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8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11
12 SPH AMERICA, LLC,
13 Plaintiff,

14 vs.

15
16 SAMSUNG ELECTRONICS CO.,
LTD., SAMSUNG ELECTRONICS
17 AMERICA, INC., SAMSUNG
TELECOMMUNICATIONS
18 AMERICA, LLC

19 Defendants.

Case No. '14CV1474 AJB JLB

**COMPLAINT FOR PATENT
INFRINGEMENT**

Jury Trial Demanded

RUSS, AUGUST & KABAT

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1 This is an action for patent infringement arising under the Patent Laws of the
2 United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff SPH America,
3 LLC (“SPH” or “Plaintiff”) makes the following allegations against Defendants
4 Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung
5 Telecommunications America, LLC. (collectively “Samsung” or “Defendants”).

6 **I. PARTIES**

7 1. Plaintiff SPH America, LLC is a Virginia limited liability company
8 having a principal place of business at 8133 Leesburg Pike, Suite 310, Vienna,
9 Virginia 22182.

10 2. Defendant Samsung Electronics Co., Ltd. is a Korean corporation
11 with its principal offices at 250, 2-ga, Taepyong-ro, Jung-gu, Seoul, 100-742,
12 Republic of Korea. On information and belief, Samsung Electronics Co., Ltd. is
13 South Korea's largest company and one of Asia's largest electronics companies.
14 Samsung Electronics Co., Ltd. designs, manufactures, and provides to the U.S. and
15 world markets a wide range of products, including consumer electronics, computer
16 components, mobile devices, and entertainment products.

17 3. Defendant Samsung Electronics America, Inc. is a New York
18 corporation with its principal place of business at 105 Challenger Road, Ridgefield
19 Park, New Jersey 07660. On information and belief, Samsung Electronics
20 America, Inc. is a wholly-owned subsidiary of Samsung Electronics Co., Ltd., and
21 markets, sells, or offers for sale a variety of consumer electronics products. On
22 information and belief, SEA also manages the North American operations of
23 Samsung Telecommunications America, LLC, Samsung Semiconductor Inc.,
24 Samsung Information Systems America, and Samsung Austin Semiconductor.

25 4. Defendant Samsung Telecommunications America, LLC is a
26 Delaware limited liability company with its principal place of business at 1301
27 East Lookout Drive, Richardson, Texas 75081. On information and belief,
28 Samsung Telecommunications America, LLC was founded in 1996 as a subsidiary

1 of Samsung Electronics Co., Ltd., and markets, sells, or offers for sale a variety of
2 personal and business communications devices in the United States, including
3 mobile handsets for use on a wireless network.

4 **II. JURISDICTION AND VENUE**

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

8 6. On information and belief, Defendant is subject to this Court's specific
9 and general personal jurisdiction pursuant to due process and/or the California
10 Long Arm Statute, due to having availed itself of the rights and benefits of
11 California by engaging in activities, including: (i) conducting substantial business
12 in this forum; and (ii) engaging in other persistent courses of conduct, and/or
13 deriving substantial revenue from goods and services provided to individuals in
14 California and in this Judicial District.

15 7. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c)
16 and 1400(b). On information and belief, Defendant has engaged in activities
17 including: transacting business in this district and purposefully directing its
18 business activities, including the sale of infringing goods, to this district.

19 **COUNT I**

20 **INFRINGEMENT OF U.S. PATENT NO. RE 40,385**

21 8. Plaintiff SPH realleges and incorporates by reference paragraphs 1-5
22 above, as if fully set forth herein.

23 9. Plaintiff SPH is the exclusive licensee of United States Patent No. RE
24 40,385 (“the ‘385 patent”) titled “Orthogonal Complex Spreading Method For
25 Multichannel And Apparatus Thereof.” The ‘385 patent was duly and legally
26 issued by the United States Patent and Trademark Office on June 17, 2008. SPH is
27 the exclusive licensee, possessing all substantial rights, to the ‘385 patent pursuant
28

1 to a license from the Electronics and Telecommunications Research Institute, a
2 South Korean non-profit research organization, the owner of the ‘385 patent.

3 10. On information and belief, Samsung makes and sells mobile handsets
4 for use on a wireless network.

