

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

RELINK US LLC,

Plaintiff,

v.

TESLA, INC.,

Defendant.

Civil Action No.: 1:23-cv-1093-DII

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Relink US LLC (“Plaintiff” or “Relink”), by and through its attorneys, complains and alleges against Tesla, Inc. (“Defendant” or “Tesla”) as follows:

NATURE OF THE ACTION

1. This is a civil action for infringement of U.S. Patent No. 9,793,755 (“’755 patent”) arising under the patent laws of the United States, 35 U.S.C. §§ 100 *et seq.*

THE PARTIES

2. Plaintiff Relink is a Texas limited liability company located at 1830 Kelly Lane, Rockwall, Texas. Its managing member, Mr. Paul Garrity, is a named inventor of the ’755 patent. Mr. Garrity is a prolific inventor having been a named inventor on over 40 patents. Tesla is familiar with Mr. Garrity’s innovations, as Tesla is the assignee of numerous patented inventions created by Mr. Garrity concerning various solar and energy technologies.

3. Relink is the current owner and assignee of the ’755 patent and holds all rights necessary to bring this action.

4. On information and belief, Tesla is a Delaware corporation with its headquarters located at 1 Tesla Road, Austin, Texas 78725.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 of the United States Code. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has specific and personal jurisdiction over Tesla and venue is proper because Tesla resides in, has a regular and established place of business in, and is headquartered in this District and this Division. On information and belief, Tesla has its 10 million-square-foot global headquarters, located at 1 Tesla Road, Austin, Texas 78725. On information and belief, Tesla has multiple additional retail and/or service locations in the District and Division, including at 11600 Century Oaks Terrace, Austin, TX 78758, 12845 Research Boulevard, Austin, Texas 78759, 500 E St Elmo Rd, Austin, TX 78745, and 2323 Ridgpoint Dr, Austin, TX 78754. On information and belief, Tesla employs over 12,000 people in the District.

THE '755 PATENT

7. Relink is the sole and exclusive owner of all right, title, and interest in the '755 patent and holds the exclusive right to take all actions necessary to enforce its rights in, and to, the '755 patent, including the filing of this patent infringement lawsuit. Relink also has the right to recover all damages for past, present, and future infringement of the '755 patent and to seek injunctive relief as appropriate under the law.

8. On October 17, 2017, the United States Patent Office issued the '755 patent, titled "Uninterruptible Power Supply and Method for Managing Power Flow in a Grid-Tied Photovoltaic System." A copy of the '755 patent is attached as Exhibit A.

COUNT I

Infringement of the '755 Patent

9. Relink incorporates the preceding paragraphs herein by reference.

10. This cause of action arises under the patent laws of the United States, and, in particular, 35 U.S.C. §§ 271, *et seq.*

11. The '755 patent is valid, enforceable, and was duly and legally issued by the United States Patent and Trademark Office on October 17, 2017, after full and fair examination.

12. Tesla has and continues to directly and indirectly infringe (by inducement and/or contributory infringement) one or more claims of the '755 patent in this District and elsewhere in Texas and the United States by making, using, selling, offering to sell, and/or importing, and by actively inducing others to make, use sell, offer to sell, and/or import, the Accused Instrumentalities, their components, and/or products containing the same that incorporate the fundamental technologies covered by the '755 patent, including its home backup systems that include a Tesla Solar Inverter, including those of the Powerwall (fka Powerwall 2) and Powerwall+ systems (collectively, the "Accused Instrumentalities"). As shown below, for example, the Powerwall and Powerwall+ systems include a Tesla Solar Inverter.

System Components

Powerwall: Powerwall is a rechargeable home battery that can store energy from solar.

Powerwall+: Powerwall+ is a rechargeable home battery which includes an integrated Tesla Solar Inverter and a system controller. Tesla Solar Inverter converts energy from the home's solar panels or Solar Roof to be used by the home. Its battery assembly stores energy from solar. [Learn more about the differences between Powerwall and Powerwall+.](#)

Tesla Solar Inverter: Tesla Solar Inverter converts energy from the home's solar panels or Solar Roof to be used by the home.

