

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

<b>MESA DIGITAL, LLC,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No. 6:21-cv-01038-ADA</b>
<b>v.</b>	)	
	)	
<b>BEST BUY CO., INC.</b>	)	
<b>Defendant.</b>	)	<b>JURY TRIAL DEMANDED</b>
	)	

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

Mesa Digital, LLC (“Mesa”) files this Third Amended Complaint and demand for jury trial seeking relief from patent infringement of the claims of US 9,031,537 (“the ‘537 patent”) (referred to as the “Patent-in-Suit”) by Best Buy Co., Inc. (“Best Buy”) and Bullitt Mobile Limited (“Bullitt”) (collectively, “Defendants”). This Third Amended Complaint is filed before any Defendant answers and by agreement of the parties to correct the name of a defendant.

**I. THE PARTIES**

1. Plaintiff Mesa is a New Mexico Limited Liability Company with its principal place of business located in Albuquerque, New Mexico.
  
2. On information and belief, Best Buy Co., Inc. is a company organized in Minnesota, having a regular and established place of business at 4627 S Jack Kultgen Expy, Waco, TX 76706. Best Buy can be served through its registered agent C T Corporation System 1999 Bryan St., Ste. 900, Dallas, TX 75201 or wherever they may be found. On information and belief, Best Buy sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district, including wireless devices of the Bullitt Group, Ltd. is a company organized under the laws of the United Kingdom,

having a regular and established place of business at One Valpy, Valpy Street, Reading, RG11AR, Berkshire, UK.

3. On information and belief, Bullitt Mobile Limited (“Bullitt”) is a company organized under the laws of the United Kingdom, having a regular and established place of business at One Valpy, Valpy Street, Reading, RG11AR, Berkshire, UK. Bullitt may be served under the Hague Convention or other means allowed under the law. On information and belief, Bullitt sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district.

## **II. JURISDICTION AND VENUE**

4. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff’s claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

5. This Court has personal jurisdiction over Best Buy because: (i) Best Buy is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Best Buy has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff’s cause of action arises directly from Best Buy’s business contacts and other activities in the State of Texas and in this judicial district.

6. This Court has personal jurisdiction over Bullitt because: (i) Bullitt is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Bullitt has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff’s cause of action arises directly from Bullitt’s business contacts and other activities in the State of Texas and in this judicial district.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Best Buy and Bullitt have committed acts of infringement and have a regular and established place of business in this District. Further, venue is proper because Defendants conduct substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

### **III. INFRINGEMENT**

#### **A. Infringement of the ‘537 Patent**

8. On May 12, 2015, U.S. Patent No. 9,031,537 (“the ‘537 patent” (included as an attachment, the contents of which are fully incorporated by reference)) entitled “Electronic wireless hand held multimedia device” was duly and legally issued by the U.S. Patent and Trademark Office. Mesa owns the ‘537 patent by assignment.

9. The ‘537 patent relates to a novel and improved electronic wireless hand held multimedia devices including a microprocessor and more than one wireless transceiver modules enabling wireless communications over a variety of standards, including Cellular (e.g., GSM, CDMA, GPRS, 3G), 802.11 (e.g., WLAN), and short range (e.g., Bluetooth, infrared, RFID), for the retrieval, processing and delivery of multimedia data to/from remote data resources (e.g., Internet, servers).

10. Defendant maintains, operates, manufactures, sells, offers for sale, and imports electronic wireless hand held multimedia devices including a microprocessor and more than one wireless transceiver modules enabling wireless communications over a variety of standards, including Cellular (e.g., GSM, CDMA, GPRS, 3G), 802.11 (e.g., WLAN), and short range (e.g., Bluetooth,

infrared, RFID), for the retrieval, processing and delivery of multimedia data to/from remote data resources (e.g., Internet, servers) that infringe one or more claims of the '537 patent, including one or more of claims 1-37, literally or under the doctrine of equivalents. Defendants put the inventions claimed by the '537 Patent into service (i.e., used them); but for Defendants' actions, the claimed-inventions embodiments involving Defendants' products and services would never have been put into service. Defendants' acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendants' procurement of monetary and commercial benefit from it.

11. Support for the allegations of infringement may be found in the following preliminary table:

1. An electronic wireless hand held multimedia device, comprising:



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<https://www.catphones.com/en-us/cat-s42-smartphone/>

Caterpillar's Cat® S42 is an electronic wireless hand held multimedia device.

The reference includes subject matter disclosed by the claims of the patent after the priority date.

