

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

VIDEOLABS, INC.,

Plaintiff,

v.

ASUSTEK COMPUTER INC.,

Defendant.

Civil Action No. 6:23-cv-640

Jury Trial Demanded

COMPLAINT

Plaintiff VideoLabs, Inc. (“VideoLabs”), for its complaint against Defendant ASUSTeK Computer Inc. (“Defendant”), hereby alleges and states the following:

INTRODUCTION

1. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, to obtain damages resulting from Defendant’s unauthorized and ongoing actions of making, having made, using, selling, having sold, offering to sell, importing, and/or having imported into the United States products that infringe or enable the infringement of one or more claims of United States Patent No. 7,219,027 (the “027 Patent”), United States Patent No. 7,525,535 (the “535 Patent”), United States Patent No. 7,970,059 (the “059 Patent”), and United States Patent No. 8,291,236 (the “236 Patent”) (collectively, the “Asserted Patents”), including, without limitation, servers, desktop computers, laptop computers, tablet computers, graphics cards, and smartphones (the “Accused Products”).

THE PARTIES

2. VideoLabs is a corporation organized and existing under the laws of Delaware with a principal place of business at 2303 Saint Francis Drive, Palo Alto, California 94303.

3. VideoLabs is a professional intellectual property services company and licensing platform with a primary focus on acquiring and licensing high-quality patents relevant to the broader video ecosystem.

4. Defendant ASUSTeK Computer Inc. is a foreign corporation organized and existing under the laws of Taiwan, with its principal place of business at No. 15, Li-Te Road, Beitou District, Taipei 112, Taiwan.

5. On information and belief, Defendant is in the business of developing, making, offering for sale, selling, importing, distributing, and/or supporting Accused Products that are manufactured outside of the United States, including, without limitation, desktop and laptop computers.

JURISDICTION AND VENUE

6. This lawsuit is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Defendant because it has, directly and/or through agents and/or intermediaries, committed acts and continues to commit acts of patent infringement, including within Texas, giving rise to this action and has established minimum contacts with Texas such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice. Defendant, directly and/or indirectly at least through agents and intermediaries, has committed and continues to commit acts of infringement in this District by, among other things, making, using, selling, offering to sell, and importing the Accused Products.

9. On information and belief, Defendant regularly conducts business in Texas, including in this District, and purposefully avails itself of the privileges of conducting business

in Texas and this District. In particular, on information and belief, Defendant, and/or its agents and/or intermediaries, make, use, import, offer for sale, sell, and/or advertise its products and affiliated services in Texas and this District, including but not limited to the Accused Products, sufficient to give rise to jurisdiction. On information and belief, Defendant has placed and continues to place Accused Products into the stream of commerce, via an established distribution channel, with the knowledge and/or understanding that such products are sold in the United States, including in Texas and specifically including in this District.

10. On information and belief, Defendant derives substantial revenue from the sale of Accused Products distributed within Texas, including within this District, and/or expects or should reasonably expect its actions to have consequences in Texas. In addition, on information and belief, Defendant knowingly induces, and continues to knowingly induce, infringement of the Asserted Patents within Texas and within this District by offering for sale, selling, and/or contracting with others to market Accused Products with the intent to facilitate infringing use of the products by others and by creating and/or disseminating product information and other materials providing instruction for infringing use.

11. Defendant's infringing activity has led to foreseeable harm and injury to VideoLabs.

12. Venue is proper under 28 U.S.C. § 1391 and 28 U.S.C. § 1400(b). Defendant ASUSTeK Computer Inc. is a foreign entity not resident in the United States, Defendant has committed acts within this District giving rise to this action, and Defendant continues to conduct business in this District, including one or more acts of selling, using, importing, and/or offering for sale Accused Products and/or providing service and support to Defendant's customers in this District.

BACKGROUND

13. On information and belief, to the extent applicable, VideoLabs has complied with 35 U.S.C. § 287.

14. On information and belief, Defendant has knowledge of the Asserted Patents and notice of its infringement thereof.

15. Defendant has had knowledge of VideoLabs' portfolio and its infringement thereof since at least March 2021, when VideoLabs first contacted it to discuss licensing negotiations.

16. Defendant has had knowledge of its infringement of at least the 535 Patent and 059 Patent since at least on or around September 22, 2021, when VideoLabs sent claim charts related to these patents to Defendant.

17. Defendant has had notice of its infringement of at least the 535 Patent and 059 Patent since at least April 14, 2022, when VideoLabs sent a notice letter to Defendant informing it of its infringement.

18. Defendant has had notice of its infringement of at least the 027 Patent, 535 Patent, and 236 Patent since at least May 17, 2023, when VideoLabs provided notice to Defendant informing it of its infringement.

19. Defendant further has had notice of its infringement of each of the Asserted Patents at least as of the filing and service of this Complaint.

20. Despite Defendant's knowledge of the Asserted Patents and notice of its infringement thereof, Defendant continued, and still continues, to engage in infringing activities within the United States.

