

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

**CHARLES C. FREENY III, BRYAN E.
FREENY, and JAMES P. FREENY,**

Case No. _____

Plaintiffs,

JURY TRIAL DEMANDED

v.

**SAMSUNG
TELECOMMUNICATIONS
AMERICA, LLC,**

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Charles C. Freeny III, Bryan E. Freeny, and James P. Freeny (collectively “Plaintiffs”), for their Complaint against Defendant Samsung Telecommunications America, LLC, hereby allege as follows:

THE PARTIES

1. Plaintiff Charles C. Freeny III is an individual residing in Flower Mound, Texas.
2. Plaintiff Bryan E. Freeny is an individual residing in Ft. Worth, Texas.
3. Plaintiff James P. Freeny is an individual residing in Spring, Texas.
4. On information and belief, Defendant Samsung Telecommunications America, LLC (“Samsung”) is a corporation duly organized and existing under the laws of the State of Texas, having its principal place of business at 1301 E. Lookout Drive, Richardson, Texas 75082.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the Patent Act, 35 U.S.C. §§101 et seq. This Court has jurisdiction over Plaintiffs' federal law claims under 28 U.S.C. §§1331 and 1338(a).

6. This Court has specific and/or general personal jurisdiction over Defendant Samsung because it has committed acts giving rise to this action within this judicial district and/or has established minimum contacts within Texas and within this judicial district such that the exercise of jurisdiction over each would not offend traditional notions of fair play and substantial justice.

7. Venue is proper in this District pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) because Samsung has committed acts within this judicial district giving rise to this action, and continues to conduct business in this district, and/or has committed acts of patent infringement within this District giving rise to this action.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 6,490,443)

8. Plaintiffs re-allege and incorporate by reference the allegations set forth in the Paragraphs above as if fully set forth herein.

9. On December 3, 2002, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 6,490,443 ("the '443 patent"), entitled "Communication and Proximity Authorization Systems." A true and correct copy of the '443 patent is attached hereto as **Exhibit A**.

10. The named inventor of the '443 patent is Charles C. Freeny, Jr., who is now deceased.

11. Plaintiffs are the sons of Charles C. Freeny, Jr., and Plaintiffs are the owners and assignees of all right, title and interest in and to the '443 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

12. On information and belief, Samsung has been and now is directly infringing the '443 patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering for sale, and/or importing into the United States mobile devices that embody one or more of the inventions claimed in the '443 patent, including but not limited to the Samsung Galaxy S4 and S5 smartphones and all reasonably similar products ("the accused Samsung products"), in violation of 35 U.S.C. § 271(a).

13. On information and belief, Samsung is inducing and/or has induced infringement of one or more claims of the '443 patent as a result of, among other activities, instructing, encouraging, and directing its customers on the use of the accused Samsung products in an infringing manner in violation of 35 U.S.C. § 271(b). On information and belief, Samsung has had knowledge of the '443 patent since at least the date of service of this Complaint. Despite this knowledge of the '443 patent, Samsung has continued to engage in activities to encourage and assist its customers in the use of the accused Samsung products. For example, through its website at www.samsung.com/us, Samsung advertises the accused Samsung products and provides instructions and technical support on the use the accused Samsung products. On information and belief, by using the accused Samsung products as encouraged and assisted by Samsung, Samsung's customers have directly infringed and continue to directly infringe one or more claims of the '443 patent. On information and belief, Samsung knew or was willfully blind to the fact that its activities in encouraging and assisting customers in the use of the accused

Samsung products, including but not limited to the activities set forth above, would induce its customers' direct infringement of the '443 patent.

14. On information and belief, Samsung will continue to infringe the '443 patent unless enjoined by this Court.

15. Samsung acts of infringement have damaged Plaintiffs in an amount to be proven at trial, but in no event less than a reasonable royalty. Samsung's infringement of Plaintiffs' rights under the '443 patent will continue to damage Plaintiffs, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 6,806,977)

16. Plaintiffs re-allege and incorporate by reference the allegations set forth in the Paragraphs above as if fully set forth herein.

17. On October 19, 2004, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 6,806,977 ("the '977 patent"), entitled "Multiple Integrated Machine System." A true and correct copy of the '977 patent is attached hereto as **Exhibit B**.

18. Plaintiffs are the owners and assignees of all right, title and interest in and to the '977 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

19. On information and belief, Samsung has been and now is directly infringing the '977 patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering for sale, and/or importing into the United States mobile devices that embody one or more of the inventions claimed in the '977 patent,

including but not limited to the accused Samsung products, in violation of 35 U.S.C. § 271(a).

