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

VARTA MICROBATTERY GMBH, Plaintiff, v. SAMSUNG ELECTRONICS AMERICA, INC., Defendant.	Civil Action No. _____ **JURY TRIAL DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff VARTA Microbattery GmbH ("VARTA") files this Complaint for Patent Infringement of United States Patent Nos. 9,153,835; 9,496,581; and 9,799,913 (collectively "the Patents-in-Suit") against Defendant Samsung Electronics America, Inc. ("SEA") and alleges as follows:

PARTIES

1. VARTA is a German limited liability company headquartered at VARTA-Platz 1, 73479 Ellwangen, Baden-Württemberg, Germany.

2. SEA is a corporation organized under the laws of the State of New York with a principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey, 07660. Upon information and belief, SEA has a regular and established place of business in Texas at its campus located at 6625 Excellence Way, Plano, Texas, 75023, and can be served with process in Texas through its registered agent, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over SEA in this action because SEA has and continues to commit infringing acts within the Eastern District of Texas and has established minimum contacts with this District such that exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

5. SEA sells and offers for sale in the State of Texas and/or imports into the State of Texas the infringing products, including by placing such products into the stream of commerce through established distribution channels including retail stores and internet sites with the knowledge and understanding that such products will be sold throughout the State of Texas including in this District. SEA has purposefully availed itself of the privileges of conducting business in the State of Texas, including by deriving substantial revenues from importing and selling the infringing products and by maintaining a registered agent in Texas, CT Corporation System, 1999 Bryan St., Ste. 900 Dallas, Texas 75201-3136.

6. This Court has general jurisdiction over SEA due to its continuous and systematic contacts with the State of Texas and this District, including by maintaining a continuous physical presence in this District at its campus at 6625 Excellence Way, Plano, Texas, 75023; by maintaining CT Corporation System, 1999 Bryan St., Ste. 900 Dallas, Texas 75201-3136, as a registered agent for service of process; and by conducting continuous and substantial business in the State of Texas from which SEA has derived significant revenue.

7. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. § 1400(b) because SEA has committed and continues to commit acts of infringement by selling and

offering to sell in and/or importing into this District the infringing products and because SEA has a regular and established place of business in this District at 6625 Excellence Way, Plano, Texas, 75023.

BACKGROUND

8. VARTA is a leading manufacturer of microbatteries, which include button cells and coin cells due to their small form factor and low height. Applications for VARTA microbatteries include, for example, watches, hearing aids, and wearable cordless devices such as wireless earphones.

9. In the mid-to-late 2000's, VARTA undertook efforts to design and develop a novel and proprietary microbattery technology with excellent mechanical strength characteristics, increased power density, and better space utilization.

10. VARTA's novel and proprietary design includes an electrode-separator assembly located between a housing cup and a housing top that includes at least one positive electrode and at least one negative electrode separated by a separator. The electrodes and the separator may be formed from flat layers that may be laminated or bonded together. The assembly is wound into a spiral winding and located in the housing so that the electrodes are disposed at essentially right angles to the flat bottom and top areas.

11. Figures 3b and 4 of the Patents-in-Suit illustrate an example of an embodiment of the invention. The electrodes 407 of one polarity (highlighted in green) and the electrodes 408 of the other polarity (highlighted in red) are wound in a spiral configuration (shown generally in FIG. 3b). The electrodes 407, 408 may be separated from each other by separator layers 405, 406 of non-conductive material.

