

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MUTE FIRST RING LTD.,  <div style="text-align: center;">Plaintiff,</div> <div style="text-align: center;">v.</div> LG ELECTRONICS, INC., LG ELECTRONICS U.S.A., INC. and LG ELECTRONICS MOBILECOMM U.S.A., INC.,  <div style="text-align: center;">Defendants.</div>	: :	CIVIL ACTION No. 1:18-cv-00725-LGS  JURY TRIAL DEMANDED

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Mute First Ring Ltd., an Israeli company with a principal place of business at 14 Imber Street, Petach Tiqva 4951148, Israel, by and through its undersigned counsel, hereby complains of (1) LG Electronics, Inc., with principal place of business at LG Twin Towers, 20 Yeouido-dong, Yeongdeungpo-gu, Seoul 150-721, South Korea; (2) LG Electronics U.S.A., Inc., with principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632; and (3) LG Electronics MobileComm U.S.A, Inc., with a principal place of business at 10101 Old Grove Road, San Diego, California 92131 (together, the “LG Defendants”), as follows:

**THE PARTIES**

1. Plaintiff Mute First Ring Ltd. (“Mute First Ring”) is an Israeli company with a principal place of business at 14 Imber Street, Petach Tiqva 4951148, Israel.

2. Defendant LG Electronics, Inc. is a South Korean entity with a principal executive office at LG Twin Towers, 20 Yeouido-dong, Yeongdeungpo-gu, Seoul 150-721, South Korea.

3. Defendant LG Electronics U.S.A., Inc. is a Delaware corporation with its principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632.

4. Defendant LG Electronics MobileComm U.S.A, Inc. is a California corporation with a place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632.

### **NATURE OF THE ACTION**

5. This is a civil action for the infringement of United States Patent No. 9,008,301 (the “301 Patent”) (copy attached as Exhibit 1), entitled “System and method for modifying or disabling the ringtone for an incoming call based on the existence of nonexistence of previous calls from the same caller” and issued April 14, 2015; and United States Patent No. 9,407,757 (the “757 Patent”) (copy attached as Exhibit 2), also entitled “System and method for modifying or disabling the ringtone for an incoming call based on the existence or nonexistence of previous calls from the same caller” and issued August 2, 2016 (collectively, the “Patents-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1, et. seq.

6. Mute First Ring is the lawful assignee and owner of all right, title and interest in and to the Patents-in-Suit.

7. The LG Defendants make, use, offer for sale, sell, import, advertise, make available and/or market products in the United States that infringe the Patents-in-Suit.

## **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 1338(a) because this lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101, et seq.

9. Personal jurisdiction exists generally over each of the LG Defendants because they have sufficient minimum contacts with the forum as a result of business conducted within the State of New York and this District. Personal jurisdiction also exists specifically over each of the LG Defendants because they, directly or through subsidiaries, intermediaries, agents or authorized distributors, make, use, offer for sale, sell, import, advertise, make available and/or market products in the United States, the State of New York, and this District that infringe one or more claims of each of Mute First Ring's Patents-in-Suit, as alleged more particularly below.

10. Venue in this District is proper under 28 U.S.C. §§ 1400(b) and 1391(b) and (c), because Defendants are subject to personal jurisdiction in this District and have committed acts of infringement in this District. Defendants make, use, and/or sell infringing products within this District, have continuing presence within the District (either directly or through intermediaries and authorized agents), and have the requisite minimum contacts with the District such that this venue is a fair and reasonable one. Upon information and belief, Defendants have transacted and, at the time of the filing of this Complaint, are continuing to transact business within the District. Venue is proper in this district as to the LG Electronics U.S.A. and LG Electronics MobileComm U.S.A, Inc. as they or their authorized agents have a regular and established place of business in the State of New York and have committed acts of infringement in the State of New York. Venue is proper in this district as to LG Electronics, Inc. pursuant to 28 U.S.C. § 1391(c)(1) as it is not resident of the United States and may be sued in any judicial district.