20. On information and belief, Samsung has had knowledge of the '977 patent and its contents since at least around August 24, 2010, when the '977 patent was cited by the United States Patent and Trademark Office in the prosecution of U.S. Patent No. 8,009,234 ("the '234 patent"). On information and belief, Samsung's parent corporation, Samsung Electronics Co., Ltd., is or was the owner of the '234 patent and was involved in the prosecution of the '234 patent. On information and belief, Samsung Electronics Co., Ltd. has shared and continues to share information with its United States subsidiary Samsung regarding the prosecution of its United States patents, including the '234 patent.

21. In an Office Action dated August 24, 2010 in the prosecution of the '234 patent, the patent examiner rejected claims in the application for the '234 patent as obvious in light of the '977 patent. In response, Samsung Electronics Co., Ltd. chose to amend the claims in the application for the '234 patent to distinguish them from the '977 patent.

22. On information and belief, based on Samsung's knowledge of the '977 patent acquired from the prosecution of the '234 patent, Samsung knew or should have known that there was an objectively high risk that the accused Samsung products infringe the '977 patent.

23. Samsung has also been on notice of the '977 patent and Plaintiffs' allegations of infringement in this action since at least the date of service of this Complaint.

24. Despite being on notice of the '977 patent and its direct infringement of the patent, Samsung has continued with its infringing activities.

25. On information and belief, Samsung is inducing and/or has induced infringement of one or more claims of the '977 patent as a result of, among other activities, instructing, encouraging, and directing its customers on the use of the accused Samsung products in an

infringing manner in violation of 35 U.S.C. § 271(b). Despite its knowledge of the '977 patent, Samsung has continued to engage in activities to encourage and assist its customers in the use of the accused Samsung products. For example, through its website at www.samsung.com/us, Samsung advertises the accused Samsung products and provides instructions and technical support on the use the accused Samsung products. On information and belief, by using the accused Samsung products as encouraged and assisted by Samsung, Samsung's customers have directly infringed and continue to directly infringe one or more claims of the '977 patent. On information and belief, Samsung knew or was willfully blind to the fact that its activities in encouraging and assisting customers in the use of the accused Samsung products, including but not limited to the activities set forth above, would induce its customers' direct infringement of the '977 patent.

26. On information and belief, Samsung will continue to infringe the '977 patent unless enjoined by this Court.

27. Samsung acts of infringement have damaged Plaintiffs in an amount to be proven at trial, but in no event less than a reasonable royalty. Samsung infringement of Plaintiffs' rights under the '977 patent will continue to damage Plaintiffs, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

28. On information and belief, Samsung's infringement of the '977 patent has been willful, thereby entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

COUNT III

(INFRINGEMENT OF U.S. PATENT NO. 7,301,664)

29. Plaintiffs re-allege and incorporate by reference the allegations set forth in the Paragraphs above as if fully set forth herein.

30. On November 27, 2007, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 7,301,664 (“the ’664 patent”), entitled “Multiple Integrated Machine System.” A true and correct copy of the ’664 patent is attached hereto as **Exhibit C**.

31. Plaintiffs are the owners and assignees of all right, title and interest in and to the ’664 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

32. On information and belief, Samsung has been and now is directly infringing the ’664 patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering for sale, and/or importing into the United States mobile devices that embody one or more of the inventions claimed in the ’664 patent, including but not limited to the accused Samsung products, in violation of 35 U.S.C. § 271(a).

33. On information and belief, Samsung has had knowledge of the ’664 patent and its contents since at least around September 23, 2009, when the ’664 patent was cited by the United States Patent and Trademark Office in the prosecution of the ’234 patent. On information and belief, Samsung’s parent corporation, Samsung Electronics Co., Ltd., is or was the owner of the ’234 patent and was involved in the prosecution of the ’234 patent. On information and belief, Samsung Electronics Co., Ltd. has shared and continues to share information with its United

States subsidiary Samsung regarding the prosecution of its United States patents, including the '234 patent.

34. In an Office Action dated September 23, 2009 in the prosecution of the '234 patent, the patent examiner identified the '664 patent as relevant prior art to the '234 patent. In response to the Office Action, Samsung Electronics Co., Ltd. chose to amend the claims in the application for the '234 patent to distinguish them from the prior art.

35. On information and belief, based on Samsung's knowledge of the '664 patent acquired from the prosecution of the '234 patent, Samsung knew or should have known that there was an objectively high risk that the accused Samsung products infringe the '664 patent.

