

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TOUCHSCREEN TECHNOLOGY, LLC,

Plaintiff,

v.

**TCL COMMUNICATION TECHNOLOGY
HOLDINGS, LTD., TCT MOBILE
LIMITED, and TCT MOBILE (US), INC.,**

Defendants.

C.A. No.

JURY TRIAL DEMANDED

PLAINTIFF'S COMPLAINT

Plaintiff Touchscreen Technology LLC (“Touchscreen”), by and through its undersigned counsel, files this Complaint for Patent Infringement against Defendants TCL Communication Technology Holdings, LTD., TCT Mobile Limited, and TCT Mobile (US), Inc. (collectively and each individually, “TCL”).

THE PARTIES

1. Plaintiff Touchscreen is a limited liability company formed under the laws of the State of Delaware with its principal place of business 303 Terry Fox Drive, Suite 300, Ottawa, ON, K2K 3J1 Canada.

2. Upon information and belief, Defendant TCL Communication Technology Holdings, Ltd. is a Chinese company with a principal place of business at 15/F, TCL Tower, Gaoxin Nan Yi Road, Nanshan District, Shenzhen, Guangdong, P.R.C. TCL Communication Technology Holdings, Ltd. is a business unit of its parent, TCL Corporation, which is also based in

Shenzhen, P.R.C.

3. Upon information and belief, Defendant TCT Mobile Limited is a wholly-owned subsidiary of TCL Communication Technology Holdings. TCT Mobile Limited is a company established under the laws of Hong Kong, having a registered office at Room 1520, Tower 6, China Hong Kong City, 33 Canton Road, Tsimshatsui, Kowloon, Hong Kong. TCT Mobile Limited previously operated under the name T&A Mobile Phones Limited.

4. Upon information and belief, Defendant TCT Mobile (US), Inc. is a wholly-owned subsidiary of TCL Communication Technology Holdings. TCT Mobile (US) is a Delaware corporation with a principal place of business at 25 Edelman, Irvine, California 92618. Upon information and belief, TCT Mobile US is offers for sale and sells mobile devices in the United States under TCL's "Alcatel OneTouch" brand.

5. Upon information and belief, TCL designs, manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States products including mobile and internet products under the "Alcatel OneTouch" and "TCL" brands. TCL offers for sale, and/or sells smartphones and other mobile devices throughout the United States, including within this District.

6. Upon information and belief, TCL has conducted and regularly conducts business within this District, has purposefully availed itself of the privileges of conducting business in this District, and has sought protection and benefit from the laws of the State of Delaware.

JURISDICTION AND VENUE

7. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over TCL. TCL has continuous and systematic business contacts with the State of Delaware. TCL, directly or through subsidiaries or intermediaries (including distributors, retailers, and others), conducts its business extensively throughout Delaware, by shipping, distributing, offering for sale, selling, and advertising (including the provision of an interactive web page) its products and/or services in the State of Delaware and the District of Delaware. TCL, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has purposefully and voluntarily placed one or more of its infringing products and/or services into the stream of commerce with the intention and expectation that they will be purchased and used by consumers in the District of Delaware. These infringing products and/or services have been and continue to be purchased and used by consumers in the District of Delaware. TCL has committed acts of patent infringement within the State of Delaware. Touchscreen's cause of action for patent infringement arises directly from TCL's activities in this District. Furthermore, TCL has purposefully availed itself of the privileges of conducting business in the United States, and more specifically in Delaware and this District. TCL has sought protection and benefit from the laws of the State of Delaware by incorporating in this district and/or placing infringing products into the stream of commerce through an established distribution channel with the awareness and/or intent that they will be purchased by consumers in this District.

9. Venue is proper in this Court according to the venue provisions set forth by 28 U.S.C. §§ 1391(b)-(d) and 1400(b). TCL is subject to personal jurisdiction in this District, and therefore is deemed to reside in this District for purposes of venue. Upon information and belief TCL has committed acts within this judicial District giving rise to this action and does business in this District, including but not limited to making sales in this District, providing service and support to their respective customers in this District, and/or operating an interactive website,

available to persons in this District that advertises, markets, and/or offers for sale infringing products.

BACKGROUND

A. The Patent-In-Suit.

10. U.S. Patent No. 6,597,345 titled “Multifunctional Keypad on Touch Screen” (“the ’345 Patent”) was duly and legally issued by the U.S. Patent and Trademark Office on July 22, 2003, after full and fair examination. David Hirshberg is the named inventor listed on the ’345 Patent. The ’345 Patent has been exclusively licensed to Plaintiff Touchscreen, and Plaintiff Touchscreen holds the right to sublicense as well as collect and receive damages for past, present and future infringements of the ’345 Patent. A true and correct copy of the ’345 Patent is attached as **Exhibit A** and made a part hereof.