COUNT I
(Infringement of U.S. Patent No. 7,219,027)

21. VideoLabs re-alleges and incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

22. The 027 Patent was duly and legally issued for “Operation Monitor Device for Hardware Component” on May 15, 2007. The 027 Patent is in full force and effect. A true and correct copy of the 027 Patent is attached hereto as Exhibit 1.

23. VideoLabs is the assignee and owner of the 027 Patent with the exclusive right to enforce the 027 Patent against Defendant and the exclusive right to collect damages from Defendant for infringement of the 027 Patent for all relevant times, including the right to prosecute this action.

24. On information and belief, Defendant directly infringes, and has directly infringed, at least one claim of the 027 Patent either literally or under the doctrine of equivalents, without authority, consent, right, or license, by making, using, offering to sell, or selling within the United States, or importing into the United States, the Accused Products.

25. As shown in the claim chart attached hereto as Exhibit 2, the Accused Products practice all elements of at least claim 1 of the 027 Patent. Exhibit 2 is representative of the manner of infringement of all of Defendant’s Accused Products.

26. Defendant also actively induces and/or contributes to, and has induced and/or contributed to, infringement of the 027 Patent under 35 U.S.C. §§ 271(b) and (c), either literally or under the doctrine of equivalents, and continues to do so. Defendant has knowledge of the 027 Patent and notice of its infringement thereof. Defendant actively induces its customers to purchase and use the Accused Products such that the customers directly infringe the 027 Patent. For example, Defendant provides manuals to its customers instructing them to use the Accused

Products to directly infringe the Asserted Claims of the 027 Patent, including, for example, to use the central processing unit (CPU) and/or the graphics processing unit (GPU) in the Accused Products in a manner that infringes the 027 Patent. Defendant further assists customers in installing, maintaining, testing, and using the Accused Products such that customers directly infringe the 027 Patent. Defendant also contributes to others practicing the 027 Patent because Defendant sells and offers to sell the Accused Products for use in practicing the 027 Patent and Defendant knows that the Accused Products are especially made or adapted to practice the Asserted Claims and are not staple articles of commerce suitable for substantial non-infringing use.

27. As a result of Defendant's infringing conduct, VideoLabs has suffered damages and will continue to suffer damages in an amount that, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284, including past damages under 35 U.S.C. § 287.

COUNT II
(Infringement of U.S. Patent No. 7,525,535)

28. VideoLabs re-alleges and incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

29. The 535 Patent was duly and legally issued for "Portable Terminal" on April 28, 2009. The 535 Patent is in full force and effect. A true and correct copy of the 535 Patent is attached hereto as Exhibit 3.

30. VideoLabs is the assignee and owner of the 535 Patent with the exclusive right to enforce the 535 Patent against Defendant and the exclusive right to collect damages from Defendant for infringement of the 535 Patent for all relevant times, including the right to prosecute this action.

31. On information and belief, Defendant directly infringes, and has directly infringed, at least one claim of the 535 Patent either literally or under the doctrine of equivalents, without authority, consent, right, or license, by making, using, offering to sell, or selling within the United States, or importing into the United States, the Accused Products.

32. As shown in the claim chart attached hereto as Exhibit 4, the Accused Products practice all elements of at least claim 5 of the 535 Patent. Exhibit 4 is representative of the manner of infringement of all of Defendant's Accused Products.

33. Defendant also actively induces and/or contributes to, and has induced and/or contributed to, infringement of the 535 Patent under 35 U.S.C. §§ 271(b) and (c), either literally or under the doctrine of equivalents, and continues to do so. Defendant has knowledge of the 535 Patent and notice of its infringement thereof. Defendant actively induces its customers to purchase and use the Accused Products such that the customers directly infringe the 535 Patent. For example, Defendant provides manuals to its customers instructing them to use the Accused Products in a manner to practice the Asserted Claims of the 535 Patent, including, for example, using the touch screen in the Accused Products. Defendant further assists customers in installing, maintaining, testing, and using the Accused Products such that customers directly infringe the 535 Patent. Defendant also contributes to others practicing the 535 Patent because Defendant sells and offers to sell the Accused Products for use in practicing the 535 Patent and Defendant knows that the Accused Products are especially made or adapted to practice the Asserted Claims and are not staple articles of commerce suitable for substantial non-infringing use.

34. As a result of Defendant's infringing conduct, VideoLabs has suffered damages and will continue to suffer damages in an amount that, by law, cannot be less than a reasonable

royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284, including past damages under 35 U.S.C. § 287.

COUNT III
(Infringement of U.S. Patent No. 7,970,059)

35. VideoLabs re-alleges and incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

36. The 059 Patent was duly and legally issued for “Variable Length Coding Method and Variable Length Decoding Method” on June 28, 2011. The 059 Patent was in full force and effect until its expiration on April 16, 2023. A true and correct copy of the 059 Patent is attached hereto as Exhibit 5.

37. VideoLabs is the assignee and owner of the 059 Patent with the exclusive right to enforce the 059 Patent against Defendant and the exclusive right to collect damages from Defendant for infringement of the 059 Patent for all relevant times, including the right to prosecute this action.

38. On information and belief, Defendant has directly infringed at least one claim of the 059 Patent either literally or under the doctrine of equivalents, without authority, consent, right, or license, by making, using, offering to sell, or selling within the United States, or importing into the United States, the Accused Products.

