

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

LITL LLC,

Plaintiff,

v.

ASUSTEK COMPUTER INC., ASUS  
GLOBAL PTE. LTD., and ASUS  
TECHNOLOGY PTE. LIMITED,

Defendants.

C.A. No. 23-122-RGA

JURY TRIAL DEMANDED

MICROSOFT CORPORATION,

Intervenor-Plaintiff,

v.

LITL LLC,

Intervenor-Defendant.

**MICROSOFT CORPORATION’S COMPLAINT IN INTERVENTION**

Pursuant to Rule 24(c) of the Federal Rules of Civil Procedure, Intervenor-Plaintiff Microsoft Corporation (“Microsoft”) alleges as follows for its Complaint in Intervention against Plaintiff and Intervenor-Defendant LiTL LLC (“LiTL” or “Plaintiff”):

1. Microsoft seeks a declaratory judgment of non-infringement pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202.

**PARTIES**

2. Microsoft is a corporation organized under the laws of the State of Washington, with its principal place of business at One Microsoft Way, Redmond, Washington 98052.

3. Plaintiff and Defendant in Intervention LiTL LLC purports to be a Delaware company, having its principal place of business at 501 Boylston Street, Boston, Massachusetts 02116.

### **JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, 35 U.S.C. §§ 1 et seq., and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400.

6. This Court has personal jurisdiction over LiTL due to its filing of the original Complaint and First Amended Complaint in this action.

### **FACTUAL BACKGROUND AND MICROSOFT'S INTEREST IN THIS ACTION**

7. LiTL filed its original Complaint (D.I. 1) in this action on February 1, 2023, accusing ASUSTeK Computer Inc., Asus Global Pte. Ltd., and Asus Technology Pte. Limited (collectively, "ASUS") of selling computing devices such as laptop computers that infringe certain claims of: U.S. Patent No. 8,289,688 ("the '688 patent"); U.S. Patent No. 8,624,844 ("the '844 patent"); U.S. Patent No. 9,563,229 ("the '229 patent"); U.S. Patent No. 10,289,154 ("the '154 patent"); U.S. Patent No. 9,003,315 ("the '315 patent"); U.S. Patent No. 9,880,715 ("the '715 patent"); U.S. Patent No. 10,564,818 ("the '818 patent"); and U.S. Patent No. 8,612,888 ("the '888 patent") (collectively, the "Asserted Patents").

8. ASUS is a customer of Microsoft's. ASUS sells computer products that incorporate Microsoft's Windows Operating System. Microsoft has certain defense and indemnity obligations to ASUS relating to ASUS's use of Microsoft's Windows Operating System.

9. On May 1, 2023, LiTL filed a First Amended Complaint against ASUS. (D.I. 19 ("First Amended Complaint").) In the First Amended Complaint, LiTL alleges that LiTL is "the legal owner by assignment of the entire right, title, and interest in and to the Asserted Patents." (First Amended Complaint at ¶ 3; *see also id.* at ¶¶ 41–48.)

10. The First Amended Complaint specifically identified numerous ASUS devices that run Windows as allegedly infringing the '154 patent, the '315 patent, the '715 patent, the '818 patent, and the '888 patent. (First Amended Complaint at ¶¶ 22, 24–25, 26–27, 56–62, 152–161, 168, 174–182, 194, 200–205, 212, 218–221, 228, 234–241, 248.) In fact, for every count in the First Amended Complaint, LiTL identifies the same set of ASUS devices running the same Windows operating system as allegedly infringing.

11. The First Amended Complaint specifically identifies graphical user interface features of the Windows Operating System in support of the allegations of infringement for the '154 patent, the '315 patent, the '715 patent, the '818 patent, and the '888 patent. (First Amended Complaint at ¶¶ 159, 161, 174, 176–182, 200, 203–205, 219, 221, 234–236, 238–241.)

12. The '154 patent is entitled “Portable computer with multiple display configurations.” The First Amended Complaint alleges that ASUS infringes claim 11 of the '154 patent. (First Amended Complaint at ¶ 151.) The First Amended Complaint alleges that ASUS devices that run Microsoft’s Windows Operating System infringe the '154 patent. (*Id.* at ¶¶ 152–161.) The First Amended Complaint relies on user interface features of the Windows Operating System as demonstrating infringement by the ASUS devices. (*Id.* at ¶¶ 159, 161.)

