

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

**NOVELPOINT TRACKING LLC**

Plaintiff,

v.

**SAMSUNG TELECOMMUNICATIONS  
AMERICA, LLC**

Defendant.

**Case No. 2:12-cv-00747-JRG**

**PATENT CASE**

**JURY TRIAL DEMANDED**

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**SECOND AMENDED COMPLAINT**

NovelPoint Tracking LLC files this Amended Complaint against Samsung Telecommunications America, LLC at its request for infringement of United States Patent No. 6,442,485.

**THE PARTIES**

1. Plaintiff NovelPoint Tracking LLC (“NPT”) is a Texas limited liability company with its principal place of business at 1300 Ballantrae Dr., Allen TX, 75013 in the Eastern District of Texas.

2. Defendant Samsung Telecommunications America, LLC (“Defendant”) is a Delaware Corporation with its principal place of business at 1301 E. Lookout Drive, Richardson, Texas 75082-4124. Clicking on “Buy Nexus S” from the homepage directs inquiries made by persons such as NPT (with a zip code of 75013) to its North Texas resellers, including several located in the Eastern District of Texas. Defendant’s Registered Agent in the State of Texas is Corporation Service Company dba CSC - Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701-3218 USA, but Defendant has agreed to waive notice and

service of this Second Amended Complaint and answer within 14 days of the Court's order filing this Second Amended Complaint.

**NATURE OF THE ACTION**

3. This is a civil action for infringement of United States Patent No. 6,442,485 (the "Patent-in-Suit"), arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1400(b) because Defendant has committed acts of infringement in this district and is deemed to reside in this district for purposes of this action.

6. This Court has personal jurisdiction over Defendant and venue is proper in this district because Defendant has committed, and continues to commit, acts of infringement in the State of Texas, including in this district and/or has engaged in continuous and systematic activities in the State of Texas, including in this district.

**THE PATENT-IN-SUIT**

7. The Patent-in-Suit, entitled "Method and Apparatus for an Automatic Vehicle Location, Collision Notification, and Synthetic Voice," was duly and legally issued by the United States Patent and Trademark Office on August 27, 2002. A copy of the Patent-in-Suit is attached hereto as Exhibit 1.

8. NPT is the exclusive owner of all rights, title, and interest in the Patent-in-Suit, including the right to exclude others and to enforce, sue and recover damages for past and future infringement thereof.

**INFRINGEMENT OF THE PATENT-IN-SUIT**

9. NPT incorporates paragraphs 1 through 8 by reference as if fully stated herein.

10. The Patent-in-Suit is valid and enforceable.

11. Defendant has directly infringed, and continues to directly infringe, one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, offering for sale, and/or importing products and/or methods encompassed by those claims.

12. Third parties, including at a minimum Defendant's affiliates, resellers, and retailers, have infringed, and continue to infringe, one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by using, selling, and/or offering for sale in the United States, and/or importing into the United States, products supplied by Defendant.

13. In the alternative to direct infringement, NPT contends that Defendant has induced infringement, and continues to induce infringement, of one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(b). Defendant has actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the Patent-in-Suit by making, using, importing, and selling or otherwise supplying products to third parties, including at a minimum its affiliates, retailers, and resellers such as Wal-Mart, Target, Best Buy, and Amazon, with the knowledge and intent that such third parties will use, sell, offer for sale, and/or import, products supplied by Defendant to infringe the Patent-in-Suit; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the products and/or the creation and dissemination of promotional and marketing materials,

supporting materials, instructions, product manuals, and/or technical information related to such products.

14. In the alternative to direct infringement, and to the extent Samsung separately makes, uses, sells, offers for sale, or imports components intended for use with one another that in combination practice the Patent-in-Suit, NPT contends that Defendant has contributed, and continues to contribute, to the infringement by third parties (including its affiliates, agents, and customers) of one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(c) by selling, offering for sale, and/or importing Defendant's products, knowing that those products constitute a material part of the inventions of the Patent-in-Suit, knowing that those products are especially made or adapted to infringe the Patent-in-Suit, and knowing that those products are not staple articles of commerce suitable for substantial noninfringing use.

15. Defendant's Galaxy SIII and Nexus S are examples of infringing products and/or methods.

16. NPT put Defendant on notice of the Patent-in-Suit and Defendant's infringement thereof at least as early as the date of filing of this complaint.

17. NPT has been and continues to be damaged by Defendant's infringement of the Patent-in-Suit.

18. Defendant's actions complained of herein are causing irreparable harm and damages to NPT and will continue to do so unless and until Defendant is enjoined and restrained by the Court.

19. Defendant's conduct in infringing the Patent-in-Suit renders this case exceptional within the meaning of 35 U.S.C. § 285.

**JURY DEMAND**

20. Plaintiff NPT hereby demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, NPT prays for judgment as follows:

- A. That Defendant has infringed one or more claims of the patent-in-suit;
- B. That Defendant account for and pay all damages necessary to adequately compensate NPT for infringement of the patent-in-suit, such damages to be determined by a jury, that such damages be awarded to NPT with pre-judgment and post-judgment interest, and that to the extent available as a remedy for any claim of NPT in this complaint, such damages be trebled;
- C. That Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or actively participating with them, be permanently enjoined from directly or indirectly infringing the patent-in-suit; or, in the alternative, judgment that Defendant account for and pay to NPT an ongoing post-judgment royalty reflecting Defendant's deliberate continuing infringement;
- D. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that NPT be awarded the attorney fees, costs, and expenses that it incurs prosecuting this action; and
- E. That NPT be awarded such other and further relief as this Court deems just and proper.

DATED: June 7, 2013

Respectfully submitted,

/s/ Everett Upshaw  
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