Backup Gateway: Backup Gateway controls system operation, detects grid outages, disconnects the Powerwall system from the grid to enable backup power from the battery and functions as a site meter. Backup Gateway may be installed in whole home or partial home backup systems.

Backup Switch: Backup Switch detects grid outages, disconnects the Powerwall system from the grid to enable backup power from the battery and functions as a site meter. Backup Switch is installed in whole home backup systems. Tesla Backup Switch may not be approved by some utilities.

Additional Electrical Hardware: Additional electrical hardware, including electrical panels, conduit, disconnects, meters, etc. are installed based on site needs and code requirements.

<https://www.tesla.com/support/energy/powerwall/learn/system-design>

13. Tesla has directly infringed and continues to directly infringe the '755 patent by making, using, offering for sale, selling, and/or importing into the United States the Accused Instrumentalities in this District and elsewhere in Texas and the United States.

14. Claim 1 of the '755 patent, for example, reads as follows:

1. An uninterruptible power supply comprising:

a bi-directional converter configured to operate as an alternating current voltage source;

a direct current power port configured to be coupled to a battery;

a first alternating current power port coupled to the bi-directional converter and configured to be coupled to a current-source inverter, wherein the current-source inverter is configured to adjust an output power as a function of a frequency of the alternating current voltage source; and

a controller configured to regulate a power flow of the current-source inverter by adjusting a frequency of the alternating current voltage source.

15. Tesla has directly infringed, and continues to directly infringe, one or more claims of the '755 patent, including at least claim 1 of the '755 patent, literally and/or or under the doctrine of equivalents, by or through making, using, offering for sale, selling, and/or importing the Accused Instrumentalities and reasonably similar products in violation of 35 U.S.C. § 271(a).

16. The Accused Instrumentalities satisfy all claim limitations of one or more claims of the '755 patent. By way of illustration only, the Accused Instrumentalities satisfy each and every element of claim 1 of the '755 patent. A claim chart comparing exemplary claim 1 of the '755 patent to representative Accused Instrumentalities is attached as Exhibit B.

17. In addition, and/or in the alternative to its direct infringement, Tesla has infringed and continues to infringe one or more claims of the '755 patent, including claim 1, by, among other things, actively inducing others in violation of 35 U.S.C. §271(b).

Tesla has had knowledge of the '755 patent since at least the service date of the Original Complaint in this action on Tesla. (ECF No. 1). Tesla was served the Complaint on September 15, 2023. (ECF No. 6). The complaint identified the '755 patent, included a copy of the '755 patent, and included a claim chart detailing Tesla's infringement of the '755 patent via the Accused Instrumentalities. Thus, Tesla has knowledge of its infringement of the '755 patent. *See Meetrix IP, LLC v. Cisco Sys., Inc.*, No. 1-18-CV-309-LY, 2018 WL 8261315, at *3 (W.D. Tex. Nov. 30, 2018) (collecting cases to demonstrate that a “complaint sufficiently alleges post-suit knowledge of the Asserted Patents”); *See also Softex LLC v. HP Inc.*, No. 1:22-CV-1311-RP, 2023 WL 2392739, at *2 (W.D. Tex. Mar. 7, 2023) (complaint with claim chart provides sufficient knowledge of patent and conduct to support post-suit knowledge of patents and infringing activity); *BillJCo, LLC v.*

Apple Inc., 583 F. Supp. 3d 769, 779 (W.D. Tex. 2022); *Flypsi, Inc. v. Google LLC*, No. 6:22-CV-0031-ADA, 2022 WL 3593053, at *6 (W.D. Tex. Aug. 22, 2022).