US9031537 B2

## Caterpillar's Cat® S42

at least one of a wireless unit and a tuner unit supporting bi-directional data communications of data including video and text for the electronic wireless hand held multimedia device with remote data resources over cellular telecommunications networks, over wireless local area networks and over a direct wireless connection with electronic devices located within short range using Bluetooth communications after accepting a passcode from a user of the electronic wireless hand held multimedia device during the communications;

## CAT® S42 SPECIFICATION

<b>Operation System</b>	Android 10
<b>Processor</b>	MediaTek MT6761D Quad Core
<b>Memory</b>	<ul style="list-style-type: none"> <li>• Internal Memory: 32GB eMMC / 3GB LPDDR4X SDRAM</li> <li>• External Memory: SDXC, Class 10/Ultra high speed/up to 256GB</li> </ul>
<b>Cellular Network</b>	LTE: 1/ 2/ 3/ 4/ 5/ 7/ 8/ 20/ 28/ WCDMA: 1/ 2/ 4/ 5/ 8 GSM; 850/ 900/ 1800/ 1900
<b>Display</b>	Size 5.5" HD+ with wet finger & glove support,
<b>Camera</b>	<ul style="list-style-type: none"> <li>• Rear Camera: 13MP Dual cell PDAF single LED flash</li> <li>• Front Camera: 5MP</li> </ul>
<b>Sensor</b>	<ul style="list-style-type: none"> <li>• Ambient Light</li> <li>• Accelerometer</li> <li>• Compass</li> <li>• Proximity</li> </ul>
<b>Connectivity</b>	<ul style="list-style-type: none"> <li>• Audio jack: 3.5mm</li> <li>• Bluetooth: 5.0</li> <li>• USB: USB 2.0</li> <li>• WiFi 802.11 a/b/g/n/ac</li> <li>• GPS, aGPS, GLONASS, Gaileo, EGNOS, SBAS, Beidou</li> <li>• FM Radio with RDS</li> <li>• NFC</li> <li>• SIM type: Nano SIM</li> </ul>
<b>Battery</b>	4000mAH
<b>Others</b>	Ingress Protection: IP68 Drop: 1.5m Waterproof: 1.5m for up to 35mins Programmable Key with PTT mode
<b>Dimensions</b>	161.3 x 77.20 x 12.70mm

<[https://www.catphones.com/download/User-Manuals/S42-Smartphone/S42\\_User\\_Manual\\_EN\\_V1\\_English.pdf](https://www.catphones.com/download/User-Manuals/S42-Smartphone/S42_User_Manual_EN_V1_English.pdf)>

The reference describes at least one of a wireless unit and a tuner unit supporting bi-directional data communications of data including video and text for the electronic wireless hand held multimedia device with remote data resources over cellular telecommunications networks [Cellular Network], over wireless local area networks [WiFi 802.11 a/b/g/n/ac] and over a direct wireless connection with electronic devices located within short range using Bluetooth communications after accepting a passcode from a user of the electronic wireless hand held multimedia device during the communications [Bluetooth: 5.0].

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Caterpillar's Cat® S42

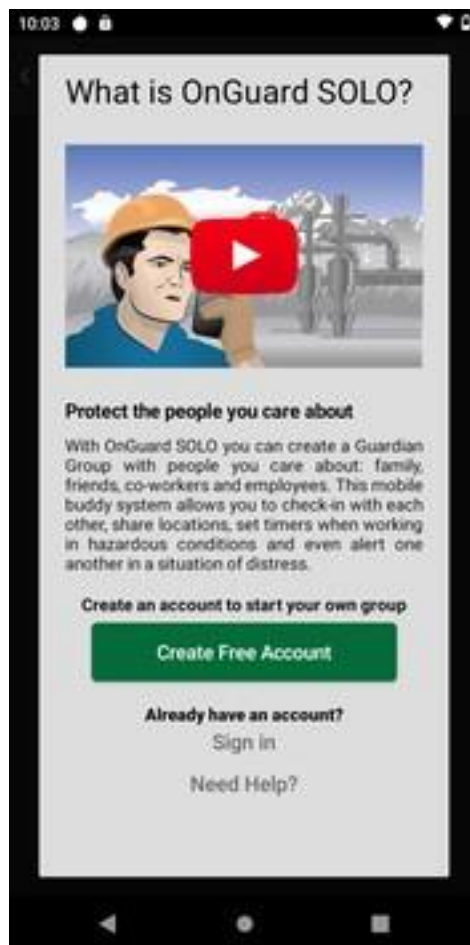
a touch sensitive display screen configured to display the data including video and text received by the electronic wireless hand held multimedia device by selecting a particular data represented by a soft button on the touch sensitive display screen of the electronic wireless hand held multimedia device; and

## TOUCHSCREEN

### TOUCHSCREEN ACTIONS

- **Tap:** Use your finger to select an item, confirm a selection or start an app on the screen.
- **Tap and hold:** Tap an item with your finger and continue to press until the screen responds (e.g. to open the options menu for the active screen, tap the screen and hold until the menu appears).
- **Swipe:** Move your finger across the screen either vertically or horizontally (e.g. swipe left or right to switch between pictures).
- **Drag:** To move an item, tap and hold it with your fingertip then drag it to any part of the screen.

