

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**MESA DIGITAL, LLC,
Plaintiff,**

v.

**ONE PLUS USA CORP.,
Defendant**

Civil Action No. 3:23-cv-02830

JURY TRIAL DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Mesa Digital, LLC (“Plaintiff” or “Mesa Digital”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 9,031,537 (“the ’537 patent”) (referred to as the “Patent-in-Suit”) by One Plus USA Corp., (“Defendant” or “One Plus”).

I. THE PARTIES

1. Plaintiff is a Limited Liability Company with its principal place of business located 117 Bryn Mawr Drive SE, Albuquerque, NM 87106.

2. On information and belief, Defendant is a corporation organized and existing under the laws of the State of Nevada, with a regular and established place of business located at Suite 300, Building 5, Riverside Commons, 5000 Riverside Drive, Irving, Texas 75039. On information and belief, Defendant sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. Defendant is registered to do business in Texas and has may be served with process through their

registered agent, LEGALINC CORPORATE SERVICES INC. 1810 E SAHARA AVE STE 215, Las Vegas, NV, 89104, at its place of business, or anywhere else it may be found.

II. JURISDICTION AND VENUE

3. This civil action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including without limitation 35 U.S.C. §§ 271, 281, 283, 284, and 285 based on Defendant's unauthorized commercial manufacture, use, importation, offer for sale, and sale of the Accused Products in the United States. This is a patent infringement lawsuit over which this Court has subject matter jurisdiction under, *inter alia*, 28 U.S.C. §§ 1331, 1332, and 1338(a).

4. This United States District Court for the Northern District of Texas has general and specific personal jurisdiction over Defendant because, directly or through intermediaries, Defendant has committed acts within the District giving rise to this action and are present in and transact and conduct business in and with residents of this District and the State of Texas.

5. Plaintiff's causes of action arise, at least in part, from Defendant's contacts with and activities in this District and the State of Texas.

6. Defendant has committed acts of infringing the Patent-in-Suit within this District and the State of Texas by making, using, selling, offering for sale, and/or importing in or into this District and elsewhere in the State of Texas, products claimed by the Patent-in-Suit, including without limitation products made by practicing the claimed methods of the Patent-in-Suit. Defendant, directly and through intermediaries, makes, uses, sells, offers for sale, imports, ships, distributes, advertises, promotes, and/or otherwise commercializes such infringing products into this District and the State of Texas. Defendant regularly conducts and solicits business in, engages in other persistent courses of conduct in, and/or derives substantial revenue from goods and services provided to residents of this District and the State of Texas.

7. This Court has personal jurisdiction over Defendant pursuant to TEX. CIV. PRAC. & REM. CODE § 17.041 *et seq.* Personal jurisdiction exists over Defendant because Defendant has minimum contacts with this forum as a result of business regularly conducted within the State of Texas and within this district, and, on information and belief, specifically as a result of, at least, committing the tort of patent infringement within Texas and this District. This Court has personal jurisdiction over Defendant, in part, because Defendant does continuous and systematic business in this District, including by providing infringing products and services to the residents of the Northern District of Texas that Defendant knew would be used within this District, and by soliciting business from the residents of the Northern District of Texas. For example, Defendant is subject to personal jurisdiction in this Court because, *inter alia*, Defendant has regular and established places of business throughout this District, including at least at Suite 300, Building 5, Riverside Commons, 5000 Riverside Drive, Irving, Texas 75039, and directly and through agents regularly does, solicits, and transacts business in the Northern District of Texas. Also, Defendant has hired and is hiring within this District for positions that, on information and belief, relate to infringement of the Patent-in-Suit. Accordingly, this Court's jurisdiction over the Defendant comports with the constitutional standards of fair play and substantial justice and arises directly from the Defendant's purposeful minimum contacts with the State of Texas.

8. This Court also has personal jurisdiction over Defendant, because in addition to Defendant's own online website and advertising within this District, Defendant has also made its products available within this judicial district and advertised to residents within the District to hire employees to be located in this District.

9. The amount in controversy exceeds \$75,000 exclusive of interests and costs.

10. Venue is proper in this Court under 28 U.S.C. § 1400(b) based on information set forth herein, which is hereby repeated and incorporated by reference. Further, upon information and belief, Defendant has committed or induced acts of infringement, and/or advertise, market, sell, and/or offer to sell products, including infringing products, in this District. In addition, and without limitation, Defendant has regular and established places of business throughout this District, including at least at Suite 300, Building 5, Riverside Commons, 5000 Riverside Drive, Irving, Texas 75039.

III. PATENT-IN-SUIT

11. On May 12, 2015, U.S. Patent No. 9,031,537 (“the ’537 patent”, included as Exhibit A and part of this complaint) entitled “Electronic wireless hand held multimedia device” was duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the ’537 patent by assignment.

12. The ’537 patent relates to novel and improved methods, systems and processes for electronic wireless hand held multimedia device including a microprocessor and more than one wireless transceiver modules enabling wireless communications over a variety of standards for the retrieval, processing and delivery of multimedia data to/from remote data resources.