18. Despite this knowledge, and after the service of the Original Complaint,¹ Tesla has continued to engage in activities to encourage and assist its customers in the use of the Accused Instrumentalities. Thus, on information and belief, Tesla (1) had actual knowledge of the patent; (2) knowingly induced its customers to infringe the patent; and (3) had specific intent to induce the patent infringement.

19. Despite its knowledge and infringement of the '755 patent, Tesla has continued to actively induce others to use the Accused Instrumentalities in a manner that results in infringement. Tesla's users, customers, consumers, agents, distributors, installers, and other third parties who use, sell, and/or offer to sell the Accused Instrumentalities in accordance with Tesla's instructions infringe the claims of the '755 patent, in violation of 35 U.S.C. § 271(a). Tesla intentionally instructs its customers to infringe through support information such as websites, videos, demonstrations, and other published information. For example, Tesla's website instructs and encourages its customers to use, manage and control the infringing components and functionalities of the Accused Instrumentalities. *See, e.g.*, at <https://www.tesla.com/support/energy/powerwall/mobile-app/mobile-app-overview> (e.g., instructing and encouraging others to use a mobile app to control the Accused Instrumentalities); <https://www.tesla.com/support/energy/powerwall/mobile-app/powerwall-modes> (e.g., instructing and encouraging other to control the Accused Instrumentalities for various modes of operation which, as discussed below, result in infringing use of the Accused Instrumentalities); <https://www.tesla.com/support/energy/powerwall/mobile-app/go-off-grid>; (e.g., instructing and

¹ While clear from the text herein, Plaintiff specifically states that it is not alleging pre-suit indirect infringement, either by inducement or contributory infringement. Nor did it do so in the Original Complaint.

encouraging others to use the Accused Instrumentalities in Go Off-Grid mode, which results in infringing use of the Accused Instrumentalities, as discussed below). <https://www.tesla.com/support/energy/powerwall/own/connecting-network> (e.g., instructing users to connect to the Accused Instrumentalities for use, which necessarily results in an infringing use of the Accused Instrumentalities, as discussed below). Tesla also provides “Technical Support” to assist and encourage users to use and operate the Accused Instrumentalities, which necessarily implicates the accused and infringing features of the Accused Instrumentalities, as discussed below. *See, e.g.,* <https://service.tesla.com/docs/Public/Energy/Powerwall/Powerwall+-Owners-Manual-NA-EN/GUID-2B6FE022-8318-4645-9262-9C33C9536E19.html>; <https://service.tesla.com/docs/Public/Energy/Powerwall/Powerwall-2-Owners-Manual-NA-EN/GUID-119C16D1-9B63-4582-9A23-3CFD3F387FEB.html>.

20. As demonstrated by both the claim chart attached to the Original Complaint as Exhibit B and the claim chart attached as Exhibit B hereto, every limitation of claim 1 of the ’755 patent maps to advertisements and instructions by Tesla on Tesla’s website that is available and directed to Tesla’s U.S. users, customers, consumers, agents, distributors, installers, and other third parties who use, sell, and/or offer to sell the Accused Instrumentalities. Despite its knowledge of infringement by the Accused Instrumentalities since at least service of the Original Complaint, Tesla has maintained the webpages and materials cited therein with no substantive modification. Tesla thus continues to actively and intentionally induce infringement. *See BillJCo, LLC v. Apple Inc.*, 583 F. Supp. 3d 769, 780 (W.D. Tex. 2022).

21. By way of example, the Accused Instrumentalities implement the accused and infringing functionality when operating in Tesla’s Go-Off Grid mode, as demonstrated by the claim chart attached to the Original Complaint as Exhibit E. *See also* Exhibit B hereto at 43.

Solar Curtailment

When your Powerwall is fully charged while using Go-Off Grid, excess solar production will have no available destination, as it would otherwise be sent to the grid. To prevent overcharging or other system damage, your Powerwall will raise your system frequency to turn off your solar inverter. If you wish to maximize solar production, use the Tesla app to reconnect to the grid before Powerwall fully charges.