5 11. On information and belief, Samsung has infringed and continues to
6 infringe the ‘385 patent by, among other things, making, using, offering for sale,
7 and/or selling unlicensed systems, and products and/or services related thereto,
8 covered by one or more claims of the ‘385 patent. Such unlicensed products
9 include, by way of example and without limitation, the Samsung ATIV Odyssey,
10 the Samsung Epic 4G, the Samsung Galaxy, the Samsung Galaxy Light, the
11 Samsung Galaxy Stratosphere II, the Samsung Galaxy Mega, the Samsung Galaxy
12 Note II, the Samsung Galaxy Note III, the Samsung Galaxy Prevail, the Samsung
13 Galaxy Prevail 2, the Samsung Galaxy Rush, the Samsung Galaxy S, the Samsung
14 Galaxy S II, the Samsung Galaxy S II Epic 4G Touch, the Samsung Galaxy S III
15 Mini, the Samsung Galaxy S3, the Samsung Galaxy S4, the Samsung Galaxy S4
16 Active, the Samsung Galaxy S 5, the Samsung Galaxy S Blaze, the Samsung
17 Galaxy Exhibit, the Samsung Galaxy Mega, the Samsung Transform Ultra, the
18 Samsung Gravity Q, and the Samsung Replenish, all of which are covered by one
19 or more claims of the ‘385 patent, including but not limited to claim 31. By
20 making, using, offering for sale, and/or selling such systems, and products and/or
21 services related thereto, covered by one or more claims of the ‘385 patent,
22 Samsung has injured SPH and is liable to SPH for infringement of the ‘385 patent
23 pursuant to 35 U.S.C. § 271.

24 12. Samsung was placed on notice of its infringement of the ‘385 Patent
25 no later than approximately December 29, 2010.

26 13. On information and belief, Samsung has also infringed the ‘385 patent
27 by inducing others, including users of its wireless handsets, to infringe one or more
28 claims of the ‘385 patent in violation of 35 U.S.C. § 271(b).

1 14. On information and belief, Samsung takes active steps to induce its
2 customers to infringe the '385 patent by taking affirmative steps to encourage and
3 facilitate direct infringement by others with knowledge of that infringement, such
4 as, upon information and belief, by importing, offering for sale, and/or selling
5 products and/or services that when used as intended infringe the '385 patent. For
6 example, and without limitation, on information and belief, Samsung advertises
7 that customers can utilize mobile devices to communicate using its network
8 services for 3G communications enabled pursuant to CDMA2000 technology or
9 WCDMA technology. Since December of 2010, Samsung has had actual
10 knowledge of the '385 patent and that the use of products and services by its
11 customers constituted direct infringement of the '385 patent. Despite this
12 knowledge, Samsung has continued to offer its infringing products, to facilitate and
13 encourage infringing use of its products, and to encourage its customers to use its
14 products and services in a manner that infringes the '385 patent.

15 15. On information and belief, Samsung has also infringed the '385 patent
16 by contributing to the infringement of others, including users of its handsets, to
17 infringe one or more claims of the '385 patent in violation of 35 U.S.C. § 271(c).

18 16. On information and belief, Samsung sells devices that are a
19 component of the patented invention of the '385 patent or an apparatus for use in
20 practicing a patented process of the '385 patent and they are especially made or
21 especially adapted for use in infringement of the '385 patent. In particular, the
22 mobile handsets sold and offered for sale by Samsung are apparatus for use in
23 practicing one or more claimed processes of the '385 patent and are especially
24 made or especially adapted for use in practicing one or more claimed processes of
25 the '385 patent, including through use in communications using CDMA2000
26 technology or WCDMA technology. Samsung sold these devices despite its
27 knowledge that they were especially made or especially adapted for use in
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1 infringement of the '385 patent. Samsung was put on notice of the infringing
2 nature of these goods since at least December of 2010.

3 17. Samsung undertook its actions of, *inter alia*, making, using, offering
4 for sale, and/or selling unlicensed systems, and products and/or services related
5 thereto despite an objectively high likelihood that such activities infringed the '385
6 patent, which has been duly issued by the United States Patent and Trademark
7 Office, and is presumed valid. Since at least December 29, 2010, Samsung has
8 been aware of an objectively high likelihood that its actions constituted, and
9 continue to constitute, infringement of the '385 patent and that the '385 patent is
10 valid. Despite that knowledge, on information and belief, Samsung has continued
11 its infringing activities. As such, Samsung willfully infringed the '385 patent.

12 18. As a result of Samsung's infringement of the '385 patent, Plaintiff
13 SPH has suffered monetary damages and is entitled to a money judgment in an
14 amount adequate to compensate for Samsung's infringement, but in no event less
15 than a reasonable royalty for the use made of the invention by Samsung,
16 enhancement of damages due to Samsung's willful infringement, and interest and
17 costs as fixed by the Court.

18 **COUNT II**

19 **INFRINGEMENT OF U.S. PATENT NO. RE 40,253**

20 19. Plaintiff SPH realleges and incorporates by reference paragraphs 1-16
21 above, as if fully set forth herein.

22 20. Plaintiff SPH is the exclusive licensee of United States Patent No. RE
23 40,253 ("the '253 patent") titled "Apparatus For Making A Random Access To the
24 Reverse Common Channel Of A Base Station In CDMA And Method Therefor."
25 The '253 patent was duly and legally issued by the United States Patent and
26 Trademark Office on April 22, 2008. SPH is the exclusive licensee, possessing all
27 substantial rights, to the '253 patent pursuant to a license from the Electronics and
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1 Telecommunications Research Institute, a South Korean non-profit research
2 organization, the owner of the ‘253 patent.

3 21. On information and belief, Samsung makes and sells mobile handsets
4 for use on a wireless network.

