

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SAMSUNG ELECTRONICS AMERICA,
INC.,

Plaintiff,

-against-

SOCKEYE LICENSING TX LLC,
JEFFREY W. SALMON, and
WILDCAT LICENSING LLC,

Defendants.

No.

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Samsung Electronics America, Inc. (“Samsung”) hereby alleges for its Complaint for Declaratory Judgment against Defendants Sockeye Licensing TX LLC, Jeffrey W. Salmon, and Wildcat Licensing LLC (“Defendants”) as follows:

NATURE OF THE ACTION

1. This is an action for declaratory judgment that Samsung and its customers do not infringe any claim of United States Patent No. 8,135,342 (“the ’342 Patent”) or U.S. Patent No. 8,879,987 (“the ’987 Patent”) (collectively, the “Patents-in-Suit”).
2. A true and correct copy of the ’342 Patent is attached as Exhibit A.
3. A true and correct copy of the ’987 Patent is attached as Exhibit B.

THE PARTIES

4. Plaintiff Samsung Electronics America, Inc. is a New York corporation having its principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660-0511.

5. Upon information and belief, Sockeye Licensing TX LLC (“Sockeye”) is a limited liability company formed under the laws of the State of Texas. Sockeye can be served with process by serving its registered agent for service of process in Texas, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

6. A true and correct copy of the Certificate of Formation for Sockeye is attached as Exhibit C. The Certificate of Formation for Sockeye lists Jeffrey W. Salmon as its sole manager, with an address of 320 Wilmette Avenue, Glenview, Illinois 60025.

7. Upon information and belief, Defendant Jeffrey W. Salmon is a resident of Illinois, with an address of 320 Wilmette Avenue, Glenview, Illinois 60025, and can be served at that address by personal service.

8. Upon information and belief, Defendant Wildcat Licensing LLC (“Wildcat”) is a limited liability company formed under the laws of the State of Illinois. Wildcat can be served with process by serving its registered agent for service of process in Illinois, Jeffrey W. Salmon, 320 Wilmette Avenue, Glenview, Illinois 60025.

9. A true and correct copy of the LLC File Detail Report from the Illinois Secretary of State’s website for Wildcat is attached as Exhibit D. Wildcat’s LLC File Detail Report from the Illinois Secretary of State’s website shows Jeffrey W. Salmon as its agent, with its principal office at 320 Wilmette Avenue, Glenview, Illinois 60025.

JURISDICTION AND VENUE

10. This action is based on the patent laws of the United States, Title 35 of the United States Code, § 1 et seq., with a specific remedy sought under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

11. An actual, substantial, and continuing justiciable controversy exists between Samsung and Defendants that requires a declaration of rights by this Court. As set forth in the

paragraphs herein, an actual controversy exists between Samsung and Defendants with respect to the infringement of the '342 and '987 Patents.

12. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.

13. This Court has personal jurisdiction over Sockeye because Sockeye has its principal place of business at 320 Wilmette Avenue, Glenview, Illinois 60025, which is located in this district. *See* Exhibit F. Further, upon information and belief, Sockeye conducts business, including litigation, related to the Patents-in-Suit from this district.

14. This Court has personal jurisdiction over Jeffrey W. Salmon because, on information and belief, he resides in this district and directs the business of Wildcat and Sockeye from this district as their sole manager and member.

15. This Court has personal jurisdiction over Wildcat because Wildcat is an Illinois limited liability company and conducts business from this district.¹

16. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400, at least because each Defendant resides in this district.

FACTUAL BACKGROUND

17. On December 13, 2012, Defendant Wildcat was formed as an Illinois limited liability company. Jeffrey W. Salmon is its registered agent and sole member and manager. *See* Exhibits D, F.

18. On May 12, 2014, Defendant Sockeye was formed as a Texas limited liability company. Jeffrey W. Salmon is its sole member and manager. *See* Exhibits C, F.

¹ Wildcat is included as a defendant in this action to the extent it owns any interest, right, and title in the Patents-in-Suit and/or attempts to assert claims based on the patents against Samsung in the future.

19. Upon information and belief, Sockeye failed to file its annual report and/or pay any franchise taxes due by May 15, 2015, as required by Texas Tax Code § 171.202. Upon information and belief, Sockeye did not respond within forty-five days from the mailing of the notice of forfeiture sent by the Comptroller of the State of Texas.

20. Pursuant to Texas Tax Code § 171.2515, the Comptroller of the State of Texas shall forfeit the right of a taxable entity, such as Sockeye, to transact business in Texas, in accordance with the procedures for forfeiture set forth in Texas Tax Code §§ 171.251 et seq. Upon information and belief, the Comptroller forfeited Sockeye's right to transact business in the State of Texas, and to sue or defend in any court in the State of Texas, no later than September 7, 2015. As the sole member and manager of Sockeye, Salmon is personally liable for the debts and liabilities of Sockeye for the period during which Sockeye was in forfeiture, as provided by Texas Tax Code §§ 171.252 and 171.255.

21. On July 24, 2015, Zamboola LLC purportedly assigned all the right, title and interest in and to the '342 and '987 Patents to Wildcat. The assignment agreement, attached as Exhibit E, was recorded by the U.S. Patent and Trademark Office ("Patent Office") on July 27, 2015, at Reel 036188, Frame 0599.

