

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

CHRIMAR SYSTEMS, INC. d/b/a CMS
TECHNOLOGIES and CHRIMAR HOLDING
COMPANY, LLC,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC. and
SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC,

Defendants.

Case No. 6:13-cv-883

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

ChriMar Systems, Inc. d/b/a CMS Technologies (“ChriMar”) and Chrimar Holding Company, LLC (“Holding”) (collectively referred to as “CMS”) files this Complaint against Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC (“Samsung” or “Defendants”) for infringement of U.S. Patent No. 8,155,012 (the “’012 patent” or “Asserted Patent”).

THE PARTIES

1. ChriMar is a Michigan Corporation with its principal place of business at 36528 Grand River Ave., Suite A-1, Farmington Hills, Michigan 48335.

2. Holding is a Texas limited liability company with its principal place of business at 303 South Washington Avenue, Marshall, Texas 75670.

SAMSUNG ELECTRONICS CO., LTD.

3. Samsung Electronics Co., Ltd is a Korean corporation with its principal place of business located at 416 Maetan 3-Dong, Yeongtong-Gu, Suwon-Shi, South Korea. This Court

has personal jurisdiction over Samsung Electronics Co., Ltd. because Samsung Electronics Co., Ltd. has committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the state of Texas, and/or has continuous and systematic activities in the state of Texas.

SAMSUNG ELECTRONICS AMERICA, INC.

4. Samsung Electronics America, Inc. is a New York corporation with its principal place of business located at 105 Challenger Road, Ridgefield Park, New Jersey 07660. This Court has personal jurisdiction over Samsung Electronics America, Inc. because Samsung Electronics America, Inc. has committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the state of Texas, and/or has engaged in continuous and systematic activities in the state of Texas.

SAMSUNG TELECOMMUNICATIONS AMERICA, LLC

5. Samsung Telecommunications America, LLC is a Delaware corporation with its principal place of business located at 1301 E. Lookout Drive, Richardson, Texas 75082. This Court has personal jurisdiction over Samsung Telecommunications America, LLC because Samsung Telecommunications America, LLC has committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the state of Texas, and/or has engaged in continuous and systematic activities in the state of Texas. Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC are collectively referred to as “Samsung.”

JURISDICTION AND VENUE

6. This is an action for patent infringement under Title 35 of the United States Code. CMS is seeking injunctive relief as well as damages.

7. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States' patent statutes, 35 U.S.C. § 101 *et seq.*

8. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b) because Samsung has committed acts of infringement in this district and/or are deemed to reside in this district.

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

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 8,155,012)

10. CMS incorporates paragraphs 1 through 9 herein by reference.

11. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

12. ChriMar is the owner and assignee of the '012 patent, entitled "System and Method for Adapting a Piece of Terminal Equipment" and Holding is the exclusive licensee of the '012 patent. CMS has ownership of all substantial rights in the '012 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '012 patent is attached as Exhibit A.

13. The '012 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

14. CMS has been damaged as a result of Samsung's infringing conduct described in this Count. Samsung is, thus, liable to CMS in an amount that adequately compensates it for

their infringement, which by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

SAMSUNG (DIRECT INFRINGEMENT)

15. On information and belief, Samsung has and continues to directly infringe one or more claims of the '012 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 31, by, among other things, making, using, offering for sale, selling and/or importing Samsung's IP Phones, including but not limited to IP Phones with model numbers SMT-I5210 and SMT-I3105. Samsung is thereby liable for infringement of the '012 patent pursuant to 35 U.S.C. § 271.

SAMSUNG (INDIRECT INFRINGEMENT – INDUCEMENT)

16. Based on the information presently available to CMS, absent discovery, and in the alternative to direct infringement, CMS contends that Samsung has and continues to indirectly infringe one or more claims of the '012 patent, including at least claim 31, by inducing others, including end users of Samsung's IP Phones, including but not limited to model numbers SMT-I5210 and SMT-I3105 to use infringing devices in violation of one or more claims of the '012 patent, including at least claim 31.

17. Samsung has been on notice of the '012 patent since at least service of this action. In accordance with Fed. R. Civ. P. 11(b)(3), CMS will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

18. On information and belief, since Samsung has been on notice of the '012 patent, Samsung has knowingly induced infringement of the '012 patent, including at least claim 31 of the '012 patent, and possessed specific intent to encourage others' infringement.

19. On information and belief, since Samsung has been on notice of the '012 patent, Samsung knew or should have known that its action would induce actual infringement of the '012 patent, including at least claim 31 of the '012 patent, by end users of IP Phones, including but not limited to model numbers SMT-I5210 and SMT-I3105.

20. For example, since Samsung has been on notice of the '012 patent, Samsung has purposefully and voluntarily placed infringing products in the stream of commerce with the expectation that its products will be purchased by end users in the United States, including end users in the Eastern District of Texas, and used in a way that infringes at least claim 31 of the '012 patent.

21. Since Samsung has been on notice of the '012 patent, Samsung has also provided support to users of Samsung's IP Phones, model numbers SMT-I5210 and SMT-I3105 in the United States, including users in the Eastern District of Texas.

22. Samsung has not produced or relied upon an opinion of counsel suggesting that the '012 patent is invalid or is not infringed by Samsung's IP Phones, including but not limited to IP Phones with model numbers SMT-I5210 and SMT-I3105. In accordance with Fed .R. Civ. P. 11(b)(3), CMS will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

23. Samsung has not produced any evidence as to any investigation, design around or that any remedial action was taken with respect to the '012 patent. In accordance with Fed .R. Civ. P. 11(b)(3), CMS will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

ADDITIONAL ALLEGATIONS

24. CMS has been damaged as a result of Defendants' infringing conduct described herein. Defendants are, thus, liable to CMS in an amount that adequately compensates CMS for Defendants' infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

25. Defendants' actions complained of herein will continue unless Defendants are enjoined by this Court.

26. CMS has complied with 35 U.S.C. § 287.

27. Defendants' actions complained of herein are causing irreparable harm and monetary damage to CMS and will continue to do so unless and until Defendants are enjoined and restrained by this Court.

JURY DEMAND

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

PRAYER FOR RELIEF

CMS requests that this Court find in its favor and against Defendants, and that this Court grant CMS the following relief:

- a. Enter judgment for Plaintiff on this Complaint;
- b. Enter judgment that one or more claims of the '012 patent has been infringed, either directly or indirectly by Defendants;
- c. Enter judgment that Defendants account for and pay to CMS all damages to and costs incurred by CMS because of Defendants' infringing activities and other conduct complained of herein;

- d. Award Plaintiff damages resulting from Defendants' infringement in accordance with 35 U.S.C. § 284;
- e. Enter a permanent injunction enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with them, from infringing or inducing infringement of the '012 patent, or, in the alternative, judgment that Defendants account for and pay to CMS a reasonable royalty and an ongoing post judgment royalty because of Defendants' past, present and future infringing activities and other conduct complained of herein;
- f. That CMS be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- g. That CMS be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: November 8, 2013

Respectfully submitted,

THE SIMON LAW FIRM, P.C.

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