<https://www.tesla.com/support/energy/powerwall/mobile-app/go-off-grid>

22. Despite this knowledge, Tesla nevertheless continues to advertise, encourage, and instruct others to use the Go Off-Grid feature of the Accused Instrumentalities. For example, Tesla encourages others to use the Go Off-Grid feature to “put in direct control of your home energy ecosystem, improving your energy independence and security” and to “become familiar with how your Powerwall system behaves during an outage.”

Go Off-Grid allows you to disconnect your Powerwall from your utility grid to simulate the experience of being off the electrical grid. With the ability to disconnect using the [Tesla app](#), your Powerwall puts you in direct control of your home energy ecosystem, improving your energy independence and security.

Use Go Off-Grid to simulate an extended outage on renewable energy and become familiar with how your Powerwall system behaves during an outage. [Learn more about what Powerwall backs up](#) when you disconnect from the grid and test out your connected loads.

<https://www.tesla.com/support/energy/powerwall/mobile-app/go-off-grid>

23. Tesla provides instructions to others to use the Go Off-Grid feature:

Going Off-Grid

Step 1: Open the Tesla app and switch to your energy site.

Step 2: Tap 'Configure'.

Step 3: Scroll down to 'Go Off-Grid'.

Step 4: If you've not yet paired your phone to your Powerwall, you'll be prompted to do so in this step.

Step 5: Tap 'Take Me Off-Grid'. Note: Transition may take a few minutes. You'll receive a notification when your system is off-grid.

Once your Powerwall transitions off-grid, your system will behave as it would during an actual grid outage. Consider the best practices during power outages to maximize your time off-grid.

<https://www.tesla.com/support/energy/powerwall/mobile-app/go-off-grid>

24. Thus Tesla actively and intentionally encourages others to infringe the '755 patent. *See, e.g., Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 545 U.S. 913, 936 (2005); (advertising or instructing an infringing use “show an affirmative intent that the product be used to infringe.”); *Modern Font Application LLC v. Red Lobster Hospitality LLC*, No. 6:21-cv-00470-ADA, slip op. at 5 (W.D. Tex. Jan. 28, 2022) (“[A]dvertising with instructions on how to use the infringing features is sufficient to permit an inference of specific intent.”).

25. Additionally, the Accused Instrumentalities behave in Go Off-Grid mode as they would during an actual grid outage, and thus implement the accused and infringing functionality when being used “during an actual grid outage.”

Going Off-Grid

Step 1: Open the Tesla app and switch to your energy site.

Step 2: Tap 'Configure'.

Step 3: Scroll down to 'Go Off-Grid'.

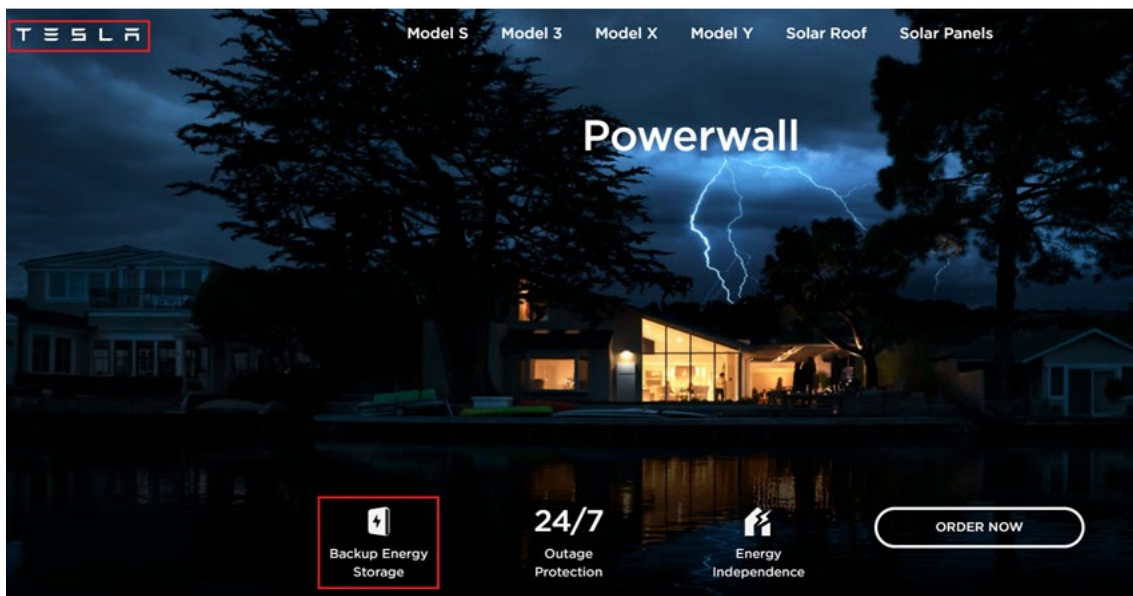
Step 4: If you've not yet paired your phone to your Powerwall, you'll be prompted to do so in this step.