B. TCL’s Infringing Conduct.

11. Upon information and belief, TCL makes, uses, offers to sell, and/or sells within, and/or imports into the United States products that incorporate the fundamental technologies covered by at least claim 1 of the ’345 Patent. Upon information and belief, the infringing products include, but are not limited to, mobile telephones and tablets having touchscreens and keypads. By way of example only, Touchscreen identifies the Alcatel OneTouch Fierce™ 2, Evolve 2, POP Astro, and C1 mobile phones and the POP 8, POP 7, and Trek ® HD tablets as products that infringe the claims of the ’345 Patent. Similar models of mobile phones and tablet devices are believed to infringe as well.

12. The keypads on these mobile devices have keys that are capable of performing different functions depending on the direction of motion of an object across the touchscreen.

13. For example, holding down certain keys on the keypad of one of these mobile

devices reveals multiple options associated with that key, each of which can be selected based on the direction the user slides her finger. One specific example includes the ability to select different characters for a key on a keyboard when that particular key is pressed and held.

14. On information and belief, the Alcatel OneTouch Fierce™ 2 mobile telephone comprises a multifunction keypad.¹

15. On information and belief, that keypad of the Alcatel OneTouch Fierce™ 2 mobile telephone is comprised of a touch-sensitive surface having a plurality of regions designated as keys. This feature is the Default keyboard of the Alcatel OneTouch Fierce™ 2 mobile telephone.²

16. On information and belief, that keypad of the Alcatel OneTouch Fierce™ 2 mobile telephone is comprised of a processor that is associated with the touch sensitive surface.

17. On information and belief, that processor of the Alcatel OneTouch Fierce™ 2 mobile that is associated with the touch sensitive surface is configured to: (1) identify a contact location at which an object contacts the touch-sensitive surface; (2) determine a selected one of the keys corresponding to a region within which the contact location is located; (3) identify a direction of motion of the object across the touch-sensitive surface relative to the contact location; and (4) select one of a number of function associated with the selected key conditioned upon at least the direction of motion.

18. On information and belief, the Alcatel OneTouch Fierce™ 2 mobile telephone is sold with a preinstalled Swype application. The Swype application provides Swype gestures which

¹ See, e.g., <http://prepaid-phones.t-mobile.com/prepaid-phone/Alcatel-ONE-TOUCH-Fierce-2-No-Credit-Check>.

² See, e.g., http://support.alcatelonetouch.com/Alcatel_Support_Files/Manuals/056080e93cd31897bc4d0ec44b4fd8f41390633549.pdf, at 23-24.

are shortcuts on the Swype keyboard that help an individual accomplish various tasks. These tasks include inserting punctuation, selecting text, copying text, cutting text, pasting text and searching the web. The Swype application allows the Alcatel OneTouch Fierce™ 2 mobile telephone to perform each of these tasks by moving an object on the keyboard from the Swype key to a specified letter.³

19. On information and belief, the Swype application, and other settings on the Alcatel OneTouch Fierce™ 2 mobile telephone, identifies a contact location at which an object comes into contact with the touch-sensitive surface. In addition, the interface of the Alcatel OneTouch Fierce™ 2 mobile telephone may identify a contact location when, for example, a user answers or rejects a telephone call.⁴

20. On information and belief, the Alcatel OneTouch Fierce™ 2 mobile telephone determines a selected key corresponding to the region within which the contact location is located. This determination is made, for example, when a user either answers or rejects a call, depending on the direction of motion.⁵

21. On information and belief, the Alcatel OneTouch Fierce™ 2 mobile telephone identifies a direction of motion of the object across the touch-sensitive surface relative to the contact location. This identification is made, for example, when a user either answers or rejects a call, depending on the direction of motion.⁶

³ See, e.g., <http://www.swype.com/product-features/android/tips.html>.

⁴ See, e.g., http://support.alcatelonetouch.com/Alcatel_Support_Files/Manuals/056080e93cd31897bc4d0ec44b4fd8f41390633549.pdf, at 26.

⁵ See, e.g., *id.*

⁶ See, e.g., *id.*

22. On information and belief, several keys on the Alcatel OneTouch Fierce™ 2 mobile telephone are associated with a plurality of functions using the Swype application. For example, the Swype key may be swiped to “a” to perform a “Select All” function, swiped to “c” to perform a “Copy” function, swiped to “x” to perform a “Cut” function, swiped to “v” to perform a “Paste” function, and swiped to “s” to perform a “Web Search” function.⁷

23. By incorporating the fundamental inventions covered by the ’345 Patent, TCL can make improved products with features such as devices with touchscreens and multifunction keypads. Upon information and belief, third-party distributors purchase and have purchased TCL’s infringing mobile devices for sale or importation into the United States, including this District. Upon information and belief, third-party consumers use and have used TCL’s infringing mobile devices in the United States, including this District.

COUNT I

Patent Infringement of U.S. Patent No. 6,597,345

24. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-23 as though fully set forth herein.

25. The ’345 Patent is valid and enforceable.

26. TCL has never been licensed, either expressly or impliedly, under the ’345 Patent.

27. Upon information and belief, TCL has been and is directly infringing under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, the claims of the ’345 Patent by making, using, offering to sell, and/or selling to third-party manufacturers, distributors, and/or consumers (directly or through intermediaries and/or subsidiaries) in this District and elsewhere

⁷ See, e.g., <http://www.swype.com/product-features/android/tips.html>.

within the United States and/or importing into the United States, without authority, mobile device products that include all of the limitations of one or more claims of the '345 Patent, including but not limited to mobile telephones and tablets (*e.g.*, Alcatel OneTouch Fierce™ 2), their mobile device components, and/or other products made, used, sold, offered for sale, or imported by TCL that include all of the limitations of one or more claims of the '345 Patent, including at least claim 1.

28. Upon information and belief, distributors and consumers that purchase TCL's products that include all of the limitations of one or more claims of the '345 Patent, including but not limited to mobile telephones and tablets, also directly infringe, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a), the claims of the '345 Patent by using, offering to sell, and/or selling infringing mobile device products in this District and elsewhere in the United States.

29. Upon information and belief, the third-party manufacturers, distributors, and importers that sell mobile device products to TCL that include all of the limitations of one or more claims of the '345 patent, also directly infringe, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a), the claims of the '345 Patent, including at least claim 1, by making, offering to sell, and/or selling infringing products in this District and elsewhere within the United States and/or importing infringing products into the United States.

30. Upon information and belief, TCL has been indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b), the claims of the '345 Patent. The direct infringement induced by TCL includes at least the operation of TCL's mobile telephones and tablets (*e.g.*, Alcatel OneTouch Fierce™ 2) by end users. TCL knows that these users are infringing at least one claim of the '345 Patent at least by virtue of the filing of this Complaint and

TCL has specific intent to encourage these users to infringe the '345 Patent by practicing all of the claim limitations of at least one claim of the '345 Patent. TCL induces these users to operate TCL's mobile telephones and tablets (*e.g.*, Alcatel OneTouch Fierce™ 2), knowing that these acts constitute infringement of at least one claim of the '345 Patent, including at least claim 1, and with specific intent to encourage those acts and encourage infringement.

31. Upon TCL's gaining knowledge of the '345 Patent, it was, or became, apparent to TCL that the manufacture, sale, importing, offer for sale, testing and use of their mobile telephones and tablets (*e.g.*, Alcatel OneTouch Fierce™ 2) resulted in infringement of at least one claim of the '345 Patent. Upon information and belief, TCL has continued to engage in activities constituting inducement of infringement, notwithstanding its knowledge (or willful blindness thereto) that the activities it was inducing result in infringement of the at least one claim of the '345 Patent. For example, TCL induces infringement of the '345 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, users, agents and/or affiliates to make, use, sell and/or offer for sale TCL's mobile telephones and tablets (*e.g.*, Alcatel OneTouch Fierce™ 2) in a manner that constitutes infringement of one or more claims of the '345 Patent, knowing that such activities infringe at least one claim of the '345 Patent, including at least claim 1.

32. TCL encourages direct infringement of the '345 Patent at least by widely publicizing their infringing mobile telephones and tablets (*e.g.*, Alcatel OneTouch Fierce™ 2) and instructing customers how to use their mobile telephones and tablets in an infringing manner.⁸

33. By inducing its customers, suppliers, users, agents and/or affiliates to use the inventions claimed in the '345 Patent, including through their use of the mobile telephones and tablets (*e.g.*, Alcatel OneTouch Fierce™ 2), TCL has been and is now indirectly infringing under

⁸ *See, supra*, notes 1-7.

35 U.S.C. § 271(b) one or more claims of the '345 Patent, either literally or under the doctrine of equivalents, including at least claim 1.

34. As a direct and proximate result of these acts of patent infringement, TCL has encroached on the exclusive rights of Touchscreen to practice the '345 Patent, for which Touchscreen is entitled to at least a reasonable royalty.

CONCLUSION

35. Touchscreen is entitled to recover from TCL the damages sustained by Touchscreen as a result of TCL's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

JURY DEMAND

36. Touchscreen hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

37. Touchscreen respectfully requests that the Court find in its favor and against TCL, and that the Court grants Touchscreen the following relief:

- A. A judgment that TCL infringes and has infringed the '345 Patent as alleged herein, directly and/or indirectly by way of inducing infringement of such patent;
- B. A judgment that the '345 Patent is valid and enforceable;
- C. A judgment for an accounting of all damages sustained by Touchscreen as a result of the acts of infringement by TCL;
- D. A judgment and order requiring TCL to pay Touchscreen damages under 35 U.S.C. § 284, and any royalties determined to be appropriate;

- E. A judgment and order requiring TCL to pay Touchscreen pre-judgment and post- judgment interest on the damages awarded;
- F. Such other and further relief as the Court deems just and equitable.

Dated: July 2, 2015

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Respectfully submitted,

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