13. The '315 patent is entitled “System and method for streamlining user interaction with electronic content.” The First Amended Complaint alleges that ASUS infringes claim 1 of the '315 patent. (First Amended Complaint at ¶ 173.) The First Amended Complaint alleges that ASUS devices that, on information and belief, run Microsoft’s Windows Operating System infringe the '315 patent. (*Id.* at ¶¶ 174–182.) The First Amended Complaint relies on user interface features of the Windows Operating System to support the allegations of functionality for the ASUS devices. (*Id.* at ¶¶ 174, 176–182.)

14. The '715 patent is entitled "System and method for streamlining user interaction with electronic content." The First Amended Complaint alleges that ASUS infringes claim 1 of the '715 patent. (First Amended Complaint at ¶ 199.) The First Amended Complaint alleges that ASUS devices that, on information and belief, run Microsoft's Windows Operating System infringe the '715 patent. (*Id.* at ¶¶ 200–205.) The First Amended Complaint relies on user interface features of the Windows Operating System to support the allegations of functionality for the ASUS devices. (*Id.* at ¶¶ 200, 203–205.)

15. The '818 patent is entitled "System and method for streamlining user interaction with electronic content." The First Amended Complaint alleges that ASUS infringes claim 1 of the '818 patent. (First Amended Complaint at ¶ 217.) The First Amended Complaint alleges that ASUS devices that, on information and belief, run Microsoft's Windows Operating System infringe the '818 patent. (*Id.* at ¶¶ 218–221.) The First Amended Complaint relies on user interface features of the Windows Operating System to support the allegations of functionality for the ASUS devices. (*Id.* at ¶¶ 219, 221.)

16. The '888 patent is entitled "Method and apparatus for managing digital media content." The First Amended Complaint alleges that ASUS infringes claim 27 of the '888 patent. (First Amended Complaint at ¶ 233.) The First Amended Complaint alleges that ASUS devices that, on information and belief, run Microsoft's Windows Operating System infringe the '888 patent. (*Id.* at ¶¶ 234–241.) The First Amended Complaint relies on user interface features of the Windows Operating System to support the allegations of functionality for the ASUS devices. (*Id.* at ¶¶ 234–236, 238–241.)

17. LiTL's assertions that ASUS's Windows-based devices infringe the '154 patent, the '315 patent, the '715 patent, the '818 patent, and the '888 patent as a result of functionality

provided by Windows are tantamount to allegations that Microsoft's own Windows products directly infringe these Asserted Patents. Thus, Microsoft has a direct and substantial interest in defending against and defeating LiTL's claims of infringement.

18. Upon information and belief, LiTL has taken the position that at least the use, sale, and offer for sale of the Windows Operating System pre-installed in the accused ASUS products infringes one or more claims of the '154 patent, the '315 patent, the '715 patent, the '818 patent, and the '888 patent.

19. An actual and justiciable controversy exists between Microsoft and LiTL as to whether or not Microsoft has infringed any claim of the '154 patent, the '315 patent, the '715 patent, the '818 patent, and the '888 patent, directly or indirectly, based on the Windows Operating System.

20. As a result of LiTL's Windows-based infringement allegations against ASUS, Microsoft has an objectively reasonable apprehension that LiTL will claim that Microsoft's products, including at least the Windows Operating System, directly or indirectly infringe one or more claims of the '154 patent, the '315 patent, the '715 patent, the '818 patent, and the '888 patent. Therefore, an actual controversy exists between Microsoft and LiTL. By intervening in this action, Microsoft seeks the Court's assistance and declaration concerning these matters, which have been and are subjects of disagreement among the parties.

### **COUNT 1**

#### **(Declaratory Judgment of Noninfringement of U.S. Patent No. 10,289,154)**

21. Microsoft restates, realleges, and incorporates by reference paragraphs 1 through 20.

22. A valid and justiciable controversy has arisen and exists between Microsoft and LiTL regarding the '154 patent.

23. Microsoft does not infringe any claim of the '154 patent, including claim 11, either directly or indirectly, and thus Microsoft's customer, ASUS, does not infringe any claim of the '154 patent, including claim 11, by reason of its incorporation of Microsoft's Windows Operating System into its computer products.

24. A judicial declaration concerning these matters is necessary and appropriate at this time so that Microsoft can determine its rights and duties with respect to the parties and with respect to designing, developing, manufacturing, marketing, and selling its products. Absent such a declaration, LiTL will continue to assert the '154 patent against Microsoft and/or Microsoft's customers, and thereby cause Microsoft irreparable injury and damage. Microsoft has no other adequate remedy at law.

