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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

CYWEE GROUP LTD.,

Plaintiff,

v.

HTC CORPORATION; and HTC

AMERICA, INC.,

Defendants.

Civil Action No. 17-cv-932-JLR

FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT

JURY TRIAL DEMANDED

Plaintiff CyWee Group Ltd. (“Plaintiff” or “CyWee”), by and through its undersigned counsel, files this First Amended Complaint against Defendants HTC Corporation and HTC America, Inc. as follows:

THE PARTIES

1. CyWee is a corporation existing under the laws of the British Virgin Islands with a principal place of business at 3F, No. 28, Lane 128, Jing Ye 1st Road, Taipei, Taiwan 10462.

1 § 1 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331
2 and 1338(a).

3 7. This Court has personal jurisdiction over each Defendant. Each
4 Defendant has conducted and does conduct business within the State of Washington.
5 Each Defendant has purposefully and voluntarily availed itself of the privileges of
6 conducting business in the United States, the State of Washington, and the Western
7 District of Washington by continuously and systematically placing goods into the
8 stream of commerce through an established distribution channel with the expectation
9 that they will be purchased by consumers in the Western District of Washington.
10 Additionally, Defendants have previously submitted to this Court's jurisdiction by
11 availing themselves of this court's authority and filing suit in this district. *See HTC*
12 *Corp. and HTC Am., Inc. v. Telefonaktiebolaget LM Ericsson and Ericsson Inc.*, No.
13 2:17-cv-00534 (W.D. Wash. Apr. 6, 2017). Plaintiff's causes of action arise directly
14 from Defendants' business contacts and other activities in the State of Washington
15 and the Western District of Washington. Additionally, HTC America is incorporated
16 in Washington. Accordingly, this Court has personal jurisdiction over HTC America
17 in that it resides in this District.

18 8. Upon information and belief, each Defendant has committed acts of
19 infringement in this District giving rise to this action and does business in this
20 District, including making sales and/or providing service and support for their
21 respective customers in this District. Defendants purposefully and voluntarily sold
22 one or more of their infringing products with the expectation that they would be
23 purchased by consumers in this District. These infringing products have been and
24 continue to be purchased by consumers in this District. Defendants have committed
25 acts of patent infringement within the United States, the State of Washington, and
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1 the Western District of Washington.

2 9. Venue is proper as to HTC America under 28 U.S.C. § 1400(b) in that
3 HTC America is incorporated in Washington and, therefore, resides in this District.
4 *TC Heartland LLC v. Kraft Food Grps. Brands LLC*, 581 U.S. ___, 2017 WL
5 2216934, at *8 (2017).

6 10. Venue is proper as to HTC Corp. under 28 U.S.C. § 1391(c)(3) in that
7 it is not a resident of the United States and may, therefore, be sued in any judicial
8 district. *Brunette Mach. Works, Ltd. v. Kockum Indus., Inc.*, 406 U.S. 706, 714
9 (1972).

10 11. Upon information and belief, HTC America is an agent of HTC Corp.
11 and is held out to the public as such. *See, e.g.*, [http://www.htc.com/us/terms](http://www.htc.com/us/terms/copyright/)
12 [/copyright/](http://www.htc.com/us/terms/copyright/) (last visited June 9, 2017) (naming HTC America as HTC Corp.'s
13 “Copyright Agent”); [https://www.theverge.com/2013/9/13/4728670/layoffs-hit-htc-](https://www.theverge.com/2013/9/13/4728670/layoffs-hit-htc-america-as-the-company-struggles-to-turn-itself-around)
14 [america-as-the-company-struggles-to-turn-itself-around](https://www.theverge.com/2013/9/13/4728670/layoffs-hit-htc-america-as-the-company-struggles-to-turn-itself-around) (last visited June 9, 2017)
15 (describing layoff at HTC’s America division with statement from HTC Corp.
16 regarding its decision as to the layoff).

17 12. Further, upon information and belief, HTC America operates under the
18 “HTC” trademark; offers, sells, services, and/or distributes only HTC products; and
19 coordinates its policies and operations with those of HTC Corp. to benefit and
20 primarily serve the interests of HTC Corp. Upon information and belief, for
21 consumers of the products accused in this Complaint, there is no substantive
22 difference between HTC America and HTC Corp.

23 13. Accordingly, venue is further proper as to HTC Corp. under 28 U.S.C.
24 § 1400(b) in that, upon information and belief, HTC Corp. has a regular and
25 established place of business in this District—namely, the place of business of its
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1 subsidiary/agent, HTC America—and has committed acts of infringement herein.

2 **BACKGROUND**

3 14. The Industrial Technology Research Institute (“ITRI”) is a Taiwanese
4 government- and industry-funded research and development center. In 2007,
5 CyWee, which was started at ITRI, was formed. Its goal was to provide innovative
6 motion-sensing technologies, such as those claimed in the patents-in-suit. Dr. Shun-
7 Nan Liu and Chin-Lung Li, two of the inventors of the patents-in-suit, came to
8 CyWee from ITRI. The third inventor, Zhou “Joe” Ye joined CyWee from private
9 industry as its President and served as CEO from 2006 to 2016.

10 15. The inventors, Zhou Ye, Chin-Lung Li, and Shun-Nan Liou, conceived
11 of the claims of the patents-in-suit—U.S. Patent No. 8,441,438 (the “’438 Patent”)
12 and U.S. Patent No. 8,552,978 (the “’978 Patent”)—at CyWee Group Ltd., located
13 at 3F, No. 28, Lane 128, Jing Ye Road, Taipei.

14 16. Several claims of the patents-in-suit are entitled to a priority date of at
15 least January 6, 2010 based on U.S. Provisional Application Serial No. 61/292,558,
16 filed January 6, 2010 (“Provisional Application”).

17 17. Before May 22, 2009, CyWee began working on the “JIL Game Phone
18 Project” or “JIL Phone.” Before July 29, 2009, CyWee developed a solution for the
19 JIL Phone that practiced several claims of the ’438 Patent. Those claims were
20 diligently and constructively reduced to practice thereafter through the filing of the
21 Provisional Application and were diligently and actually reduced to practice as
22 discussed below. Accordingly, CyWee is entitled to a priority date of at least July
23 29, 2009 for several claims of the ’438 Patent.

24 18. The JIL Phone was reduced to practice by at least September 25, 2009.
25 The JIL Phone practiced several claims of both patents-in-suit. Accordingly, CyWee
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