36. Samsung has also been on notice of the '664 patent and Plaintiffs' allegations of infringement in this action since at least the date of service of this Complaint.

37. Despite being on notice of the '664 patent and its direct infringement of the patent, Samsung has continued with its infringing activities.

38. On information and belief, Samsung is inducing and/or has induced infringement of one or more claims of the '664 patent as a result of, among other activities, instructing, encouraging, and directing its customers on the use of the accused Samsung products in an infringing manner in violation of 35 U.S.C. § 271(b). Despite its knowledge of the '664 patent, Samsung has continued to engage in activities to encourage and assist its customers in the use of the accused Samsung products. For example, through its website at www.samsung.com/us, Samsung advertises the accused Samsung products and provides instructions and technical support on the use the accused Samsung products. On information and belief, by using the accused Samsung products as encouraged and assisted by Samsung, Samsung's customers have directly infringed and continue to directly infringe one or more claims of the '664 patent. On

information and belief, Samsung knew or was willfully blind to the fact that its activities in encouraging and assisting customers in the use of the accused Samsung products, including but not limited to the activities set forth above, would induce its customers' direct infringement of the '664 patent.

39. On information and belief, Samsung will continue to infringe the '664 patent unless enjoined by this Court.

40. Samsung acts of infringement have damaged Plaintiffs in an amount to be proven at trial, but in no event less than a reasonable royalty. Samsung infringement of Plaintiffs' rights under the '664 patent will continue to damage Plaintiffs, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

41. On information and belief, Samsung's infringement of the '664 patent has been willful, thereby entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

COUNT IV

(INFRINGEMENT OF U.S. PATENT NO. 8,072,637)

42. Plaintiffs re-allege and incorporate by reference the allegations set forth in the Paragraphs above as if fully set forth herein.

43. On December 6, 2011, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 8,072,637 ("the '637 patent"), entitled "Multiple Integrated Machine System." A true and correct copy of the '637 patent is attached hereto as **Exhibit D.**

44. Plaintiffs are the owners and assignees of all right, title and interest in and to the '637 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

45. On information and belief, Samsung has been and now is directly infringing the '637 patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering for sale, and/or importing into the United States mobile devices that embody one or more of the inventions claimed in the '637 patent, including but not limited to the accused Samsung products, in violation of 35 U.S.C. § 271(a).

46. On information and belief, Samsung is inducing and/or has induced infringement of one or more claims of the '637 patent as a result of, among other activities, instructing, encouraging, and directing its customers on the use of the accused Samsung products in an infringing manner in violation of 35 U.S.C. § 271(b). On information and belief, Samsung has had knowledge of the '637 patent since at least the date of service of this Complaint. Despite this knowledge of the '637 patent, Samsung has continued to engage in activities to encourage and assist its customers in the use of the accused Samsung products. For example, through its website at www.samsung.com/us, Samsung advertises the accused Samsung products and provides instructions and technical support on the use the accused Samsung products. On information and belief, by using the accused Samsung products as encouraged and assisted by Samsung, Samsung's customers have directly infringed and continue to directly infringe one or more claims of the '637 patent. On information and belief, Samsung knew or was willfully blind to the fact that its activities in encouraging and assisting customers in the use of the accused Samsung products, including but not limited to the activities set forth above, would induce its customers' direct infringement of the '637 patent.

47. On information and belief, Samsung will continue to infringe the '637 patent unless enjoined by this Court.

48. Samsung acts of infringement have damaged Plaintiffs in an amount to be proven at trial, but in no event less than a reasonable royalty. Samsung infringement of Plaintiffs' rights under the '637 patent will continue to damage Plaintiffs, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this Court enter judgment against Samsung as follows:

- a. For judgment that Samsung has infringed and continues to infringe the claims of the '443, '977, '664, and '637 patents;
- b. For judgment that Samsung's infringement of the '977 and '664 patents has been and is willful;
- c. For a permanent injunction against Samsung and its respective officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the '443, '977, '664, and '637 patents;
- d. For an accounting of all damages caused by Samsung acts of infringement;
- e. For a judgment and order requiring Samsung to pay Plaintiffs' damages (including enhanced damages for Samsung's willful infringement), costs, expenses, and pre- and post-judgment interest for its infringement of the '443, '977, '664, and '637 patents as provided under 35 U.S.C. § 284;

f. For a judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiffs their reasonable attorneys' fees; and

g. For such other relief at law and in equity as the Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Plaintiffs demand a trial by jury of all issues triable by a jury.

Dated: July 9, 2014

Respectfully submitted,

/s/ Christopher D. Banys
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