

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

FUNDAMENTAL INNOVATION
SYSTEMS INTERNATIONAL LLC,

Plaintiff,

vs.

HUAWEI INVESTMENT & HOLDING
CO., LTD., HUAWEI TECHNOLOGIES
CO., LTD., HUAWEI DEVICE USA, INC.,
AND FUTUREWEI TECHNOLOGIES,
INC.,

Defendants.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

Plaintiff Fundamental Innovation Systems International LLC (“Plaintiff” or “Fundamental”), by and through its undersigned counsel, brings this action against Defendants Huawei Investment & Holding Co., Ltd., Huawei Technologies Co., Ltd., Huawei Device USA, Inc., and Futurewei Technologies, Inc. (collectively, “Defendants” or “Huawei”) to prevent the Defendants’ continued infringement of Plaintiff’s patents without authorization and to recover damages resulting from such infringement.

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”), 8,232,766 (the “’766 Patent”), 8,624,550 (the “’550 Patent”), and 7,893,655 (the “’655 Patent”) (collectively, the “Patents-in-Suit”).

3. On information and belief, Defendant Huawei Investment & Holding Co., Ltd. is a Chinese corporation with a principal place of business at Bantian, Longgan District, Shenzhen, 518129, People's Republic of China.

4. On information and belief, Defendant Huawei Technologies Co., Ltd. is a Chinese corporation with a principal place of business at Bantian, Longgang District, Shenzhen 518129, People's Republic of China.

5. On information and belief, Defendant Huawei Device USA, Inc., is a Texas corporation with a principal place of business located at 5700 Tennyson Parkway, Suite 600, Plano, Texas 75024. Huawei Device USA, Inc. is authorized to do business in Texas and may be served via its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

6. On information and belief, Defendant Futurewei Technologies, Inc., is a Texas corporation with a principal place of business located at 5700 Tennyson Parkway, Suite 500, Plano, Texas 75024. Futurewei Technologies, Inc. is authorized to do business in Texas and may be served via its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

7. All of the Defendants operate under and identify with the trade name "Huawei." 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.

JURISDICTION AND VENUE

8. 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).

9. This Court has personal jurisdiction over Huawei because it has substantial, systematic, and continuous contacts with this judicial district. On information and belief, Huawei regularly conducts business in the State of Texas and in this judicial district, and maintains facilities and employees within Texas and within this judicial district. On information and belief, Huawei 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. Huawei Device USA, Inc. and Futurewei Technologies, Inc. are incorporated in this state and headquartered in this District. Huawei also maintains an agent for service of process at 1999 Bryan Street, Suite 900, Dallas, Texas 75201, as well as the presence of authorized retailers/repair facilities for the Accused Products in this judicial district. For example, Huawei has authorized retailers for the Accused Products in this judicial district such as Fry's Electronics, Inc., including in Plano, Texas.

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

FACTUAL ALLEGATIONS

The Patents-in-Suit

11. The Patents-in-Suit 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.

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.

Huawei’s Accused Products

13. On information and belief, Huawei, 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, but are not limited to, the Honor 8, P9, Mate 8, Mate S, P8, Ascend Mate 7, Ascend P6, MediaPad M2, HW-050100C2W, HW-050200U3W, HW-050100U01, HW-050100U3W, HW-059200CHQ, HW-059200UHQ, 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. The Accused Products include switch-mode battery charging circuitry that receives power from an external source 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.

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 device without regard to at least one associated condition specified in a USB specification.

Huawei's Knowledge of the Patents-in-Suit and Infringement

17. No later than December 14, 2015, Huawei had first received specific notice that it infringes the Patents-in-Suit via a letter from Fundamental to Mr. Charles Ding, Corporate Senior Vice President of Defendant Huawei Technologies USA, Inc. and Chief Huawei Representative in the United States.

18. On information and belief, subsequent to December 14, 2015, Huawei has

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