

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

BANDSPEED, LLC,

Plaintiff,

v.

REALTEK SEMICONDUCTOR
CORPORATION,

Defendant.

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CASE NO. 1:20-cv-00765-LY

FIRST AMENDED COMPLAINT

Plaintiff Bandspeed, LLC (“Bandspeed”), by and through its attorneys, files its First Amended Complaint against defendant Realtek Semiconductor Corporation (“Defendant”), and hereby alleges as follows:

I. NATURE OF ACTION

1. This is a patent infringement action to end Defendant’s inducement of and contribution to the unauthorized and infringing manufacture, use, sale, offering for sale, and/or importation of methods and products incorporating Bandspeed’s patented inventions by its customers and third parties.

2. Bandspeed is the owner of all right, title, and interest in and to:

- a. United States Patent No. 7,027,418 (“the ’418 Patent”), issued on April 11, 2006;
- b. United States Patent No. 7,477,624 (“the ’624 Patent”), issued on January 13, 2009;
- c. United States Patent No. 7,570,614 (“the ’614 patent”), issued on August 4, 2009;
- d. United States Patent No. 7,903,608 (“the ’608 Patent”), issued on March 8, 2011;

- e. United States Patent No. 8,542,643 (“the ’643 Patent”), issued on September 24, 2013;
- f. United States Patent No. 8,873,500 (“the ’500 Patent”), issued on October 28, 2014;
- g. United States Patent No. 9,379,769 (“the ’769 Patent”), issued on June 28, 2016;
- h. United States Patent No. 9,883,520 (“the ’520 Patent”), issued on January 30, 2018.

3. The ’418 Patent, ’624 Patent, ’614 Patent, ’608 Patent, ’643 Patent, ’500 Patent, ’769 Patent, and ’520 Patent are, collectively, the “Patents.”

4. Bandspeed has all substantial right and interest to the Patents, including all rights to recover for all past and future infringement thereof.

5. Upon information and belief, Defendant has been and currently is contributing to the infringement of, and/or inducing the infringement of Bandspeed’s Patents, by, among other things, inducing such conduct by others to make, use, sell, import, and/or offer for sale, within the territorial boundaries of the United States and the State of Texas, products that are covered by one or more claims of Bandspeed’s Patents.

6. Defendant induces others to manufacture, use, provide, sell, offer for sale, import, and/or distribute Infringing Products or products containing Infringing Products (as defined herein) and services; and/or contributes to the making and use of Infringing Products and services by others, including its customers, who directly infringe the Patents.

II. THE PARTIES

7. Bandspeed realleges and incorporates preceding paragraphs herein.

8. Plaintiff Bandspeed is a Texas limited liability company with its principal place of business located in Austin, Texas.

9. Upon information and belief, Defendant Realtek Semiconductor Corporation is a corporation organized and existing under the laws of Taiwan, with a place of business located at No. 2, Innovation Road II, Hsinchu Science Park, Hsinchu 300, Taiwan.

10. Realtek Semiconductor Corporation may be served with process by serving the Texas Secretary of State, James E. Rudder Building, 1019 Brazos Street, Austin, Texas 78701, as its agent for service because it engages in business in Texas but has not designated or maintained a resident agent for service of process in Texas as required by statute. This action arises out of that business.

III. JURISDICTION AND VENUE

11. Bandspeed realleges and incorporates preceding paragraphs herein.

12. This is an action for patent infringement arising under the Patent Laws of the United States, in particular 35 U.S.C. §271, 281, 283, 284, and 285. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §1331, §1338(a).

13. This Court has jurisdiction over Defendant under Fed. R. Civ P. 4(k)(2) (“Federal Claim Outside State-Court Jurisdiction”) and 28 U.S.C. §1400 (b).

14. Upon information and belief, Defendant is subject to this Court’s personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.042, because (1) Defendant has done and continues to do business in Texas and the Western District of Texas; (2) Defendant has committed and continues to commit acts of patent infringement in the State of Texas, including inducing others to commit acts of patent infringement in Texas, and/or committing at least a portion of any other infringements alleged herein.

