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TCT MOBILE (US) INC. AND HUIZHOU TCL  
8 MOBILE COMMUNICATION CO. LTD.

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11  
12 TCT MOBILE (US) INC. AND  
HUIZHOU TCL MOBILE  
13 COMMUNICATION CO. LTD.,

14 Plaintiffs,

15 v.

16 ANCORA TECHNOLOGIES, INC.,

17 Defendant.

Case No.: 8:13-cv-2192

**COMPLAINT FOR  
DECLARATORY JUDGMENT**

**DEMAND FOR JURY TRIAL**

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1 Plaintiffs TCT Mobile (US) Inc. (“TCT US”) and Huizhou TCL Mobile  
2 Communication Co. Ltd. (“Huizhou TCL”) (collectively “TCL”) hereby bring this  
3 Complaint for Declaratory Judgment against Defendant Ancora Technologies, Inc.  
4 (“Ancora”), and states as follows:

5 **NATURE OF THE CASE**

6 1. TCL seeks a declaratory judgment that TCL does not infringe U.S.  
7 Patent No. 6,411,941 (the “’941 Patent”). A true and correct copy of the ’941  
8 Patent is attached as Exhibit A.

9 2. This relief is necessary because Ancora filed a lawsuit alleging that  
10 TCL products are used in infringement of the ’941 Patent in a case captioned  
11 *Ancora Technologies, Inc. v. TCL Corp.*, No. 4:19-cv-00624 (E.D. Tex.) (Amended  
12 Complaint filed Sept. 12, 2019) (the “Texas Lawsuit”). A true and correct copy of  
13 the Amended Complaint from the Texas Lawsuit is attached as Exhibit B. Ancora  
14 accuses the following entities of infringement in the Texas Lawsuit: TCL Corp.;  
15 TCL Communication Ltd.; TCL Communication Technology Holdings Ltd.; TCT  
16 Mobile International Ltd.; TCT Mobile, Inc.; TCT Mobile (US) Inc.; and TCT  
17 Mobile (US) Holdings Inc. Most of the defendants in the Texas Lawsuit are not  
18 involved with the manufacture, use, sale, or offer for sale of the accused TCL  
19 products in the United States or importation of the accused TCL products into the  
20 United States.

21 3. The TCL products accused in the Texas Lawsuit are manufactured by  
22 Huizhou TCL. Huizhou TCL is not a defendant in the Texas Lawsuit.

23 4. The TCL products accused in the Texas Lawsuit are imported into the  
24 United States by TCT US. While TCT US is a defendant in the Texas Lawsuit,  
25 venue there is improper under the statute governing venue in actions for patent  
26 infringement, 28 U.S.C. § 1400(b).

27 5. TCL does not infringe the ’941 Patent. Therefore, a substantial,  
28 continuing, and justiciable controversy exists between TCL and Ancora.

1 **THE PARTIES**

2 6. Huizhou TCL is a company organized and existing under the laws of  
3 China with its principal place of business at No. 86 Hechang Qi Lu Xi, Zhongkai  
4 Gaoxin District, Huizhou City, Guandong Province, P.R. China.

5 7. TCT US is a corporation organized and existing under the laws of  
6 Delaware with its principal place of business at 25 Edelman, Suite 200, Irvine,  
7 California, 92618.

8 8. On information and belief, Ancora Technologies, Inc. is a corporation  
9 organized and existing under the laws of Delaware with its principal place of  
10 business at 23977 S.E. 10th Street, Sammamish, Washington 98075. Ancora may  
11 be served via its registered agent, Harvard Business Services, Inc., 16192 Coastal  
12 Hwy., Lewes, DE 19958.

13 **JURISDICTION AND VENUE**

14 9. This Court has subject matter jurisdiction over this action under  
15 28 U.S.C. §§ 2201, 2202, 1331, and 1338(a), because this action arises under the  
16 laws of the United States, in particular the Patent Act of the United States,  
17 35 U.S.C. § 100 *et seq.*, and seeks relief under the Federal Declaratory Judgment  
18 Act.

19 10. Venue is proper in this district pursuant to at least 28 U.S.C. § 1391(b),  
20 because a substantial part of the events at issue in this action is whether TCT US  
21 commits acts of infringement in the United States, and TCT US has its principal  
22 place of business in this district.