39. As shown in the claim chart attached hereto as Exhibit 6, the Accused Products practice all elements of claim 3 of the 059 Patent. Exhibit 6 is representative of the manner of infringement of all of Defendant’s Accused Products.

40. Defendant also has induced and/or contributed to infringement of the 059 Patent under 35 U.S.C. §§ 271(b) and (c), either literally or under the doctrine of equivalents.

Defendant has knowledge of the 059 Patent and notice of its infringement thereof. Defendant

actively induced its customers to purchase and use the Accused Products such that the customers directly infringed the 059 Patent. For example, Defendant provided manuals to its customers instructing them to use the Accused Products in a manner to practice the Asserted Claims of the 059 Patent, including, for example, to play certain types of video.¹ Defendant further assisted customers in installing, maintaining, testing, and using the Accused Products such that customers directly infringed the 059 Patent. Defendant also contributed to others practicing the 059 Patent because Defendant sold and offered to sell the Accused Products for use in practicing the 059 Patent and Defendant knew that the Accused Products are especially made or adapted to practice the 059 Patent and are not staple articles of commerce suitable for substantial non-infringing use.

41. As a result of Defendant's infringing conduct, VideoLabs has suffered damages in an amount that, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284, including past damages under 35 U.S.C. § 287.

COUNT IV
(Infringement of U.S. Patent No. 8,291,236)

42. VideoLabs re-alleges and incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

43. The 236 Patent was duly and legally issued for "Methods and Apparatuses For Secondary Conditional Access Server" on October 16, 2012. The 236 Patent is in full force and effect. A true and correct copy of the 236 Patent is attached hereto as Exhibit 7.

44. VideoLabs is the assignee and owner of the 236 Patent with the exclusive right to enforce the 236 Patent against Defendant and the exclusive right to collect damages from

¹ See, e.g., <https://www.asus.com/Laptops/For-Home/Zenbook/Zenbook-Flip-15-UX564/>;
https://dlcdnets.asus.com/pub/ASUS/nb/UX564PH/0409_E17801_UX564EH_EI_V2_A.pdf at 16-18.

Defendant for infringement of the 236 Patent for all relevant times, including the right to prosecute this action.

45. On information and belief, Defendant directly infringes, and has directly infringed, at least one claim of the 236 Patent either literally or under the doctrine of equivalents, without authority, consent, right, or license, by making, using, offering to sell, or selling within the United States, or importing into the United States, the Accused Products.

46. As shown in the claim chart attached hereto as Exhibit 8, the Accused Products practice all elements of at least claim 130 of the 236 Patent. Exhibit 8 is representative of the manner of infringement of all of Defendant's Accused Products.

47. Defendant also actively induces and/or contributes to, and has induced and/or contributed to, infringement of the 236 Patent under 35 U.S.C. §§ 271(b) and (c), either literally or under the doctrine of equivalents, and continues to do so. Defendant has knowledge of the 236 Patent and notice of its infringement thereof. Defendant actively induces its customers to purchase and use the Accused Products such that the customers directly infringe the 236 Patent. For example, Defendant provides documentation to its customers instructing them to use the Accused Products in a manner to practice the Asserted Claims of the 236 Patent, including, for example, the use of the High-Bandwidth Digital Content Protection (HDCP) functionality in the Accused Products. Defendant further assists customers in installing, maintaining, testing, and using the Accused Products such that customers directly infringe the 236 Patent. Defendant also contributes to others practicing the 236 Patent because Defendant sells and offers to sell the Accused Products for use in practicing the 236 Patent and Defendant knows that the Accused Products are especially made or adapted to practice the Asserted Claims and are not staple articles of commerce suitable for substantial non-infringing use.

48. As a result of Defendant's infringing conduct, VideoLabs has suffered damages and will continue to suffer damages in an amount that, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284, including past damages under 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, VideoLabs respectfully requests that the Court:

- A. Enter a judgment that Defendant has infringed and/or infringes each of the Asserted Patents;
- B. Permanently enjoin Defendant, its parents, subsidiaries, affiliates, agents, servants, employees, attorneys, representatives, successors and assigns, and all others in active concert or participation with them from infringing the 027, the 535, and the 236 Patents;
- C. Order an award of damages to VideoLabs in an amount no less than a reasonable royalty, together with pre-judgment and post-judgment interest and costs;
- D. Enter a judgment that the infringement was willful and order treble damages;
- E. Order an accounting to determine the damages to be awarded to VideoLabs as a result of Defendant's infringement, including an accounting for infringing sales not presented at trial and award additional damages for any such infringing sales;
- F. Find that this case is exceptional and award VideoLabs its costs, expenses, and reasonable attorneys' fees under 35 U.S.C. § 285; and
- G. Grant such other and further relief as the Court may deem proper and just.

DEMAND FOR JURY TRIAL

VideoLabs hereby respectfully requests a trial by jury of all issues so triable, pursuant to Fed. R. Civ. P. 38.

Date: August 31, 2023

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* *Pro hac vice* motion to be filed.

Respectfully submitted,

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