5 22. On information and belief, Samsung has infringed and continues to
6 infringe the ‘253 patent by, among other things, making, using, offering for sale,
7 and/or selling unlicensed systems, and products and/or services related thereto,
8 covered by one or more claims of the ‘253 patent. Such unlicensed products
9 include, by way of example and without limitation, the Samsung Galaxy, the
10 Samsung Galaxy Light, the Samsung Galaxy Mega, the Samsung Galaxy Note II,
11 the Samsung Galaxy Note III, the Samsung Galaxy S, the Samsung Galaxy S II,
12 the Samsung Galaxy S3, the Samsung Galaxy S4, the Samsung Galaxy S4 Active,
13 the Samsung Galaxy S 5, the Samsung Galaxy S Blaze, the Samsung Galaxy
14 Exhibit, the Samsung Galaxy Mega, and the Samsung Gravity Q, all of which are
15 covered by one or more claims of the ‘253 patent, including but not limited to
16 claim 34. By making, using, offering for sale, and/or selling such systems, and
17 products and/or services related thereto, covered by one or more claims of the ‘253
18 patent, Samsung has injured SPH and is liable to SPH for infringement of the ‘253
19 patent pursuant to 35 U.S.C. § 271.

20 23. Samsung was placed on notice of its infringement of the ‘253 Patent
21 no later than approximately December 29, 2010.

22 24. On information and belief, Samsung has also infringed the ‘253 patent
23 by inducing others, including users of its wireless handsets, to infringe one or more
24 claims of the ‘253 patent in violation of 35 U.S.C. § 271(b).

25 25. On information and belief, Samsung takes active steps to induce its
26 customers to infringe the ‘253 patent by taking affirmative steps to encourage and
27 facilitate direct infringement by others with knowledge of that infringement, such
28 as, upon information and belief, by importing, offering for sale, and/or selling

1 products and/or services that when used as intended infringe the ‘253 patent. For
2 example, and without limitation, on information and belief, Samsung advertises
3 that customers can utilize its mobile devices for 3G communications enabled
4 pursuant to WCDMA technology. Since at least December of 2010, Samsung has
5 had actual knowledge of the ‘253 patent and that the use of products and services
6 by its customers constituted direct infringement of the ‘253 patent. Despite this
7 knowledge, Samsung has continued to offer its infringing products, to facilitate and
8 encourage infringing use of its products, and to encourage its customers to use its
9 products and services in a manner that infringes the ‘253 patent.

10 26. On information and belief, Samsung has also infringed the ‘253 patent
11 by contributing to the infringement of others, including users of its wireless
12 handsets, to infringe one or more claims of the ‘253 patent in violation of 35
13 U.S.C. § 271(c).

14 27. On information and belief, Samsung sells devices that are a
15 component of the patented invention of the ‘253 patent or an apparatus for use in
16 practicing a patented process of the ‘253 patent and they are especially made or
17 especially adapted for use in infringement of the ‘253 patent. In particular, the
18 mobile handsets sold and offered for sale by Samsung are apparatus for use in
19 practicing one or more claimed processes of the ‘253 patent and are especially
20 made or especially adapted for use in practicing one or more claimed processes of
21 the ‘253 patent, including through use in communications using WCDMA
22 technology. Samsung sold these unlicensed devices despite its knowledge that
23 they were especially made or especially adapted for use in infringement of the ‘253
24 patent. Samsung was put on notice of the infringing nature of these goods since at
25 least December of 2010.

26 28. Samsung undertook its actions of, *inter alia*, making, using, offering
27 for sale, and/or selling unlicensed systems, and products and/or services related
28 thereto despite an objectively high likelihood that such activities infringed the ‘253

1 patent, which has been duly issued by the United States Patent and Trademark
2 Office, and is presumed valid. Since at least December of 2010, Samsung has been
3 aware of an objectively high likelihood that its actions constituted, and continue to
4 constitute, infringement of the '253 patent and that the '253 patent is valid.
5 Despite that knowledge, on information and belief, Samsung has continued its
6 infringing activities. As such, Samsung willfully infringed the '253 patent.

7 29. As a result of Samsung's infringement of the '253 patent, Plaintiff
8 SPH has suffered monetary damages and is entitled to a money judgment in an
9 amount adequate to compensate for Samsung's infringement, but in no event less
10 than a reasonable royalty for the use made of the invention by Samsung,
11 enhancement of damages due to Samsung's willful infringement, and interest and
12 costs as fixed by the Court.

13 **COUNT III**

14 **INFRINGEMENT OF U.S. PATENT NO. 7,443,906**

15 30. Plaintiff SPH realleges and incorporates by reference paragraphs 1-27
16 above, as if fully set forth herein.