22. On August 19, 2015, Wildcat purportedly assigned all the right, title and interest in and to the '342 and '987 Patents to Sockeye. Salmon executed the assignment on behalf of both Wildcat and Sockeye. The assignment agreement, attached as Exhibit F, was recorded by the Patent Office on October 1, 2015, at Reel 036703, Frame 0022.

23. To the extent that Sockeye's right to transact business in Texas was forfeited at the time that Wildcat attempted to assign its interest in the '342 and '987 Patents to Sockeye, the

purported assignment of the '342 and '987 Patents to Sockeye was null and void, and all right, title and interest in and to the '342 and '987 Patents remained with Wildcat.

24. On October 5, 2015, Sockeye sued Samsung Telecommunications America, LLC ("STA") for infringement of the '342 and '987 Patents in Case No. 2:15-cv-01609 in the United States District Court for the Eastern District of Texas. In its Complaint, Sockeye accused Samsung products that are certified for use with Miracast™, part of the Wi-Fi Direct® standard of the Wi-Fi Alliance. Sockeye's Complaint specifically accused the "Samsung WIS12ABGNX, Samsung UN65JS9500, Samsung Galaxy S4 and Samsung Galaxy Tab 4," and, more generally, the Samsung Miracast-certified products listed on the Wi-Fi Alliance's website (collectively, the "Accused Samsung Products").

25. Upon information and belief, Sockeye's right to transact business, and to sue and defend suits in the courts of the State of Texas, was forfeited in accordance with Texas law at the time it sued STA for patent infringement in the Eastern District of Texas on October 5, 2015. *See* Exhibit G (screenshot of Sockeye's Franchise Tax Account Status, showing that it was in forfeiture as of October 27, 2015). Therefore, Sockeye did not have the capacity to file an action against STA in the Eastern District of Texas, and Salmon, as Sockeye's sole manager and member, is responsible for the filing of the action against STA. Additionally, to the extent the attempted assignment of the '342 and '987 Patents to Sockeye was null and void, Sockeye did not have standing to sue STA for patent infringement.

26. On October 27, 2015, upon a motion of voluntary dismissal filed by Sockeye, the district court dismissed Sockeye's case against STA without prejudice.

27. Effective January 1, 2015, STA merged into Plaintiff Samsung Electronics America, Inc. Following the merger, Samsung Electronics America, Inc. is the surviving corporate entity, and STA ceased to exist as a separate corporate entity.

COUNT I

NON-INFRINGEMENT OF U.S. PATENT 8,135,342

28. Samsung incorporates by reference the allegations contained in paragraphs 1 through 27 of this Complaint as though fully set forth herein.

29. Defendants have alleged that STA (now Samsung) directly and indirectly infringes one or more claims of the '342 Patent and that STA's (now Samsung's) customers directly infringe the '342 Patent through operation of the Accused Samsung Products.

30. Samsung and Samsung's customers have not and do not directly or indirectly infringe any claim of the '342 Patent, either literally or under the doctrine of equivalents.

31. Therefore, there exists a substantial controversy between Samsung and Defendants, the parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment that neither Samsung nor its customers have directly or indirectly infringed any claim of the '342 Patent.

32. An actual and justiciable controversy exists regarding the alleged infringement of the '342 Patent by Samsung and its customers. Samsung accordingly requests a judicial determination of its rights, duties, and obligations with regard to the '342 Patent.

COUNT II

NON-INFRINGEMENT OF U.S. PATENT 8,879,987

33. Samsung incorporates by reference the allegations contained in paragraphs 1 through 32 of this Complaint as though fully set forth herein.

34. Sockeye has alleged that STA (now Samsung) directly and indirectly infringes one or more claims of the '987 Patent and that STA's (now Samsung's) customers directly infringe the '987 Patent through operation of the Accused Samsung Products.

35. Samsung and Samsung's customers have not and do not directly or indirectly infringe any claim of the '987 Patent, either literally or under the doctrine of equivalents.

36. Therefore, there exists a substantial controversy between Samsung and Defendants, the parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment that neither Samsung nor its customers have directly or indirectly infringed any claim of the '987 Patent.

37. An actual and justiciable controversy exists regarding the alleged infringement of the '987 Patent by Samsung and its customers. Samsung accordingly requests a judicial determination of its rights, duties, and obligations with regard to the '987 Patent.

PRAYER FOR RELIEF

WHEREFORE, Samsung prays for an order and judgment against Defendants as follows:

A. A declaration that neither Samsung nor Samsung's customers directly or indirectly infringe any claim of the '342 Patent;

B. A declaration that neither Samsung nor Samsung's customers directly or indirectly infringe any claim of the '987 Patent;

C. A declaration that Samsung's case against Defendants is an exceptional case within the meaning of 35 U.S.C. § 285, entitling Samsung to an award of its reasonable attorneys' fees, expenses and costs incurred in this action; and

D. Such other and further relief, in law or in equity, as the Court deems just.

JURY TRIAL DEMANDED

Samsung demands a trial by jury as to all issues and causes of action so triable herein,
pursuant to Federal Rule of Civil Procedure 38.

Dated: November 12, 2015

Respectfully submitted,

/s/Paul F Stack

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