides with this Complaint. Princeps intends the claim charts
14 (Exhibits A-1 and A-2) for the '963 patent to satisfy the notice requirements of Rule 8(a)(2) of the
15 Federal Rule of Civil Procedure. The claim chart is not Princeps's preliminary or final infringement
16 contentions or preliminary or final claim construction positions.

17 **JURY DEMAND**

18 35. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, and Rule 3-6 of the Civil
19 Local Rules, Plaintiff demands a trial by jury on all issues triable as such.

20 **PRAYER FOR RELIEF**

21 36. WHEREFORE, Plaintiff Princeps demands judgment for itself and against the
22 Defendants as follows:

- 23 A. An adjudication that the Defendants have infringed the '963 patent;
- 24 B. An award of damages to be paid by Defendants adequate to compensate Plaintiff for the
25 Defendants' past infringement of the '963 patent, and any continuing or future
26 infringement through the date such judgment is entered, including interest, costs,
27 expenses and an accounting of all infringing acts including, but not limited to, those acts
28 not presented at trial;

- 1 C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of
2 Plaintiff's reasonable attorneys' fees; and
3 D. An award to Plaintiff of such further relief at law or in equity as the Court deems just
4 and proper.

5
6
7 Dated: May 29, 2020

Respectfully submitted,

8
9 /s/ Patrick R. Delaney
Patrick R. Delaney

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