

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

ALEX IS THE BEST, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 13-1787-RGA
)	
SAMSUNG ELECTRONICS CO. LTD.,)	TRIAL BY JURY DEMANDED
SAMSUNG ELECTRONICS AMERICA, INC.,)	
and SAMSUNG TELECOMMUNICATIONS)	
AMERICA, LLC)	
)	
Defendants.)	

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Alex is the Best, LLC. (“AITB”), by and through its undersigned counsel, brings this action against Samsung Electronics Co. Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, “Samsung” and “Defendants”). In support of this Complaint, AITB alleges as follows:

NATURE OF THE SUIT

1. This is an action for patent infringement under the Patent Laws of the United States of America, 35 U.S.C. §§ 1 *et seq.*, including 35 U.S.C. § 271.

THE PARTIES

2. Plaintiff AITB is a limited liability company organized under the laws of the state of New York with its principal place of business at 75 82nd St., Brooklyn, New York 11209.

3. On information and belief, Samsung Electronics Co., Ltd. is a corporation organized and existing under the laws of South Korea with its principal place of business 416 Maetan-3dong, Yeongtong-gu, Suwon-City, Gyeonggi-do, Korea 443-742. Upon information

and belief, Samsung Electronics conducts business in the United States through its wholly owned subsidiaries, the relevant ones of which are also named as defendants in this action.

4. On information and belief, Samsung Electronics America, Inc. is a New York corporation with its principal place at 85 Challenger Road, Ridgefield Park, New Jersey 07660. SEA can be served with process through its agent CT Corporation System, 111 8th Avenue, New York, New York 10011.

5. On information and belief, Samsung Telecommunications America, LLC is a Delaware limited liability company with its principal place at 1301 E. Lookout Drive, Richardson, Texas 75082. STA can be served with process through its agent Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. Defendant Samsung Telecommunications America, LLC is a wholly owned subsidiary of Defendant Samsung Electronics America, Inc..

6. Defendants are in the business of making, using, selling, offering to sell and/or importing network-enabled image capturing devices and systems incorporating the same.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

8. This Court has personal jurisdiction over Defendants by virtue of their systematic and continuous contacts with this jurisdiction, as well as because of the injury to AITB and the cause of action AITB has raised, as alleged herein.

9. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long-Arm Statute, due to at least their substantial

business in this forum, including: (i) at least a portion of the infringement alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in this District.

10. Defendants have conducted and do conduct business within this District, directly or through intermediaries, resellers, agents, by offering to sell, selling, and/or advertising (including the use of interactive web pages with promotional material) products in this District that infringe the Asserted Patents.

11. In addition to Defendants continuously and systematically conducting business in this District, the causes of action against Defendants are connected (but not limited) to Defendants' purposeful acts committed in this District, including Defendants' making, using, importing, offering to sell, or selling products which include features that fall within the scope of at least one claim of the Asserted Patents.

12. Venue lies in this District under 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Defendants are subject to personal jurisdiction in this District, and have committed and continue to commit acts of patent infringement in this District. For example, Defendants have used, sold, offered to sell, and/or imported infringing products in this District.

JOINDER

13. Defendants are properly joined under 35 U.S.C. § 299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the same transactions, occurrences, or series of transactions or occurrences relating to the making, using, importing into the United States, offering to sell, and/or selling the same accused

products. Specifically, as alleged in detail below, Defendants are alleged to infringe the Asserted Patents with respect to the same portable computing devices including, but not limited to, the Samsung Galaxy Note II mobile phone.

14. Defendants are properly joined under 35 U.S.C. § 299(a)(2). Questions of fact will arise that are common to both defendants, including for example, whether Defendants' products have features that meet the features of one or more claims of the Asserted Patents, and what reasonable royalty will be adequate to compensate the owner of the Asserted Patents for its infringement.

15. Defendants use, make, sell, offer to sell and/or import portable computing devices that, when used, infringe on the Asserted Patents.

16. At least one right to relief is asserted against these parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering to sell, or selling of the same accused product and/or process.

THE PATENTS-IN-SUIT

17. There are five patents at issue in this action: United States Patent Nos. 7,633,524 (the "'524 Patent"); 7,907,172 (the "'172 Patent"); 8,134,600 (the "'600 Patent"); 8,477,197 (the "'197 Patent"); and 8,581,991 (the "'991 Patent") (collectively, the "Asserted Patents").

