

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

VULPECULA, LLC,

Plaintiff,

v.

LG ELECTRONICS, INC. AND LG
ELECTRONICS U.S.A., INC.,

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Vulpecula, LLC (hereinafter “Vulpecula”), states for its Complaint against LG Electronics, Inc. and LG Electronics U.S.A., Inc. as follows:

INTRODUCTION

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.

PARTIES

2. Plaintiff Vulpecula, LLC is a limited liability company organized and existing under the laws of the State of Texas, having its principal place of business at 700 S Central Expressway, Suite 400, PMB 162, Allen, Texas 75013.

3. On information and belief, Defendant LG Electronics, Inc. (“LGEKR”)

is a Korean corporation having a place of business at LG Twin Towers 20, Yeouido-dong, Yeongdeunspo-gu, Seoul, 150-721, Republic of Korea.

4. On information and belief, Defendant LG Electronics U.S.A., Inc. (“LGEUS”) is a Delaware Corporation with its principal place of business within this Judicial District at 2151-2155 Eagle Parkway, Fort Worth, Texas 76177 in Denton County, Texas. LGEUS is registered for the right to transact business in Texas and has been since 1984. LGEUS may be served with process at its registered agent for service of process at United States Corporation Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701. Defendant LGEUS distributes wireless mobile communication devices to customers throughout the United States. On information and belief, LGEUS imports such wireless communication devices from its parent corporation LGEKR in South Korea, where they are designed and made.

5. On information and belief, LGEUS is a wholly owned subsidiary of LGEKR and is responsible for domestic sales and distribution of LG’s consumer electronics products, including the accused products in this case.

6. Defendants do business in Texas, directly or through intermediaries and offer products or services, including those accused herein of infringement, to customers, and potential customers located in Texas, including in the Eastern

District of Texas.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. § 271 *et seq.* Defendants are subject to personal jurisdiction in the State of Texas and in this Judicial District.

8. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391(c)(3), 1400(b). Defendant LGEKR is a foreign corporation that may be sued in this Judicial District. Defendant LGEUS maintains a physical place of business within the State, including in the Eastern District of Texas, at 2151-2155 Eagle Parkway, Fort Worth, Texas 76177.

9. Plaintiff's cause of action arises directly from Defendants' business contacts and other activities in the State of Texas and this District.

10. This Court has personal jurisdiction over the Defendants pursuant to due process and the Texas Long Arm Statute because the Defendants have established minimum contacts with the Eastern District of Texas. The Defendants manufacture (directly or indirectly through third party manufacturers) and/or assemble products that are and have been used, offered for sale, sold, and

purchased in the Eastern District of Texas. The Defendants, directly and/or through their distribution network, place wireless mobile communication devices within the stream of commerce, which stream is directed at this district, with the knowledge that those products will be sold and offered for sale in the State of Texas, including the Eastern District of Texas. The Defendants' business activities in the Eastern District of Texas are regular and persistent, and through these activities the Defendants derive substantial ongoing revenue and business advantages. Defendant LGEKR has coordinated with and/or directed its wholly owned subsidiary Defendant LGEUS to establish and maintain the Defendants' largest distribution point in the United States of America within the Eastern District of Texas at the regular and established place of business located at 2151-2155 Eagle Parkway, Fort Worth, Texas 76177, which upon information and belief is a 1.2 million-square-foot distribution hub. Defendants also employ individuals in the Dallas/Fort Worth area, including within the County of Denton, and elsewhere in the State of Texas. Defendants have purposefully availed themselves of and voluntarily submitted to the laws of the State of Texas by, for example, commencing litigation within the State of Texas, maintaining offices and facilities in the Eastern District of Texas and the State of Texas, and by LGEUS registering

with the Texas Secretary of State's Office to do business in the State of Texas and appointing a registered agent for service of process in the State of Texas.

11. Defendants, directly and through subsidiaries or intermediaries, have committed and continue to commit acts of infringement in this District by, among other things, making, using, importing, offering for sale, and/or selling products that infringe the Patent-in-Suit, and inducing others to infringe the Patent-in-Suit. The exercise of personal jurisdiction over the Defendants is appropriate under the applicable jurisdictional statutes and would not offend traditional notions of fair play and substantial justice.

12. This Court also has personal jurisdiction over Defendants under the provisions of the Texas Long Arm Statute and consistent with Constitutional due process by virtue of the fact that, upon information and belief, Defendants have availed themselves of the privilege of conducting and soliciting business within this State, including engaging in at least some of the infringing activities in this State, as well as by others acting as Defendants' agents and/or representatives, such that it would be reasonable for this Court to exercise jurisdiction consistent with principles underlying the U.S. Constitution and without offending traditional notions of fair play and substantial justice.