17 31. Plaintiff SPH is the exclusive licensee of United States Patent No.
18 7,443,906 ("the '906 patent") titled "Apparatus and Method For Modulating Data
19 Message by Employing Orthogonal Variable Spreading Factor (OVSF) Codes In
20 Mobile Communication System." The '906 patent was duly and legally issued by
21 the United States Patent and Trademark Office on October 28, 2008. SPH is the
22 exclusive licensee, possessing all substantial rights, to the '906 patent pursuant to a
23 license from the Electronics and Telecommunications Research Institute, a South
24 Korean non-profit research organization, the owner of the '906 patent.

25 32. On information and belief, Samsung makes and sells mobile handsets
26 for use on a wireless network.

27 33. On information and belief, Samsung has infringed and continues to
28 infringe the '906 patent by, among other things, making, using, offering for sale,

1 and/or selling unlicensed systems, and products and/or services related thereto,
2 covered by one or more claims of the '906 patent. Such unlicensed products
3 include, by way of example and without limitation, the Samsung Galaxy, the
4 Samsung Galaxy Light, the Samsung Galaxy Mega, the Samsung Galaxy Note II,
5 the Samsung Galaxy Note III, the Samsung Galaxy S, the Samsung Galaxy S II,
6 the Samsung Galaxy S3, the Samsung Galaxy S4, the Samsung Galaxy S4 Active,
7 the Samsung Galaxy S 5, the Samsung Galaxy S Blaze, the Samsung Galaxy
8 Exhibit, the Samsung Galaxy Mega, and the Samsung Gravity Q, all of which are
9 covered by one or more claims of the '906 patent, including but not limited to
10 claim 14. By making, using, offering for sale, and/or selling such systems, and
11 products and/or services related thereto, covered by one or more claims of the '906
12 patent, Samsung has injured SPH and is liable to SPH for infringement of the '906
13 patent pursuant to 35 U.S.C. § 271.

14 34. Samsung was placed on notice of its infringement of the '906 Patent
15 no later than approximately December 29, 2010.

16 35. On information and belief, Samsung has also infringed the '906 patent
17 by inducing others, including users of its wireless handsets to infringe one or more
18 claims of the '906 patent in violation of 35 U.S.C. § 271(b).

19 36. On information and belief, Samsung takes active steps to induce its
20 customers to infringe the '906 patent by taking affirmative steps to encourage and
21 facilitate direct infringement by others with knowledge of that infringement, such
22 as, upon information and belief, by importing, offering for sale, and/or selling
23 products and/or services that when used as intended infringe the '906 patent. For
24 example, and without limitation, on information and belief, Samsung advertises
25 that customers can utilize its mobile devices to communicate using 3G
26 communications enabled pursuant to WCDMA technology. Since at least
27 December of 2010, Samsung has had actual knowledge of the '906 patent and that
28 the use of products and services by its customers constituted direct infringement of

1 the '906 patent. Despite this knowledge, Samsung has continued to offer its
2 infringing products, to facilitate and encourage infringing use of its products, and
3 to encourage its customers to use its products and services in a manner that
4 infringes the '906 patent.

5 37. On information and belief, Samsung has also infringed the '906 patent
6 by contributing to the infringement of others, including users of its wireless
7 handsets, to infringe one or more claims of the '906 patent in violation of 35
8 U.S.C. § 271(c).

9 38. On information and belief, Samsung sells devices that are a
10 component of the patented invention of the '906 patent or an apparatus for use in
11 practicing a patented process of the '906 patent and they are especially made or
12 especially adapted for use in infringement of the '906 patent. In particular, the
13 unlicensed mobile handsets sold and offered for sale by Samsung are apparatus for
14 use in practicing one or more claimed processes of the '906 patent and are
15 especially made or especially adapted for use in practicing one or more claimed
16 processes of the '906 patent, including through use in communications using
17 WCDMA technology. Samsung sold these unlicensed devices despite its
18 knowledge that they were especially made or especially adapted for use in
19 infringement of the '906 patent. Samsung was put on notice of the infringing
20 nature of these goods since at least December of 2010.

21 39. Samsung undertook its actions of, *inter alia*, making, using, offering
22 for sale, and/or selling unlicensed systems, and products and/or services related
23 thereto despite an objectively high likelihood that such activities infringed the '906
24 patent, which has been duly issued by the United States Patent and Trademark
25 Office, and is presumed valid. Since at least December of 2010, Samsung has been
26 aware of an objectively high likelihood that its actions constituted, and continue to
27 constitute, infringement of the '906 patent and that the '906 patent is valid.
28

1 Despite that knowledge, on information and belief, Samsung has continued its
2 infringing activities. As such, Samsung willfully infringed the ‘906 patent.

3 40. As a result of Samsung’s infringement of the ‘906 patent, Plaintiff
4 SPH has suffered monetary damages and is entitled to a money judgment in an
5 amount adequate to compensate for Samsung’s infringement, but in no event less
6 than a reasonable royalty for the use made of the invention by Samsung,
7 enhancement of damages due to Samsung’s willful infringement, and interest and
8 costs as fixed by the Court.

