

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

HITACHI MAXELL, LTD.,

Plaintiff,

v.

ZTE CORP. and ZTE USA INC.,

Defendants.

Civil Action No. _____

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Hitachi Maxell, Ltd. (“Hitachi Maxell”), by and through its undersigned counsel, files this complaint under 35 U.S.C. § 271 for Patent Infringement against Defendants ZTE Corporation and ZTE USA Inc. (collectively, “Defendants”) and further alleges as follows, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters.

OVERVIEW

1. This is an action for patent infringement brought by Hitachi Maxell. Founded in 1961 as Maxell Electric Industrial Co., Ltd., Hitachi Maxell is a leading global manufacturer of information storage media products, including magnetic tapes, optical discs, and battery products such as lithium ion rechargeable micro batteries and alkaline dry batteries, and the company has over 50 years experience of producing industry-leading recordable media and energy products for both the consumer and the professional markets.

2. Hitachi Maxell has built an international reputation for excellence and reliability, for pioneering the power supplies and digital recording for today's mobile and multi-media devices, and leading the electronics industry in the fields of storage media and batteries.

3. Since being one of the first companies to develop alkaline batteries and Blu Ray camcorder discs, Hitachi Maxell has always assured its customers of industry-leading product innovation and is one of the world's foremost suppliers of memory, power, audio, and visual goods.

4. In 2010, Hitachi Maxell became a subsidiary of Hitachi, Ltd. As set forth below, Hitachi, Ltd. assigned intellectual property, including the patents in this case, to Hitachi Consumer Electronics Co., Ltd., then Hitachi Consumer Electronics Co., Ltd. assigned its intellectual property, including the patents in this case, to Hitachi Maxell. This was an effort to align its intellectual property with the licensing, business development, and research and development efforts of Hitachi Maxell, including in the mobile and mobile-media device market (Hitachi, Ltd., Hitachi Consumer Electronics Co., Ltd., and Hitachi Maxell are referred to herein collectively as "Hitachi"). Hitachi Maxell continues to sell products in the mobile device market including wireless charging solutions, wireless flash drives, multimedia players, storage devices, and headphones. Hitachi Maxell also maintains intellectual property related to televisions, tablets, digital cameras, and mobile phones. As a mobile technology developer and industry leader, and due to its historical and continuous investment in research and development, Hitachi Maxell owns a portfolio of patents related to such technologies and actively enforces its patents through licensing and/or litigation. Hitachi Maxell is forced to bring this action against Defendants as a result of Defendants' knowing and ongoing infringement of Hitachi Maxell's patents.

5. As further detailed below, beginning in June 2013, Hitachi had numerous meetings and interactions with Defendants, providing Defendants' representatives with detailed information regarding Hitachi Maxell's patents, the technology that Hitachi had developed, and Defendants' ongoing use of this patented technology. Through this process, Defendants' representatives requested and Hitachi provided detailed explanations of its patents and allegations. For more than three years, Hitachi answered multiple inquiries from Defendants, believing that a business transaction between the parties would be mutually beneficial. Defendants elected, however, not to enter into an agreement with Hitachi and/or license Hitachi Maxell's patents. Instead, Defendants continued, and continue today, to make, use, sell, and offer for sale Hitachi Maxell's patented technology without license.

PARTIES

6. Plaintiff Hitachi Maxell, Ltd. is a Japanese corporation with a registered place of business at 1-1-88, Ushitora, Ibaraki-City, Osaka 567-8567 Japan.

7. On information and belief, Defendant ZTE Corporation is a Chinese corporation with a principal place of business located at ZTE Plaza, Keji Road South, Hi-tech Industrial Park Nansha, Shenzhen, Guangdong, 518057, China.

8. On information and belief, Defendant ZTE USA Inc. is a New Jersey corporation with a principal place of business located at 2425 N. Central Expy, Ste 323, Richardson, Texas 75080.

9. On information and belief, Defendant ZTE USA Inc. is in the business of providing information and communications technology solutions. Specifically, ZTE USA Inc. provides wireless telecommunications equipment, including smart phones, tablets, and mobile phones.

NATURE OF THE ACTION, JURISDICTION, AND VENUE

10. Hitachi Maxell brings this action for patent infringement under the patent laws of the United States, 35 U.S.C. § 271 *et seq.*

11. This Court has subject matter jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the patent laws of the United States.

12. The Court has personal jurisdiction over the Defendants because (1) Hitachi Maxell's claims arise in whole or in part from Defendants' conduct in Texas; (2) ZTE USA Inc. is organized under the laws of Texas, and maintains its principal place of business in this jurisdiction; and (3) Defendants are subject to personal jurisdiction under the provisions of the Texas Long Arm Statute, TX CIV PRAC. & REM CODE §17.041 *et seq.*, by virtue of the fact that, upon information and belief, Defendants have availed themselves of the privilege of conducting and soliciting business within this State, including engaging in at least some of the infringing acts alleged herein through the sales and marketing of infringing products in this State. The allegations and claims set forth in this action arise out of Defendants' infringing activities in this State, as well as by others acting as Defendants' agents and/or representatives, such that it would be reasonable for this Court to exercise jurisdiction consistent with the principles underlying the U.S. Constitution, and would not offend traditional notions of fair play and substantial justice.

13. Upon further information and belief, Defendants have also established minimum contacts with this District and regularly transact and do business within this District, including advertising, promoting and selling products over the internet, through intermediaries, representatives and/or agents located within this District, that infringe Hitachi Maxell's patents,

which products are then sold, packaged and shipped directly to citizens residing within this State and this District. Upon further information and belief, Defendants have purposefully directed activities at citizens of this State and located within this District.

14. On information and belief, Defendants have purposefully and voluntarily placed their products into the stream of commerce with the expectation that they will be purchased and used by customers located in the State of Texas and the Eastern District of Texas. On information and belief, Defendants' customers in the Eastern District of Texas have purchased and used and continue to purchase and use Defendants' products.

15. Venue in the Eastern District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400 because a substantial part of the events giving rise to the claims in this action occurred in this District and Defendants' agent resides or may be found in this District.

COUNT 1 - INFRINGEMENT OF U.S. PATENT NO. 5,396,443

16. Hitachi Maxell incorporates paragraphs 1-15 above by reference.

17. U.S. Patent No. 5,396,443 (the "'443 Patent," attached hereto at Exhibit 1) duly issued on March 7, 1995, and is entitled *Information Processing Apparatus Including Arrangements for Activation to and Deactivation from a Power-Saving State*.

18. Hitachi Maxell is the owner by assignment of the '443 Patent and possesses all rights of recovery under the '443 Patent, including the exclusive right to recover for past infringement.

19. On June 10, 2013, Hitachi contacted Mr. Shi Lirong, the then President of ZTE Corporation, to engage in discussions regarding the potential licensing of Hitachi's patents, including the '443 Patent. Hitachi provided Defendants with claim charts that mapped the claim

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.