

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CYWEE GROUP LTD.,

Plaintiffs,

v.

HTC CORPORATION, and HTC AMERICA,
INC.,

Defendants.

HTC CORPORATION, and HTC AMERICA,
INC.,

Third-Party Plaintiffs,

v.

STMicroelectronics N.V., STMicroelectronics,
Inc., and CyWee Motion Group Ltd.

Third-Party Defendants.

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

**THIRD-PARTY COMPLAINT OF
HTC CORPORATION AND HTC
AMERICA, INC. FOR**

(1) INDEMNITY;

(2) BREACH OF WARRANTY;

(3) CONTRIBUTION; AND

**(4) VIOLATION OF UNFAIR
BUSINESS PRACTICES-
CONSUMER PROTECTION ACT**

JURY TRIAL DEMANDED

HTC Corporation and HTC America, Inc. (together, “HTC” or “Third-Party Plaintiffs”), by and through their undersigned counsel, bring this Third-Party Complaint against STMicroelectronics N.V. and STMicroelectronics, Inc. (together, “STM”), and CyWee Motion Group Ltd. (“CyWee Motion”) (collectively, “Third-Party Defendants”) pursuant to Rule 14(a) of the Federal Rules of Civil Procedure and allege as follows:

PARTIES

1
2 1. On information and belief, Plaintiff CyWee Group Ltd. (“CyWee” or “Plaintiff”) is a
3 corporation organized and existing under the laws of the British Virgin Islands, with its principal
4 place of business at 3F, No. 28, Lane 128, Jing Ye 1st Road, Taipei, Taiwan 10462.

5 2. Defendant and Third-Party Plaintiff HTC Corporation is a corporation organized and
6 existing under the laws of Taiwan, with its principal place of business located at No. 88, Section
7 3, Zhongxing Road, Xindian District, New Taipei City 231, Taiwan 231.

8 3. Defendant and Third-Party Plaintiff HTC America, Inc., is a Washington corporation,
9 with its principal place of business located at 308 Occidental Avenue South, Floor 3, Seattle,
10 Washington, 98104.

11 4. On information and belief, Third-Party Defendant STMicroelectronics N.V. is a
12 corporation organized and existing under the laws of the Netherlands, with its principal place of
13 business located at WTC Schiphol Airport, Schiphol Boulevard 265, 1118 BH Schiphol, The
14 Netherlands, where it can be served with process.

15 5. On information and belief, Third-Party Defendant STMicroelectronics N.V. is a
16 major semi-conductor company that does business, directly or through its subsidiary or
17 intermediaries, in the State of Washington and in this District and elsewhere in the United States,
18 including, without limitation, using, promoting, offering to sell, importing, and/or selling
19 integrated circuit devices and enabling end-user purchasers to use such devices in this District.
20 ST Microelectronics N.V.’s shares are traded, among other places, on the New York Stock
21 Exchange.

22 6. On information and belief, Third-Party Defendant STMicroelectronics, Inc., is a
23 Delaware corporation, with its principal place of business located at 750 Canyon Drive, Suite
24 300, Coppell, Texas, 75019. STMicroelectronics, Inc., is registered to do business in the State of
25 Washington and can be served with process in this District through its registered agent, CT Corp
26 System, 711 Capitol Way South, Suite 204, Olympia, Washington, 98501. On information and
27 belief, STMicroelectronics, Inc., is a wholly-owned subsidiary of STMicroelectronics N.V.

1 7. On information and belief, Third-Party Defendant CyWee Motion is a corporation
2 organized and existing under the laws of Taiwan, with its principal place of business located at
3 114-45 Wenhua Street, Neihu District, Taipei City 11445, 5th Floor, 12-2, Taiwan, where it can
4 be served with process.

5 8. On information and belief, CyWee Motion is affiliated with CyWee. On information
6 and belief, CyWee Motion and CyWee have common and overlapping shareholders.

7 **JURISDICTION AND VENUE**

8 9. This Court has subject matter jurisdiction over this impleader action pursuant to Rule
9 14 of the Federal Rules of Civil Procedure. This Court further has supplemental subject matter
10 jurisdiction over this impleader action under 28 U.S.C. § 1367(a) because this action is so related
11 to the claims brought by Plaintiff that it forms part of the same case and controversy.

12 10. This Court further has subject matter jurisdiction over this dispute pursuant to 28
13 U.S.C. § 1332 because this is an action between citizens of different states and because the value
14 of declaratory and injunctive relief sought, the value of HTC's rights that this action will protect
15 and enforce, and the extent of the injury to be prevented exceed the amount of \$75,000,
16 exclusive of interest and costs.

