

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SCRAMOGE TECHNOLOGY LTD.,

Plaintiff,

v.

BAYERISCHE MOTOREN WERKE AG,

Defendant.

Case No. 2:22-CV-00472

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT AGAINST
BAYERISCHE MOTOREN WERKE AG**

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Scramoge Technology Limited (“Plaintiff” or “Scramoge”) makes the following allegations against Defendant Bayerische Motoren Werke AG (“Defendant” or “BMW”):

INTRODUCTION

1. This complaint arises from BMW’s unlawful infringement of the following United States patents owned by Plaintiff, which relate to improvements in wireless charging of mobile devices: United States Patent Nos. 10,546,685 (“the ’685 Patent”), 10,193,392 (“the ’392 Patent”), 7,825,537 (“the ’537 Patent”), and 10,243,400 (“the ’400 Patent”) (collectively, the “Asserted Patents”).

PARTIES

2. Plaintiff Scramoge Technology Ltd. is a limited liability company organized and existing under the law of Ireland, with its principal place of business at The Hyde Building, Suite 23, The Park, Carrickmines, Dublin 18, Ireland. Scramoge is the sole owner by assignment of all

right, title, and interest in the Asserted Patents, including the right to recover damages for past, present, and future infringement.

3. On information and belief, Defendant Bayerische Motoren Werke AG is a corporation organized and existing under the laws of Germany, with a place of business at Petuelring 130, 80809, Munich, Germany. On information and belief, BMW is responsible for importing, making, marketing, distributing, offering for sale, and selling automotive vehicles and components for BMW-branded vehicles in the United States (directly or through its wholly-owned subsidiaries).

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over BMW in this action because BMW has committed acts within this District giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over BMW would not offend traditional notions of fair play and substantial justice. BMW, directly and through subsidiaries or intermediaries, has committed and continues to commit acts of infringement in this District by, among other things, importing, offering to sell, and selling products that infringe the Asserted Patents.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, BMW has transacted business in this District and has committed acts of direct and indirect infringement in this District by, among other things, making, using, offering to sell, selling, and importing products that infringe the Asserted Patents. Venue is also proper

because BMW is a foreign corporation organized under the laws of Germany, with a principal place of business in Germany, and suits against foreign entities are proper in any judicial district. *See* 28 U.S.C. § 1391(c)(3); *In re HTC Corp.*, 889 F.3d 1349 (Fed. Cir. 2018).

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 10,546,685

7. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

8. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 10,546,685, titled “Wireless power transmitting apparatus.” The ’685 Patent was duly and legally issued by the United States Patent and Trademark Office on January 28, 2020. A true and correct copy of the ’685 Patent is attached as Exhibit 1.

9. On information and belief, BMW makes, uses, offers for sale, sells, and/or imports certain automobiles with a wireless charger, including without limitation the BMW wireless charging tray (Model No. WCH-184a) included in at least the BMW 5 series and 6 series automobiles (“Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’685 Patent. Identification of the accused products will be provided in Plaintiff’s infringement contentions pursuant to the Court’s scheduling order.

10. The Accused Products satisfy all claim limitations of one or more claims of the ’685 Patent. A claim chart comparing exemplary independent claim 1 of the ’685 Patent to representative Accused Products is attached as Exhibit 2.

11. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, BMW has injured Plaintiff and is liable for infringement of the '685 Patent pursuant to 35 U.S.C. § 271(a).

12. On information and belief, Plaintiff (including its predecessors and any licensees) complied with 35 U.S.C. §287 during the relevant time period because Plaintiff, its predecessors, and any licensees did not make, offer for sale, or sell products that practice(d) the '685 Patent during the relevant time period or were not required to mark during the relevant time period.

13. As a result of BMW's infringement of the '685 Patent, Plaintiff is entitled to monetary damages (past, present, and future) in an amount adequate to compensate for BMW's infringement, but in no event less than a reasonable royalty for the use made of the invention by BMW, together with interest and costs as fixed by the Court.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 10,193,392

14. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

15. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 10,193,392, titled "Wireless power transfer device and wireless power transfer system." The '392 Patent was duly and legally issued by the United States Patent and Trademark Office on January 29, 2019. A true and correct copy of the '392 Patent is attached as Exhibit 3.