## **COUNT 2**

### **(Declaratory Judgment of Noninfringement of U.S. Patent No. 9,003,315)**

25. Microsoft restates, realleges, and incorporates by reference paragraphs 1 through 24.

26. A valid and justiciable controversy has arisen and exists between Microsoft and LiTL regarding the '315 patent.

27. Microsoft does not infringe any claim of the '315 patent, including claims 1 and 17, either directly or indirectly, and thus Microsoft's customer, ASUS, does not infringe any claim of the '315 patent, including claims 1 and 17, by reason of its incorporation of Microsoft's Windows Operating System into its computer products.

28. A judicial declaration concerning these matters is necessary and appropriate at this time so that Microsoft can determine its rights and duties with respect to the parties and with respect to designing, developing, manufacturing, marketing, and selling its products. Absent such a declaration, LiTL will continue to assert the '315 patent against Microsoft and/or Microsoft's

customers, and thereby cause Microsoft irreparable injury and damage. Microsoft has no other adequate remedy at law.

**COUNT 3**

**(Declaratory Judgment of Noninfringement of U.S. Patent No. 9,880,715)**

29. Microsoft restates, realleges, and incorporates by reference paragraphs 1 through 28.

30. A valid and justiciable controversy has arisen and exists between Microsoft and LiTL regarding the '715 patent.

31. Microsoft does not infringe any claim of the '715 patent, including claim 1, either directly or indirectly, and thus Microsoft's customer, ASUS, does not infringe any claim of the '715 patent, including claim 1, by reason of its incorporation of Microsoft's Windows Operating System into its computer products.

32. A judicial declaration concerning these matters is necessary and appropriate at this time so that Microsoft can determine its rights and duties with respect to the parties and with respect to designing, developing, manufacturing, marketing, and selling its products. Absent such a declaration, LiTL will continue to assert the '715 patent against Microsoft and/or Microsoft's customers, and thereby cause Microsoft irreparable injury and damage. Microsoft has no other adequate remedy at law.

**COUNT 4**

**(Declaratory Judgment of Noninfringement of U.S. Patent No. 10,564,818)**

33. Microsoft restates, realleges, and incorporates by reference paragraphs 1 through 32.

34. A valid and justiciable controversy has arisen and exists between Microsoft and LiTL regarding the '818 patent.

35. Microsoft does not infringe any claim of the '818 patent, including claim 1, either directly or indirectly, and thus Microsoft's customer, ASUS, does not infringe any claim of the '818 patent, including claim 1, by reason of its incorporation of Microsoft's Windows Operating System into its computer products.

36. A judicial declaration concerning these matters is necessary and appropriate at this time so that Microsoft can determine its rights and duties with respect to the parties and with respect to designing, developing, manufacturing, marketing, and selling its products. Absent such a declaration, LiTL will continue to assert the '818 patent against Microsoft and/or Microsoft's customers, and thereby cause Microsoft irreparable injury and damage. Microsoft has no other adequate remedy at law.

#### **COUNT 5**

##### **(Declaratory Judgment of Noninfringement of U.S. Patent No. 8,612,888)**

37. Microsoft restates, realleges, and incorporates by reference paragraphs 1 through 36.

38. A valid and justiciable controversy has arisen and exists between Microsoft and LiTL regarding the '888 patent.

39. Microsoft does not infringe any claim of the '888 patent, including claim 27, either directly or indirectly, and thus Microsoft's customer, ASUS, does not infringe any claim of the '888 patent, including claim 27, by reason of its incorporation of Microsoft's Windows Operating System into its computer products.

40. A judicial declaration concerning these matters is necessary and appropriate at this time so that Microsoft can determine its rights and duties with respect to the parties and with respect to designing, developing, manufacturing, marketing, and selling its products. Absent such a declaration, LiTL will continue to assert the '888 patent against Microsoft and/or Microsoft's



customers, and thereby cause Microsoft irreparable injury and damage. Microsoft has no other adequate remedy at law.

**REQUESTED RELIEF**

Therefore, Microsoft requests judgment against LiTL as follows:

- a. A Declaration that Microsoft does not infringe any claim of the '154 patent;
- b. A Declaration that Microsoft does not infringe any claim of the '315 patent;
- c. A Declaration that Microsoft does not infringe any claim of the '715 patent;
- d. A Declaration that Microsoft does not infringe any claim of the '818 patent;
- e. A Declaration that Microsoft does not infringe any claim of the '888 patent;
- f. A determination that this case is “exceptional” within the meaning of 35 U.S.C. § 285, entitling Microsoft to an award of its reasonable attorneys’ fees, expenses and costs; and
- g. A grant of such other and further equitable or legal relief as the Court deems proper.

**DEMAND FOR JURY TRIAL**

Microsoft hereby demands trial by jury on all issues so triable.

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