Step 5: Tap 'Take Me Off-Grid'. Note: Transition may take a few minutes. You'll receive a notification when your system is off-grid.

Once your Powerwall transitions off-grid, your system will behave as it would during an actual grid outage. Consider the best practices during power outages to maximize your time off-grid.

<https://www.tesla.com/support/energy/powerwall/mobile-app/go-off-grid>

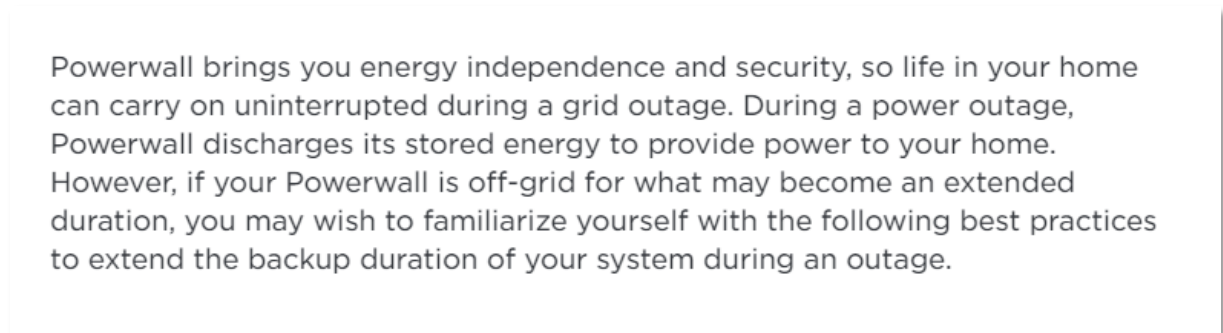
26. Tesla advertises to and encourages others to use the products during a grid outage, for “Backup Energy Storage” and “when the grid goes down,” resulting in infringement.



<https://www.tesla.com/powerwall>

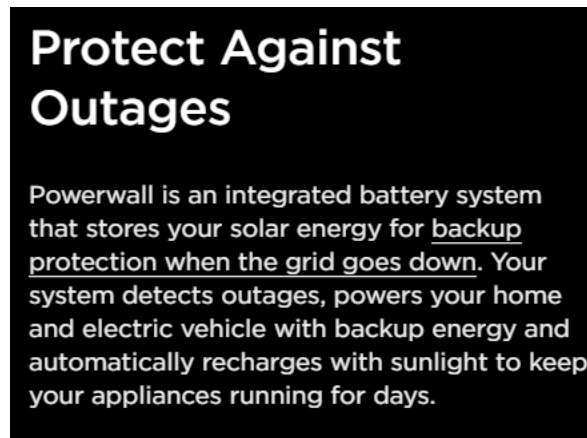


<https://www.tesla.com/powerwall>



<https://www.tesla.com/support/energy/powerwall/own/best-practices-during-power-outages>

27. During a power outage, the Accused Instrumentalities automatically go into an off-grid mode, with no additional input from the user outside of normal use of the system.