9 **COUNT IV**

10 **INFRINGEMENT OF U.S. PATENT NO. 5,960,029**

11 41. Plaintiff SPH realleges and incorporates by reference paragraphs 1-38
12 above, as if fully set forth herein.

13 42. Plaintiff SPH is the exclusive licensee of United States Patent No.
14 5,960,029 (“the ‘029 patent”) titled “Coherent Dual-Channel QPSK
15 Modulator/Demodulator For CDMA Systems, And Modulating/Demodulating
16 Methods Therefor.” The ‘029 patent was duly and legally issued by the United
17 States Patent and Trademark Office on September 28, 1999. SPH is the exclusive
18 licensee, possessing all substantial rights, to the ‘029 patent pursuant to a license
19 from the Electronics and Telecommunications Research Institute, a South Korean
20 non-profit research organization, the owner of the ‘029 patent.

21 43. On information and belief, Samsung makes and sells mobile handsets
22 for use on a wireless network.

23 44. On information and belief, Samsung has infringed and continues to
24 infringe the ‘029 patent by, among other things, making, using, offering for sale,
25 and/or selling unlicensed systems, and products and/or services related thereto,
26 covered by one or more claims of the ‘029 patent. Such unlicensed products
27 include, by way of example and without limitation, the Samsung ATIV Odyssey,
28 the Samsung Epic 4G, the Samsung Galaxy, the Samsung Galaxy Light, the

1 Samsung Galaxy Stratosphere II, the Samsung Galaxy Mega, the Samsung Galaxy
2 Note II, the Samsung Galaxy Note III, the Samsung Galaxy Prevail, the Samsung
3 Galaxy Prevail 2, the Samsung Galaxy Rush, the Samsung Galaxy S, the Samsung
4 Galaxy S II, the Samsung Galaxy S II Epic 4G Touch, the Samsung Galaxy S III
5 Mini, the Samsung Galaxy S3, the Samsung Galaxy S4, the Samsung Galaxy S4
6 Active, the Samsung Galaxy S 5, the Samsung Galaxy S Blaze, the Samsung
7 Galaxy Exhibit, the Samsung Galaxy Mega, the Samsung Transform Ultra, the
8 Samsung Gravity Q, and the Samsung Replenish, all of which are covered by one
9 or more claims of the '029 patent, including but not limited to claim 1. By making,
10 using, offering for sale, and/or selling such systems, and products and/or services
11 related thereto, covered by one or more claims of the '029 patent, Samsung has
12 injured SPH and is liable to SPH for infringement of the '029 patent pursuant to 35
13 U.S.C. § 271.

14 45. Samsung was placed on notice of its infringement of the '029 Patent
15 no later than approximately December 29, 2010.

16 46. On information and belief, Samsung has also infringed the '029 patent
17 by inducing others, including users of its wireless handsets to infringe one or more
18 claims of the '029 patent in violation of 35 U.S.C. § 271(b).

19 47. On information and belief, Samsung takes active steps to induce its
20 customers to infringe the '029 patent by taking affirmative steps to encourage and
21 facilitate direct infringement by others with knowledge of that infringement, such
22 as, upon information and belief, by importing, offering for sale, and/or selling
23 products and/or services that when used as intended infringe the '029 patent. For
24 example, and without limitation, on information and belief, Samsung advertises
25 that customers can utilize its mobile devices to communicate using 3G
26 communications enabled pursuant to CDMA 2000 technology or WCDMA
27 technology. Since at least December of 2010, Samsung has had actual knowledge
28 of the '029 patent and that the use of products and services by its customers

1 constituted direct infringement of the '029 patent. Despite this knowledge,
2 Samsung has continued to offer its infringing products, to facilitate and encourage
3 infringing use of its products, and to encourage its customers to use its products
4 and services in a manner that infringes the '029 patent.

5 48. On information and belief, Samsung has also infringed the '029 patent
6 by contributing to the infringement of others, including users of unlicensed
7 wireless handsets, to infringe one or more claims of the '029 patent in violation of
8 35 U.S.C. § 271(c).

9 49. On information and belief, Samsung sells devices that are a
10 component of the patented invention of the '029 patent or an apparatus for use in
11 practicing a patented process of the '029 patent and they are especially made or
12 especially adapted for use in infringement of the '029 patent. In particular, the
13 unlicensed mobile handsets sold and offered for sale by Samsung are apparatus for
14 use in practicing one or more claimed processes of the '029 patent and are
15 especially made or especially adapted for use in practicing one or more claimed
16 processes of the '029 patent, including through use in communications using
17 CDMA2000 technology or WCDMA technology. Samsung sold these unlicensed
18 devices despite its knowledge that they were especially made or especially adapted
19 for use in infringement of the '029 patent. Samsung was put on notice of the
20 infringing nature of these goods since at least December of 2010.

