IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

PRECISION POINT DEVICES LLC *Plaintiff*, v. HUAWEI TECHNOLOGIES USA, INC., *Defendant*.	Case No. 23-306 DEMAND FOR JURY TRIAL

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

1. Precision Point Devices LLC ("PPD" or "Plaintiff"), by and through its counsel, hereby brings this action for patent infringement against Huawei Technologies USA, Inc. ("Huawei" or "Defendant"), alleging infringement of the following validly issued patents (the "Patents-in-Suit"): U.S. Patent No. 8,566,060 titled "Information service providing system, information service providing device, and method therefor" (the "'060 Patent") and U.S. Patent No. 8,583,452 titled "Health check system, health check apparatus and method thereof" (the "'452 Patent"), attached hereto as Exhibits A and B, respectively.

NATURE OF THE ACTION

2. This is an action for patent infringement arising under the United States Patent Act 35 U.S.C. §§ 1 et seq., including 35 U.S.C. § 271.

PARTIES

3. Plaintiff Precision Point Devices LLC is a Delaware limited liability company with a regular and established place of business at 251 Little Falls Drive, Wilmington, DE, 19808.

4. Upon information and belief, Defendant Huawei Technologies USA, Inc. is a

corporation organized and existing under the laws of Texas that maintains an established place of business at 16479 Dallas Parkway, Suite 355, Addison, Dallas 75001.

JURISDICTION AND VENUE

5. This lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 et seq. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 1367.

6. The Court has personal jurisdiction over Defendant for the following reasons: (1) Defendant is present within or has minimum contacts within the State of Texas and the Northern District of Texas; (2) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this district; (3) Defendant has sought protection and benefit from the laws of the State of Texas; (4) Defendant regularly conducts business within the State of Texas and within this district, and Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this district; and (5) Defendant has purposely availed itself of the privileges and benefits of the laws of the State of Texas.

7. Defendant, directly and/or through intermediaries, ships, distributes, uses, offers for sale, sells, and/or advertises products and services in the United States, the State of Texas, and the Northern District of Texas including but not limited to the products which contain the infringing elements as detailed below. Upon information and belief, Defendant has committed patent infringement in the State of Texas and in this district; Defendant solicits and has solicited customers in the State of Texas and in this district; and Defendant has paying customers who are residents of the State of Texas and this district and who each use and have used the Defendant's products and services in the State of Texas and in this district.

8. Venue is proper in the Northern District of Texas over Huawei pursuant to 28 U.S.C.

§§ 1400(b). Defendant maintains a regular and established place of business in this district is incorporated in this state, has transacted business in this district, and has directly and/or indirectly committed acts of patent infringement in this district. For instance, Defendant maintains a regular and established place of business at 16479 Dallas Parkway, Suite 355, Addison, Dallas 75001.

PATENT-IN-SUIT

9. Plaintiff incorporates the above paragraphs herein by reference.

10. On October 22, 2013, United States Patent No. 8,566,060 titled "Information service providing system, information service providing device, and method therefor" was duly and legally issued by the United States Patent and Trademark Office. *See* Ex. A. The '060 Patent is presumed valid and enforceable.

11. On August 26, 2014, United States Patent No. 8,583,452 titled "Health check system, health check apparatus and method thereof" was duly and legally issued by the United States Patent and Trademark Office. *See* Ex. B. The '452 Patent is presumed valid and enforceable.

12. Plaintiff is the assignee of all right, title and interest in the Patents-in-Suit, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patents-in-Suit.

13. Each of the claims of the Patents-in-Suit is presumed to be valid, and none of the claims of the Patents-in-Suit is representative of the respective Patent's other claims or the claims of the other Patent-in-Suit.

14. The Patents-in-Suit relate to an information service providing device which selects sensors which may be used for the implementation of an information service to be provided within a plurality of sensors, including selecting the most appropriate sensor. *See* Ex. A at 2:63-3:4. In one embodiment, a basic health check is provided as an information service, with the device

processing information from a variety of health-related sensors such as a blood pressure sensor or a pulse sensor. *See* Ex. A at 2:19-22.

15. The claims of the Patents-in-Suit recite improvements over prior art and conventional systems and methods and represent meaningful limitations and/or inventive concepts. Further, in view of these specific improvements, the inventions of the asserted claims, when such claims are viewed as a whole and in ordered combination, were not routine, well-understood, conventional, generic, existing, commonly used, well-known, previously known, or typical as of the earliest priority date of each of the Patents-in-Suit.

16. Additionally, the claims of the Patents-in-Suit do not merely recite the performance of a familiar business practice with a requirement to perform it on the Internet. Instead, the claims recite one or more inventive concepts that are rooted in improving the provision of information services via the selection an appropriate parameter for the sensors and processing program in order for the information service to be provided appropriately. *See* Ex. A at 3:5-9.