23 11. This Court has personal jurisdiction over Ancora at least because:  
24 Ancora has waived any challenge to personal jurisdiction by bringing lawsuits in  
25 this Court asserting the '941 Patent against other parties, *see Ancora Techs., Inc. v.*  
26 *Apple, Inc.*, No. 2:10-cv-10045 (C.D. Cal.) (complaint filed Dec. 29, 2010), *Ancora*  
27 *Techs., Inc. v. Toshiba Am. Info. Sys., Inc.*, No. 8:08-cv-00626 (C.D. Cal.)  
28 (complaint filed June 6, 2008); and Ancora served process on TCT US and other

1 defendants in California pursuant to the Texas Lawsuit, *see Ancora Techs., Inc. v.*  
2 *TCL Corp.*, No. 4:19-cv-00624 (E.D. Tex.), Dkt. Nos. 18–20.

3 12. An actual controversy exists between TCL and Ancora due to  
4 Ancora’s assertion of the ’941 Patent against TCL in the Texas Lawsuit.

5 **FACTUAL BACKGROUND**

6 13. In the Texas Lawsuit, Ancora alleges that the following TCL products  
7 are used in infringement of the ’941 Patent: Alcatel 3c/33x/3v/3L; Alcatel  
8 1c/1x/1/1t7/1T10; Alcatel A3/A3XL/A7XL/A7/A2XL/A3A; Alcatel A5; Alcatel  
9 IDOL 4/4S/5; Alcatel POP 4/4S/4PLUS; Alcatel PIXI 4(4)/4(5)/4(6); Blackberry  
10 KeyONE; and Blackberry Key2 (“Accused Products”).

11 14. All of the Accused Products are manufactured only by Huizhou TCL.  
12 As indicated in TCL’s most recent publicly available annual report, a true and  
13 correct copy of which is attached as Exhibit C, Huizhou TCL is the only TCL entity  
14 whose principal activities include manufacturing. *See* Exhibit C at p. 11.

15 15. In the Texas Lawsuit, Ancora accuses TCT US, *inter alia*, of  
16 infringing the ’941 Patent by making, using, selling, and/or offering to sell in the  
17 United States or importing into the United States the Accused Products. But venue  
18 is improper as to TCT US in the Texas Lawsuit, because TCT US neither resides in  
19 nor has a regular and established place of business in the Eastern District of Texas.  
20 *See* 28 U.S.C. § 1400(b). TCT US does reside in the Central District of California,  
21 and this District would have been a proper venue for Ancora’s lawsuit.

22 16. TCL contends that it has the right to make, use, sell, and/or offer to sell  
23 in the United States and import into the United States the Accused Products.

24 **COUNT I**

25 **(DECLARATORY JUDGMENT OF NON-INFRINGEMENT)**

26 17. TCL incorporates paragraphs 1 through 16 of this Complaint as if set  
27 forth fully herein.

28

1 18. On information and belief, Ancora is the alleged owner of the '941  
2 Patent with all applicable rights to license and assert the '941 Patent. *See* Exhibit B  
3 at ¶ 25.

4 19. As described previously, Ancora alleges that the Accused Products are  
5 used in infringement of the '941 Patent, including asserting that TCT US infringes  
6 the '941 Patent.

7 20. However, TCL, through its making, using, selling, offering to sell,  
8 and/or importing of the Accused Products, does not infringe and has not infringed  
9 any claim of the '941 Patent.

10 21. Therefore, there is an actual, substantial, continuing, and justiciable  
11 controversy between TCL and Ancora regarding whether TCL infringes the '941  
12 Patent.

13 22. Accordingly, TCL is entitled to a declaratory judgment that TCL does  
14 not infringe, directly or indirectly, any claim of the '941 Patent.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, TCL respectfully prays for entry of judgment in its favor and  
17 against Ancora as follows:

18 A. For judgment that TCL has not infringed and does not infringe any  
19 claim of the '941 Patent;

20 B. For a preliminary and permanent injunction precluding Ancora, its  
21 officers, directors, employees, agents, and all other persons acting in concert or  
22 participation with them from suing for infringement or otherwise asserting  
23 infringement of the '941 Patent against TCL;

24 C. For costs and reasonable attorneys' fees incurred in connection with  
25 this and related actions;

26 D. For a finding that this case is exceptional; and

27 E. For such other and further relief as the Court deems just and proper.  
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