21 50. Samsung undertook its actions of, *inter alia*, making, using, offering
22 for sale, and/or selling unlicensed systems, and products and/or services related
23 thereto despite an objectively high likelihood that such activities infringed the '029
24 patent, which has been duly issued by the United States Patent and Trademark
25 Office, and is presumed valid. Since at least December of 2010, Samsung has been
26 aware of an objectively high likelihood that its actions constituted, and continue to
27 constitute, infringement of the '029 patent and that the '029 patent is valid.
28

1 Despite that knowledge, on information and belief, Samsung has continued its
2 infringing activities. As such, Samsung willfully infringed the '029 patent.

3 51. As a result of Samsung's infringement of the '029 patent, Plaintiff
4 SPH has suffered monetary damages and is entitled to a money judgment in an
5 amount adequate to compensate for Samsung's infringement, but in no event less
6 than a reasonable royalty for the use made of the invention by Samsung,
7 enhancement of damages due to Samsung's willful infringement, and interest and
8 costs as fixed by the Court.

9 **COUNT V**

10 **INFRINGEMENT OF U.S. PATENT NO. 8,121,173**

11 52. Plaintiff SPH realleges and incorporates by reference paragraphs 1-49
12 above, as if fully set forth herein.

13 53. Plaintiff SPH is the exclusive licensee of United States Patent No.
14 8,121,173 ("the '173 patent") titled "Apparatus And Method For Modulating Data
15 Message By Employing Orthogonal Variable Spreading Factor (OVSF) Codes In
16 Mobile Communicating System." The '173 patent was duly and legally issued by
17 the United States Patent and Trademark Office on February 21, 2012. SPH is the
18 exclusive licensee, possessing all substantial rights, to the '173 patent pursuant to a
19 license from the Electronics and Telecommunications Research Institute, a South
20 Korean non-profit research organization, the owner of the '173 patent.

21 54. On information and belief, Samsung makes and sells mobile handsets
22 for use on a wireless network.

23 55. On information and belief, Samsung has infringed and continues to
24 infringe the '173 patent by, among other things, making, using, offering for sale,
25 and/or selling unlicensed systems, and products and/or services related thereto,
26 covered by one or more claims of the '173 patent. Such unlicensed products
27 include, by way of example and without limitation, the Samsung Galaxy, the
28 Samsung Galaxy Light, the Samsung Galaxy Mega, the Samsung Galaxy Note II,

1 the Samsung Galaxy Note III, the Samsung Galaxy S, the Samsung Galaxy S II,
2 the Samsung Galaxy S3, the Samsung Galaxy S4, the Samsung Galaxy S4 Active,
3 the Samsung Galaxy S 5, the Samsung Galaxy S Blaze, the Samsung Galaxy
4 Exhibit, the Samsung Galaxy Mega, and the Samsung Gravity Q, all of which are
5 covered by one or more claims of the ‘173 patent, including but not limited to
6 claim 1. By making, using, offering for sale, and/or selling such systems, and
7 products and/or services related thereto, covered by one or more claims of the ‘173
8 patent, Samsung has injured SPH and is liable to SPH for infringement of the ‘173
9 patent pursuant to 35 U.S.C. § 271.

10 56. As a result of Samsung’s infringement of the ‘173 patent, Plaintiff
11 SPH has suffered monetary damages and is entitled to a money judgment in an
12 amount adequate to compensate for Samsung’s infringement, but in no event less
13 than a reasonable royalty for the use made of the invention by Samsung, and
14 interest and costs as fixed by the Court.

15 **COUNT VI**

16 **INFRINGEMENT OF U.S. PATENT NO. RE 44,507**

17 57. Plaintiff SPH realleges and incorporates by reference paragraphs 1-54
18 above, as if fully set forth herein.

19 58. Plaintiff SPH is the exclusive licensee of United States Patent No. RE
20 44,507 (“the ‘507 patent”) titled “Orthogonal Complex Spreading Method for
21 Multichannel and Apparatus Thereof.” The ‘507 patent was duly and legally
22 issued by the United States Patent and Trademark Office on September 24, 2013.
23 SPH is the exclusive licensee, possessing all substantial rights, to the ‘507 patent
24 pursuant to a license from the Electronics and Telecommunications Research
25 Institute, a South Korean non-profit research organization, the owner of the ‘507
26 patent.

27 59. On information and belief, Samsung makes and sells mobile handsets
28 for use on a wireless network.

1 63. Plaintiff SPH is the exclusive licensee of United States Patent No. RE
2 44,530 (“the ‘530 patent”) titled “Apparatus for Making a Random Access to the
3 Reverse Common Channel of a Base Station in CDMA and Method Therefor.”
4 The ‘530 patent was duly and legally issued by the United States Patent and
5 Trademark Office on October 8, 2013. SPH is the exclusive licensee, possessing
6 all substantial rights, to the ‘530 patent pursuant to a license from the Electronics
7 and Telecommunications Research Institute, a South Korean non-profit research
8 organization, the owner of the ‘530 patent.

9 64. On information and belief, Samsung makes and sells mobile handsets
10 for use on a wireless network.