17. Moreover, the inventions taught in the Patents-in-Suit, which are rooted in improving the provision of information services via the selection an appropriate parameter for the sensors and processing program in order for the information service to be provided appropriately, cannot be performed with pen and paper or in the human mind. Additionally, because the Patents-in-Suit address problems rooted in improving the provision of information services via the selection an appropriate parameter for the sensors and processing program in order for the information service to be provided appropriately, the solutions they teach are not merely drawn to longstanding human activities.

18. The claims of the Patents-in-Suit are not directed toward fundamental economic practices, methods of organizing human activities, an idea itself, or mathematical formulas.

19. The claims of the Patents-in-Suit are directed to a narrow area of application and thus do not pre-empt others from using other methods and systems.

20. The claims of the Patents-in-Suit recite more than generic computer functionality and recite steps that are not purely conventional.

ACCUSED PRODUCTS

21. Defendant makes, uses, offers for sale and sells in the U.S. products, systems, and/or services that infringe the Patent-in-Suit, including, but not limited to the Huawei Watch GT, Band 3 series, Band 4 series, Band 2 series, TalkBand, Watch 2 and Honor Band Z113 (the "Accused Products" or "Accused Instrumentality"). The Accused Products provide users health information including but not limited to heart rate, oxygen level, step count, calories and breathing rate during workouts including but not limited to run, swim, walk, golf, cycle, weights and yoga.

COUNT I
(Infringement of U.S. Patent No. 8,566,060)

22. Plaintiff incorporates the above paragraphs herein by reference.

23. On October 22, 2013, United States Patent No. 8,566,060 titled "Information service providing system, information service providing device, and method therefor" was duly and legally issued by the United States Patent and Trademark Office. *See* Ex. A. The '060 Patent is presumed valid and enforceable.

24. Plaintiff is the owner by assignment of the '060 Patent and possesses all rights of recovery under the '060 Patent, including the exclusive right enforce the '060 Patent and pursue lawsuits against infringers.

25. Without a license or permission from Plaintiff, Defendant has infringed and continues to directly and indirectly infringe on one or more claims of the '060 Patent by importing,

making, using, offering for sale, and/or selling products and devices that embody the patented inventions, including, without limitation, one or more of the patented '060 systems and methods, in violation of 35 U.S.C. § 271.

Direct Infringement – 35 U.S.C. § 271(a)

26. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

27. Without a license or permission from Plaintiff, Defendant has infringed and continues to directly infringe on one or more claims of the '060 Patent by importing, making, using, offering for sale, or selling products and devices that embody the patented inventions, including, without limitation, one or more of the patented '060 systems and methods, in violation of 35 U.S.C. § 271.

28. Defendant has been and now is directly infringing by, among other things, practicing all of the steps of the '060 Patent, for example, internal testing, quality assurance, research and development, and troubleshooting. *See, e.g., Waymark Corp. v. Porta Sys. Corp.,* 245 F.3d 1364, 1366 (Fed. Cir. 2001) (noting that "testing is a use of the invention that may infringe under § 271(a)").

29. By way of example, Defendant has infringed and continues to infringe at least one or more claims of the '060 Patent, including at least Claim 10. Attached hereto as Exhibit C is an exemplary claim chart detailing representative infringement of Claim 10 of the '060 Patent.

Induced Infringement – 35 U.S.C. § 271(b)

30. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

31. Defendant has been and now is indirectly infringing by way of inducing

infringement by others and/or contributing to the infringement by others of the ’060 Patent in the State of Texas, in this judicial District, and elsewhere in the United States, by, among other things, making, using, offering for sale, and/or selling, without license or authority, products incorporating the accused technology. End users include, for example, Defendant’s customers and other third parties interacting with the accused technology.

32. Defendant had pre-suit knowledge when Plaintiff previously filed suit against Defendant in the Eastern District of Texas concerning the Patents-in-Suit. *See Precision Point Devices LLC v. Huawei Technologies USA, Inc.*, 4:22CV01042 (E. D. Tex. Dec. 12, 2022). Defendant had post-suit knowledge when this suit was filed. *See EON Corp. IP Holdings, LLC v. Sensus USA, Inc.,* No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation,* 681 F.3d 1323, 1345 (Fed. Cir. 2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient to meet the knowledge requirement for indirect infringement).

33. Defendant knew the actions of making, using, selling, offering for sale, and/or importing the Accused Products infringes the ’060 Patent and yet Defendant induced and continues to induce others-including partners, customers, and third parties-to directly infringe at least one claim of the ’060 Patent under 35 U.S.C. § 271(b). Defendant took active steps to induce infringement, such as advertising an infringing use, which supports a finding of an intention. *See Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932 (2005) ("[I]t may be presumed from distribution of an article in commerce that the distributor intended the article to be used to infringe another's patent, and so may justly be held liable for that infringement").