11. All conditions precedent to bringing this action have been performed, been waived or have occurred.

## COUNT I

### **(Defendants' Infringement of the '301 Patent)**

12. Mute First Ring incorporates the allegations in paragraphs 1 through 11, above.

13. The '301 Patent is valid and enforceable.

14. The LG Defendants make, use, sell, offer to sell, and/or import into the United States for subsequent sale or use products, services, methods, or processes that infringe, literally and/or under the doctrine of equivalents, or which employ systems, components, and/or processes that make use of systems or processes that infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '310 Patent. Such devices provided by the LG Defendants are smartphones and other mobile devices incorporating the Android Lollipop OS operating system and/or subsequent Android operating systems, and in particular the feature for managing and disabling phone ring tone profiles based on certain preset conditions or rules ("LG Accused Products").

15. On information and belief, the LG Defendants directly infringe literally and/or under the doctrine of equivalents, at least claim 1 of the '310 Patent by making, using, selling, offering to sell, and/or importing into the United States the LG Accused Products, which include: (i) a storage system including a plurality of ringtones that are activated when an incoming call is received and further includes a list of identified callers (e.g., contacts lists); (ii) at least one processor to execute at least one data processing system, the functionality of the processor including executing an acquiring module that reads an identifier (i.e., any code identifying from

where the call is sent – e.g., landline number, mobile phone number, SMS number, e-mail address, Skype ID, WhatsApp ID, Viber ID, Google Talk ID, Facebook Messenger ID, etc.); (iii) a detection module to detect if the identifier exists in at least one list in the system to determine the caller from the list and to detect how many incoming calls have been made within a 15 minute period by the same caller (“Repeat Callers”); as explained by the system: “[i]f the same person calls a second time within a 15 minute period allow it.”; (iv) functionality including executing a disabling module that either activates or disables a ringtone according to the number of calls by the same person caller within a 15 minute period of time; and (v) a Repeated Callers option in the Android Do Not Disturb settings that provides for disabling a ringtone if a number of calls being made by the same caller within 15 minutes is no more than 1 call, and further provides for activating a ringtone if a number of calls being made by the same caller within 15 minutes is no less than 2 calls.

16. On information and belief, the LG Defendants indirectly infringe literally and/or under the doctrine of equivalents, at least claim 10 of the ‘310 Patent by active inducement. The LG Defendants have published and continue to publish instructions for use of the LG Accused Products, thereby inducing customers to infringe the patent. For example, and without limitation, the LG Defendants have published “How-to & Tips” (attached as Exhibit 3 hereto) including a section entitled “Do Not Disturb (DND) Function” that instructs users of the LG Accused Devices to activate DND mode with priority for Repeat callers.

17. Users following the instructions published by the LG Defendants infringe at least claim 10 by performing a method for enabling an LG Accused Device to vary an incoming call notification signal by: a. providing a system comprising: i. a storage system comprising (a) a plurality of ringtones; at least one of which is a mute ring tone profile of the system and at least

one second ring tone profile of the system; said at least one second ring tone profile of the system is substantially different from said mute ring tone profile; and, (b) at least one list of identified callers (e.g., contacts lists); ii. at least one processor to execute at least one data processing system, said at least one data processing system comprising: 1. an acquiring module operable to read an identifier of an incoming call or an incoming message (i.e., any code identifying from where the call is sent – e.g., landline number, mobile phone number, SMS number, e-mail address, Skype ID, WhatsApp ID, Viber ID, Google Talk ID, Facebook Messenger ID, etc.); 2. a detecting module operable to detect if the identifier exists in said at least one list in the system, to determine the caller from said list, and to detect how many incoming calls have been made within a 15 minute period by the same caller (“Repeat Callers”); and 3. a switching module operable to select the current ring tone from said plurality of stored ringtones according to at least one selected from a group consisting of (a) the number of calls by the same caller within said predetermined period of time; (b) the number of calls having the same identifier within said predetermined period of time; and any combination thereof (e.g., operable to activate a vibrating or non-audible signal if a number of calls being made by the same caller within 15 minutes is no more than 1 call, and to activate an audible ringtone if a number of calls being made by the same caller within 15 minutes is no less than 2 calls). b. receiving an incoming call; c. identifying said identifier for said incoming call; d. counting at least one selected from a group consisting of (a) calls from the same identifier; (b) calls made by the same caller; e. setting the current ringtone based on said number of calls, said current ringtone being said mute ringtone profile if said number of calls having either said same identifier or being made by said same caller, within said predetermined period of time, is less than a predetermined number; setting said current ringtone to be said second ring tone profile if said number of calls having either said same identifier or being made by said same caller, within

said predetermined period of time, is greater than a predetermined number (e.g., setting the ringtone to vibrating or a non-audible signal if a number of calls being made by the same caller within 15 minutes is no more than 1 call, and setting an audible ringtone if a number of calls being made by the same caller within 15 minutes is no less than 2 calls).

18. The LG Defendants have had knowledge of the '310 Patent at least since the filing of the original complaint in this action.

19. Mute First Ring is entitled to recover damages adequate to compensate it for Defendants' infringement.

## COUNT II

### **(Defendants' Infringement of the '757 Patent)**

20. Mute First Ring incorporates the allegations in paragraphs 1 through 19, above.

21. The '757 Patent is valid and enforceable.

22. The LG Defendants make, use, sell, offer to sell, and/or import into the United States for subsequent sale or use products, services, methods, or processes that infringe, literally and/or under the doctrine of equivalents, or which employ systems, components, and/or processes that make use of systems or processes that infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '757 Patent. Such devices provided by the LG Defendants are smartphones and other mobile devices incorporating the Android Lollipop OS operating system, and/or subsequent Android operating systems, and in particular the feature for managing and disabling phone ring tone profiles based on certain preset conditions or rules ("LG Accused Products").

23. On information and belief, the LG Defendants directly infringe literally and/or under the doctrine of equivalents, at least claim 1 of the '757 Patent by making, using, selling, offering to sell, and/or importing into the United States the LG Accused Products, which include:

(i) a storage system including a plurality of ringtones adapted to be activated when an incoming call is made and further includes a list of identified callers (e.g., contacts lists);

(ii) at least one processor to execute at least one data processing system, the functionality of the processor including executing an acquiring module that reads an identifier (i.e., any code identifying from where the call or message is sent – e.g., landline number, mobile phone number, SMS number, e-mail address, Skype ID, WhatsApp ID, Viber ID, Google Talk ID, Facebook Messenger ID, etc.);

(iii) a detecting module operable to detect if the identifier exists in said at least one list in the storage system, to determine the caller from said list, and to detect how many incoming calls have been made within a first predetermined period of time having at least one selected from a group consisting of (a) being made from the same identifier and (b) being made by the same caller (“Repeat Callers”), e.g., how many incoming calls have been made within a 15 minute period by the same caller; as explained by the system: “[i]f the same person calls a second time within a 15 minute period allow it.”; and

(iv) functionality including executing a disabling module adapted to either activate or disable said ringtones according to at least one selected from a group consisting of, (a) the number of calls by the same caller within said first predetermined period of time, (b) the number of calls having the same identifier within said first predetermined period of time and (c) any combination thereof; said disabling module of said system disables said ringtones if said number of calls having at least one selected from the group consisting of:



said same identifier and being made by said same caller, within said predetermined period of time is no more than a predetermined amount (e.g., ignoring the call or activating a vibrating or non-audible signal if no more than 2 calls are made from the same caller within a 15 minute period); said disabling module of said system activates said ringtones if said number of calls having at least one selected from the group consisting of: said same identifier and being made by said same caller, within said predetermined period of time is no less than all said predetermined amount (e.g., allowing the call or activating an audible ringtone if no less than 2 calls within a 15 minute period); wherein at least one of the following is being held true: (a) said disabling module remains activated for a second predetermined period of time; (b) said disabling module activates after a predetermined delay time such that, after activation, said activation or said disabling of said ringtones commences upon completion of said predetermined delay time; and (c) any combination thereof (e.g., the feature may be activated/deactivated on a schedule).

