

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

STRAIGHT PATH IP GROUP, INC.,

Plaintiff,

v.

VIZIO, INC., et al.,

Defendants.

Civil Action No. 1:13-cv-934 (AJT/IDD)

STRAIGHT PATH IP GROUP, INC.,

Plaintiff,

v.

TOSHIBA CORPORATION, et al.,

Defendants.

Civil Action No. 1:13-cv-934 (AJT/IDD)
[formerly No. 3:13-cv-503, No. 1:13-cv-1070]

STRAIGHT PATH IP GROUP, INC.,

Plaintiff,

v.

LG ELECTRONICS, INC., et al.,

Defendants.

Civil Action No. 1:13-cv-934 (AJT/IDD)
[formerly No. 1:13-cv-933]

HULU, LLC'S COMPLAINT IN INTERVENTION

Pursuant to Federal Rule of Civil Procedure 24(c), Intervenor Hulu, LLC (“Hulu”) hereby alleges for its Complaint in Intervention as follows:

1. Hulu seeks a declaratory judgment of non-infringement pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202.

Parties

2. Hulu is a Delaware limited liability company with its headquarters and principal place of business located at 2500 Broadway, Santa Monica, California 90404. Hulu offers its millions of users a premium streaming video experience that offers a wide selection of television shows, clips, movies, original programming, and more. Through its website www.hulu.com and via applications offered by its many technology partners, Hulu offers a free ad-supported streaming service as well as a subscription service that offers subscribers access to the current season of scores of the hottest prime-time television shows.

3. Upon information and belief, Defendant-in-Intervention Straight Path is a Delaware corporation with its principal place of business at 5300 Hickory Park Drive, Suite 218, Glen Allen, Virginia 23059.

Jurisdiction and Venue

4. This action arises under the patent laws of the United States, 35 U.S.C. §§ 101 et seq., and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(a), (b), and (c).

6. This Court has personal jurisdiction over Straight Path by virtue of, *inter alia*, Straight Path’s principal place of business, which is in Glen Allen, Virginia, and its filing and pursuit of related patent infringement litigation in this district.

Background and Hulu’s Interest in This Lawsuit

7. Straight Path has accused Hulu technology partners (hereinafter, “the Hulu Partners”) LG Electronics, Inc., LG Electronics U.S.A., Inc., LG Electronics MobileComm U.S.A., Inc., Toshiba Corporation, Toshiba America, Inc., Toshiba America Information

Systems, Inc., and VIZIO, Inc., of making, using, selling, offering to sell, and/or importing products that allegedly infringe several patents: United States Patent No. 6,009,469 (the “’469 Patent”), entitled “Graphic User Interface for Internet Telephony Application,” United States Patent No. 6,108,704 (the “’704 Patent”), entitled “Point-to-Point Protocol,” and United States Patent No. 6,131,121 (the “’121 Patent”), entitled “Point-to-Point Computer Network Communication Utility Utilizing Dynamically Assigned Network Protocol Addresses.”

8. The Hulu Partners design, manufacture, or sell devices that incorporate Hulu functionality.

9. Hulu is informed and believes that Straight Path asserts or intends to assert that the ’469, ’121, and ’704 Patents are infringed by the Hulu Partners’ devices by virtue of their Hulu functionality. For example, on information and belief, Straight Path has informed several Hulu Partners that they infringe the patents-in-suit by virtue of Hulu functionality allegedly offered on the Hulu Partners’ accused devices. Moreover, Hulu is informed and believes that Straight Path has served infringement charts in this action accusing *inter alia* Hulu applications on the Hulu Partners’ devices.

10. Straight Path seeks damages from the Hulu Partners for making or selling devices that incorporate Hulu functionality. Thus, Hulu has a direct and substantial interest in defending against and defeating Straight Path’s claims with regard to the ’469, ’121, and ’704 Patents. By intervening in this action, Hulu seeks the Court’s assistance and declaration concerning these matters, which have been and are subjects of disagreement among the parties.

