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10 *Attorneys for Plaintiffs*
Shenzhen Apaltek Co., Ltd. and
Guangdong Apaltek Liquid Cooling
11 *Technology Co., Ltd.*

12
13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

15
16 SHENZHEN APALTEK CO., LTD. AND
GUANGDONG APALTEK LIQUID
17 COOLING TECHNOLOGY CO., LTD,

18 Plaintiffs,

19 v.

20 ASETEK DANMARK A/S,

21 Defendant.

CASE NO. 5:23-cv-01079

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs Shenzhen Apaltek Co., Ltd. and Guangdong Apaltek Liquid Cooling Technology Co.,
2 Ltd. (collectively “Apaltek”) file this Complaint against Defendant Asetek Danmark A/S (“Asetek”)
3 seeking declaratory judgment of non-infringement as to U.S. Patent Nos. 8,240,362 (the “’362 patent”),
4 8,245,764 (the “’764 patent”), 9,733,681 (the “’681 patent”), 10,078,354 (the “’354 patent”), 10,078,355
5 (the “’355 patent”), 10,599,196 (the “’196 patent”), 10,613,601 (the “’601 patent”), 11,287,861 (the “’861
6 patent), and 11,287,862 (the “’862 patent) (attached hereto as Exhibits A-I, collectively, “patents-in-suit”).
7 Apaltek states as follows:

8 **NATURE OF THE ACTION**

9 1. This is an action arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*,
10 and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking a declaratory judgment of non-
11 infringement of the patents-in-suit and for such other relief as the Court deems just and proper.

12 **THE PARTIES**

13 2. Plaintiff Shenzhen Apaltek Co., Ltd. is a Chinese corporation with a principal place of
14 business at Apaltek is a Chinese corporation with its principal place of business at B03/B04/B05, 15th
15 Floor, Block 2, Yicheng Huanzhi Center, Intersection of Renmin Road and Bayi Road, Jinglong
16 Community, Longhua Street, Longhua District, Shenzhen, Guangdong Province, PRC.

17 3. Plaintiff Guangdong Apaltek Liquid Cooling Technology Co. is a Chinese corporation with
18 a principal place of business at No. 12, West Second Lane, Shenzhen Zai Road, Qingxi Town, Dongguan
19 City, Guangdong Province, PRC.

20 4. On information and belief, Defendant Asetek is a Danish corporation with a principal place
21 of business at Assensvej 2, DK-9220 Aalborg East, Denmark.

22 5. On information and belief, Asetek is the assignee of the patents-in-suit.

23 **JURISDICTION AND VENUE**

24 6. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and
25 1338(a) because this action involves claims arising under the patent laws of the United States, 35 U.S.C. §
26 1 *et seq.*, and under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

27 7. An actual and justiciable controversy exists between Apaltek and Asetek as to the non-
28 infringement of the patents-in-suit. This is at least because Asetek has in recent filings in this Court stated

1 publicly that Asetek’s “patents are valid and infringed by both ... Shenzhen Apaltek Co., Ltd. and
2 Guangdong Apaltek Liquid Cooling Technology Co., Ltd.” (*See, e.g., Asetek Danmark A/S v. Shenzhen*
3 *Apaltek Co., Ltd. et al.*, Case No., 3:22-cv-06179-WHO (N.D. Cal), ECF 83 (at 1) and ECF 85 (at 1).)

4 8. This Court has personal jurisdiction over Asetek because it has directed and continues to
5 direct acts to this District, including acts pertaining to the patents-in-suit. Asetek has, at least, purposefully
6 directed its enforcement activities related to the patents-in-suit into the Northern District of California.

7 9. Asetek has sued Apaltek over at least some of the patents-in-suit. (*See, e.g., Asetek*
8 *Danmark A/S v. Shenzhen Apaltek Co., Ltd. et al.*, Case No., 3:22-cv-06179-WHO (N.D. Cal).) Asetek
9 has also stated publicly in court filings within this District that Asetek’s “patents are valid and infringed
10 by both ... Shenzhen Apaltek Co., Ltd. and Guangdong Apaltek Liquid Cooling Technology Co., Ltd.” .
11 (*See, e.g., id.*, ECF 83 (at 1) and ECF 85 (at 1).) Asetek had also attempted to enforce the ’362, ’764, ’681,
12 ’354, ’355, ’196, and ’601 patents in this District. *See, e.g., Asetek Danmark A/S v. CoolIT Systems Inc.*,
13 Case No. 3:19-cv-00410-EMC (N.D. Cal.), ECF 1 ¶ 1, ECF 212 ¶ 1. For the foregoing reasons, this Court
14 has personal jurisdiction over and proper venue for Asetek because it has purposefully availed itself of the
15 benefits of California law and has more than sufficient minimum contacts with California, including those
16 within this District, such that this declaratory judgment action meets the requirements of California’s long-
17 arm statute and the U.S. Constitution’s due process clause.

18 10. Asetek has also consented to venue in this District because Asetek has admitted that this
19 District is a proper venue for litigating at least the ’362 and ’764 patents. *See, e.g., Asetek Danmark A/S*
20 *v. CMI USA, Inc.*, Case No. 4:13-cv-00457-JST (N.D. Cal.), ECF 16 ¶ 7.