16. On information and belief, BMW makes, uses, offers for sale, sells, and/or imports certain automobiles with a wireless charger, including without the BMW wireless charging tray (Model Nos. WCH-184a, WCH-189, and WCH-189a) included in at least the BMW 5 series, 6

series, X5 series, X7 series, and M3 series automobiles (“Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’392 Patent. Identification of the accused products will be provided in Plaintiff’s infringement contentions pursuant to the Court’s scheduling order.

17. The Accused Products satisfy all claim limitations of one or more claims of the ’392 Patent. A claim chart comparing exemplary independent claim 1 of the ’392 Patent to representative Accused Products is attached as Exhibit 4.

18. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, BMW has injured Plaintiff and is liable for infringement of the ’392 Patent pursuant to 35 U.S.C. § 271(a).

19. On information and belief, Plaintiff (including its predecessors and any licensees) complied with 35 U.S.C. §287 during the relevant time period because Plaintiff, its predecessors, and any licensees did not make, offer for sale, or sell products that practice(d) the ’392 Patent during the relevant time period or were not required to mark during the relevant time period.

20. As a result of BMW’s infringement of the ’392 Patent, Plaintiff is entitled to monetary damages (past, present, and future) in an amount adequate to compensate for BMW’s infringement, but in no event less than a reasonable royalty for the use made of the invention by BMW, together with interest and costs as fixed by the Court.

COUNT III

INFRINGEMENT OF U.S. PATENT NO. 7,825,537

21. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

22. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 7,825,537, entitled “Inductive power transfer system and method.” The ’537 Patent was duly and legally issued by the United States Patent and Trademark Office on November 2, 2010. A true and correct copy of the ’537 Patent is attached as Exhibit 5.

23. On information and belief, BMW makes, uses, offers for sale, sells, and/or imports certain automobiles with a wireless charger, including without limitation including without the BMW wireless charging tray (Model Nos. WCH-184a, WCH-189, and WCH-189a) included in at least the BMW 5 series, 6 series, X5 series, X7 series, and M3 series automobiles (“Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’537 Patent, including through BMW’s own use and/or testing of the Accused Products. Identification of the accused products will be provided in Plaintiff’s infringement contentions pursuant to the Court’s scheduling order.

24. The Accused Products satisfy all claim limitations of one or more claims of the ’537 Patent. A claim chart comparing exemplary independent claim 1 of the ’537 Patent to representative Accused Products is attached as Exhibit 6.

25. BMW also knowingly and intentionally induces infringement of one or more claims of the ’537 Patent in violation of 35 U.S.C. § 271(b). At least as of the filing and service of this complaint, BMW has knowledge of the ’537 Patent and the infringing nature of the Accused Products through, for example, the ’537 Patent claim chart served therewith. Despite this knowledge of the ’537 Patent, BMW continues to actively encourage and instruct its customers and end users (for example, through user manuals and online instruction materials on its website) to use the Accused Products in ways that directly infringe the ’537 Patent. For example, BMW

advertises that the Accused Products contain a “wireless charging tray [that] offers wireless charging according to the Qi standard.” See <https://www.youtube.com/watch?v=PXkgirtE-Ng> at 0:07. BMW also teaches its customers and end users how to use the wireless phone charger to inductively charge a target unit, *i.e.*, smartphone, in a manner that infringes one or more claims of the ’537 Patent:



Id. at 20-21. Specifically, through its “How to use the wireless charging tray—BMW How-To” instructional video, BMW provides detailed instructions its customers and end users of, *inter alia*, (1) the location of the accused wireless charger, (2) how to know if the wireless charger is charging the target unit, and (3) other recommendations for customers and end users for optimal use of the accused wireless charging functionality. *See id.* BMW provides these instructions, user manuals, and other materials knowing and intending (or with willful blindness to the fact) that its customers and end users will commit these infringing acts. BMW also continues to make, use, offer for sale, sell, and/or import the Accused Products, despite its knowledge of the ’537 Patent, thereby specifically intending for and inducing its customers to infringe the ’537 Patent through the customers’ normal and customary use of the Accused Products.

26. BMW has also infringed, and continues to infringe, one or more claims of the ’537 Patent by selling, offering for sale, or importing into the United States, the Accused Products, knowing that the Accused Products constitute a material part of the inventions claimed in the ’537 Patent, are especially made or adapted to infringe the ’537 Patent, and are not staple articles or commodities of commerce suitable for non-infringing use. At least as of the filing and service of this complaint, BMW has knowledge of the ’537 Patent and the infringing nature of the Accused Products through, for example, the ’537 Patent claim chart served therewith. BMW has been, and currently is, contributorily infringing the ’537 Patent in violation of 35 U.S.C. §§ 271(c) and/or (f). For example, BMW advertises that the Accused Products contain a “wireless charging tray [that] offers wireless charging according to the Qi standard.” *See* <https://www.youtube.com/watch?v=PXkgirtE-Ng> at 0:07. BMW also provides its customers and end users with a detailed instructional video that provides step-by-step instructions on how to use the accused wireless charging functionality in an infringing manner.