34. For example, Defendant induces its users to use the infringing Accused Product on their mobile devices, actively prompting infringement by advertising infringing features and

providing instructions on how to use them. *See, e.g.,* Ex. E [1] (advertising Huawei wearables); Ex. F[2] (providing instructions on implementing infringing features); Ex. G[3] (advertising and providing instructions regarding infringing features). These resources both advertise the infringing technology and provide detailed directions on how it functions.

35. The allegations herein support a finding that Defendant induced infringement of the '060 Patent. *See Power Integrations v. Fairchild Semiconductor*, 843 F.3d 1315, 1335 (Fed. Cir. 2016) ("[W]e have affirmed induced infringement verdicts based on circumstantial evidence of inducement [e.g., advertisements, user manuals] directed to a class of direct infringers [e.g., customers, end users] without requiring hard proof that any individual third-party direct infringer was actually persuaded to infringe by that material.").

Contributory Infringement – 35 U.S.C. § 271(c)

36. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

37. Defendant had pre-suit knowledge when Plaintiff previously filed suit against Defendant in the Eastern District of Texas concerning the Patents-in-Suit. *See Precision Point Devices LLC v. Huawei Technologies USA, Inc.*, 4:22CV01042 (E. D. Tex. Dec. 12, 2022). Defendant had post-suit knowledge when this suit was filed. *See EON Corp. IP Holdings, LLC v. Sensus USA, Inc.,* No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation,* 681 F.3d 1323, 1345 (Fed. Cir. 2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient

[1] Available at https://consumer.huawei.com/en/wearables/band4-pro/.
[2] Available at https://consumer.huawei.com/en/support/content/en-us00736981/.
[3] Available at https://consumer.huawei.com/en/wearables/band4-pro/.

to meet the knowledge requirement for indirect infringement).

38. On information and belief, Defendant contributes to its users' infringement of at least Claim 10 of the '060 Patent by actions of making, using, selling, offering for sale, and/or importing the Accused Products that have no substantial non-infringing uses. *See, e.g., Lucent Techs., Inc. v. Gateway, Inc.,* 580 F.3d 1301, 1321 (Fed. Cir. 2009) (holding that the "substantial non-infringing use" element of a contributory infringement claim applies to an infringing feature or component, and that an "infringing feature" of a product does not escape liability simply because the product as a whole has other non-infringing uses).

COUNT II
(Infringement of U.S. Patent No. 8,583,452)

39. Plaintiff incorporates the above paragraphs herein by reference.

40. On August 26, 2014, United States Patent No. 8,583,452 titled "Health check system, health check apparatus and method thereof" was duly and legally issued by the United States Patent and Trademark Office. *See* Ex. B. The '452 Patent is presumed valid and enforceable.

41. Plaintiff is the owner by assignment of the '452 Patent and possesses all rights of recovery under the '452 Patent, including the exclusive right enforce the '452 Patent and pursue lawsuits against infringers.

42. Without a license or permission from Plaintiff, Defendant has infringed and continues to directly and indirectly infringe on one or more claims of the '452 Patent by importing, making, using, offering for sale, and/or selling products and devices that embody the patented inventions, including, without limitation, one or more of the patented '452 systems and methods, in violation of 35 U.S.C. § 271.

Direct Infringement – 35 U.S.C. § 271(a)

43. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

44. Without a license or permission from Plaintiff, Defendant has infringed and continues to directly infringe on one or more claims of the '452 Patent by importing, making, using, offering for sale, or selling products and devices that embody the patented inventions, including, without limitation, one or more of the patented '452 systems and methods, in violation of 35 U.S.C. § 271.

45. Defendant has been and now is directly infringing by, among other things, practicing all of the steps of the '452 Patent, for example, internal testing, quality assurance, research and development, and troubleshooting. *See, e.g., Waymark Corp. v. Porta Sys. Corp.,* 245 F.3d 1364, 1366 (Fed. Cir. 2001) (noting that "testing is a use of the invention that may infringe under § 271(a)").

46. By way of example, Defendant has infringed and continues to infringe at least one or more claims of the '452 Patent, including at least Claim 11. Attached hereto as Exhibit D is an exemplary claim chart detailing representative infringement of Claim 11 of the '452 Patent.

Induced Infringement – 35 U.S.C. § 271(b)

47. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

48. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '452 Patent in the State of Texas, in this judicial District, and elsewhere in the United States, by, among other things, making, using, offering for sale, and/or selling, without license or authority, products incorporating the accused technology. End users include, for example, Defendant's customers and other third

parties interacting with the accused technology.

