

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

ADVANCED TOUCHSCREEN AND)
GESTURE TECHNOLOGIES, LLC,)

Plaintiff,)

v.)

SAMSUNG ELECTRONICS CO., LTD.,)
SAMSUNG ELECTRONICS AMERICA,)
INC., AND SAMSUNG)
TELECOMMUNICATIONS AMERICA,)
LLC F/K/A SAMSUNG)
TELECOMMUNICATIONS AMERICA,)
L.P.,)

Defendants.

Case No. 15-128

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Advanced Touchscreen and Gesture Technologies, LLC (“Advanced Touchscreen”), for its causes of action against Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC f/k/a Samsung Telecommunications America, LP (collectively, “Samsung” and/or “Defendants”), states and alleges as follows:

PARTIES

1. Plaintiff Advanced Touchscreen is a Texas limited liability company having offices at 3224 W. Woodlawn Avenue, San Antonio, Texas 78228.

2. Defendant Samsung Electronics Co., Ltd. ("Samsung Electronics" or "SEC") is a foreign company organized and existing under the laws of Korea, with its principal place of business at 129, Samsung-Ro, Maetan-3dong, Yeongtong-gu, Suwon-si, Gyeonggi-do, 443-742 Korea. Defendant Samsung Electronics is involved in the development, manufacture, import and/or sale of certain accused products without Advanced Touchscreen's authorization.

3. Defendant Samsung Electronics America, Inc. ("Samsung America" or "SEA") is a New York corporation having its principal place of business at 85 Challenger Road, Ridgefield Park, NJ 07660. Samsung America has been authorized to do business in the State of Texas by the Texas Secretary of State, and has designated CT Corporation System, 350 N. Saint Paul Street, Suite 2900, Dallas, TX 75201, as its representative to accept service of process within the State of Texas. Defendant Samsung America is involved in the development, manufacture, import and/or sale of certain accused products without Advanced Touchscreen's authorization.

4. Defendant Samsung Telecommunications America, LLC f/k/a Samsung Telecommunications America, L.P. ("Samsung Telecommunications" or "STA") is a Delaware limited liability company which, until at least January 1, 2015, had its principal place of business at 1301 E. Lookout Drive, Richardson, TX 75082. On January 1, 2015, Samsung Telecommunications merged into and was absorbed by Samsung America. Defendant Samsung Telecommunications has been involved in the development, manufacture, import and/or sale of certain accused products without Advanced Touchscreen's authorization.

5. Defendant Samsung Electronics is the parent corporation of Defendants Samsung America and Samsung Telecommunications, each of which is responsible for specific activities within the United States related to the operations of Defendant Samsung Electronics' sale, marketing and support of accused products, which include, but are not limited to, smartphones and tablet computers that incorporate Advanced Touchscreen's patented devices, methods and processes, that are developed, manufactured, imported, sold and/or offered for sale in the United States without the authorization of Advanced Touchscreen.

JURISDICTION

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), because this action arises under the federal patent statutes, 35 U.S.C. §§ 271 and 281-285. Specifically, this action alleges infringement of United States Patent Nos. 8,878,810, 8,717,303, 8,743,076, and 8,866,785 (collectively referred to as the "Asserted Patents.")

7. This Court has personal jurisdiction over defendant Samsung Electronics in this action because Samsung Electronics has committed acts within this District giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Samsung Electronics would not offend traditional notions of fair play and substantial justice. Defendant Samsung Electronics, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has committed and continues to commit acts of infringement in this District by, among other things, importing, offering to sell and selling smartphones and tablets that

infringe the Asserted Patents. Samsung Electronics derives substantial revenues from such infringement in Texas and this District, and will continue to do so unless enjoined by this Court.

8. This Court has personal jurisdiction over defendant Samsung America in this action because Samsung America has committed acts within this District giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Samsung America would not offend traditional notions of fair play and substantial justice. Defendant Samsung America, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has committed and continues to commit acts of infringement in this District by, among other things, importing, offering to sell and selling smartphones and tablets that infringe the Asserted Patents. Samsung America derives substantial revenues from such infringement in Texas and this District, and will continue to do so unless enjoined by this Court.

9. This Court has personal jurisdiction over defendant Samsung Telecommunications in this action because Samsung Telecommunications has committed acts within this District giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Samsung Telecommunications would not offend traditional notions of fair play and substantial justice. Defendant Samsung Telecommunications, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has committed acts of infringement in this District by, among other things, importing, offering to sell and

selling smartphones and tablets that infringe the Asserted Patents. For example, on or about November 2, 2014, while maintaining its principal place of business in Richardson, Texas, Samsung Telecommunications announced that it would begin offering the Samsung Galaxy Note Edge beginning November 14, 2014. The Galaxy Note Edge is one of the products accused of infringing the patents asserted herein, and Samsung Telecommunications offered it for sale and caused it to be offered for sale in this District. Further, Samsung Telecommunications provided consumers in this District with a Limited Warranty for products that infringe the Asserted Patents and imposed its requirement that the “laws of the State of Texas, without reference to its choice of law principles, shall govern the interpretation of the Limited Warranty and all disputes that are subject to this arbitration provision.”

VENUE

10. Advanced Touchscreen restates and realleges each of the allegations set forth above and incorporates them herein.

11. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because this District is the principal place of business of Advanced Touchscreen and each of the defendants committed acts of infringement in this judicial district giving rise to this cause of action, and has and continues to conduct business in this judicial district. If Samsung Electronics is determined to not be a resident in the United States, venue and joinder is still proper pursuant to 28 U.S.C. §1391(c)(3).

ADVANCED TOUCHSCREEN

12. Advanced Touchscreen restates and realleges each of the allegations set forth above and incorporates them herein.

13. Advanced Touchscreen was founded and is controlled by Lester F. Ludwig.

14. Lester F. Ludwig maintains a residence in San Antonio, Texas, and is registered to vote in Texas. He holds a Ph.D. degree in Electrical Engineering and Computer Science and M.S. and B.E. degrees in Electrical Engineering. Dr. Ludwig is a prolific inventor, and is named as an inventor on 157 United States patents.

ASSERTED PATENTS

15. This infringement action arises in connection with four (4) United States patents, herein referred to as “the Asserted Patents.”

16. On May 15, 1999, Dr. Ludwig filed a detailed patent application, No. 09/313,533 (“the ‘533 application”) with the United States Patent and Trademark Office (“PTO”).

17. Among other things, the ‘533 application addressed problems in controlling computers with moving gestures on a touchscreen. The ‘533 application also disclosed the ability for a device to accurately recognize a hand gesture, such as a finger flick or “pinch-to-zoom” on a touchscreen.

18. Dr. Ludwig made the disclosures in his ‘533 application more than 9 years before Samsung began to make, use, import, offer to sell, and sell smartphones and tablets with hand gesture recognition technology on a touchscreen.

19. On November 4, 2014, the United States Patent and Trademark Office (“PTO”) issued United States Patent No. 8,878,810, entitled “Touch Screen Supporting Continuous Grammar Touch Gestures” (“the ‘810 patent”), a copy of which is attached as **Exhibit A**. The ‘810 patent claims priority at least to the May 15, 1999 non-provisional filing date of the ‘533 application.

20. On May 6, 2014, the PTO issued United States Patent No. 8,717,303, entitled “Sensor Array Touchscreen Recognizing Finger Flick Gesture and Other Touch Gestures” (“the ‘303 patent”), a copy of which is attached as **Exhibit B**. The ‘303 patent claims priority at least to the May 15, 1999 non-provisional filing date of the ‘533 application.

21. On June 3, 2014, the PTO issued United States Patent No. 8,743,076, entitled “Sensor Array Touchscreen Recognizing Finger Flick Gesture From Spatial Pressure Distribution Profiles”), a copy of which is attached as **Exhibit C**. The ‘076 patent claims priority at least to the May 15, 1999 non-provisional filing date of the ‘533 application.

22. On October 21, 2014, the PTO issued United States Patent No. 8,866,785 entitled “Sensor Array Touchscreen Recognizing Finger flick Gesture” (“the ‘785 patent”), a copy of which is attached as **Exhibit D**. The ‘785 patent claims priority at least to the May 15, 1999 non-provisional filing date of the ‘533 application.

23. Advanced Touchscreen is the assignee and holds legal title to each of the foregoing Asserted Patents.

GENERAL ALLEGATIONS

24. Samsung makes, uses, imports, sells and offers to sell smartphones and tablets with touchscreens over, or in contact with, displays that recognize single and multi-touch gestures. These products include but are not limited to the Samsung Galaxy S4, Galaxy S4 mini, Galaxy S5, Galaxy S5 mini, Galaxy S6, Galaxy S6 Edge, Galaxy Note 4, Galaxy Note Edge, Galaxy Note 8, Galaxy Note 10.1, Galaxy Note Pro 12.2, Galaxy Tab 4 (7.0 and 10.1 screen), Galaxy Tab S (8.4 and 10.5 screen), Galaxy Tab Pro (10.1 and 12.2 screen). The foregoing products, together with all modifications and variations, are collectively referred to as the "Galaxy Products."

25. The Galaxy Products are equipped with a touchscreen comprising a touchpad with a sensor array positioned over or in contact with either a liquid crystal display ("LCD") or an active-matrix organic light-emitting diode ("AMOLED") display. Samsung sometimes refers to its AMOLED display as "Super AMOLED." The array of sensors in the touchpads includes a plurality of sensors having unique spatial locations and associated unique addresses.

26. The Galaxy Products are loaded with versions of the Android operating system, including but not limited to Android Jelly Bean, Android Kit-Kat, and Android Lollipop.

27. Among other things, the Galaxy Products recognize a "finger flick" gesture from specific dynamic variations among a combination of one or more hand contact patterns detected by the Android operating system.

28. Finger flick gestures allow consumers, among other things, to scroll through documents larger than the display screen, scroll through contacts, and flip through photographs and other collections on a smartphone or tablet with ease. Such gestures are expected by consumers, and are vital for Samsung to compete for sales of smartphones and tablets. Finger flicks are described in Samsung user manuals, and are referred to many times as “swipes.”

29. Among other things, the Galaxy Products recognize “multi-touch gestures” from sequential dynamics among hand contact patterns from a first posture associated with a first portion of a user hand at a first location on the touch screen to a second posture associated with a second portion of the user hand at a second location on the touch screen, wherein the first portion of the user hand and the second portion of the user hand are different.

30. Multi-touch gestures include, but are not limited to, the “pinch open” and “pinch close” gestures which allow consumers to manipulate an image’s size. Multi-touch gestures are described in Samsung user manuals, and are vital for Samsung to compete for sales of smartphones and tablets.

COUNT I

Infringement of U.S. Patent No. 8,878,810

31. Advanced Touchscreen incorporates by reference each of the foregoing paragraphs of this Complaint as though fully set forth herein.

32. Upon information and belief, in violation of 35 U.S.C. § 271(a), Samsung has infringed and, if not enjoined, will continue to infringe the '810 patent by manufacturing, using, marketing, selling, offering for sale, and/or importing, without authority, Galaxy Products that are covered by one or more claims of the '810 patent, literally and/or under the doctrine of equivalents.

33. Samsung does not have a license or permission to exploit the claimed subject matter in the '810 patent.

34. Advanced Touchscreen has been injured and has been caused significant financial damage as a direct and proximate result of Samsung's infringement of the '810 patent.

35. Samsung will continue to infringe the '810 patent, and thus cause irreparable injury and damage to Advanced Touchscreen unless enjoined by this Court.

36. Advanced Touchscreen is entitled to recover from Samsung the damages sustained by Advanced Touchscreen as a result of Samsung's wrongful acts in an amount subject to proof at trial.

COUNT II

Infringement of U.S. Patent No. 8,717,303

37. Advanced Touchscreen incorporates by reference each of the foregoing paragraphs of this Complaint as though fully set forth herein.

38. Upon information and belief, in violation of 35 U.S.C. § 271(a), Samsung has infringed, and if not enjoined, will continue to infringe the '303 patent by manufacturing, using, marketing, selling, offering for sale, and/or importing, without authority, Galaxy Products that are covered by one or more claims of the '303 patent, literally and/or under the doctrine of equivalents.

39. Samsung does not have a license or permission to exploit the claimed subject matter in the '303 patent.

40. Advanced Touchscreen has been injured and has been caused significant financial damage as a direct and proximate result of Samsung's infringement of the '303 patent.

41. Samsung will continue to infringe the '303 patent, and thus cause irreparable injury and damage to Advanced Touchscreen unless enjoined by this Court.

42. Advanced Touchscreen is entitled to recover from Samsung the damages sustained by Advanced Touchscreen as a result of Samsung's wrongful acts in an amount subject to proof at trial.

COUNT III

Infringement of U.S. Patent No. 8,743,076

43. Advanced Touchscreen incorporates by reference each of the foregoing paragraphs of this Complaint as though fully set forth herein.