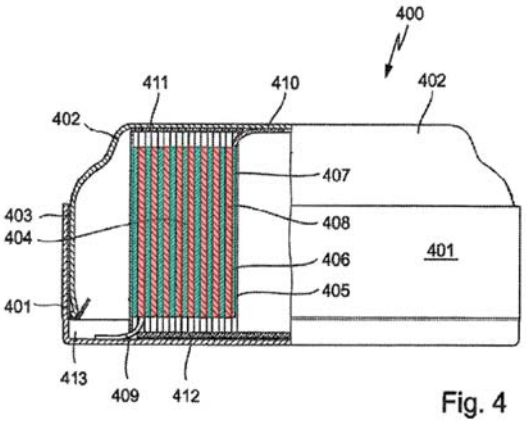


Fig. 4

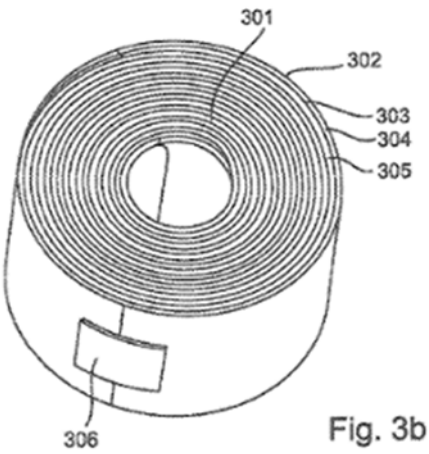


Fig. 3b

12. The lower housing cup and the upper housing top are fitted together to form a housing about the electrode-separator assembly.

13. Electrical contact between the electrode-separator assembly and the flat top and/or bottom areas may occur through an output conductor comprising a piece of foil resting between the spiral winding and the flat top and/or bottom areas.

14. VARTA sells and offers for sale its patented microbatteries in the United States and worldwide *inter alia* under the trademark CoinPower®.

THE PATENTS IN SUIT

15. VARTA spent a great deal of time, effort, and expense in the research and development that lead to the CoinPower® microbatteries. Because of their outstanding performance, the CoinPower® microbatteries have been highly successful and well accepted by the market across the world. In recognition of the break-through nature of its invention, VARTA was granted an international patent portfolio covering various aspects of the CoinPower® microbatteries, including a number of patents in the United States, with additional patent applications still pending in the United States Patent and Trademark Office.

16. On October 6, 2015, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,153,835 ("the '835 Patent"), entitled "Button Cells and Method for Producing Same" to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the '835 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the '835 Patent. A true and correct copy of the '835 Patent is attached hereto as Exhibit A.

17. On November 15, 2016, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,496,581 ("the '581 Patent"), entitled "Button Cells and Method of Producing Same" to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the '581 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the '581 Patent. A true and correct copy of the '581 Patent is attached hereto as Exhibit B.

18. On October 24, 2017, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,799,913 ("the '913 Patent"), entitled "Button Cells and Method of Producing Same" to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the '913 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the '913 Patent. A true and correct copy of the '913 Patent is attached hereto as Exhibit C.

19. The '835 Patent, '581 Patent, and '913 Patent each claim priority to International Patent Application PCT/EP2010/000787 filed on February 9, 2010 on behalf of VARTA, which

in turn claims priority to three applications filed in Germany: Application DE No. 10 2009 008 859 filed February 9, 2009, Application No. DE 10 2009 030 359 filed June 18, 2009, and DE Application No. 10 2009 060 788 filed December 22, 2009.

THE INFRINGING PRODUCTS

20. On information and belief, SEA sells and offers for sale in the United States and/or imports into the United States infringing products contained in, for example, wireless earphones bearing the product number SM-R170 and marketed under the tradename Galaxy Buds®.

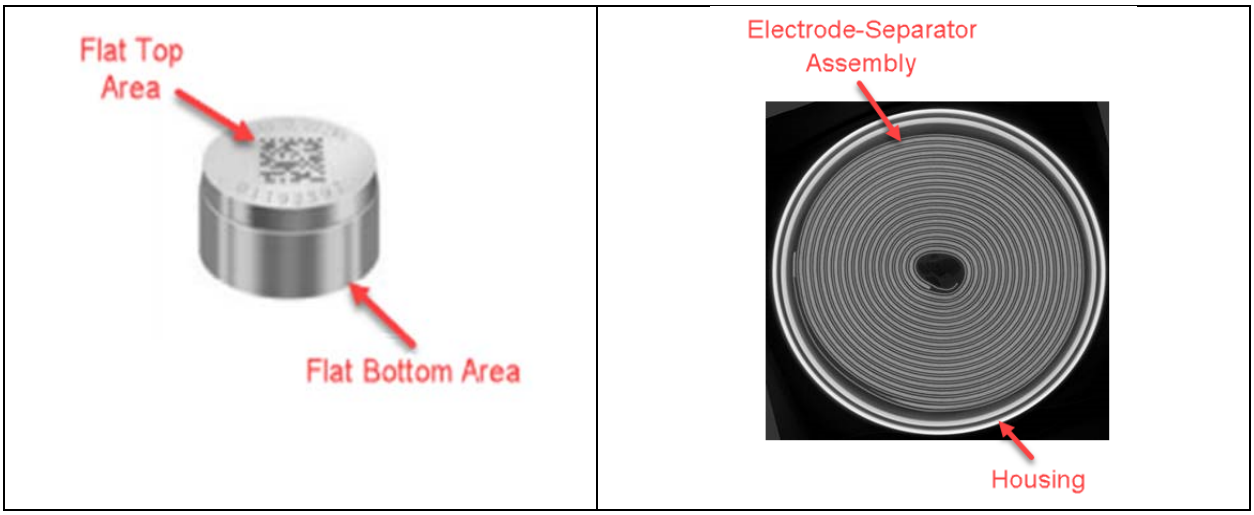
21. Wireless earphones, also referred to as earbuds, are small audio electronic devices that are worn close to or inserted into the ear and can reproduce audible sounds including music and voice transmissions via a small speaker that converts an electrical signal to a soundwave.