The '524 Patent

18. On December 15, 2009 the United States Patent and Trademark Office ("USPTO") duly and legally issued the '524 Patent, entitled "Integrated Internet Camera System" after a full and fair examination to inventors Frank Clemente and Ted Feaser. AITB is presently the owner by assignment of the '524 Patent, having received all rights, title, and interest in and to the '524 Patent. AITB possesses all rights of recovery under the '524 Patent,

including the exclusive right to recover for past infringement. A true and correct copy of the '524 Patent is attached to this Complaint as Exhibit A.

The '172 Patent

19. On March 15, 2011 the USPTO duly and legally issued the '172 patent, entitled "Integrated Internet Camera System" after a full and fair examination to inventors Frank Clemente and Ted Feaser. AITB is presently the owner by assignment of the '172 Patent, having received all rights, title, and interest in and to the '172 Patent. AITB possesses all rights of recovery under the '172 Patent, including the exclusive right to recover for past infringement. A true and correct copy of the '172 Patent is attached to this Complaint as Exhibit B.

The '600 Patent

20. On March 13, 2012 the USPTO duly and legally issued the '600 Patent, entitled "Internet Direct Device" after a full and fair examination to inventors Frank Clemente and Ted Feaser. AITB is presently the owner by assignment of the '600 Patent, having received all rights, title, and interest in and to the '600 Patent. AITB possesses all rights of recovery under the '600 Patent, including the exclusive right to recover for past infringement. A true and correct copy of the '600 Patent is attached to this Complaint as Exhibit C.

The '197 Patent

21. On July 2, 2013 the USPTO duly and legally issued the '197 patent, entitled "Internet Direct Device" after a full and fair examination to inventors Frank Clemente and Ted Feaser. AITB is presently the owner by assignment of the '197 Patent, having received all rights, title, and interest in and to the '197 Patent. AITB possesses all rights of recovery under the '197 Patent, including the exclusive right to recover for past infringement. A true and correct copy of the '197 Patent is attached to this Complaint as Exhibit D.

The '991 Patent

22. On November 12, 2013 the USPTO duly and legally issued the '991 Patent, entitled "Integrated Internet Camera System and Method" after a full and fair examination to inventor Frank Clemente. AITB is presently the owner by assignment of the '991 Patent, having received all rights, title, and interest in and to the '991 Patent. AITB possesses all rights of recovery under the '991 Patent, including the exclusive right to recover for past infringement. A true and correct copy of the '991 Patent is attached to this Complaint as Exhibit E.

DESCRIPTION OF THE ACCUSED INSTRUMENTALITIES

23. Defendants' network-enabled image-capturing devices (hereinafter, "Image-capturing Devices"), including but not limited to the Samsung Galaxy Note II, are configured to take still and video images. Defendants' Image-capturing Devices are configured to transmit and receive those images to and from other Image-capturing Devices, as well as a website application, on which still and video images captured by the Image-capturing Devices can be stored and managed. Defendants' Image-capturing Devices also are used to perform the method of transmitting and receiving still or video images associated with a user over a communications network.

24. For example, the Samsung Galaxy Note II includes built-in applications that allow a user to transmit and receive still or video images over a communications network to another Internet direct device, and allow still and video images captured by the device to be uploaded to an internet-accessible archive to be stored and managed. The Samsung Galaxy Note II also allows a user to access the Internet through a variety of connections, including but not limited to Wi-Fi and various 3G and 4G cellular networks. Accordingly, the Samsung Galaxy

Note II is an Internet direct device with an imaging system to capture still or video images and is a component of an integrated Internet camera system.

COUNT I
(INFRINGEMENT OF THE '524 PATENT)

25. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-24.

26. In violation of 35 U.S.C. § 271, Samsung is now, and has been directly infringing, contributorily infringing, and/or inducing infringement of the '524 Patent.

27. Defendants have had knowledge of infringement of the '524 Patent at least as of the service of the present complaint.

28. Samsung has directly infringed and continues to directly infringe at least claim 17 of the '524 Patent by making, using, importing, offering to sell, and/or selling integrated internet camera systems without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Samsung's direct infringement of the '524 Patent, Plaintiff has been and continues to be damaged.

