

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

VULPECULA, LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO.,
LTD., SAMSUNG ELECTRONICS
AMERICA, INC.,

Defendants.

Civil Action No. 4:20-cv-00189-ALM

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Vulpecula, LLC (hereinafter “Vulpecula”), states for its First Amended Complaint against Samsung Electronics Co, Ltd. and Samsung Electronics America, 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 Samsung Electronics Co., Ltd. (“SEC”) is a corporation organized under the laws of the Republic of Korea, having a principal place of business listed at 129, Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, Republic of Korea.

4. On information and belief, Defendant Samsung Electronics America, Inc. (“SEA” or, collectively with SEC, “Samsung” or “Defendants”) is a corporation organized and existing under the laws of New York with a place of business at 85 Challenger Road, Ridgefield Park, New Jersey, 07660, and with offices at 1301 East Lookout Drive, Richardson, Texas, 75082, and at 6625 Declaration Drive, Plano, Texas 75023.

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

JURISDICTION

6. 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.*

7. Defendants are subject to personal jurisdiction in the State of Texas and in this Judicial District.

8. SEA is registered to do business in Texas and maintains an agent for service of process there. SEA maintains a place of business within the Eastern District of Texas, in the city of Richardson and another place of business within the District in the city of Plano. On information and belief, SEA's two places of business in this District employ over one thousand people.

9. Moreover, Defendants have authorized retailers that offer and sell accused products on their behalf in this Judicial District. These include Walmart, at 1701 E. End Blvd. N., Marshall, Texas 75670; Sprint, at 1806 E. End Blvd. Ste. 100, Marshall, Texas 75670; Target, at 3092 N Eastman Rd., Longview, Texas 75605, and Best Buy, at 422 W Loop 281, Longview, Texas 75605, among many others.

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

11. Defendants have derived substantial revenues from their infringing acts occurring within the State of Texas and within this District.

12. This Court has personal jurisdiction over SEA at least because it maintains established places of business in this District.

13. 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.

14. 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 patents, 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.

15. 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.

16. 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.samsung.com/us/>,

which is copyrighted “Samsung 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 SEA within this State, as well as the presence of Defendants’ infringing products in the State of Texas.

17. 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.

18. Venue is proper in this Judicial District and division pursuant to 28 U.S.C. § 1331, § 1338(a), §§ 1391(b) & (c), and § 1400(b).

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

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

20. On July 23, 2015, Mr. Morris filed U.S. Patent Application No. 14/807,831 (“the ’831 application”).

21. 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.

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

23. 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

24. 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.

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

26. 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 problems 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.

27. 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

28. 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.

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

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

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

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

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

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

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

Vulpecula's U.S. Patent No. 10,599,403

36. On March 24, 2020, the United States Patent and Trademark Office duly and legally issued United States Patent No. 10,599,403 ("the '403 patent"), entitled "Methods, Systems, and Computer Program Products for Web Browsing." A true and correct copy of the '403 patent is attached hereto as Exhibit C.

37. The '403 patent claims priority to, among others, the '831 application and the '601 provisional application.

38. Vulpecula is the owner, by assignment, of all right, title, and interest in and to the '403 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 '403 Patent is Abstract

39. The claims of Vulpecula's '403 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.

40. In fact, the Patent Office determined that the combinations claimed in the claims of Vulpecula's '403 patent are novel and nonobvious.

41. The advancement claimed in the claims of Vulpecula's '403 patent includes, *inter alia*, methods, systems, and computer program products for web browsing that utilize a security criterion in determining how to open a link selected by a user. The '403 patent claims a very specific solution. For example, claim 105 spans nearly a full column. Moreover, the problems addressed by the inventions claimed in the '403 patent arise only in an Internet context, specifically situations involving an HTTP link. The problems addressed by the claims of the '403 patent

do not arise outside an Internet environment. Thus, the claims are not directed to merely an abstract concept.

42. The claims of the '403 patent improve computing functionality by, for example, providing user-selected content in the application based on an analysis involving a security criterion, optimizing performance, efficiency, and security. 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 '403 Patent were Not Well-Understood, Routine, Or Conventional

43. The inventions claimed in the '403 patent were not well-understood, routine, or conventional as of the priority date of Vulpecula's '403 patent, but instead claim specific, novel, and nonobvious improvements to the prior art.

44. The claims of the '403 patent do not preempt all methods, systems, and computer program products for web browsing that utilize a security criterion in determining how to open a link selected by a user.

45. Vulpecula's '403 patent is compliant with 35 U.S.C. § 101. *See* Exhibit D.

46. Vulpecula's '403 patent is compliant with 35 U.S.C. § 102. *See* Exhibit D.

47. Vulpecula's '403 patent is compliant with 35 U.S.C. § 103. *See* Exhibit D.

48. Vulpecula's '403 patent is compliant with 35 U.S.C. § 112. *See* Exhibit D.

49. Vulpecula's '403 patent is presumed valid and enforceable in accordance with 35 U.S.C. § 282.

50. Defendants have had knowledge of the '403 patent at least as early as the date of service of this Complaint.

COUNT ONE: DIRECT INFRINGEMENT OF THE '800 PATENT

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

52. 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.

53. A representative example of Defendants' infringing apparatuses, methods, and systems includes (but is not limited to) Defendants' Samsung Galaxy S9 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 E. Defendants' infringing products include, without limitation, other Samsung smartphones providing functionality such as that shown in Exhibit E ("Accused Products").

54. 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.

55. 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

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

57. 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.

58. 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.

59. 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.

COUNT THREE: DIRECT INFRINGEMENT OF THE '403 PATENT

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

61. Defendants have in the past and continue to infringe one or more claims of Vulpecula's '403 patent, including at least claim 105, 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.

62. A representative example of Defendants' infringing apparatuses, methods, and systems includes (but is not limited to) Defendants' Samsung Galaxy S9 smartphone. A representative claim chart demonstrating Defendants' infringement of Vulpecula's '403 patent, either literally or under the doctrine of equivalents, is attached as Exhibit F. Defendants' Accused Products include, without limitation, other Samsung smartphones providing functionality such as that shown in Exhibit F.

63. Vulpecula has and continues to suffer damages as a direct and proximate result of Defendants' direct infringement of Vulpecula's '403 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.

64. Vulpecula is entitled to: (i) damages adequate to compensate Vulpecula for Defendants' direct infringement of Vulpecula's '403 patent, which amounts to, at a minimum, a reasonable royalty; (ii) attorneys' fees; (iii) costs; and (iv) an injunction.

COUNT FOUR: INDIRECT INFRINGEMENT OF THE '403 PATENT

65. Vulpecula realleges and incorporates herein the preceding allegations

of this Complaint as if fully set forth herein.

66. Defendants have in the past and continue to indirectly infringe at least claim 105 of Vulpecula's '403 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 '403 patent.

67. Vulpecula has and continues to suffer damages as a direct and proximate result of Defendants' induced infringement of Vulpecula's '403 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.

68. Vulpecula is entitled to: (i) damages adequate to compensate Vulpecula for Defendants' induced infringement of Vulpecula's '403 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 and the '403 patent;
- b. That Defendants be enjoined from further infringement of the '800 patent and the '403 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 and the '403 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 31st day of March, 2020.

Respectfully submitted,

/s/ Cortney S. Alexander

Stephen R. Risley (admission pending)

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