22. The wireless earphones connect with a base unit, such as a mobile phone or a personal computer with an audio player that stores audio files, using Bluetooth or other wireless connectivity for the transmission of information via short range radio waves. As such, wireless earphones do not require cords or cables to connect with the base unit.

23. Because of the wireless connectivity between the wireless earphones and the base unit, and hence the lack of a wired connection, wireless earphones require a power source such as a rechargeable battery.

24. The Galaxy Buds® include a rechargeable lithium-ion battery, including but not limited to batteries obtained from EVE Energy of China bearing the part number ICR 1254. A copy of the product specification for the ICR 1254 battery obtained from EVE Energy's website is attached hereto at Exhibit D (Source: http://en.evebattery.com/product/58.html).

25. The ICR 1254 battery includes a housing cup with a flat bottom area and a housing top with a flat top area as shown below.



26. The ICR 1254 battery includes an electrode-separator assembly within the housing having a positive electrode and a negative electrode in the form of flat layers connected to and separated by a flat separator.

27. The electrode-separator assembly of the ICR 1254 battery is in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area so that the electrodes are aligned essentially at right angles to the flat bottom area and the flat top area when the housing cup and housing top are closed.

28. SEA, without license or authorization, has sold and offered to sell and continues to sell and offers to sell in the United States and/or imports into the United States infringing products including the Galaxy Buds® wireless earphones with at least the ICR 1254 batteries.

29. SEA has infringed and continues to infringe by selling and offering to sell in the United States and/or importing into the United States infringing products including, for example, the Galaxy Buds® wireless earphones with at least the ICR 1254 batteries.

COUNT I: INFRINGEMENT OF THE '835 PATENT

30. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its Complaint as if fully set forth herein.

31. On information and belief, SEA has infringed and continues to infringe at least claim 1 of the ’835 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States infringing products including, for example, Galaxy Buds® wireless earphones with at least the ICR 1254 battery.

32. More particularly, the ICR 1254 batteries included with the Galaxy Buds® wireless earphones have a housing cup and a housing top separated from one another by an electrically insulating seal to form a housing with a flat bottom area and a flat top area.

33. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly within the housing with a positive and a negative electrode in the form of flat layers and that are connected to one another by a flat separator.

34. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly where the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area and the housing cap and the housing top are closed without being beaded over.

35. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area.

36. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an insulator arranged between the end faces of the spiral winding and the housing cup and the housing top.

37. On information and belief, SEA has infringed and continues to infringe at least claim 10 of the ’835 Patent under 35 U.S.C. § 271(g) by importing into and/or selling in the

United States Galaxy Buds® wireless earphones with at least the ICR 1254 battery which is made by a process that involves each and every step set forth in at least claim 10.

38. On information and belief, the ICR 1254 batteries are produced by inserting an electrode-separator assembly with electrodes in the form of a flat layer into the housing such that the electrode layers are aligned essentially at right angles to the flat bottom and top areas.

39. SEA is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the ’835 Patent.

40. As a result of SEA’s infringement of the ’835 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for SEA’s infringing acts.

