

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FUNDAMENTAL INNOVATION
SYSTEMS INTERNATIONAL LLC,

Plaintiff,

vs.

ZTE CORPORATION, ZTE (USA), INC.,
and ZTE (TX), INC.,

Defendants.

Civil Action No. 17-cv-124

JURY TRIAL DEMANDED

AMENDED COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

Plaintiff Fundamental Innovation Systems International LLC (“Plaintiff” or “Fundamental”), by and through its undersigned counsel, hereby amends its Complaint against Defendants ZTE Corporation, ZTE (USA), Inc. and ZTE (TX), Inc. (collectively, “Defendants” or “ZTE”) as follows:

PARTIES

1. Plaintiff is a Delaware limited liability company with its principal place of business located at 2990 Long Prairie Road, Suite B, Flower Mound, Texas 75022.
2. Fundamental is the owner by assignment of all right, title, and interest in U.S. Patent Nos. 7,239,111 (the “111 Patent”), 7,834,586 (the “586 Patent”), 7,893,655 (the “655 Patent”), 8,232,766 (the “766 Patent”), and 8,624,550 (the “550 Patent”) (collectively, the “Patents-in-Suit”).
3. On information and belief, Defendant ZTE Corporation, is a Chinese corporation with a principal place of business located at No. 55, Hitech Road South, Shenzhen, China 518057. On information and belief, ZTE Corporation designs, manufactures, and sells consumer

electronics, mobile phones, and related accessories under the ZTE brand.

4. On information and belief, Defendant ZTE (USA), Inc. is a New Jersey Corporation that is headquartered and authorized to do business in Texas and may be served via its registered agent in Texas. On information and belief, Defendant ZTE (USA), Inc. is a wholly owned subsidiary of ZTE Corporation and sells consumer electronics, mobile phones, and related accessories under the ZTE brand.

5. On information and belief, Defendant ZTE (TX), Inc. is a Texas Corporation that is authorized to do business in Texas and may be served via its registered agent in Texas. On information and belief, Defendant ZTE (TX), Inc. is a wholly owned subsidiary of ZTE Corporation and sells consumer electronics, mobile phones, and related accessories under the ZTE brand.

6. All of the Defendants operate under and identify with the trade name “ZTE.” On information and belief, each of the Defendants directly or indirectly imports, develops, designs, manufactures, uses, distributes, markets, offers to sell and/or sells products and services in the United States, including in this district, and otherwise purposefully directs activities to the same. On information and belief, the Defendants have been and are acting in concert and are otherwise liable jointly, severally or in the alternative for a right to relief with respect to or arising out of the same transaction, occurrence or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale or selling of at least one infringing product. For example, on information and belief, ZTE Corporation distributes consumer electronics, mobile phones, and related accessories under the ZTE brand worldwide, including within the United States and this District, and such distribution includes acts conducted in connection with its domestic subsidiaries such as ZTE (USA), Inc. and ZTE (TX), Inc.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. §1, et. seq., including 35 U.S.C. § 271. This Court has

subject matter jurisdiction under 28 U.S.C. § 1331 and §§ 1338(a).

8. This Court has personal jurisdiction over ZTE because it has substantial, systematic, and continuous contacts with this judicial district. On information and belief, ZTE regularly conducts business in the State of Texas and in this judicial district, and maintains facilities and employees within Texas. On information and belief, ZTE has sold and offered to sell infringing products in this State and judicial district and has committed acts of patent infringement and/or contributed to or induced acts of patent infringement by others in this judicial district and elsewhere in Texas. ZTE (USA), Inc. has offices and facilities in Texas and ZTE (USA), Inc. and ZTE (TX), Inc. maintain agents for service of process in Texas, as well as the presence of authorized retailers/repair facilities for the Accused Products in this judicial district. For example, ZTE has authorized retailers for the Accused Products in this judicial district such as Fry's Electronics, Inc., in Plano, Texas.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(d) and 1400(b). ZTE resides in and is subject to personal jurisdiction in this judicial district, and has a regular and established place of business in Texas. Further, certain of the acts giving rise to the claims alleged herein occurred in this judicial district. ZTE has committed acts of infringement in this judicial district by, among other things, selling, and offering for sale infringing products in this judicial district.