11 65. On information and belief, Samsung has infringed and continues to
12 infringe the ‘530 patent by, among other things, making, using, offering for sale,
13 and/or selling unlicensed systems, and products and/or services related thereto,
14 covered by one or more claims of the ‘530 patent. Such unlicensed products
15 include, by way of example and without limitation, the Samsung Galaxy, the
16 Samsung Galaxy Light, the Samsung Galaxy Mega, the Samsung Galaxy Note II,
17 the Samsung Galaxy Note III, the Samsung Galaxy S, the Samsung Galaxy S II,
18 the Samsung Galaxy S3, the Samsung Galaxy S4, the Samsung Galaxy S4 Active,
19 the Samsung Galaxy S 5, the Samsung Galaxy S Blaze, the Samsung Galaxy
20 Exhibit, the Samsung Galaxy Mega, and the Samsung Gravity Q, all of which are
21 covered by one or more claims of the ‘530 patent, including but not limited to
22 claim 222. By making, using, offering for sale, and/or selling such systems, and
23 products and/or services related thereto, covered by one or more claims of the ‘530
24 patent, Samsung has injured SPH and is liable to SPH for infringement of the ‘530
25 patent pursuant to 35 U.S.C. § 271.

26 66. As a result of Samsung’s infringement of the ‘530 patent, Plaintiff
27 SPH has suffered monetary damages and is entitled to a money judgment in an
28 amount adequate to compensate for Samsung’s infringement, but in no event less

1 than a reasonable royalty for the use made of the invention by Samsung, and
2 interest and costs as fixed by the Court.

3 **COUNT VIII**

4 **INFRINGEMENT OF U.S. PATENT NO. 8,565,346**

5 67. Plaintiff SPH realleges and incorporates by reference paragraphs 1-64
6 above, as if fully set forth herein.

7 68. Plaintiff SPH is the exclusive licensee of United States Patent No.
8 8,565,346 (“the ‘346 patent”) titled “Apparatus for Transmitting and Receiving
9 Data to Provide High-Speed Data Communication and Method Thereof.” The
10 ‘346 patent was duly and legally issued by the United States Patent and Trademark
11 Office on October 22, 2013. SPH is the exclusive licensee, possessing all
12 substantial rights, to the ‘346 patent pursuant to a license from the Electronics and
13 Telecommunications Research Institute, a South Korean non-profit research
14 organization, the owner of the ‘346 patent.

15 69. On information and belief, Samsung makes and sells mobile handsets
16 capable of wireless local area network connectivity.

17 70. On information and belief, Samsung has infringed and continues to
18 infringe the ‘346 patent by, among other things, making, using, offering for sale,
19 and/or selling unlicensed systems, and products and/or services related thereto,
20 covered by one or more claims of the ‘346 patent. Such unlicensed products
21 include, by way of example and without limitation, the Samsung ATIV Odyssey,
22 the Samsung Epic 4G, the Samsung Galaxy, the Samsung Galaxy Light, the
23 Samsung Galaxy Stratosphere II, the Samsung Galaxy Mega, the Samsung Galaxy
24 Note II, the Samsung Galaxy Note III, the Samsung Galaxy Rush, the Samsung
25 Galaxy S, the Samsung Galaxy S II, the Samsung Galaxy S II Epic 4G Touch, the
26 Samsung Galaxy S III Mini, the Samsung Galaxy S3, the Samsung Galaxy S4, the
27 Samsung Galaxy S4 Active, the Samsung Galaxy S 5, the Samsung Galaxy S
28 Blaze, the Samsung Galaxy Exhibit, the Samsung Galaxy Mega, and the Samsung

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1 Transform Ultra, all of which are covered by one or more claims of the ‘346
2 patent, including but not limited to claim 1. By making, using, offering for sale,
3 and/or selling such systems, and products and/or services related thereto, covered
4 by one or more claims of the ‘346 patent, Samsung has injured SPH and is liable to
5 SPH for infringement of the ‘346 patent pursuant to 35 U.S.C. § 271.

6 71. As a result of Samsung’s infringement of the ‘346 patent, Plaintiff
7 SPH has suffered monetary damages and is entitled to a money judgment in an
8 amount adequate to compensate for Samsung’s infringement, but in no event less
9 than a reasonable royalty for the use made of the invention by Samsung, and
10 interests and costs as fixed by the Court.

11 **COUNT IX**

12 **INFRINGEMENT OF U.S. PATENT NO. 8,532,231**

13 72. Plaintiff SPH realleges and incorporates by reference paragraphs 1-69
14 above, as if fully set forth herein.

15 73. Plaintiff SPH is the exclusive licensee of United States Patent No.
16 8,532,231 (“the ‘231 patent”) titled “Apparatus for Transmitting and Receiving
17 Data to Provide High-Speed Data Communication and Method Thereof.” The
18 ‘231 patent was duly and legally issued by the United States Patent and Trademark
19 Office on September 10, 2013. SPH is the exclusive licensee, possessing all
20 substantial rights, to the ‘231 patent pursuant to a license from the Electronics and
21 Telecommunications Research Institute, a South Korean non-profit research
22 organization, the owner of the ‘231 patent.