49. Defendant had pre-suit knowledge when Plaintiff previously filed suit against Defendant in the Eastern District of Texas concerning the Patents-in-Suit. *See Precision Point Devices LLC v. Huawei Technologies USA, Inc.*, 4:22CV01042 (E. D. Tex. Dec. 12, 2022). Defendant had post-suit knowledge when this suit was filed. *See EON Corp. IP Holdings, LLC v. Sensus USA, Inc.,* No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation,* 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient to meet the knowledge requirement for indirect infringement).

50. Defendant knew the actions of making, using, selling, offering for sale, and/or importing the Accused Products infringes the ’452 Patent and yet Defendant induced and continues to induce others-including partners, customers, and third parties-to directly infringe at least one claim of the ’452 Patent under 35 U.S.C. § 271(b). Defendant took active steps to induce infringement, such as advertising an infringing use, which supports a finding of an intention. *See Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932 (2005) ("[I]t may be presumed from distribution of an article in commerce that the distributor intended the article to be used to infringe another's patent, and so may justly be held liable for that infringement").

51. For example, Defendant induces its users to use the infringing Accused Product on their mobile devices, actively prompting infringement by advertising infringing features and providing instructions on how to use them. *See, e.g.,* Ex. E [4] (advertising Huawei wearables); Ex.

[4] Available at https://consumer.huawei.com/en/wearables/band4-pro/.

F[5] (providing instructions on implementing infringing features); Ex. G[6] (advertising and providing instructions regarding infringing features). These resources both advertise the infringing technology and provide detailed directions on how it functions.

52. The allegations herein support a finding that Defendant induced infringement of the '452 Patent. *See Power Integrations v. Fairchild Semiconductor*, 843 F.3d 1315, 1335 (Fed. Cir. 2016) ("[W]e have affirmed induced infringement verdicts based on circumstantial evidence of inducement [e.g., advertisements, user manuals] directed to a class of direct infringers [e.g., customers, end users] without requiring hard proof that any individual third-party direct infringer was actually persuaded to infringe by that material.").

Contributory Infringement – 35 U.S.C. § 271(c)

53. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

54. Defendant had pre-suit knowledge when Plaintiff previously filed suit against Defendant in the Eastern District of Texas concerning the Patents-in-Suit. *See Precision Point Devices LLC v. Huawei Technologies USA, Inc.*, 4:22CV01042 (E. D. Tex. Dec. 12, 2022). Defendant had post-suit knowledge when this suit was filed. *See EON Corp. IP Holdings, LLC v. Sensus USA, Inc.,* No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation,* 681 F.3d 1323, 1345 (Fed. Cir. 2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient to meet the knowledge requirement for indirect infringement).

55. On information and belief, Defendant contributes to its users' infringement of at

[5] Available at https://consumer.huawei.com/en/support/content/en-us00736981/.
[6] Available at https://consumer.huawei.com/en/wearables/band4-pro/.

least Claim 11 of the '452 Patent by actions of making, using, selling, offering for sale, and/or importing the Accused Products that have no substantial non-infringing uses. *See, e.g., Lucent Techs., Inc. v. Gateway, Inc.,* 580 F.3d 1301, 1321 (Fed. Cir. 2009) (holding that the "substantial non-infringing use" element of a contributory infringement claim applies to an infringing feature or component, and that an "infringing feature" of a product does not escape liability simply because the product as a whole has other non-infringing uses).

Plaintiff Suffered Damages

56. Defendant's acts of infringement of the Patents-in-Suit have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 271. The precise amount of damages will be determined through discovery in this litigation and proven at trial.

REQUEST FOR RELIEF

57. Plaintiff incorporates each of the allegations in the paragraphs above and respectfully asks the Court to:

(a) enter a judgment that Defendant has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of each of the Patents-in-Suit;

(b) enter a judgment awarding Plaintiff all damages adequate to compensate it for Defendant's infringement of, direct or contributory, or inducement to infringe, the including all pre-judgment and post-judgment interest at the maximum rate permitted by law;

(c) issue a preliminary injunction and thereafter a permanent injunction enjoining and restraining Defendant, its directors, officers, agents, servants, employees, and those acting

in privity or in concert with them, and their subsidiaries, divisions, successors, and assigns, from further acts of infringement, contributory infringement, or inducement of infringement of the Patents-in-Suit;

(d) enter a judgment requiring Defendant to pay the costs of this action, including all disbursements, and attorneys' fees as provided by 35 U.S.C. § 285, together with prejudgment interest; and

(e) award Plaintiff all other relief that the Court may deem just and proper.

Dated: February 9, 2023

Respectfully submitted,

By: /s/ Kirk J. Anderson

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