24. On information and belief, the LG Defendants indirectly infringe literally and/or under the doctrine of equivalents, at least claim 10 of the '757 Patent by active inducement. The LG Defendants have published and continue to publish instructions for use of the LG Accused Products, thereby inducing customers to infringe the patent. For example, and without limitation, the LG Defendants have published "How-to & Tips" (attached as Exhibit 3 hereto) including a section entitled "Do Not Disturb (DND) Function" that instructs users of the LG Accused Devices to activate DND mode with priority for Repeat callers.

25. Users following the instructions published by the LG Defendants infringe at least claim 10 by performing a method for enabling a communication device to vary an incoming call notification signal comprising steps of: a. providing a system comprising: i. a storage system

comprising (a) a plurality of ringtones; at least one of which is a mute ring tone profile of the system and at least one second ring tone profile of the system; said at least one second ring tone profile of the system is substantially different from said mute ring tone profile; and, (b) at least one list of identified callers (e.g., contacts lists); ii. at least one processor to execute at least one data processing system, said at least one data processing system comprising: 1. an acquiring module operable to read an identifier of an incoming call or an incoming message (i.e., any code identifying from where the call is sent – e.g., landline number, mobile phone number, SMS number, e-mail address, Skype ID, WhatsApp ID, Viber ID, Google Talk ID, Facebook Messenger ID, etc.); 2. a detecting module operable to detect if the identifier exists in said at least one list in the system, to determine the caller from said list, and to detect how many incoming calls have been made within a first predetermined period of time (15 minutes) having at least one selected from a group consisting of (a) being made from the same identifier; (b) being made by the same caller (“Repeat Callers”); and 3. a switching module operable to select the current ring tone from said plurality of stored ringtones according to at least one selected from a group consisting of (a) the number of calls by the same caller within said first predetermined period of time; (b) the number of calls having the same identifier within said first predetermined period of time; and any combination thereof; b. receiving an incoming call; c. identifying said identifier for said incoming call; d. counting at least one selected from a group consisting of (a) calls from the same identifier; (b) calls made by the same caller; e. setting the current ringtone based on said number of calls, wherein at least one of the following being true: (a) said current ringtone being said mute ringtone profile if said number of calls having either said same identifier or being made by said same caller, within said predetermined period of time; is less than a predetermined number (e.g., ignoring the call or activating a vibrating or non-audible signal if no more than 1 call is made from the same

caller within a 15 minute period), (b) setting said current ringtone to be said second ring tone profile if said number of calls having either said same identifier or being made by said same caller, within said predetermined period of time, is greater than a predetermined number (e.g., allowing the call or activating an audible ringtone if no less than 2 calls within a 15 minute period), (c) said current ringtone being said mute ringtone profile if said number of calls having either said same identifier or being made by said same caller, within said predetermined period of time, is more than a predetermined number and (d) setting said current ringtone to be said second ring tone profile if said number of calls having either said same identifier or being made by said same caller, within said predetermined period of time, is less than a predetermined number; wherein at least one of the following is being held true: a. said disabling module remains activated for a second predetermined period of time; b. said disabling module activates after a predetermined delay time such that, after activation, said activation or disabling of said ringtones commences upon completion of said predetermined delay time; and c. any combination thereof.

26. The LG Defendants have had knowledge of the '757 Patent at least since the filing of the original complaint in this action.

27. Mute First Ring is entitled to recover damages adequate to compensate it for Defendants' infringement.

#### **PRAYER FOR RELIEF**

WHEREFORE, Mute First Ring respectfully requests a judgment:

A. declaring that the '310 Patent and the '757 Patent are valid and enforceable;

- B. finding that Defendants have infringed, directly and/or indirectly, literally and/or under the doctrine of equivalents, one or more claims of the '310 Patent and the '757 Patent;
- C. awarding Mute First Ring all appropriate damages under 35 U.S.C. § 284 for Defendants' past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Mute First Ring for Defendants' infringement, and an accounting;
- D. awarding Mute First Ring its costs, and expenses incurred in prosecuting this action; and
- E. such further relief at law or in equity as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), Mute First Ring hereby demands trial by jury on all claims and issues so triable.

Dated: May 2, 2018

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