23 74. On information and belief, Samsung makes and sells mobile handsets
24 capable of wireless local area network connectivity.

25 75. On information and belief, Samsung has infringed and continues to
26 infringe the ‘231 patent by, among other things, making, using, offering for sale,
27 and/or selling unlicensed systems, and products and/or services related thereto,
28 covered by one or more claims of the ‘231 patent. Such unlicensed products

1 include, by way of example and without limitation, the Samsung ATIV Odyssey,
2 the Samsung Epic 4G, the Samsung Galaxy, the Samsung Galaxy Light, the
3 Samsung Galaxy Stratosphere II, the Samsung Galaxy Mega, the Samsung Galaxy
4 Note II, the Samsung Galaxy Note III, the Samsung Galaxy Rush, the Samsung
5 Galaxy S, the Samsung Galaxy S II, the Samsung Galaxy S II Epic 4G Touch, the
6 Samsung Galaxy S III Mini, the Samsung Galaxy S3, the Samsung Galaxy S4, the
7 Samsung Galaxy S4 Active, the Samsung Galaxy S 5, the Samsung Galaxy S
8 Blaze, the Samsung Galaxy Exhibit, the Samsung Galaxy Mega, and the Samsung
9 Transform Ultra, all of which are covered by one or more claims of the ‘231
10 patent, including but not limited to claim 35. By making, using, offering for sale,
11 and/or selling such systems, and products and/or services related thereto, covered
12 by one or more claims of the ‘231 patent, Samsung has injured SPH and is liable to
13 SPH for infringement of the ‘231 patent pursuant to 35 U.S.C. § 271.

14 76. As a result of Samsung’s infringement of the ‘231 patent, Plaintiff
15 SPH has suffered monetary damages and is entitled to a money judgment in an
16 amount adequate to compensate for Samsung’s infringement, but in no event less
17 than a reasonable royalty for the use made of the invention by Samsung, and
18 interests and costs as fixed by the Court.

19 **III. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff SPH respectfully requests that this Court enter:

21 1. A judgment in favor of Plaintiff SPH that Samsung has infringed,
22 either literally and/or under the doctrine of equivalents, the ‘385 patent, the ‘253
23 patent, the ‘906 patent, the ‘029 patent, the ‘173 patent, the ‘507 patent, the ‘530
24 patent, the ‘346 patent, and the ‘231 patent;

25 2. A judgment in favor of Plaintiff SPH that Samsung has induced
26 infringement of the ‘385 patent, the ‘253 patent, the ‘906 patent, and the ‘029
27 patent;

28

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1 3. A judgment in favor of Plaintiff SPH that Samsung has contributed to
2 the infringement of the ‘385 patent, the ‘253 patent, the ‘906 patent, and the ‘029
3 patent;

4 4. A judgment in favor of Plaintiff SPH that Samsung has willfully
5 infringed the ‘385 patent, the ‘253 patent, the ‘906 patent, and the ‘029 patent;

6 5. A judgment and order requiring Samsung to pay Plaintiff SPH its
7 damages, costs, expenses, and pre-judgment and post-judgment interest as
8 provided under 35 U.S.C. § 284 for Samsung’s infringement of the ‘385 patent, the
9 ‘253 patent, the ‘906 patent, the ‘029 patent, the ‘173 patent, the ‘507 patent, the
10 ‘530 patent, the ‘346 patent, and the ‘231 patent;

11 6. A judgment and order for treble damages pursuant to 35 U.S.C. § 284;

12 7. A judgment and order that this case is exceptional and requiring
13 Samsung to pay Plaintiff SPH reasonable experts’ fees and attorneys’ fees pursuant
14 to 35 U.S.C. § 285; and

15 8. Any and all other relief as the Court may deem appropriate and just
16 under the circumstances.

17 **IV. DEMAND FOR JURY TRIAL**

18 Plaintiff SPH requests a trial by jury of any issues so triable.

19
20 DATED: June 17, 2014

RUSS, AUGUST & KABAT
Larry C. Russ
Marc A. Fenster
Brian D. Ledahl
Alexander C.D. Giza
J. Power Hely VI

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23
24 By: /s J. Power Hely VI
25 J. Power Hely VI
26 Attorneys for Plaintiff
27 SPH America, LLC
28

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SPH America, LLC

(b) County of Residence of First Listed Plaintiff Fairfax County, VA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Russ, August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025 Telephone: 310-826-7474

DEFENDANTS

Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC

County of Residence of First Listed Defendant Seoul, Republic of Korea (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) '14CV1474 AJB JLB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 35 U.S.C. s. 271
Brief description of cause: Patent Infringement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes O No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Hon. Cathy Ann Bencivengo DOCKET NUMBER 09cv02535 CAB (KSC)

DATE 06/17/2014 SIGNATURE OF ATTORNEY OF RECORD /s Power Hely VI

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RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE