

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

LG ELECTRONICS MOBILECOMM U.S.A., INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. _____
	)	
CYPRESS LAKE SOFTWARE, INC.	)	
	)	
Defendant.	)	

**COMPLAINT FOR A DECLARATORY JUDGMENT OF  
NON-INFRINGEMENT**

LG Electronics MobileComm U.S.A., Inc. (“LGEMU”) for its Complaint against Cypress Lake Software, Inc. (“Cypress”) alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for declaratory judgments of non-infringement under the patent laws of the United States, Title 35, United States Code, and the Federal Declaratory Judgment Act, Title 28, United States Code, Sections 2201 and 2202.

**RELATED CASE**

2. This complaint seeks relief with respect to the same patents at issue in *Cypress Lake Software, Inc. v. LG Electronics U.S.A., Inc.*, 17-1133-GMS, filed on August 11, 2017.

**THE PARTIES**

3. LGEMU is a California corporation having a principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632.

4. On information and belief, Cypress is a Delaware corporation having a principal place of business at 318 W. Dogwood Street, Woodville, TX 75979.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) and (b), as well as 28 U.S.C. §§ 2201 and 2202.

6. This Court has personal jurisdiction over Cypress because, on information and belief, Cypress is incorporated in the State of Delaware. Cypress has also filed and has pursued a patent infringement case here. *See Cypress Lake Software, Inc. v. LG Electronics U.S.A., Inc.*, 17-1133-GMS (Aug. 11, 2017).

7. At least because, on information and belief, Cypress is incorporated in the State of Delaware, venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), 1391(c), and to the extent required 1400(b).

### **FACTUAL BACKGROUND**

8. On August 11, 2017, Cypress filed a complaint accusing LG Electronics U.S.A., Inc. (“LGEUS”) of infringement of ten patents, U.S. Patent Nos. 8,422,858 (“the ’858 patent”); 8,661,361 (“the ’361 patent”); 8,781,299 (“the ’299 patent”); 8,787,731 (“the ’731 patent”); 8,902,054 (“the ’054 patent”); 8,983,264 (“the ’264 patent”); 9,195,765 (“the ’765 patent”); 9,423,923 (“the ’923 patent”); 9,423,938 (“the ’938 patent”); and 9,423,954 (“the ’954 patent”), attached herein as Exhibits A-J. Shortly thereafter, LGEUS moved to dismiss the complaint for failure to state a claim upon which relief could be granted, and Cypress (without conferring with LGEUS), filed its first amended complaint on December 12, 2017, asserting three additional patents and bringing the total number of asserted patents to thirteen. The three additional patents are U.S. Patent Nos. 9,817,558 (“the ’558 patent”), 9,823,838 (“the ’838 patent”), and 9,841,878 (“the ’878 patent”), attached herein as Exhibits K-M. In response, LGEUS again moved to dismiss, because Cypress’s amended complaint did not address the deficiencies in the original

complaint and, in fact, raised additional deficiencies. LGEUS filed its second motion to dismiss on January 26, 2018. Rather than meet and confer with LGEUS to address the numerous deficiencies and issues with the original and first amended complaint, Cypress opposed LGEUS's motion based in part on its intent to seek leave to file yet another amended complaint. On February 21, 2018, Cypress filed a motion for leave to amend its complaint a second time. LGEUS opposed Cypress's motion for leave in part due to Cypress's failure to comply with the meet-and-confer requirements and in part because the proposed second amended complaint is still deficient.

9. In addition to the issues and deficiencies that LGEUS raised in its motions to dismiss and its opposition to Cypress's motion for leave to file a second amended complaint, Cypress's original, amended, and proposed second amended complaint all assert vague infringement allegations. Cypress asserts a total of thirteen patents, some of which have over 200 claims, and while Cypress identifies an exemplary claim from each of the asserted patents, it fails to provide sufficient detail to show how the accused LG devices map to the claims to support its infringement allegations.

10. In its amended complaint, for example, Cypress identified the following accused LG smartphone and tablet device models that run on the Android operating system: Access, Aristo, Classic, Escape 3, Escape 3, Fiesta, Fortune, Grace, G4, G5, G6, G Pad, K3, K4, K7, K8, K10, K20, Nexus 5X, Nexus 6P, Optimus Zone 3, Phoenix 2, Phoenix 3, premier, Rebel, Rebel 2, Risio, Risio 2, Spree, Stylo, Stylo 2, Stylo 3, Treasure, Tribute 5, Tribute HD, V20, XCharge, X Power, and X Venture (hereinafter "Accused LG Products"). LGEMU imports, offers for sale, and sells in the U.S. each of these accused LG smartphone and tablet devices.

11. Cypress and LGEUS were also engaged in a prior lawsuit involving LG-branded products running on Windows operating system and some of the same patents named in this complaint. Cypress sought to expand the scope of that lawsuit to include smartphone and tablet devices that run on the Android operating system. In response, LGEUS informed counsel for Cypress that LGEUS's business does not involve smartphones, and LGEMU is relevant to the smartphone business. LGEUS even suggested that LGEMU be carved out from the prior lawsuit or that an amended complaint be filed to add LGEMU. Cypress's counsel responded by confirming that the non-Microsoft products were not a part of that action.

12. Because LGEUS informed Cypress that LGEMU is the party responsible for importing, offering for sale, and selling within the U.S. the Accused LG Products, and because Cypress has filed suit against LGEUS on those very products, LGEMU has reasonable apprehension of being sued for infringement of the patents Cypress has asserted against LGEUS.

**COUNT ONE:**  
**DECLARATORY JUDGMENT OF NON-INFRINGEMENT**  
**OF U.S. PATENT NO. 8,422,858**

13. LGEMU realleges and incorporates by reference each of paragraphs 1-11 above, as if fully set forth herein.

14. In Cypress's amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 14 of the '858 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of "in response to determining the first media player does not have first presentation focus, indicating that the first

media player is not allowed to play the first media stream,” as recited by the asserted claim of the ’858 patent. The Accused Products therefore do not infringe the claims of the ’858 patent.

15. LGEMU does not infringe and has not infringed the claims of the ’858 patent.

16. LGEMU is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that the Accused LG Products and LGEMU do not infringe the claims of the ’858 patent.

**COUNT TWO:**  
**DECLARATORY JUDGMENT OF NON-INFRINGEMENT**  
**OF U.S. PATENT NO. 8,661,361**

17. LGEMU realleges and incorporates by reference each of paragraphs 1-16 above, as if fully set forth herein.

18. In Cypress’s amended complaint of December 17, 2017, Cypress alleges that the Accused LG Products infringe claim 199 of the ’361 patent. While Cypress identifies this claim as allegedly infringed, it fails to provide sufficient detail to show how the Accused LG Products map to this asserted claim (or any other claim) to support its infringement allegations. Moreover, the Accused LG Products do not meet the limitations of the asserted claim. For example, and by no means limiting, the Accused LG Products do not practice the requirement of “code for presenting a first navigation control, in a first navigation region determined based on the first application region, for navigating to a second visual component, of a second application in the plurality, in a second application region in the presentation space, wherein the first navigation region is determined based on a location of at least one of the first visual component, a parent visual component of the first visual component, and a child visual component of the first visual component,” as recited by the asserted claim of the ’361 patent. The Accused LG Products therefore do not infringe the claims of the ’361 patent.

19. LGEMU does not infringe and has not infringed the claims of the ’361 patent.

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