FACTUAL ALLEGATIONS

The Patents-in-Suit

10. The '550, '111, '586, and '766 Patents relate to, among other things, novel techniques for using Universal Serial Bus ("USB") in connection with wireless mobile devices to both facilitate data communication and allow for the charging of certain classes of devices. This technology represented a fundamental break from previous techniques for mobile device charging and has supported the rapid miniaturization of mobile devices, improved user experiences and led to a dramatic increase in performance and features.

11. The '655 Patent relates to, among other things, novel techniques for charging a battery with a limited capacity power source (such as a USB power source) while ensuring that the electronic device is provided with sufficient power needed for operation. Among other things, this technology enables receiving external power, supplying output power with a current of greater magnitude than the current of the external power, and restricting current of output power to a battery responsive to sensing a voltage level at an output node, thereby increasing power allocated to the electronic device, all without significantly increasing the area of the semiconductor chips that perform battery charging.

12. The Patents-in-Suit resulted from a large scale research and development program at Research In Motion Limited ("RIM"), later reorganized as BlackBerry Limited ("BlackBerry"). At the time of invention, RIM was a global leader and pioneer in the field of wireless mobile communications. The company was founded in 1984 and revolutionized the mobile industry when it launched the BlackBerry® 850 in 1999. Fundamental is responsible for protecting and licensing seminal BlackBerry innovations in the field of USB charging.

ZTE's Accused Products

13. On information and belief, ZTE makes, uses, sells, offers for sale and/or imports infringing products in the United States, including but not limited to infringing mobile devices and power adapters (the "Accused Products"). Examples of the Accused Products include the Axon, Axon 7, Axon 7 mini, ZMax, ZMax 2, Trek 2 HD, Nubia Z9, Maven, STC-A5915A-Z, STC-A5930A-Z, STC-A521A-Z, STC-A515S-Z, and other models that include similar functionality to the extent not licensed to the Patents-in-Suit.

14. On information and belief, certain of the Accused Products are mobile devices that can be used with a wireless telecommunications network. The mobile devices include USB interfaces, USB communication paths and charging sub-systems that are operably connected to the USB interface. The charging sub-systems are configured to receive power and use the power to charge a battery. The mobile devices are able to detect an identification signal received via the USB interface, which may be an abnormal USB data condition and is different than USB

enumeration. The identification signal enables the mobile device to draw current unrestricted by a USB specification limit.

15. On information and belief, certain of the Accused Products are devices that include a rechargeable battery and USB-compliant charging and power supply circuits. Such devices have functions unrelated to the rechargeable battery or battery charging. The Accused Products include switch-mode battery charging circuitry that receives power from an external source such as USB and supplies power through an output node of the switch-mode battery charging circuitry to the device and via a switch to the rechargeable battery. The switch-mode battery charging circuitry is able to supply output power with a current that is greater than the current from the external power source. The Accused Products also include battery isolation circuitry that can receive a reference voltage from the device, determine a minimum voltage value, sense that an output voltage at the output node is below the minimum value, and control the switch to restrict current to the rechargeable battery in order to increase power allocated to the device. The Accused Products comprise a battery charge controller configured to limit output power such that the device and rechargeable battery may not draw more than predetermined maximum current available from a USB port. The Accused Products include a voltage sensing circuit configured to measure a voltage drop across a battery charge controller and to respond to the voltage drop across the controller by modulating a switch to control an amount of current supplied to the rechargeable battery such that the device receives a predetermined amount of power needed to operate and the rechargeable battery receives a remainder of the power available from the controller.

16. On information and belief, certain of the Accused Products are USB adapters that are designed to provide power to a mobile device through a USB port. The Accused Products receive power from a power socket and include a power converter that regulates the received power to generate a DC power output. The Accused Products are configured to generate an identification signal that indicates to the mobile device that it is receiving power from a source that is not a USB host or hub. The Accused Products are able to supply current to a mobile

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