29. Samsung has indirectly infringed and continues to indirectly infringe at least claim 17 of the '524 Patent by actively inducing their respective customers, users, and/or licensees to directly infringe by using, selling, offering to sell and/or importing an integrated internet camera system. Samsung engaged or will have engaged in such inducement having knowledge of the '524 Patent. Furthermore, Samsung knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Samsung sells, offers to sell and advertises integrated internet camera systems in Delaware specifically intending that its customers buy and

use said products. As a direct and proximate result of Samsung's indirect infringement by inducement of the '524 Patent, Plaintiff has been and continues to be damaged.

30. Samsung has contributorily infringed and continues to contributorily infringe at least claim 17 of the '524 Patent by selling and/or offering to sell an integrated internet camera system, which is a component of a patented invention and is not a staple article of commerce; with knowledge of the '524 Patent and knowledge that this component constitutes a material part of the invention claimed in the '524 Patent. Samsung engaged or will have engaged in such contributory infringement having knowledge of the '524 Patent. As a direct and proximate result of Samsung's contributory infringement of the '524 Patent, Plaintiff has been and continues to be damaged.

31. To the extent that facts learned in discovery show that Defendants' infringement of the '524 Patent is or has been willful, AITB reserves the right to request such a finding at the time of trial.

32. As a result of Defendants' infringement of the '524 Patent, AITB has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendants' past infringement, together with interests and costs.

33. AITB will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court. As such, AITB is entitled to compensation for any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement.

COUNT II
(INFRINGEMENT OF THE '172 PATENT)

34. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-33.

35. In violation of 35 U.S.C. § 271, Samsung is now, and has been directly infringing, contributorily infringing, and/or inducing infringement of the '172 Patent.

36. Defendants have had knowledge of infringement of the '172 Patent at least as of the service of the present complaint.

37. Samsung has directly infringed and continues to directly infringe at least claim 1 of the '172 Patent by making, using, importing, offering to sell, and/or selling integrated internet camera systems without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Samsung's direct infringement of the '172 Patent, Plaintiff has been and continues to be damaged.

38. Samsung has indirectly infringed and continues to indirectly infringe at least claim 1 of the '172 Patent by actively inducing their respective customers, users, and/or licensees to directly infringe by using, selling, offering to sell and/or importing an integrated internet camera system. Samsung engaged or will have engaged in such inducement having knowledge of the '172 Patent. Furthermore, Samsung knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Samsung sells, offers to sell and advertises integrated internet camera systems in Delaware specifically intending that its customers buy and use said products. As a direct and proximate result of Samsung's indirect infringement by inducement of the '172 Patent, Plaintiff has been and continues to be damaged.

39. Samsung has contributorily infringed and continues to contributorily infringe at least claim 17 of the '172 Patent by selling and/or offering to sell an integrated internet camera system, which is a component of a patented invention and is not a staple article of commerce; with knowledge of the '172 Patent and knowledge that this component constitutes a material

part of the invention claimed in the '172 Patent. Samsung engaged or will have engaged in such contributory infringement having knowledge of the '172 Patent. As a direct and proximate result of Samsung's contributory infringement of the '172 Patent, Plaintiff has been and continues to be damaged.

40. To the extent that facts learned in discovery show that Defendants' infringement of the '172 Patent is or has been willful, AITB reserves the right to request such a finding at the time of trial.

41. As a result of Defendants' infringement of the '172 Patent, AITB has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendants' past infringement, together with interests and costs.

42. AITB will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court. As such, AITB is entitled to compensation for any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement.

COUNT III
(INFRINGEMENT OF THE '600 PATENT)

43. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-42.

44. In violation of 35 U.S.C. § 271, Samsung is now, and has been directly infringing and/or inducing infringement of the '600 Patent.

45. Defendants have had knowledge of infringement of the '600 Patent at least as of the service of the present complaint.

46. Samsung has directly infringed and continues to directly infringe at least claim 1 of the '600 Patent by making, using, importing, offering to sell, and/or selling Image-capturing

Devices without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Samsung's direct infringement of the '600 Patent, Plaintiff has been and continues to be damaged.

47. Samsung has indirectly infringed and continues to indirectly infringe at least claim 1 of the '600 Patent by actively inducing their respective customers, users, and/or licensees to directly infringe by using, selling, offering to sell and/or Image-capturing Devices. Samsung engaged or will have engaged in such inducement having knowledge of the '600 Patent. Furthermore, Samsung knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Samsung sells, offers to sell and advertises Image-capturing Devices in Delaware specifically intending that its customers buy and use said products. As a direct and proximate result of Samsung's indirect infringement by inducement of the '600 Patent, Plaintiff has been and continues to be damaged.