<https://www.tesla.com/powerwall>

28. Tesla has had knowledge since at least service of the Original Complaint in this matter that normal use of the Accused Instrumentalities results in infringement. Nevertheless, Tesla

continues to advertise the Accused Instrumentalities in the United States, including via its website. <https://www.tesla.com/powerwall>.

29. Thus, Tesla actively and intentionally encourages others to infringe the '755 patent. Moreover, the Accused Instrumentalities are designed and intended to be operated during grid outage and automatically and necessarily infringe the '755 patent upon operating the Accused Instrumentalities in the normal, intended manner without any additional specific action of the end user. *See ACQIS LLC v. Wiwynn Corp.*, 614 F. Supp. 3d 499, 507 (W.D. Tex. 2022).

30. Additionally, on information and belief, the Accused Instrumentalities operate in an infringing manner during all modes of operation. As demonstrated in the attached claim chart, the Accused Instrumentalities are used in an infringing manner when it “raise[s] [the] system frequency to turn off your solar inverter.” By way of example, the Accused Instrumentalities behave in this infringing manner during all uses to “prevent overcharging or other system damage,” which is necessary during all modes of operation. On information and belief, the Accused Instrumentalities implement this infringing functionality when operating in the normal, intended manner without any specific action of the end user other than turning on the product.

Solar Curtailment

When your Powerwall is fully charged while using Go-Off Grid, excess solar production will have no available destination, as it would otherwise be sent to the grid. To prevent overcharging or other system damage, your Powerwall will raise your system frequency to turn off your solar inverter. If you wish to maximize solar production, use the Tesla app to reconnect to the grid before Powerwall fully charges.

<https://www.tesla.com/support/energy/powerwall/mobile-app/go-off-grid>

31. Thus, by advertising and providing technical support for the Accused Instrumentalities, Tesla actively instructs and directs its customers to infringe and actively encourages

infringement by its customers. Tesla is thereby liable for infringement of the '755 patent under 35 U.S.C. § 271(b).

32. Additionally, or alternatively, Tesla is liable as a contributory infringer of the '755 patent under 35 U.S.C. § 271(c) since service of the Original Complaint by having offered for sale, sold and/or imported and continuing to offer for sale, sell and/or import into the United States the Accused Instrumentalities and reasonably similar products, which are especially made or adapted for use in infringing the '755 patent. After obtaining knowledge of its infringement of the '755 patent, Tesla continues to sell, offer for sale, an/or import into the United States the Tesla Solar Inverter:

System Components

Powerwall: Powerwall is a rechargeable home battery that can store energy from solar.

Powerwall+: Powerwall+ is a rechargeable home battery which includes an integrated Tesla Solar Inverter and a system controller. Tesla Solar Inverter converts energy from the home's solar panels or Solar Roof to be used by the home. Its battery assembly stores energy from solar. [Learn more about the differences between Powerwall and Powerwall+.](#)

Tesla Solar Inverter: Tesla Solar Inverter converts energy from the home's solar panels or Solar Roof to be used by the home.

Backup Gateway: Backup Gateway controls system operation, detects grid outages, disconnects the Powerwall system from the grid to enable backup power from the battery and functions as a site meter. Backup Gateway may be installed in whole home or partial home backup systems.

Backup Switch: [Backup Switch](#) detects grid outages, disconnects the Powerwall system from the grid to enable backup power from the battery and functions as a site meter. Backup Switch is installed in whole home backup systems. Tesla Backup Switch may not be approved by some utilities.

Additional Electrical Hardware: Additional electrical hardware, including electrical panels, conduit, disconnects, meters, etc. are installed based on site needs and code requirements.

<https://www.tesla.com/support/energy/powerwall/learn/system-design>

33. The Tesla Solar inverters are a material component for use in practicing the '755 patent and are especially made and are not staple articles of commerce suitable for non-infringing

use. As shown in the attached claim chart (Exhibit B), the Tesla Solar Inverter, at a minimum, provides material aspects of claim 1 of the '755 patent.