<[https://www.catphones.com/download/User-Manuals/S42-Smartphone/S42\\_User\\_Manual\\_EN\\_V1\\_English.pdf](https://www.catphones.com/download/User-Manuals/S42-Smartphone/S42_User_Manual_EN_V1_English.pdf)>



<<https://www.notebookcheck.net/CAT-S42-Smartphone-Review-Robust-rubberised-and-washable-smartphone.485618.0.html>>

The reference describes a touch sensitive display screen configured to display the data including video and text received by the electronic wireless hand held multimedia device [TOUCHSCREEN].

The reference describes selecting a particular data represented by a soft button on the touch sensitive display screen of the electronic wireless hand held multimedia device.

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**Caterpillar's Cat® S42**

a microprocessor configured to facilitate operation of and communications by the electronic wireless hand held multimedia device.

**CAT® S42 SPECIFICATION**

<b>Operation System</b>	Android 10
<b>Processor</b>	MediaTek MT6761D Quad Core
<b>Memory</b>	<ul style="list-style-type: none"> <li>• Internal Memory: 32GB eMMC / 3GB LPDDR4X SDRAM</li> <li>• External Memory: SDXC, Class 10/Ultra high speed/up to 256GB</li> </ul>
<b>Cellular Network</b>	LTE: 1/ 2/ 3/ 4/ 5/ 7/ 8/ 20/ 28/ WCDMA: 1/ 2/ 4/ 5/ 8 GSM; 850/ 900/ 1800/ 1900
<b>Display</b>	Size 5.5" HD+ with wet finger & glove support,
<b>Camera</b>	<ul style="list-style-type: none"> <li>• Rear Camera: 13MP Dual cell PDAF single LED flash</li> <li>• Front Camera: 5MP</li> </ul>
<b>Sensor</b>	<ul style="list-style-type: none"> <li>• Ambient Light</li> <li>• Accelerometer</li> <li>• Compass</li> <li>• Proximity</li> </ul>
<b>Connectivity</b>	<ul style="list-style-type: none"> <li>• Audio jack: 3.5mm</li> <li>• Bluetooth: 5.0</li> <li>• USB: USB 2.0</li> <li>• WiFi 802.11 a/b/g/n/ac</li> <li>• GPS, aGPS, GLONASS, Gaileo, EGNOS, SBAS, Beidou</li> <li>• FM Radio with RDS</li> <li>• NFC</li> <li>• SIM type: Nano SIM</li> </ul>
<b>Battery</b>	4000mAH
<b>Others</b>	Ingress Protection: IP68 Drop: 1.5m Waterproof: 1.5m for up to 35mins Programmable Key with PTT mode
<b>Dimensions</b>	161.3 x 77.20 x 12.70mm

[https://www.catphones.com/download/User-Manuals/S42-Smartphone/S42\\_User\\_Manual\\_EN\\_V1\\_English.pdf](https://www.catphones.com/download/User-Manuals/S42-Smartphone/S42_User_Manual_EN_V1_English.pdf)

The reference describes a microprocessor configured to facilitate operation of and communications by the electronic wireless hand held multimedia device [Processor | MediaTek MT6761D Quad Core].

These allegations of infringement are preliminary and are therefore subject to change.

12. Defendants have and continue to induce infringement. Defendants have actively encouraged or instructed others (e.g., its customers and/or the customers of its related



companies), and continues to do so, on how to use its products and services (e.g., wireless communications devices) such as to cause infringement of one or more of claims 1–37 of the ‘537 patent, literally or under the doctrine of equivalents. Moreover, Defendants have known of the ‘537 patent and the technology underlying it from at least the date of the filing of the lawsuit.

13. Defendant has and continues to contributorily infringe. Defendants have actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., wireless communications devices) and related services such as to cause infringement of one or more of claims 1–37 of the ‘537 patent, literally or under the doctrine of equivalents. Moreover, Defendants have known of the ‘537 patent and the technology underlying it from at least the date of the filing of the lawsuit. There are no substantially noninfringing uses of the Defendants products and services.

14. Defendants have caused and will continue to cause MESA damage by direct and indirect infringement of (including inducing infringement of) the claims of the ‘537 patent.

#### **IV. JURY DEMAND**

MESA hereby requests a trial by jury on issues so triable by right.

#### **V. PRAYER FOR RELIEF**

WHEREFORE, MESA prays for relief as follows:

- a. enter judgment that Defendants have infringed the claims of the ‘537 patent;
- b. award MESA damages in an amount sufficient to compensate it for Defendants’ infringement of the ‘537 patent in an amount no less than a reasonable royalty or lost

profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;

- c. award MESA an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be “exceptional” under 35 U.S.C. § 285 and award MESA its attorneys’ fees, expenses, and costs incurred in this action;
- e. declare Defendants’ infringement to be willful and treble the damages, including attorneys’ fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendants and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendants from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendants will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award MESA such other and further relief as this Court deems just and proper.

Respectfully submitted,

**Ramey LLP**



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