

1 JAMES V. FAZIO, III (CSB NO. 183353)
2 jamesfazio@sandiegoiplaw.com
3 TREVOR Q. CODDINGTON, PH.D. (CSB NO. 243042)
4 trevorcoddington@sandiegoiplaw.com
5 **SAN DIEGO IP LAW GROUP LLP**
12526 High Bluff Drive, Suite 300
San Diego, CA 92130
Telephone: (858) 792-3446
Facsimile: (858) 408-4422

6 Attorneys for Plaintiff

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11
12 **Timely Inventions, LLC**, a Delaware
limited liability company,

13 Plaintiff,

14 v.

15 **Samsung Electronics Co., Ltd.**, a
16 South Korean entity, and **Samsung**
17 **Electronics America, Inc.**, a New
York corporation,

18 Defendants.
19
20

Case No. 2:18-CV-2227-SJO-K

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

21 For its First Amended Complaint, Plaintiff Timely Inventions, LLC
22 (“Plaintiff” or “Timely”) hereby alleges as follows:

23 **JURISDICTION AND VENUE**

24 1. This is an action for patent infringement under the laws of the United
25 States, 35 U.S.C. § 271, *et. seq.* This Court has original and exclusive subject
26 matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

27 2. This Court has personal jurisdiction over Defendants because each
28 regularly conducts business through places of business in California including in

1 this District, where it has committed the infringing acts alleged herein including but
2 not limited to selling Samsung Gear 3 Frontier products at Costco.

3 3. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b)-(c)
4 and 1400.

5 **PARTIES**

6 4. Plaintiff is a Delaware company having its principal place of business
7 in Dover, Delaware.

8 5. Upon information and belief, Defendant Samsung Electronics Co. Ltd.
9 is a South Korean entity located at 129, Samsung-ro, Yeongtong-gu, Suwon-si,
10 Gyeonggi-do, 443-742, Republic of Korea.

11 6. Upon information and belief, Defendant Samsung Electronics America,
12 Inc. is a New York entity located at 85 Challenge Road, Ridgefield Park, New
13 Jersey 07660. Samsung Electronics America, Inc. has an office at 12130 Millennium
14 Dr., Los Angeles, CA 90094.

15 **CLAIM FOR RELIEF**

16 **(Infringement of U.S. Patent No. 7,861,865)**

17 7. Plaintiff incorporates by this reference all of the allegations stated in
18 the above paragraphs.

19 8. Plaintiff is the owner by assignment of U.S. Patent No. 7,861,865 (“the
20 ‘865 patent”) entitled “Packaging Assembly,” which duly and lawfully issued on
21 January 4, 2011. A true and correct copy of the ‘865 patent is attached hereto as
22 Exhibit A.

23 9. The ‘865 patent protects the exclusive right of Plaintiff and its licensees
24 to utilize the claimed invention(s) without infringement by competitors or their
25 products. These methods and systems were not routine or conventional, particularly
26 at the time of the claimed inventions.

27 10. On information and belief, each Defendant has made, used, offered for
28 sale, sold and/or imported into the United States products covered by the claims of

1 the '865 patent, and continues to do so. For example, as shown in Exhibit B,
2 Defendants' "Samsung Gear 3 Frontier" product (sold at retailers including Costco)
3 utilizes the inventions claimed in the '865 patent.

4 11. On information and belief, each Defendant has caused, encouraged and
5 aided others, including customers such as Costco, to directly infringe the '865 patent
6 having full knowledge of the '865 patent and the specific intent that its acts and the
7 acts of its customers and/or others to directly and/or indirectly infringe the '865
8 patent.

9 12. By the acts of making, using, offering to sell, selling and/or importing
10 the accused infringing products, each Defendant has directly infringed the '865
11 patent under 35 U.S.C. § 271(a).

12 13. By the acts of actively inducing others including Costco to infringe the
13 '865 patent, each Defendant has infringed the '865 patent under 35 U.S.C. § 271(b).
14 On information and belief, having knowledge of the '865 patent, each Defendant
15 specifically intended for its customers to infringe the '865 patent by using and/or re-
16 selling the accused infringing products.

17 14. The acts of infringement asserted herein have been and continue to be
18 deliberate and willful, at least since each Defendant first learned about the '865
19 patent.

20 15. Each Defendant has derived and received gains, profits and advantages
21 from the aforesaid acts of infringement, and Plaintiff has lost profits and has
22 otherwise been damaged and is entitled to monetary relief in an amount to be
23 determined at trial.

24 16. The infringement of the '865 patent has caused and continues to cause
25 irreparable harm to Plaintiff, for which there is no adequate remedy at law, and the
26 infringement will continue unless and until it is enjoined by this Court.

27 **PRAYER FOR RELIEF**

28 Therefore, Plaintiff prays for the following relief:

JURY TRIAL DEMAND

Pursuant to Fed. R. Civ. P. 38(b)(1) and (c), and L.R. 38-1, Plaintiff hereby demands a jury trial on all the issues in this action so triable of right by a jury.

Respectfully submitted,

Dated: April 2, 2018

SAN DIEGO IP LAW GROUP LLP

By: /s/ Trevor Coddington
Attorneys for Plaintiff