13. Plaintiff is the exclusive owner by assignment of all rights, title, and interest in the ’537 Patent, including the right to bring this suit for damages, and including the right to sue and recover all past, present, and future damages for infringement of the ’537 Patent. Defendant is not licensed to the ’537 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the ’537 patent whatsoever. A true and correct copy of the ’537 patent is attached hereto as **Exhibit A**.

14. The ’537 Patent is referred to herein as the “Patent-in-Suit.”

15. Plaintiff is the owner of the entire right, title, and interest in and to the Patent-in-Suit. The Patent-in-Suit are presumed valid under 35 U.S.C. § 282.

ACCUSED INSTRUMENTALITIES

16. The term “Accused Instrumentalities” or “Accused Products” refers to, by way of example and without limitation, Defendant’s smart phones, including but not limited to:

- *OnePlus Nord N10 5G*
- *OnePlus Nord N100 5G*
- *OnePlus Nord N20 5G*
- *OnePlus Nord N200 5G*
- *OnePlus Nord N30 5G*
- *OnePlus Nord N300 5G*
- *OnePlus Open Emerald Dusk 16 GB RAM + 512 GB Storage*
- *OnePlus Open Voyager Black 16 GB RAM + 512 GB Storage*
- *OnePlus 11 5G Titan Black 8 GB RAM + 128 GB Storage*
- *OnePlus 11 5G Eternal Green 16 GB RAM + 256 GB Storage*
- *OnePlus 11 5G Titan Black 16 GB RAM + 256 GB Storage*
- *OnePlus 10T 5G*
- *OnePlus 10 Pro 5G*
- *OnePlus 9 Pro 5G*
- *OnePlus 9 5G*
- *OnePlus 8T+ 5G*
- *OnePlus 8 5G*
- *OnePlus 7T Pro 5G*
- *OnePlus 7T*
- *OnePlus 7 Pro*
- *OnePlus 6T*
- *OnePlus One.*

COUNT I
PATENT INFRINGEMENT OF THE '537 PATENT

17. Plaintiff restates and realleges the preceding paragraphs of this Complaint as if fully set forth herein.

18. Defendant has, under 35 U.S.C. §271(a), directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more of claims 1-16, including

without limitation at least claim 1 of the '537 Patent, by making, using, testing, selling, offering for sale and/or importing into the United States Defendant's Accused Products.

19. On information and belief, Defendant has made no attempt to design around the claims of the '537 Patent.

20. On information and belief, Defendant did not have a reasonable basis for believing that the claims of the '537 Patent were invalid.

21. On information and belief, Defendant's Accused Products are available to businesses and individuals throughout the United States and in the State of Texas, including in this District.

22. Plaintiff has been damaged as the result of Defendant's infringement.

23. The claim chart attached hereto as **Exhibit B** describes how the elements of an exemplary claim 1 from the '537 Patent are infringed by the Accused Products. This provides details regarding only one example of Defendant's infringement, and only as to a single patent claim. Plaintiff reserves its right to amend and fully provide its infringement arguments and evidence thereof until its Preliminary and Final Infringement Contentions are later produced according to the court's scheduling order in this case. These allegations of infringement are preliminary and are therefore subject to change.

24. Defendant maintains, operates, and administers systems, products, and services that infringes one or more of claims 1-37 of the '537 patent, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '537 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

25. Defendant has and continues to induce infringement. Defendant has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., electronic wireless hand held multimedia device) such as to cause infringement of one or more of claims 1-37 of the '537 patent, literally or under the doctrine of equivalents. Moreover, Defendant has known of the '537 patent and the technology underlying it from at least the filing date of the lawsuit. For clarity, direct infringement is previously alleged in this complaint.

26. Defendant has and continues to contributorily infringe. Defendant has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., electronic wireless hand held multimedia device) and related services such as to cause infringement of one or more of claims 1-37 of the '537 patent, literally or under the doctrine of equivalents. Further, there are no substantial noninfringing uses for Defendant's products and services. Moreover, Defendant has known of the '537 patent and the technology underlying it from at least the filing date of the lawsuit.¹ For clarity, direct infringement is previously alleged in this complaint.

27. Defendant has caused and will continue to cause Plaintiff damage by direct and indirect infringement of (including inducing infringement of) the claims of the '537 patent.

IV. CONDITIONS PRECEDENT

Plaintiff is a non-practicing entity, with no products to mark. Plaintiff has pled all statutory requirements to obtain pre-suit damages. Further, all conditions precedent to recovery are met.

V. JURY DEMAND

Plaintiff hereby requests a trial by jury on issues so triable by right.

¹ Plaintiff reserves the right to amend and add inducement pre-suit if discovery reveals an earlier date of knowledge.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '537 patent;
- b. award Plaintiff damages in an amount sufficient to compensate it for Defendant's infringement of the Patents-in-Suit in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award Plaintiff an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Plaintiff its attorneys' fees, expenses, and costs incurred in this action;
- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award Plaintiff such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey LLP

/s/ William P. Ramey, III

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