

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

KOSS CORPORATION,

Plaintiff,

v.

PLANTRONICS, INC. and
POLYCOM, INC.,

Defendants.

Case No. 6:20-cv-00663

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Koss Corporation (“Koss”), files this complaint for patent infringement against Plantronics, Inc. and Polycom, Inc. (“Plantronics” or “Defendants”) alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. This is a civil action arising under the patent laws of the United States, 35 U.S.C. § 1 et seq., including specifically 35 U.S.C. § 271, based on Plantronics’s willful infringement of U.S. Patent Nos. 10,206,025 (“the ’025 Patent”), 10,368,155 (“the ’155 Patent”), 10,469,934 (“the ’934 Patent”), and 10,506,325 (“the ’325 Patent”) (collectively “the Patents-in-Suit”).

THE PARTIES

2. Plaintiff Koss Corporation is a corporation existing under the laws of the State of Delaware having its principal place of business located at 4129 North Port Washington Avenue, Milwaukee, Wisconsin 53212.

3. Koss markets a complete line of high-fidelity headphones and audio accessories. Koss's products, branded under the Koss brand name or private label brands, are sold at various retail chains throughout the United States and the world, including Walmart stores and other large brick-and-mortar establishments, as well as direct to customers in at least the following cities in this District: Alpine, Austin, Del Rio, El Paso, Midland, Odessa, San Antonio, and Waco.

4. Koss also serves as an Original Equipment Manufacturer ("OEM") for a customer in this Judicial District. In this role, Koss manufactures OEM headphones sold under its customer's brand.

5. On information and belief, Plantronics, Inc. is a Delaware Corporation with its principal place of business at 345 Encinal St., Santa Cruz, California 95060. Plantronics may be served through its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201. On information and belief, Plantronics, Inc. is registered to do business in the State of Texas and has been since at least May 9, 2006.

6. On information and belief, Polycom, Inc. is a Delaware Corporation with its principal place of business at 345 Encinal Street, Santa Cruz, California 95060. Polycom, Inc. may be served through its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201. On information and belief, Polycom, Inc. is registered to do business in the State of Texas and has been since at least July 27, 2000.

7. On information and belief, on or about March 28, 2018, Plantronics, Inc. acquired Polycom, Inc. On information and belief, by March 2019, Plantronics, Inc. and Polycom, Inc. integrated their business operations, management, facilities, and product offerings. On information and belief, the combined businesses of Plantronics, Inc. and its wholly-owned subsidiary Polycom, Inc. conducts their combined business operations under the name "Poly." On March 18, 2019, "Plantronics, Inc. . . . announced that the company will transform into Poly, a technology company

communication as rich and natural as in-person. Poly, which means, ‘many’ leverages the legendary audio and video expertise of Plantronics and Polycom” Meet Poly: Plantronics + Polycom Relaunches To Focus On Driving The Power Of Many, POLY WEBSITE, available at: <https://www.poly.com/us/en/about/newsroom/plantronics-and-polycom-nowtogether-as-poly>.

8. Plantronics has at least one regular and established place of business in this district, including, at 7700 West Parmer Lane, Building C, 1st Floor, Austin, TX 78729. Plantronics has offices in the Western District of Texas where it sells, develops, and/or markets its products including sales offices in Austin.

9. Plantronics has transacted business in this district and has committed acts of direct and indirect infringement in this District by, among other things, importing, offering to sell, and selling products that infringe the asserted patents.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the claims herein arise under the patent laws of the United States, 35 U.S.C. § 1 et seq., including 35 U.S.C. § 271.

11. This Court has personal jurisdiction over Plantronics in this action because Plantronics has committed acts of infringement within the State of Texas and within this District through, for example, the sale of Plantronics headphones, such as Backbeat-branded headphones, both online and from the retail locations of its partners in this District. Plantronics regularly transacts business in the State of Texas and within this District. Plantronics engages in other persistent courses of conduct and derives substantial revenue from products and/or services provided in this District and in Texas, and has purposefully established substantial, systematic, and continuous contacts within this District and should reasonably expect to be sued in a court in this District. For example, Plantronics has offices in this District and has a Texas registered agent

the infringing products by consumers in this District and in Texas. Plantronics has entered into partnerships with numerous resellers and distributors to sell and offer for sale the Accused Products to consumers in this District, both online and in stores, and offers support service to customers in this District. Given these contacts, the Court's exercise of jurisdiction over Plantronics will not offend traditional notions of fair play and substantial justice.

12. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b). Plantronics has at least one regular and established place of business in this district, including, at 7700 West Parmer Lane, Building C, 1st Floor, Austin, TX 78729.

13. Plantronics has committed acts within this judicial district giving rise to this action. Plantronics continues to conduct business in this judicial district, including one or more acts of making, selling, using, importing and/or offering for sale infringing products or providing support service to Plantronics's customers in this District.

KOSS'S LEGACY OF AUDIO INNOVATION

14. Koss was founded in 1953 as a television rental company in Milwaukee, Wisconsin.

15. In 1958, John C. Koss invented the world's first SP/3 Stereophone as part of a "private listening system" that would enable the wearer to listen to a phonograph without disturbing others in the vicinity:



16. The SP/3 Stereophone provided, for the first time, a high-quality stereophonic headphone that approximated the sounds of a concert hall.

17. John C. Koss demonstrated the SP/3 Stereophone at a Wisconsin audio show in 1958. Initially designed to demonstrate the high-fidelity stereo sound that a portable phonograph player delivered, these revolutionary SP/3 Stereophones became the hit of the show.

18. The SP/3 Stereophone has since been enshrined in the Smithsonian Museum's collection in Washington, DC, with John C. Koss delivering the SP/3 for enshrinement along with an explanation of the story of the SP/3 in 1972:



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