See <https://www.youtube.com/watch?v=PXkgirtE-Ng>. BMW's wireless chargers are base units that constitute a material part of the inventions claimed in the '537 Patent, are especially made or adapted to infringe the '537 Patent, and are not staple articles or commodities of commerce suitable for non-infringing use. For example, there are no non-infringing uses for the wireless charging functionality in the Accused Products other than to inductively transfer power to a target unit in an infringing manner.

27. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, BMW has injured Plaintiff and is liable for infringement of the '537 Patent pursuant to 35 U.S.C. § 271(a), (b), (c), and/or (f).

28. On information and belief, Plaintiff (including its predecessors and any licensees) complied with 35 U.S.C. §287 during the relevant time period because Plaintiff, its predecessors, and any licensees did not make, offer for sale, or sell products that practice(d) the '537 Patent during the relevant time period or were not required to mark during the relevant time period.

29. As a result of BMW's direct infringement of the '537 Patent, Plaintiff is entitled to monetary damages (past, present, and future) in an amount adequate to compensate for BMW's infringement, but in no event less than a reasonable royalty for the use made of the invention by BMW, together with interest and costs as fixed by the Court.

30. As a result of BMW's indirect infringement of the '537 Patent, Plaintiff is entitled to monetary damages (present and future) in an amount adequate to compensate for BMW's infringement, but in no event less than a reasonable royalty for the use made of the invention by BMW, together with interest and costs as fixed by the Court, accruing as of the time BMW obtained knowledge of the '537 Patent.

COUNT IV

INFRINGEMENT OF U.S. PATENT NO. 10,243,400

31. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

32. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 10,243,400, titled “Wireless power transmitter.” The ’400 Patent was duly and legally issued by the United States Patent and Trademark Office on March 26, 2019. A true and correct copy of the ’400 Patent is attached as Exhibit 7.

33. On information and belief, BMW makes, uses, offers for sale, sells, and/or imports certain automobiles with a wireless charger, including without limitation the BMW wireless charging tray (Model Nos. WCH-184a, WCH-189, and WCH-189a) included in at least the BMW 5 series, 6 series, X5 series, X7 series, and M3 series automobiles (“Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’400 Patent. Identification of the accused products will be provided in Plaintiff’s infringement contentions pursuant to the Court’s scheduling order.

34. The Accused Products satisfy all claim limitations of one or more claims of the ’400 Patent. A claim chart comparing exemplary independent claim 1 of the ’400 Patent to representative Accused Products is attached as Exhibit 8.

35. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, BMW has injured Plaintiff and is liable for infringement of the ’400 Patent pursuant to 35 U.S.C. § 271(a).

36. On information and belief, Plaintiff (including its predecessors and any licensees) complied with 35 U.S.C. §287 during the relevant time period because Plaintiff, its predecessors, and any licensees did not make, offer for sale, or sell products that practice(d) the '400 Patent during the relevant time period or were not required to mark during the relevant time period.

37. As a result of BMW's infringement of the '400 Patent, Plaintiff is entitled to monetary damages (past, present, and future) in an amount adequate to compensate for BMW's infringement, but in no event less than a reasonable royalty for the use made of the invention by BMW, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that BMW has infringed, either literally and/or under the doctrine of equivalents, the '685, '392, '537, and '400 Patents;
- b. A judgment and order requiring BMW to pay Plaintiff its damages (past, present, and future), costs, expenses, and pre-judgment and post-judgment interest for BMW's infringement of the '685, '392, '537, and '400 Patents;
- c. A judgment and order requiring BMW to pay Plaintiff compulsory ongoing licensing fees, as determined by the Court in equity.
- d. A judgment and order requiring BMW to provide an accounting and to pay supplemental damages to Plaintiff, including without limitation, pre-judgment and post-judgment interest and compensation for infringing products released after the filing of this case that are not colorably different from the accused products;
- e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against BMW; and

f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: December 14, 2022

Respectfully submitted,

/s/ Brett Cooper

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