41. VARTA has been, and will continue to be, damaged by SEA’s infringement of the ’835 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

COUNT II: INFRINGEMENT OF THE ’581 PATENT

42. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its Complaint as if fully set forth herein.

43. On information and belief, SEA has infringed and continues to infringe at least claim 1 of the ’581 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States infringing products including, for example, Galaxy Buds® wireless earphones with at least the ICR 1254 battery.

44. More particularly, the ICR 1254 batteries included with the Galaxy Buds® wireless earphones have a housing cup and a housing top separated from one another by an electrically insulating seal to form a housing with a flat bottom area and a flat top area.

45. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly within the housing with a positive and a negative electrode in the form of flat layers and that are connected to one another by a flat separator.

46. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly where the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area.

47. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area.

48. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have one of the electrodes that connects to the flat bottom area or the flat top area via an output conductor comprising a foil resting flat between an end face of the spiral winding and the flat top or the flat bottom area to which it is connected.

49. On information and belief, SEA has infringed and continues to infringe at least claim 10 of the ’581 Patent under 35 U.S.C. § 271(g) by importing into and/or selling in the United States Galaxy Buds® wireless earphones with at least the ICR 1254 battery which is made by a process that involves each and every step set forth in at least claim 10.

50. On information and belief, the ICR 1254 batteries are produced with the electrode-separator inserted into the housing such that the electrodes are aligned at essentially right angles to the flat bottom area and the flat top area.

51. SEA is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the ’581 Patent.

52. As a result of SEA's infringement of the '581 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for SEA's infringing acts.

53. VARTA has been, and will continue to be, damaged by SEA's infringement of the '581 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court

COUNT III: INFRINGEMENT OF THE '913 PATENT

54. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its Complaint as if fully set forth herein.

55. On information and belief, SEA has infringed and continues to infringe at least claims 1, 4, and 6 of the '913 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States infringing products including, for example, Galaxy Buds® wireless earphones with at least the ICR 1254 battery.

56. More particularly, the ICR 1254 batteries included with the Galaxy Buds® wireless earphones have a housing cup and a housing top separated from one another by an electrically insulating seal to form a housing with a flat bottom area and a flat top area.

57. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly within the housing with a positive and a negative electrode in the form of flat layers and that are connected to one another by a flat separator.

58. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly where the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area.

59. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area.

60. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an electrode-separator assembly where at least one of the electrodes connects to the flat bottom area or flat top area by an output connector comprising a foil resting between the end faces of the spiral winding and the flat top or bottom areas.

61. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have an insulator arranged between the end faces of the spiral winding and the housing cup and the housing top preventing direct mechanical and electrical contact.

62. The ICR 1254 batteries included with the Galaxy Buds® wireless earphones have at least one flat layer composed of plastic preventing direct mechanical and electrical contact between the end faces of the winding and the flat bottom and flat top areas.

63. SEA is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the ’913 Patent.

64. As a result of SEA’s infringement of the ’913 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for SEA’s infringing acts.

65. VARTA has been, and will continue to be, damaged by SEA’s infringement of the ’913 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

PRAYER FOR RELIEF

WHEREFORE, VARTA prays as follows:

A. A judgement declaring that SEA is liable for infringement of the ’835 Patent, the ’581 Patent, and the ’913 Patent;

B. An award to VARTA and against SEA of compensatory damages for infringement of the ’835 Patent, the ’581 Patent, and the ’913 Patent, together with all pre-judgment and post-judgment interest;

C. Entry of a preliminary and/or permanent injunction against SEA pursuant to 35 U.S.C. § 283 and/or the equitable powers of the Court to prevent further infringement of the ’835 Patent, the ’581 Patent, and the ’913 Patent;

D. A declaration that this is an exceptional case within the meaning of 35 U.S.C. § 285 and an award to VARTA of its reasonable attorneys’ fees; and

E. An award of any and all other relief as this Court may deem just and proper under the circumstances.

JURY DEMAND

Pursuant to Rule 38(B) of the Federal Rules of Civil Procedure, VARTA requests a trial by jury on all triable issues.

Dated: February 5, 2020

Respectfully submitted,

/s/ Andrew W. Stinson

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