13. On information and belief, Defendants have also established minimum contacts with this Judicial District and regularly transact and do business within this District, including advertising, promoting and selling products over the Internet, through intermediaries, representatives and/or agents located within this District, that infringe Plaintiff's Patent-in-Suit, which products are then sold and/or shipped directly to citizens residing within this State and in this District. Upon further information and belief, Defendants have purposefully directed activities at citizens of this State, including those located within this Judicial District.

14. On information and belief, Defendants have purposefully and voluntarily placed their products into the stream of commerce with the expectation that they will be purchased and used by customers located in the State of Texas. On information and belief, Defendants' customers in the State of Texas have purchased and used and continue to purchase and use Defendants' products.

15. Furthermore, this Court has personal jurisdiction over Defendants under the Long Arm Statute of the State of Texas because: (i) Defendants have and continue to intentionally sell products and methods to customers in Texas; (ii) Defendants have and continue to intentionally instruct customers and potential customers in Texas with respect to how to use the products and methods that Defendants sell to customers in Texas; (iii) Defendants know and have known their

products and methods, including the infringing methods, have and continue to be sold and marketed in Texas through regular and established distribution channels; (iv) Defendants know and have known that their products and methods will enter the United States of America and the State of Texas; (v) Defendants have and continue to target customers and potential customers in Texas to buy and/or use Defendants' products and methods, including the infringing methods; (vi) Defendants have and continue to provide advice to customers in Texas; (vii) it has been and continues to be foreseeable that Defendants' products and methods, including the infringing methods, would enter the State of Texas; (viii) Defendants have and continue to market to citizens of Texas through their website <https://www.lg.com/us>, which is copyrighted "LG Electronics"; (ix) Defendants have and continue to provide services to citizens of Texas through their website; (x) Defendants derive substantial revenue from Texas; (xi) Texas has and continues to be part of Defendants' established distribution channels; (xii) the assertion of personal jurisdiction over Defendants is reasonable and fair; (xiii) and the State of Texas has an interest in this matter due to the presence of both Plaintiff and LGEUS within this State, as well as the presence of Defendants' infringing products in the State of Texas.

16. This Court also has personal jurisdiction over Defendants because: (i) Defendants maintain regular and systematic business contacts with the State of Texas

and within this District; (ii) Defendants purposely, regularly, and continuously conduct business in the State of Texas and within this District; (iii) Defendants purposefully direct their activities at residents of the State of Texas; (iv) the cause of action set forth herein arises out of or relates to Defendants' activities in the State of Texas; and (v) the exercise of jurisdiction over Defendants will not offend the traditional notions of fair play and substantial justice.

17. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1331, § 1338(a), §§ 1391 (b) – (d), and 1400(b) for the above stated reasons and also because the Defendants maintain a regular and established place of business in this District, including by maintaining a physical place of business located at 2151-2155 Eagle Parkway, Fort Worth, Texas 76177, and Defendants have committed, and continue to commit, acts of infringement within this District, including providing wireless mobile communication devices that are used, offered for sale, sold, and have been purchased in the State of Texas, including in the Eastern District of Texas.

Vulpecula's U.S. Patent No. 10,496,800

18. On October 17, 2014, Robert Paul Morris filed U.S. Provisional Patent Application No. 62/065,601 (“the '601 provisional application”).

19. On July 23, 2015, Mr. Morris filed U.S. Patent Application No.

14/807,831 (“the ’831 application”).

20. On December 3, 2019, the United States Patent and Trademark Office duly and legally issued United States Patent No. 10,496,800 (“the ’800 patent”), entitled “Application-Governed Link Opening System and Method.” A true and correct copy of the ’800 patent is attached hereto as Exhibit A.

21. The ’800 patent claims priority to the ’831 application and the ’601 provisional application.

22. Vulpecula is the owner, by assignment, of all right, title, and interest in and to the ’800 patent, including the right to bring suit for past, present, and future patent infringement, and to collect past, present, and future damages.

No Claim Of Vulpecula’s ’800 patent Is Abstract

23. The claims of Vulpecula’s ’800 patent are focused on an advance over the prior art such that their character as a whole is not directed to excluded subject matter, such as an abstract idea, or any other subject matter excluded under 35 U.S.C. §101.

24. In fact, the Patent Office determined that the combinations claimed in the claims of Vulpecula’s ’800 patent are novel and nonobvious.

25. The advancement claimed in the claims of Vulpecula’s ’800 patent includes, *inter alia*, an application-governed link-opening system and method. The

'800 patent claims a very specific solution. For example, claim 47 spans more than a full column. Moreover, the problem addressed by the inventions claimed in the '800 patent arise only in an Internet context, specifically situations involving an HTTP link. The problems addressed by the claims of the '800 patent do not arise outside an Internet environment. Thus, the claims are not directed to merely an abstract concept.