21 11. In addition to the lawsuits identified above, Asetek also has asserted some or most of the
22 patents-in-suit against at least Corsair Gaming, Inc. (N.D. Cal. Case No. 3:20-cv-06541-EMC), Asia Vital
23 Components Co., Ltd. (N.D. Cal. Case No. 4:16-cv-07160-JST), and Newegg Inc. (N.D. Cal. Case No.
24 3:13-cv-00457) in this District.

25 12. A justiciable controversy exists between the parties, which is of sufficient immediacy and
26 reality to warrant declaratory relief in this District.

INTRADISTRICT ASSIGNMENT

27
28 13. For purposes of intradistrict assignment under Civil Local Rules 3-2(c) and 3-5(b), this

1 Intellectual Property Rights action will be assigned on a district-wide basis.

2 14. A related case, *Asetek Danmark A/S v. Shenzhen Apaltek Co., Ltd.*, N.D. Cal. Case No. 3:22-
3 cv-06179-WHO, has been assigned to the Hon. William H. Orrick in the San Francisco Division.

4 **THE PATENTS-IN-SUIT**

5 15. On information and belief, the patents-in-suit consist of two patent families, each claiming
6 priority to either the '362 patent or the '764 patent. Specifically, the '354, '601, and '861 patents claim
7 priority to the '362 patent (collectively, the "'362 patent family"), and the '681, '355, '196, and '862
8 patents claim priority to the '764 patent (collectively, the "'764 patent family").

9 **THE DISPUTES CONCERNING THE PATENTS-IN-SUIT**

10 16. Considering Asetek's litigation history regarding the '362 and '764 patent families, and
11 further in view of the Asetek's recent, repeated announcements in public court filings that Asetek's "patents
12 are valid and infringed by" Apaltek, Apaltek has been placed in a reasonable apprehension of suit by Asetek
13 under the patents-in-suit, which belong to the '362 and '764 patent families.

14 17. Indeed, Asetek has sued Apaltek over at least some of the patents-in-suit. (*See, e.g., Asetek*
15 *Danmark A/S v. Shenzhen Apaltek Co., Ltd. et al.*, Case No., 3:22-cv-06179-WHO (N.D. Cal).) In the
16 pending case, Asetek seeks to dismiss its complaint against Apaltek, purportedly for reasons of cost. (*See,*
17 *e.g., id.*, ECF 83 (at 1) and ECF 85 (at 1).) But it maintains that its patents are nevertheless valid *and*
18 *infringed*, thus creating the prospect of additional litigation over the same or related patents against the
19 same or related Apaltek products. (*See, e.g., id.*, ECF 83 (at 1) and ECF 85 (at 1).)

20 18. Asetek seeks to dismiss the above-referenced action over Apaltek's objections while
21 providing only a limited and confidential covenant-not-to-sue. But Apaltek remains under a cloud of
22 threatened litigation because that covenant does not extend to all of Apaltek's products nor all of Asetek's
23 patents, and because the "cost" issue cited by Asetek may not be permanent. If and when such cost issue
24 is resolved, for example, Asetek may sue Apaltek again under some or all of the patents-in-suit against
25 Apaltek products not covered by the covenant. Apaltek therefore seeks to clear the cloud of threatened
26 litigation once and for all.

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FIRST CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the Patents-in-Suit)

19. Apaltek incorporates ¶¶ 1-18.

20. Apaltek has not infringed and does not infringe any claim of the patents-in-suit directly or indirectly, either literally or under the doctrine of equivalents.

21. Asetek nevertheless disagrees and has continued to assert that its “patents are valid and infringed by” Apaltek, creating a cloud of uncertainty and doubt.

22. Apaltek’s reasonable apprehension of suit is amplified by Asetek’s long history of aggressive litigation in this Court.

23. An actual controversy, within the meaning of 28 U.S.C. §§ 2201 and 2202, exists between Apaltek and Asetek concerning non-infringement of the patents-in-suit.

24. Apaltek is therefore entitled to a declaratory judgment that *none of its products* infringe any of the patents-in-suit, directly or indirectly, either literally or under the doctrine of equivalents.

25. A judicial declaration is necessary and appropriate so that Apaltek may ascertain its rights regarding the claims of the patents-in-suit and operate without the threat of further litigation.

PRAYER FOR RELIEF

WHEREFORE, Apaltek respectfully requests the following relief:

A. That the Court enter a judgment declaring that neither Apaltek nor any of the Apaltek products has infringed nor is infringing any claim of the patents-in-suit, directly or indirectly, either literally or under the doctrine of equivalents;

B. That the Court enter a judgment that this is an exceptional case under 35 U.S.C. § 285 and award to Apaltek its costs, expenses, and reasonable attorneys’ fees incurred in this action;

C. That the Court award Apaltek any and all other relief to which Apaltek may show itself to be entitled; and

D. That the Court award Apaltek any other relief it may deem just and proper under the circumstances.

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1 DATED: March 10, 2023

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20 *Technology Co., Ltd.*

21 **DEMAND FOR JURY TRIAL**

22 Pursuant to Fed. R. Civ. P. 38(b) and Civil Local Rule 3-6, Apaltek demands a trial by jury on all
23 issues and claims so triable.

24 DATED: March 10, 2023

GREENBERG TRAURIG, LLP

25 By: /s/ Kyle D. Chen

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