44. Upon information and belief, in violation of 35 U.S.C. § 271(a), Samsung has infringed, and if not enjoined, will continue to infringe the '076 patent by manufacturing, using, marketing, selling, offering for sale, and/or importing, without authority, Galaxy Products that are covered by one or more claims of the '076 patent, literally and/or under the doctrine of equivalents.

45. Samsung does not have a license or permission to exploit the claimed subject matter in the '076 patent.

46. Advanced Touchscreen has been injured and has been caused significant financial damage as a direct and proximate result of Samsung's infringement of the '076 patent.

47. Samsung will continue to infringe the '076 patent, and thus cause irreparable injury and damage to Advanced Touchscreen unless enjoined by this Court.

48. Advanced Touchscreen is entitled to recover from Samsung the damages sustained by Advanced Touchscreen as a result of Samsung's wrongful acts in an amount subject to proof at trial.

COUNT IV

Infringement of U.S. Patent No. 8,866,785

49. Advanced Touchscreen incorporates by reference each of the foregoing paragraphs of this Complaint as though fully set forth herein.

50. Upon information and belief, in violation of 35 U.S.C. § 271(a), Samsung has infringed, and if not enjoined, will continue to infringe the '785 patent by manufacturing, using, marketing, selling, offering for sale, and/or importing, without authority, Galaxy Products that are covered by one or more claims of the '785 patent, literally and/or under the doctrine of equivalents..

51. Samsung does not have a license or permission to use the claimed subject matter in the '785 patent.

52. Advanced Touchscreen has been injured and has been caused significant financial damage as a direct and proximate result of Samsung's infringement of the '785 patent.

53. Samsung will continue to infringe the '785 patent, and thus cause irreparable injury and damage to Advanced Touchscreen unless enjoined by this Court.

54. Advanced Touchscreen is entitled to recover from Samsung the damages sustained by Advanced Touchscreen as a result of Samsung's wrongful acts in an amount subject to proof at trial.

JURY DEMAND

55. Advanced Touchscreen demands a jury trial on all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Advanced Touchscreen prays for entry of judgment and an order that:

a. Samsung has infringed and is infringing one or more claims of the Asserted Patents, either literally or under the doctrine of equivalents, and is liable to Advanced Touchscreen for infringement;

b. Samsung account for and pay Advanced Touchscreen all damages, assessment of pre-judgment and post-judgment interest, and costs of Advanced Touchscreen caused by Samsung's infringement, for the period of infringement of the Asserted Patents leading up to the date of trial or to an earlier date if established by the Court or by agreement of the parties, and further account for any damages caused by Samsung's infringement from that date forward;

c. Advanced Touchscreen be granted permanent injunctive relief pursuant to 35 U.S.C. § 283, enjoining Samsung, its officers, agents, servants, employees, affiliates and those persons in active concert or participation with Samsung from further acts of infringement of the Asserted Patents;

d. In the event the Court determines it will not enter a permanent injunction, determine the conditions for future infringement such as a royalty-bearing compulsory license or such other relief as the Court deems appropriate;

e. Cost and attorneys' fees be awarded to Advanced Touchscreen upon a showing that this is an exceptional case under 35 U.S.C. § 285;

f. An award of costs, expenses, and disbursements;

g. Prejudgment and post-judgment interest at the maximum lawful rate; and

h. Such other and further relief as the Court deems Advanced Touchscreen may be entitled to in law and equity.

Dated: April 20, 2015

Respectfully submitted,

By: /s/ John P. Palmer

Naman, Howell, Smith & Lee

John P. Palmer (TX Bar No. 15430600)
Roosevelt Tower, 400 Austin Ave., Ste. 800
Waco, TX 76701
Telephone: (254) 755-4248
Facsimile: (254) 754-6331
E-mail: Palmer@NamanHowell.com

Robins Kaplan LLP

Ronald J. Schutz (MN Bar No. 130849)
(pro hac vice to be submitted)
Emmett J. McMahon (MN Bar No. 0198298)
(pro hac vice to be submitted)
800 LaSalle Avenue, Suite 2800
Minneapolis, MN 55402
Telephone: (612) 349-8500
Facsimile: (612) 339-4181
E-mail: RSchutz@RobinsKaplan.com
E-mail: EMcMahon@RobinsKaplan.com

**Attorneys for Plaintiff Advanced Touchscreen
and Gesture Technologies, LLC**