11. As a result of Straight Path’s infringement allegations against the Hulu Partners regarding the ’469, ’121, and ’704 Patents, an actual controversy exists between Hulu and Straight Path. By intervening in this action, Hulu seeks the Court’s assistance and declaration concerning these matters, which have been and are subjects of disagreement among the parties.

FIRST CAUSE OF ACTION

Count for Declaratory Judgment of Non-Infringement of the ’469 Patent

12. Hulu incorporates by reference the allegations in paragraphs 1-11.

13. Straight Path has sued the Hulu Partners in the present action alleging infringement of the '469 Patent.

14. By making, using, selling, offering to sell, marketing, licensing, or importing Hulu's technology for use with the Hulu Partners' products, Hulu does not infringe, directly, indirectly, literally or otherwise, a valid claim, if any, of the '469 Patent.

15. The Hulu Partners do not directly or indirectly infringe a valid claim, if any, of the '469 Patent by making, using, selling, offering to sell, marketing, licensing, or importing products that incorporate Hulu functionality.

16. Thus, an immediate, real, and justiciable controversy exists between Straight Path, on the one hand, and Hulu, on the other hand, with respect to the alleged infringement of the '469 Patent. A judicial declaration concerning these matters is necessary and appropriate at this time so that Hulu can ascertain its rights and duties with regard to the parties and with regard to designing, developing, manufacturing, marketing, and selling its products.

SECOND CAUSE OF ACTION

Count for Declaratory Judgment of Non-Infringement of the '121 Patent

17. Hulu incorporates by reference the allegations in paragraphs 1-16.

18. Straight Path has sued the Hulu Partners in the present action alleging infringement of the '121 Patent.

19. By making, using, selling, offering to sell, marketing, licensing, or importing Hulu's technology for use with the Hulu Partners' products, Hulu does not infringe, directly, indirectly, literally or otherwise, a valid claim, if any, of the '121 Patent.

20. The Hulu Partners do not directly or indirectly infringe a valid claim, if any, of the '121 Patent by making, using, selling, offering to sell, marketing, licensing, or importing products that incorporate Hulu functionality.

21. Thus, an immediate, real, and justiciable controversy exists between Straight Path, on the one hand, and Hulu, on the other hand, with respect to the alleged infringement of the '121 Patent. A judicial declaration concerning these matters is necessary and appropriate at this

time so that Hulu can ascertain its rights and duties with regard to the parties and with regard to designing, developing, manufacturing, marketing, and selling its products.

THIRD CAUSE OF ACTION

Count for Declaratory Judgment of Non-Infringement of the '704 Patent

22. Hulu incorporates by reference the allegations in paragraphs 1-21.

23. Straight Path has sued the Hulu Partners in the present action alleging infringement of the '704 Patent.

24. By making, using, selling, offering to sell, marketing, licensing, or importing Hulu's technology for use with the Hulu Partners' products, Hulu does not infringe, directly, indirectly, literally or otherwise, a valid claim, if any, of the '704 Patent.

25. The Hulu Partners do not directly or indirectly infringe a valid claim, if any, of the '704 Patent by making, using, selling, offering to sell, marketing, licensing, or importing products that incorporate Hulu functionality.

26. Thus, an immediate, real, and justiciable controversy exists between Straight Path, on the one hand, and Hulu, on the other hand, with respect to the alleged infringement of the '704 Patent. A judicial declaration concerning these matters is necessary and appropriate at this time so that Hulu can ascertain its rights and duties with regard to the parties and with regard to designing, developing, manufacturing, marketing, and selling its products.

Request for Relief

Therefore, Hulu requests declaratory judgment as follows:

- a) For a declaration that by making, using, selling, offering to sell, marketing, licensing, or importing Hulu's technology for use with the Hulu Partners' products, Hulu does not infringe, directly, indirectly, literally or otherwise, a valid claim, if any, of the '469 Patent;
- b) For a declaration that no valid claim of the '469 Patent is infringed, directly, indirectly, literally, and/or under the doctrine of equivalents, by Hulu or by any of the

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