26. The claims of the '800 patent improve computing functionality by, for example, providing user-selected content in the application best suited for it, optimizing performance and efficiency. Furthermore, the claimed inventions address the challenge of retaining users and providing them with an optimized user experience that is not applicable in a non-Internet context.

The Inventions Claimed In Vulpecula's '800 patent Were Not Well-Understood, Routine, Or Conventional

27. The inventions claimed in the '800 patent were not well-understood, routine, or conventional as of the priority date of Vulpecula's '800 patent, but instead claim specific, novel, and nonobvious improvements to the prior art.

28. The claims of the '800 patent do not preempt all ways of providing an application-governed link-opening system and method.

29. Vulpecula's '800 patent is compliant with 35 U.S.C. § 101. *See* Exhibit B.

30. Vulpecula's '800 patent is compliant with 35 U.S.C. § 102. *See* Exhibit B.

31. Vulpecula's '800 patent is compliant with 35 U.S.C. § 103. *See* Exhibit B.

32. Vulpecula's '800 patent is compliant with 35 U.S.C. § 112. *See* Exhibit B.

33. Vulpecula's '800 patent is presumed valid and enforceable in accordance with 35 U.S.C. § 282.

34. Defendants have had knowledge of the '800 patent at least as early as the date of service of this Complaint.

COUNT ONE: DIRECT INFRINGEMENT OF THE '800 PATENT

35. Vulpecula realleges and incorporates herein the preceding allegations of this Complaint as if fully set forth herein.

36. Defendants have in the past and continue to infringe one or more claims of Vulpecula's '800 patent, including at least claim 47, in violation of 35 U.S.C. §§ 271(a) by making, using, offering to sell, or selling the patented invention within the United States or importing the patented invention into the United States.

37. A representative example of Defendants' infringing apparatuses,

methods, and systems includes (but is not limited to) Defendants' LG's G8 smartphone. A representative claim chart demonstrating Defendants' infringement of Vulpecula's '800 patent, either literally or under the doctrine of equivalents, is attached as Exhibit C. Defendants' infringing products include, without limitation, other LG smartphones providing functionality such as that shown in Exhibit C ("Accused Products").

38. Vulpecula has and continues to suffer damages as a direct and proximate result of Defendants' direct infringement of Vulpecula's '800 patent and will suffer additional and irreparable damages unless Defendants are permanently enjoined by this Court from continuing their infringement. Vulpecula has no adequate remedy at law.

39. Vulpecula is entitled to: (i) damages adequate to compensate Vulpecula for Defendants' direct infringement of Vulpecula's '800 patent, which amounts to, at a minimum, a reasonable royalty; (ii) attorneys' fees; (iii) costs; and (iv) an injunction.

COUNT TWO: INDIRECT INFRINGEMENT OF THE '800 PATENT

40. Vulpecula realleges and incorporates herein the preceding allegations of this Complaint as if fully set forth herein.

41. Defendants have in the past and continue to indirectly infringe at least

claim 47 of Vulpecula's '800 patent in violation of 35 U.S.C. § 271(b) by actively, knowingly, and intentionally inducing direct infringement by other persons, including customers and end users, by offering for sale and/or selling Defendants' Accused Products in the United States without authority or license from Vulpecula and in a manner understood and intended to infringe Vulpecula's '800 patent.

42. Vulpecula has and continues to suffer damages as a direct and proximate result of Defendants' induced infringement of Vulpecula's '800 patent and will suffer additional and irreparable damages unless Defendants are permanently enjoined by this Court from continuing their infringement. Vulpecula has no adequate remedy at law.

43. Vulpecula is entitled to: (i) damages adequate to compensate Vulpecula for Defendants' induced infringement of Vulpecula's '800 patent, which amounts to, at a minimum, a reasonable royalty; (ii) attorneys' fees; (iii) costs; and (iv) an injunction.

PRAYER FOR RELIEF

WHEREFORE, Vulpecula seeks the following relief:

- a. Declaring that Defendants have infringed the '800 patent;
- b. That Defendants be enjoined from further infringement of the '800 patent pursuant to 35 U.S.C. § 283;

- c. That Defendants be ordered to pay damages adequate to compensate Vulpecula for their infringement of the '800 patent pursuant to 35 U.S.C. § 284;
- d. That Defendants be ordered to pay prejudgment interest pursuant to 35 U.S.C. § 284;
- e. That Defendants be ordered to pay all costs associated with this action pursuant to 35 U.S.C. § 284;
- f. That Defendants be ordered to pay Vulpecula's attorneys' fees pursuant to 35 U.S.C. § 285; and
- g. That Vulpecula be granted such other and additional relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Vulpecula demands a trial by jury of all issues so triable.

THIS 6th day of March, 2020.

Respectfully submitted,

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