

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

ALEX IS THE BEST, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 13-1726-RGA
)	
LG ELECTRONICS, INC., LG)	TRIAL BY JURY DEMANDED
ELECTRONICS U.S.A., INC. and LG)	
ELECTRONICS MOBILECOMM U.S.A.,)	
INC.,)	
)	
Defendants.)	

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Alex is the Best, LLC. (“AITB”), by and through its undersigned counsel, brings this action against LG Electronics, Inc., LG Electronics U.S.A., Inc., and LG Electronics MobileComm U.S.A., Inc. (collectively, “LG” and/or “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, LG Electronics, Inc. is foreign corporation organized under the laws of the Republic of Korea. Its principal place of business is located at LG Twin Towers, 20 Yeouido-dong, Yeongdeungpo-gu, Seoul 150-721, South Korea.

4. On information and belief, LG Electronics U.S.A., Inc. is a Delaware corporation with its principal place of business at 1000 Sylvan Ave., Englewood Cliffs, New Jersey 07632. Its registered agent for service of process is United States Corporation Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

5. On information and belief, LG Electronics MobileComm U.S.A., Inc. is a corporation organized and existing under the laws of the state of California, with its principal place of business located at 10225 Willow Creek Road, San Diego, CA 92131. Its registered agent for service of process is national Registered Agents, Inc. of New Jersey, 100 Canal Pointe Blvd. Suite 212, Princeton, New Jersey 08540.

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

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28U.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, or offer to sell, sell, and/or advertise (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 image capturing devices including, but not limited to, the LG Optimus Regard.

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 three patents at issue in this action: United States Patent Nos. 8,134,600 (the "'600 Patent"); 8,477,197 (the "'197 Patent"); and 8,581,991 (the "'991 Patent") (collectively, the "Asserted Patents").

The '600 Patent

18. 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 A.

The '197 Patent

19. 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 B.

The '991 Patent

20. 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 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 C.

DESCRIPTION OF THE ACCUSED INSTRUMENTALITIES

21. Defendants' network-enabled image-capturing devices (hereinafter, "Image-capturing Devices"), including but not limited to the LG Optimus Regard, are configured to take still and video images. Defendants' Image-capturing Devices are configured to transmit and receive still and video 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.

22. For example, one such website application that allows users to store and manage still and video images captured by Image capturing Devices is Google+ which comes pre-installed in the LG Optimus Regard.

23. In addition, Defendants' Image-capturing Devices are configured to automatically connect to the Internet through a variety of available modes of connection. For example, the LG Optimus Regard comes preloaded with one or more applications that allows users to transmit and receive still or video images over various communications networks, including but not limited to Wi-Fi and various cellular networks such as CDMA and 4G LTE. Thus, the LG Optimus Regard is an Internet direct device with an imaging system to capture still or video images.

COUNT I
(INFRINGEMENT OF THE '600 PATENT)

24. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-23.

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

26. LG has had knowledge of infringement of the '600 Patent at least as of the service of the present complaint.

27. LG 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 LG's direct infringement of the '600 Patent, Plaintiff has been and continues to be damaged. LG 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. LG engaged or will have engaged in such inducement having knowledge of the '600 Patent. Furthermore, LG 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, LG 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 LG's indirect infringement by inducement of the '600 Patent, Plaintiff has been and continues to be damaged.

28. 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.

29. 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.

30. 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 '197 PATENT)

31. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-30.

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

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

34. LG 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 LG's direct infringement of the '197 Patent, Plaintiff has been and continues to be damaged.

35. LG 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. LG engaged or will have engaged in such inducement having knowledge of the '197 Patent. Furthermore, LG 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, LG 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 LG's indirect infringement by inducement of the '197 Patent, Plaintiff has been and continues to be damaged.

36. 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.

37. 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.

38. 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 '991 PATENT)

39. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-38.

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

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

42. LG 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 LG's direct infringement of the '991 Patent, Plaintiff has been and continues to be damaged.

43. LG 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. LG engaged or will have engaged in such inducement having knowledge of the '991 Patent. Furthermore, LG 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 LG's indirect infringement by inducement of the '991 Patent, Plaintiff has been and continues to be damaged.

44. 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.

45. 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.

46. 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

47. 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.

/s/ Stephen B. Braerman
Richard D. Kirk (rk0922)
Stephen B. Braerman (sb4952)
Vanessa R. Tiradentes (vt5398)
Sara E. Bussiere (sb5725)
222 Delaware Avenue, Suite 900
P.O. Box 25130
Wilmington, DE 19899
rkirk@bayardlaw.com
sbraerman@bayardlaw.com
vtiradentes@bayardlaw.com
sbussiere@bayardlaw.com
(302) 655-5000

Attorneys for Plaintiff Alex is the Best, LLC