15. Upon information and belief, Defendant has purposefully directed its activities toward the State of Texas and purposefully availed itself of the privileges of conducting activities

in the State of Texas. Plaintiff's causes of action for patent infringement arise out of and result from Defendant's contact with the State of Texas.

16. Upon information and belief, Defendant has solicited business in the State of Texas, transacted business within the State of Texas and/or attempted to derive financial benefit from residents of the State of Texas and the residents of this District, including benefits directly related to infringement of the Patents. Defendant has placed its products and/or services into the stream of commerce throughout the United States and has been actively engaged in transacting business in Texas and in the Western District of Texas.

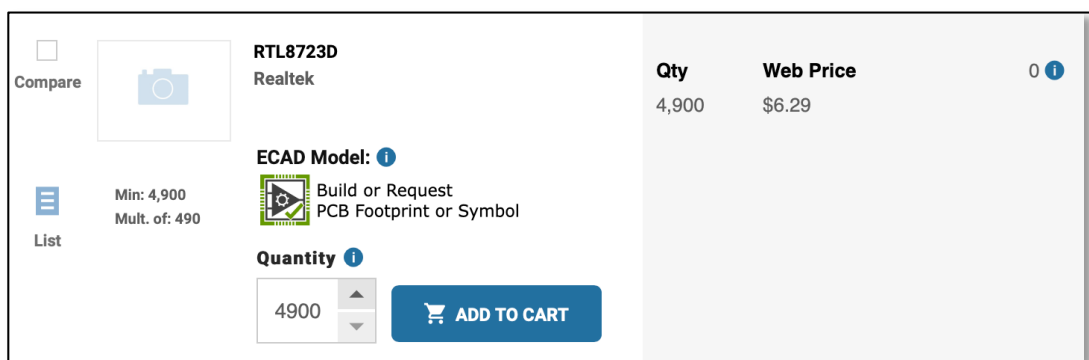
17. Upon information and belief, Defendant, through intermediaries (including distributors, retailers, resellers and others), makes, imports, ships, distributes, offers for sale, sells, uses, and advertises its products and/or services in the United States, the State of Texas, and the Western District of Texas.

18. Upon information and belief, Defendant has purposefully and voluntarily placed infringing Bluetooth products into the stream of commerce by shipping Infringing Products through established distribution channels into the State of Texas, knowing or expecting that the Infringing Products would be shipped into Texas, and/or knowing or expecting that these Infringing Products would be incorporated into other products that would be shipped into Texas and would be purchased and used by customers in the State of Texas and the Western District of Texas.

19. Upon information and belief, Defendant interacts with subsidiaries, distributors, resellers and/or customers who sell the Infringing Products into Texas, knowing or expecting that these subsidiaries, distributors, resellers and/or customers will then sell the Infringing Products into the State of Texas, either directly or through intermediaries.

20. According to its website, Realtek.com, Realtek has distributors for its products in the United States for supply of its products to the United States. Realtek's United States Distributors include Future Electronics and WPG Americas, Inc. Further, Realtek's website lists contact information for technical service that is directed to its United States customers.

21. On March 9, 2022, Futureelectronics.com offered for sale Realtek's RTL8723D, an Infringing Product, to the United States and this District.



<https://www.futureelectronics.com/search?q=Realtek:relevance:manufacturerName:Realtek&selectedTab=products&text=Realtek&pageSize=100> (last visited March 9, 2022).

22. Realtek has been a regular participant in the International Consumer Electronics Show (CES) where it hosts presentations of new products and technologies. At CES 2022, Realtek presented and offered the RTL8735B SoC and RTL8730E for sale in the United States to the United States market. RTL8735B SoC and RTL8730E are both Infringing Products. Realtek has continuously unveiled Infringing Products directed for sale to the United States market at CES over the past several years, including in years 2017, 2018, 2019 and 2020.

23. Roku Inc. ("Roku"), a customer of Realtek, uses Realtek's infringing RTL88xx chips, e.g. RTL8822 or RTL8823, in its Roku Ultra product to provide infringing Bluetooth capabilities. The Roku Ultra is widely marketed and sold to consumers in Texas and in this District, including at BestBuy, Target, and Walmart, as well as on Amazon.com. As of March 4,

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