

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CYWEE GROUP LTD.,

Plaintiff,

v.

HTC CORPORATION; and HTC AMERICA,
INC.,

Defendants.

CASE NO.: 2:17-cv-00932-JLR

JURY TRIAL DEMANDED

90-DAY JOINT STATUS REPORT

HTC CORPORATION, and HTC AMERICA,
INC.,

Third-Party Plaintiffs,

v.

CYWEE MOTION GROUP LTD.,

Third-Party Defendant.

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Joint Status Report

SHORE CHANDERUMBOLL

Pursuant to the Court’s August 19, 2019 Order (ECF No. 146), Plaintiff CyWee Group Ltd. (“CyWee Group”), Defendants and Third-Party Plaintiffs HTC Corporation and HTC America, Inc., and Third-Party Defendant CyWeeMotion Group Ltd. respectfully submit the following joint status report:

The Google IPRs:

On January 9, 2020, the PTAB held the following claims invalid in the two IPR proceedings filed by Google (the “Google IPRs”):

Asserted Patent	IPR Case No.	Original Claims Held Invalid	Proposed Contingent Amended Claims Held Invalid
8,441,438	IPR2018-01258	1, 3–5	20, 21
8,552,978	IPR2018-01257	10, 12	19, 20

CyWee appealed the PTAB’s final written decisions in the Google IPRs. The Federal Circuit Court of Appeals affirmed those decisions. On April 4, 2021, CyWee filed petitions for *en banc* review. The Federal Circuit denied those petitions on June 3, 2021. Mandates issued on June 10, 2021.

The ZTE IPR:

On February 17, 2021, the PTAB held all challenged claims invalid in an inter partes review proceeding filed by ZTE (the “ZTE IPR”):

Asserted Patent	IPR Case No.	Original Claims Held Invalid	Proposed Contingent Amended Claims Held Invalid
8,441,438	IPR2019-00143	1, 4, 5, 14–17, 19	20-24

CyWee appealed the PTAB’s final written decision in the ZTE IPR on April 8, 2021. On June 30, 2021, CyWee filed a motion requesting that the Federal Circuit dismiss its appeal of the ZTE IPR and remand the matter to the USPTO for further proceedings in light of the Supreme Court’s recent decision in *United States v. Arthrex, Inc.*, No. 19-1434, 2021 WL 2519433 (June 21, 2021) holding that “the unreviewable authority wielded by APJs during inter partes review is

1 incompatible with their appointment by the Secretary to an inferior office.” On July 14, 2021, the
2 Federal Circuit issued an order (1) certifying CyWee’s constitutional challenge to the Attorney
3 General, (2) directing the Attorney General to inform the Court within 30 days whether the United
4 States intends to intervene and if so to file any response to CyWee’s motion to remand, (3) ordering
5 appellee to file any response within that 30-day timeframe, and (4) staying the briefing schedule
6 in the appeal. On August 13, 2021, the Under Secretary of Commerce for Intellectual Property and
7 Director of the United States Patent and Trademark Office informed the Federal Circuit of its
8 intention to intervene and filed a response.
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10 Because the matters described above may affect claims in this case, neither party requests
11 lifting the stay at this time.
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1 Dated August 19, 2021

Respectfully submitted,

2 /s/ Carmen E. Bremer

3 Carmen E. Bremer, WSBA 47,565
4 Carmen.bremer@bremerlawgroup.com
5 BREMER LAW GROUP PLLC
6 1700 Seventh Avenue, Suite 2100
7 Seattle, WA 98101
8 T: (206) 357-8442
9 F: (206) 858-9730

10 Michael W. Shore* (mshore@shorechan.com)
11 Alfonso G. Chan* (achan@shorechan.com)
12 Ari B. Rafilson* (arafilson@shorechan.com)
13 William Ellerman* (wellerman@shorechan.com)
14 Paul T. Beeler* (pbeeler@shorechan.com)
15 SHORE CHAN LLP
16 901 Main Street, Suite 3300
17 Dallas, Texas 75202
18 T: (214) 593-9110
19 F: (214) 593-9111

*Admitted pro hac vice

*Attorneys for Plaintiff CyWee Group Ltd. and
Third-Party Defendant CyWee Motion Group Ltd.*

20 Dated: August 19, 2021

/s/ Albert Shih

21 James C. Yoon, CA Bar #177155 (pro hac vice)
22 Ryan R. Smith, CA Bar #229323 (pro hac vice)
23 Albert Shih, CA Bar #251726 (pro hac vice)
24 Jamie Y. Otto, CA Bar #295099 (pro hac vice)
25 **WILSON SONSINI GOODRICH & ROSATI**
26 Professional Corporation
27 650 Page Mill Road
Palo Alto, CA 94304-1050
Telephone: (650) 493-9300
Facsimile: (650) 565-5100
Email: jyoon@wsgr.com, rsmith@wsgr.com
ashih@wsgr.com, jotto@wsgr.com

1 Gregory L. Watts, WSBA #43995
2 **WILSON SONSINI GOODRICH & ROSATI**
3 Professional Corporation
4 701 Fifth Avenue, Suite 5100
5 Seattle, WA 98104-7036
6 Telephone: (206) 883-2500
7 Facsimile: (206) 883-2699
8 Email: gwatts@wsgr.com

6 Ty W. Callahan, CA Bar #312548 (*pro hac vice*)
7 **WILSON SONSINI GOODRICH & ROSATI**
8 Professional Corporation
9 633 West Fifth Street, Suite 1550
10 Los Angeles, CA 90017-2027
11 Telephone: (323) 210-2900
12 Facsimile: (866) 974-7329
13 Email: tcallahan@wsgr.com

*Attorneys for Defendants and Third-Party Plaintiffs
HTC Corporation and HTC America, Inc.*

14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on August 19, 2021, I electronically filed the foregoing with
16 the Clerk of the Court using the CM/ECF system, which will send notification of such filing to
17 all counsel of record.

18 Dated: 8/19/2021

/s/Carmen E. Bremer

Carmen E. Bremer