17 11. On information and belief, STM are subject to this Court's general personal
18 jurisdiction, consistent with the principles of due process and the Washington Long Arm Statute.
19 On information and belief, STMicroelectronics, Inc., maintains offices and facilities in the
20 Western District of Washington, has employees in the Western District of Washington, offers
21 products in the Western District of Washington, and/or has transacted business in this District.
22 In addition to maintaining an office in Redmond, Washington, STMicroelectronics, Inc., also has
23 offices throughout the United States, including California, New Jersey, Alabama, Colorado,
24 Indiana, Minnesota, Pennsylvania, Texas, Michigan, New York, South Carolina, Illinois,
25 Oregon, and Missouri. Accordingly, STMicroelectronics, Inc., transacts substantial business in
26 this District and throughout the United States, and thus voluntarily avails itself of the laws of the
27 United States and Washington so as to be subject to the jurisdiction of this Court.

1 12. On information and belief, STMicroelectronics N.V. is the parent company of
2 STMicroelectronics, Inc., and thus does business, directly or through its subsidiary or
3 intermediaries, in the State of Washington, in this District, and elsewhere in the United States,
4 including, without limitation, using, promoting, offering to sell, importing, and/or selling
5 integrated circuit devices and enabling end-user purchasers to use such devices in this District.

6 13. Third-Party Defendants are also subject to specific personal jurisdiction in the State
7 of Washington. Third-Party Defendants designed, implemented, manufactured, sold and
8 provided products and technology to be incorporated into products sold by HTC Corporation and
9 HTC America, Inc. Third-Party Defendants knew that these products were sold in the United
10 States, including in this District and the State of Washington.

11 14. On information and belief, in a 2015 press release issued in San Jose, California, and
12 Taipei, Taiwan, CyWee Motion identified HTC as one of its “[c]ustomers that have licensed our
13 Sensor Fusion Hub solution”.¹

14 15. Because Third-Party Defendants engaged in conduct purposefully directed to the
15 State of Washington, they are subject to the jurisdiction of this Court.

16 16. Venue for this Third-Party Complaint is proper under 28 U.S.C. §§ 1391(b)-(c)
17 and/or 28 U.S.C. § 1400(b) in that the acts underlying this Third-Party Complaint were
18 performed in full or in part in this District and because Third-Party Defendants are subject to
19 personal jurisdiction in this District.

20 **FACTUAL BACKGROUND**

21 17. Founded in 1997, HTC pioneered the smartphone market, credited with many
22 industry firsts and technology breakthroughs over the past twenty years—a history defined by
23 innovation, design and engineering excellence, and the building of strategic partnerships to
24

25
26 ¹ CyweeMotion’s Sensor Fusion Hub Software Now Available on Cadence Tensilica Fusion DSP, PR
27 Newswire (Dec. 15, 2015), <https://www.prnewswire.com/news-releases/cyweemotions-sensor-fusion-hub-software-now-available-on-cadence-tensilica-fusion-dsp-300192855.html> (last visited January 11, 2018) (emphasis added).

1 facilitate the development of an industry ecosystem. HTC invested heavily in research and
2 development, which accounts for about a third of HTC's employees.

3 18. In its First Amended Complaint, CyWee alleges that HTC infringes United States
4 Patent No. 8,441,438 ("the '438 Patent") and United States Patent No. 8,552,978 ("the '978
5 Patent") (together, "Patents-in-Suit") by making, using, selling, offering to sell, and/or importing
6 into the United States products that embody or practice the apparatus and/or method covered by
7 one or more of the claims of the Patents-in-Suit, including the HTC One M9, HTC One A9, HTC
8 10, HTC Bolt, and HTC U Ultra (collectively, "Accused Products").

9 19. HTC does not infringe any valid and enforceable claim of the '438 Patent or the '978
10 Patent.

11 20. HTC's Accused Products do not use the accused system and software implementation
12 as alleged by CyWee in its Complaint (Dkt. 1), its First Amended Complaint and Exhibits (Dkts.
13 20, 20-1, 20-2, 20-3), and its infringement contentions served on HTC on December 29, 2017.

14 21. CyWee's infringement allegations focus upon the motion sensor device and
15 functionalities in a wireless device.

16 22. STM design, manufacture, offer to sell, and sell motion sensor devices—including
17 those found in HTC's Accused Products—that incorporate software provided by CyWee Motion.

18 23. To the extent HTC's Accused Products incorporate systems or software that allegedly
19 or substantially practice one or more claims of the Patents-in-Suit, those motion sensor devices
20 and software were provided by STM as part of the Sensor Fusion Hub and by CyWee Motion as
21 part of the Sensor Fusion Hub Software, commonly referred to as the "CyWee library."

22 24. On or about January 18, 2013, HTC, CyWee Motion, and STM entered into a
23 commercial relationship to jointly develop and incorporate sensor hub device technology into
24 HTC products, including the Accused Products.

25 25. CyWee Motion and HTC understood that this commercial relationship would provide
26 HTC with a license to the Sensor Fusion Hub technology.

27

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