

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

GESTURE TECHNOLOGY PARTNERS,
LLC,

Plaintiff,

v.

HUAWEI DEVICE CO., LTD., AND
HUAWEI DEVICE USA, INC.,

Defendants.

CIVIL ACTION NO. 2:21-cv-00040

ORIGINAL COMPLAINT FOR PATENT
INFRINGEMENT

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Gesture Technology Partners, LLC (“GTP” or “Plaintiff”) files this original complaint against Huawei Device Co., Ltd. (“Huawei Device”) and Huawei Device USA Inc. (“Huawei USA”), (collectively “Huawei”) 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:

PARTIES

1. Gesture Technology Partners, LLC is a limited liability company filed under the laws of the State of Ohio, with its principal place of business at 2815 Joelle Drive, Toledo, Ohio 43617.

2. Defendant Huawei Device Co., Ltd. is a corporation organized and existing under the laws of China. It has its principal place of business at 8 Shitou Road, North Area, Shenzhen, 518129, China. Huawei Device designs, manufactures, makes, uses, imports into the United States smartphones and tablets. Huawei Device’s smartphones and tablets are marketed, used, offered for sale, and/or sold throughout the United States, including within this district.

3. Defendant Huawei Device USA Inc. is a corporation organized under the laws of the State of Texas. Its principal place of business is at 5700 Tennyson Pkwy, Suite 600, Plano, Texas 75024. Huawei USA is a wholly owned subsidiary of Huawei Device, and oversees domestic sales and distribution of Huawei's consumer electronics products, including the products accused of infringement in this case.

JURISDICTION AND VENUE

4. GTP repeats and re-alleges the allegations in Paragraphs 1-3 as though fully set forth in their entirety.

5. This is an action for infringement of United States patents arising under 35 U.S.C. §§ 271, 281, and 284–85, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331 and § 1338(a).

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1400(b) and 1391(c).

7. Huawei is subject to this Court's specific and general personal jurisdiction due at least to Huawei's substantial business in this forum, including (i) at least a portion of the infringements alleged herein; or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

8. Specifically, Huawei intends to and does business in Texas, directly or through intermediaries and offers its products or services, including those accused herein of infringement, to customers and potential customers located in Texas, including in the Eastern District of Texas.

9. Huawei USA maintains a regular and established place of business in this District, including its North American Headquarters at 5700 Tennyson Pkwy, Suite 600, Plano, Texas

75024.¹ Huawei USA may be served with process through its registered agent for service in Texas: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

10. Venue is proper against Huawei Device pursuant to 28 U.S.C. § 1391(c)(3) because venue is proper in any judicial district against a foreign corporation. *See In re HTC Corp.*, 889 F.3d 1349, 1354 (Fed. Cir. 2018).

11. Venue is proper against Huawei USA in this District pursuant to 28 U.S.C. § 1400(b) because it has maintained established and regular places of business in this District and has committed acts of patent infringement in the District. *See In re Cray Inc.*, 871 F.3d 1355, 1362-63 (Fed. Cir. 2017).

12. Since 2001, Huawei has maintained its North American headquarters in Plano, Texas.

THE TECHNOLOGY

13. GTP repeats and re-alleges the allegations in Paragraphs 1-12 as though fully set forth in their entirety.

14. GTP was founded in 2013 by Dr. Timothy Pryor, the sole inventor of the five Asserted Patents. He currently resides in Toledo, Ohio. Dr. Pryor received a B.S. in Engineering Physics from Johns Hopkins University in 1962, where he was also a member of the Army Reserve Officer in Training (ROTC) program. Upon graduation, he was commissioned as a Second Lieutenant in the United States Army. Dr. Pryor continued his education, obtaining an M.S. in Physics from the University of Illinois (1964) and a Ph.D. in Mechanical Engineering from the University of Windsor (1972).

¹ Huawei Device Co., Ltd., *Contact Us*, available at <https://www.huawei.com/en/contact-us> (last accessed January 18, 2020).

15. Dr. Pryor rose to the rank of Captain in the U.S. Army before his honorable discharge in 1967. Dr. Pryor served at the U.S. Army Aberdeen Proving Ground and in Italy, commanding missile teams supporting the Italian armed forces on a NATO anti-aircraft missile site, charged with guarding nuclear warheads and providing technical assistance to NATO.

16. Dr. Pryor is a named inventor on over 200 patents and patent applications. For the past four decades, he has been a pioneer in laser sensing technology, motion sensing technology, machine vision technology, and camera-based interactive technology.

17. Since the 1970s, Dr. Pryor has founded and led three other companies: two small operating companies in the automotive parts inspection and robotics businesses, one company that developed new forms of vehicle instrument panel controls, and co-founded another company that utilized camera-based sensors for physical therapy. Dr. Pryor is responsible for a significant amount of the research and development for the technologies at these companies.

18. The patents-in-suit, U.S. Patent Nos. 8,194,924 (the “’924 patent”), 7,933,431 (the “’431 patent”), 8,878,949 (the “’949 patent”), and 8,553,079 (the “’079 patent”) (collectively, the “Asserted Patents”), are generally directed to innovations in using mobile phone cameras to assist a user to interact with their smartphone, including, for example, but not limited to unlocking their phone, taking and using photos or videos, and providing other functions.

19. Dr. Pryor conceived of the inventions embodied in the Asserted Patents in the mid-to late-1990s, when he was working on a variety of different projects related to imaging and computer control. Dr. Pryor describes the process as a brainstorm that led to several breakthrough moments, ultimately resulting in the Asserted Patents.

THE ACCUSED PRODUCTS

20. GTP repeats and re-alleges the allegations in Paragraphs 1-19 as though fully set forth in their entirety.

21. Huawei infringed the asserted patents by making, using, selling, offering to sell, and importing its smartphones and tablets. Exemplary accused products include, but are not limited to, the Huawei MatePad Pro, Huawei MatePad (including, at least, the T8 and T8 Kid's Edition), Huawei Mate Xs, Mate 40 Series, Mate 30 Series, Mate X Series, Mate 20 Series, Porsche Design Mate RS, Mate 9 Series, Mate 8 Series, Mate SE, Mate S, G9 Series, Ascend G8 Series, P30 Series, P20 Series, P Smart, P10 Series, P9 Series, P8 Series, Y635, Y560, Ascend Y540, and Y360, (collectively the "Accused Products").

EXAMPLES OF HUAWEI'S MARKETING OF THE ACCUSED FEATURES

22. The Accused Products have features including, but not limited to, at least the following: Tracking Shot, Air Scroll, Smiling Face Capture, Target Tracking, Picture Face Recognition, Selfie Focus, Portrait Mode, Gesture Shots, Facial Recognition, and Fingerprint Recognition (the "Features").

23. The Features drive the popularity and sales of the Accused Products.

24. For example, Huawei has marketed the Accused Products using Tracking Shot to keep subjects in focus when using the camera, as described in the following screenshot from Huawei's website:²

² Huawei Device Co., Ltd., *Huawei Mate40 Pro/5G Leaping Further Ahead*, available at <https://consumer.huawei.com/en/phones/mate40-pro/> (last accessed January 18, 2020).

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