34. As discussed above, Tesla has had knowledge of the infringing functionality of the Accused Instrumentalities, including the implicated functionalities of the Tesla Solar Inverter, since at least the filing of the Original Complaint in this matter.

35. The Tesla Solar Inverter is especially made for infringing use and is not a staple article of commerce suitable for non-infringing use. On information and belief, the Accused Instrumentalities operate in an infringing manner during all modes of operation. As demonstrated in the attached claim chart, the Accused Instrumentalities are used in an infringing manner when they “raise[s] [the] system frequency to turn off your solar inverter.” *See* Exhibit B; <https://www.tesla.com/support/energy/powerwall/mobile-app/go-off-grid>. By way of example, the Accused Instrumentalities behave in this infringing manner during use to “prevent overcharging or other system damage,” which is necessary during any operation of a system. Moreover, operating in a non-infringing manner would result in “overcharging or other system damage.” <https://www.tesla.com/support/energy/powerwall/mobile-app/go-off-grid>. As such, there are no substantial noninfringing uses of the Tesla Solar Inverter. *See also Merck Sharp & Dohme Corp. v. Teva Pharms. USA, Inc.*, No. CV 14-874-SLR-SRF, 2015 WL 4036951, at *7 (D. Del. July 1, 2015), *report and recommendation adopted*, No. 14-874-SLR-SRF, 2015 WL 4477699 (D. Del. July 22, 2015) (recognizing that “The Federal Circuit has ruled that affirmatively pleading the absence of substantial non-infringing uses renders the claim plausible if the pleadings do not undermine that allegation.”).

36. Thus, Tesla (1) offers to sell or sells a component of a patented machine ... or a material or apparatus for use in practicing a patented process that (2) constitutes a material part of the

invention, that (3) Tesla knows is especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use and infringes under 35 U.S.C. § 271(c).

37. As a result of Tesla's infringement of the '755 patent, Relink has suffered monetary damages (past, present and future) and is entitled to no less than a reasonable royalty for Tesla's use of the claimed inventions of the '755 patent, together with interest and costs as determined by the Court. Relink will continue to suffer damages in the future.

38. Tesla's acts of direct and indirect infringement have caused and continue to cause damages to Relink. Relink is entitled to damages in accordance with 35 U.S.C. §§ 271, 281, and 284 sustained as a result of Tesla's wrongful acts in an amount to be proven at trial.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Relink hereby demands a trial by jury as to all issues so triable.

PRAYER FOR RELIEF

Relink respectfully requests that the Court find in its favor and against Tesla, and that the Court grant Relink the following relief:

- A. For judgment that Tesla is liable for infringement of one or more claims of the '755 patent, directly and/or indirectly, either literally and/or under the doctrine of equivalents;
- B. For an accounting of all damages sustained by Relink as the result of Tesla's acts of infringement, including compensatory damages in an amount according to proof, and in no event less than a reasonable royalty;

- C. For a mandatory future royalty payable on each and every future sale by Tesla of a product that is found to infringe one or more claims of the '755 patent and on all future products which are reasonably similar to those products found to infringe;
- D. For a judgment and order requiring Tesla to pay Relink's damages, costs, expenses, and pre- and post-judgment interest for its infringement of the '755 patent as provided under 35 U.S.C. § 284²;
- E. For a judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Relink its reasonable attorneys' fees; and
- F. For such other and further relief in law and in equity as the Court may deem just and proper.

Dated: December 4, 2023

Respectfully submitted,

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² As is clear from the Original Complaint and this First Amended Complaint, Plaintiff has not alleged willful infringement.

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Relink US LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 4, 2023 a true and correct copy of the foregoing was served on Plaintiff via electronic mail on Defendant's counsel as listed below:

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/s/ B. Russell Horton
B. Russell Horton