

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

DYNAVAIR LLC

Plaintiff,

v.

SAMSUNG SDI AMERICA, INC.

Defendant.

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CIVIL ACTION NO. 16-cv-00727

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR INFRINGEMENT OF PATENT

COMES NOW, Plaintiff Dynavair LLC (“Dynavair” or Plaintiff), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code (“U.S.C.”) to prevent and enjoin defendant Samsung SDI America, Inc., (hereinafter “Defendant”) from infringing and profiting, in an illegal and unauthorized manner and without authorization and/or of the consent from “Dynavair LLC”, from U.S. Patent No. 6,271,645 (the “645 patent”) pursuant to 35 U.S.C. § 271, and to recover damages, attorney’s fees, and costs.

THE PARTIES

2. Plaintiff Dynavair LLC is a Texas Limited Liability Company, with a principal place of business at 1400 Preston Rd, Ste 477. Plano, TX 75093.

3. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of California, with a principal place of business at 3655 N 1st St., San

Jose, CA 95134-1707. Upon information and belief, Defendant may be served with process at CT Corporation System, 1999 Bryan St., Suite 900, Dallas, TX 75201.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*

5. This Court has personal jurisdiction over Defendant by virtue of its systematic and continuous contacts with this jurisdiction, as alleged herein, as well as because of the injury to Dynavair.

6. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this judicial district. Upon information and belief, Defendant has engaged in substantial and not isolated activity within this District. Therefore, exercise of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice. Such an exercise is consistent with the Texas long-arm statute.

7. Defendant has conducted and does conduct business within the state of Texas, including the geographic region within the Eastern District of Texas, directly or through intermediaries, national retailers, resellers or agents, or offers for sale, sells, advertises (including through the use of interactive web pages with promotional material) products or services, or uses services or products in Texas, including this judicial district, that infringe the '645 patent.

8. Specifically, Defendant solicits business from and markets its services to consumers within Texas, including the geographic region within the Eastern District of Texas, by offering cell balancing battery packs to said Texas consumers.

9. In addition to Defendant continuously and systematically conducting business in Texas, the causes of action against Defendant are connected (but not limited) to Defendant's purposeful acts committed in the state of Texas, including the geographic region within the Eastern District of Texas, including Defendant's making, using, offering for sale, or selling services that fall within the scope of at least one claim of the '645 patent.

10. Venue lies in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

FACTUAL ALLEGATIONS

11. On August 7, 2001, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '645 patent, entitled "Method for balancing battery pack energy levels" after a full and fair examination.

12. The '645 patent contains four (4) independent claims and thirteen (13) dependent claims. Defendant commercializes, *inter alia*, a system as recited in at least one claim of the '645 patent.

13. Dynavair includes a true, accurate, correct, and legible copy of the '645 Patent as **Exhibit A** of this Complaint and incorporates it by reference herein, making it part of the Complaint for all legal, procedural, and/or evidentiary purposes.

14. Dynavair is the owner, by assignment, of the '645 patent, having received all right, title and interest in and to the '645 patent from the previous assignee of record. Dynavair possesses all rights of recovery under the '645 patent, including the exclusive right to recover for past infringement.

15. The invention claimed in the '645 patent is directed to a method and circuit for balancing energy levels between a first battery group and a second battery group in a battery pack wherein the first and second battery groups are connected across a first current bus and the first battery group is further connected across a second current bus.

DEFENDANT'S PRODUCTS

16. Defendant's products, such as the E-Bike Battery Pack (the "Accused Instrumentality"), allow balancing energy levels between a first battery group and a second battery group in a battery pack, said first and second battery groups connected across a first current bus and said first battery group further connected across a second current bus. For example, the Accused Instrumentality comprises at least two separate batteries, each battery having its own current bus, and a balancing circuit including a shared bus.¹

17. The Accused Instrumentality generates a first state of charge value indicative of a first energy level of said first battery group, as required by, for example, claim 1 of the '645 patent. Upon information and belief, the balancing circuit determines the charge of a first battery group.

18. The Accused Instrumentality generates a second state of charge value indicative of a second energy level of said second battery group, as required by, for example, claim 1 of the '645 patent. Upon information and belief, the balancing circuit determines the charge of the second battery group.

19. The Accused Instrumentality controls said first energy level responsive to said first state of charge value and said second state of charge value so as to balance the first and second energy levels, as required by, for example, claim 1 of the '645 patent. For example, the Accused Instrumentality balances the charge between the first battery group and the second battery group.

¹ <http://www.samsungsdi.com/lithium-ion-battery/trans-devices/e-bike.html>

20. Thus, the Accused Instrumentality, including the use by Defendant and its customers and employees, is enabled by the system and method described in the '645 patent.

INFRINGEMENT OF THE '645 PATENT

21. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 20.

22. In violation of 35 U.S.C. § 271, Defendant is now, and has been directly infringing the '645 patent.

23. Defendant has had knowledge of infringement of the '645 patent at least as of the service of the present complaint.

24. Defendant has directly infringed and continues to directly infringe at least claim 1 of the '645 patent by making, using, importing, offering for sale, and/or selling the Accused Instrumentality through its website without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Defendant's direct infringement of the '645 patent, Plaintiff has been and continues to be damaged.

25. By engaging in the conduct described herein, Defendant has injured Dynavair and is thus liable for infringement of the '645 patent, pursuant to 35 U.S.C. § 271.

26. Defendant has committed these acts of infringement without license or authorization.

27. As a result of Defendant's infringement of the '645 patent, Dynavair has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

28. Dynavair will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Dynavair is entitled to compensation for

any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

DEMAND FOR JURY TRIAL

29. Dynavair demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Dynavair prays for the following relief:

a. That Defendant be adjudged to have directly infringed the '645 patent, either literally or under the doctrine of equivalents;

b. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly infringing the '645 patent;

c. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Dynavair for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;

d. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;

e. That Defendant be directed to pay enhanced damages, including Dynavair's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

f. That Dynavair have such other and further relief as this Court may deem just and proper.

Dated: September 13, 2016

Respectfully Submitted,

By: /s/Eugenio J. Torres-Oyola

Eugenio J. Torres-Oyola

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ATTORNEYS FOR PLAINTIFF

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this the 13th day of July, 2016.

/s/ Eugenio J. Torres-Oyola
Eugenio J. Torres Oyola