48. To the extent that facts learned in discovery show that Defendants' infringement of the '600 Patent is or has been willful, AITB reserves the right to request such a finding at the time of trial.

49. As a result of Defendants' infringement of the '600 Patent, AITB has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendants' past infringement, together with interests and costs.

50. AITB will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court. As such, AITB is entitled to compensation for any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement.

COUNT IV
(INFRINGEMENT OF THE '197 PATENT)

51. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-50.

52. In violation of 35 U.S.C. § 271, Samsung is now, and has been directly infringing and/or inducing infringement of the '197 Patent.

53. Defendants have had knowledge of infringement of the '197 Patent at least as of the service of the present complaint.

54. Samsung has directly infringed and continues to directly infringe at least claim 1 of the '197 Patent by making, using, importing, offering to sell, and/or selling Image-capturing Devices without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Samsung's direct infringement of the '197 Patent, Plaintiff has been and continues to be damaged.

55. Samsung has indirectly infringed and continues to indirectly infringe at least claim 1 of the '197 Patent by actively inducing their respective customers, users, and/or licensees to directly infringe by using, selling, offering to sell and/or importing Image-capturing Devices. Samsung engaged or will have engaged in such inducement having knowledge of the '197 Patent. Furthermore, Samsung knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Samsung sells, offers to sell and advertises integrated Image-capturing Devices in Delaware specifically intending that its customers buy and use said products. As a direct and proximate result of Samsung's indirect infringement by inducement of the '197 Patent, Plaintiff has been and continues to be damaged.

56. To the extent that facts learned in discovery show that Defendants' infringement of the '197 Patent is or has been willful, AITB reserves the right to request such a finding at the time of trial.

57. As a result of Defendants' infringement of the '197 Patent, AITB has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendants' past infringement, together with interests and costs.

58. AITB will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court. As such, AITB is entitled to compensation for any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement.

COUNT V
(INFRINGEMENT OF THE '991 PATENT)

59. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-58.

60. In violation of 35 U.S.C. § 271, Defendants are now, and have been directly infringing and/or inducing infringement of the '991 Patent.

61. Defendants have had knowledge of infringement of the '991 Patent at least as of the service of the present complaint.

62. Samsung has directly infringed and continues to directly infringe at least claim 22 of the '991 Patent by making, using, importing, offering to sell, and/or selling Image-capturing Devices without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Samsung's direct infringement of the '991 Patent, Plaintiff has been and continues to be damaged.

63. Samsung has indirectly infringed and continues to indirectly infringe at least claim 22 of the '991 Patent by actively inducing their customers, users, and/or licensees to directly infringe by using, selling, offering to sell and/or importing Image-capturing Devices. Samsung engaged or will have engaged in such inducement having knowledge of the '991 Patent. Furthermore, Samsung knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendants sell, offer to sell and advertise integrated Image-capturing Devices in Delaware, specifically intending that their customers buy and use said products. As a direct and proximate result of Samsung's indirect infringement by inducement of the '991 Patent, Plaintiff has been and continues to be damaged.

64. To the extent that facts learned in discovery show that Defendants' infringement of the '991 Patent is or has been willful, AITB reserves the right to request such a finding at the time of trial.

65. As a result of Defendants' infringement of the '991 Patent, AITB has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendants' past infringement, together with interests and costs.

66. AITB will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court. As such, AITB is entitled to compensation for any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement.

DEMAND FOR JURY TRIAL

67. AITB demands a trial by jury as to all issues that are triable by a jury in this action.

PRAYER FOR RELIEF

WHEREFORE, AITB prays for the following relief:

A. That Defendants be adjudged to have infringed the Asserted Patents, directly and/or indirectly, by way of inducement and/or contributory infringement, literally and/or under the doctrine of equivalents;

B. That Defendants, their officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently enjoined from infringing the Asserted Patents;

C. An award of damages pursuant to 35 U.S.C. § 284 sufficient to compensate AITB for the Defendants' past infringement and any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement, including compensatory damages;

D. An assessment of pre-judgment and post-judgment interest and costs against Defendants, together with an award of such interest and costs, in accordance with 35 U.S.C. § 284;

E. That Defendants be directed to pay enhanced damages, including AITB's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. § 285; and

F. That AITB have such other and further relief as this Court may deem just and proper.

January 3, 2014

BAYARD, P.A.

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