

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LG ELECTRONICS INC. AND
LG ELECTRONICS ALABAMA, INC.,

Plaintiffs,

v.

THE PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED IN SCHEDULE A,

Defendants.

Case No. 2021-cv-2600

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs LG Electronics Inc. and LG Electronics Alabama, Inc. bring this action for patent infringement under 35 U.S.C. § 100 *et seq.* against the Defendants identified by Merchant Name and Merchant Seller ID in the attached Schedule A (Exhibit 1) and allege as follows:

THE PARTIES

1. Plaintiff LG Electronics Inc. is a corporation organized under the laws of the Republic of Korea, having a principal place of business located at LG Twin Towers, 128 Yeoui-daero, Yeongdeungpo-gu, Seoul, Republic of Korea, 07736.

2. Plaintiff LG Electronics Alabama, Inc. is a wholly owned subsidiary of LG Electronics U.S.A., Inc., which is a wholly owned subsidiary of Plaintiff LG Electronics Inc. LG Electronics Alabama, Inc. is a United States company organized under the laws of Delaware, having a principal place of business located at 201 James Record Road SW, Huntsville, AL 35824-1513.

3. Defendants are individuals and business entities whose true names, identities, and/or addresses are unknown to Plaintiffs. On information and belief, Defendants reside and/or operate in the People's Republic of China or other foreign jurisdictions with less robust intellectual property enforcement systems or work in concert with entities based in such locations to redistribute and sell products from the same or similar sources. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b).

4. Defendants conduct infringing acts through Amazon.com by operating one or more of the e-commerce stores identified by the Merchant Names and Merchant Seller IDs listed on Schedule A and/or other merchant names not yet known to Plaintiffs. Each Defendant targets consumers in the United States, including the Northern District of Illinois, and has offered to sell, has sold, and continues to sell products that violate Plaintiffs' patent rights to consumers within the United States, including within the Northern District of Illinois.

JURISDICTION AND VENUE

5. Plaintiffs reallege and incorporate each of preceding paragraphs 1-4.

6. This patent infringement action arises under the United States Patent Laws, Title 35 U.S.C. § 100 *et seq.*, including 35 U.S.C. § 271. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has specific and general personal jurisdiction over Defendants at least because Defendants have purposefully availed themselves of the benefits of doing business in the Northern District of Illinois by distributing, promoting use of, marketing, selling, and/or offering for sale one or more of the products identified by the Amazon Standard Identification Numbers ("ASINs") listed in the attached Schedule A and deriving substantial revenue from such

infringing activities by placing those products into the stream of commerce with the expectation that they will be purchased by consumers within the Northern District of Illinois.

8. A substantial part of the events giving rise to the claims in this Complaint occurred in this District. Defendants target their infringing activities towards consumers in the State of Illinois by offering shipping to the United States, including this District, accepting payment in U.S. dollars, and distributing, promoting use of, marketing, selling, and/or offering for sale the products identified in Schedule A to Illinois residents. Each Defendant is committing tortious infringing acts in this District, engaging in interstate commerce to transact business in Illinois (including this District), and has caused Plaintiffs substantial injury in the State of Illinois (including this District). On information and belief, and as Exhibit 2 shows, these products have been marketed, sold, and delivered in the Northern District of Illinois.

9. Venue is proper in this District under 28 U.S.C. § 1391 because Defendants are subject to personal jurisdiction in this District and, on information and belief, reside or operate in China or other foreign jurisdictions, or work in concert with entities in such locations, to redistribute and sell products on behalf of the same unknown source or consortium of sources located in China.

10. The e-commerce stores associated with the Merchant Names and Merchant Seller IDs identified in Schedule A either list foreign contact addresses or apparently fraudulent domestic addresses unrelated to the commercial sale and distribution of [REDACTED]. On information and belief, these addresses are designed to hide the true identities and locations of the responsible foreign parties. On information and belief, third-party merchants who operate e-commerce stores on the Amazon.com platform do not need to have their credentials vetted to do so, and nothing prevents their use of fraudulent addresses.

11. Defendants are properly joined because the relief requested in this action arises out of the same transaction, occurrence, or series of transactions and will require resolution of common questions of law and/or fact. On information and belief, Defendants have participated with an unknown manufacturer or consortium of manufacturers located in China to import, market, promote use of, distribute, sell, and/or offer for sale in this District and throughout the United States one or more products identified by the unique ASINs listed in the attached Schedule A. As Exhibits 3 through 5 illustrate, those products are nearly or completely identical, especially as they relate to the [REDACTED] Patent. By importing, marketing, promoting use of, distributing, selling, and/or offering for sale these products, each Defendant is committing infringement in the same way and in connection with the same product or a trivial variation thereof. Moreover, Defendants all use the same or similar marketing strategies and, on information and belief, use the same or similar tactics to avoid patent enforcement efforts.

BACKGROUND AND NATURE OF THE ACTION

12. Plaintiffs reallege and incorporate each of preceding paragraphs 1-11.

13. Plaintiff LG Electronics Inc., along with its related subsidiaries, is one of the most innovative companies in the [REDACTED] industry, including [REDACTED]. It has expended significant resources to develop and commercialize its innovative [REDACTED] products and, in the process, obtained thousands of patents in [REDACTED]. This Complaint alleges that Defendants infringe one such patent, which relates to [REDACTED] [REDACTED] obtained by LG Electronics Inc.: U.S. Patent No. [REDACTED]

[REDACTED]

14. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, against each of the Defendants for infringing the

Patent. Defendants infringe the Patent by operating one or more of the e-commerce stores on Amazon.com identified by the Merchant Names and Merchant Seller IDs listed on Schedule A and/or other merchant names and IDs not yet known to Plaintiffs. Specifically, Defendants have participated with an unknown manufacturer or consortium of manufacturers located in China to import, market, promote use of, distribute, sell, and/or offer for sale products identified by their unique ASINs listed on Schedule A.

15. The infringing products listed in Schedule A are substantially or completely identical to one another and to [REDACTED] [REDACTED] covered by the [REDACTED] Patent. Such illicit goods not only violate Plaintiffs' intellectual property rights but could potentially [REDACTED]

16. E-commerce sales, including through e-commerce channels like the ones Defendants operate, have sharply increased the shipment of unauthorized products into the United States. Exhibit 7, a Customs and Border Protection (“CBP”) Intellectual Property Seizure Statistics Report for fiscal year 2018, explains that over 90% of all CBP intellectual property seizures were from small and express shipments, not large shipping containers. *Id.* at 15. Over 85% of CBP seizures originated from mainland China and Hong Kong. *See id.* at 16. Infringing products account for billions in economic losses, resulting in tens of thousands of lost jobs for legitimate businesses and broader economic losses, including lost tax revenue. *See id.* at 6.

Moreover, [REDACTED]
[REDACTED]

17. Third-party service providers like Amazon.com do not subject new sellers to adequate identity verification and confirmation, allowing infringers to “routinely use false or inaccurate names and addresses when registering with these e-commerce platforms.” Exhibit 8 at 31. The U.S. Department of Homeland Security’s Office of Strategy, Policy, and Plans finds that on “at least some e-commerce platforms, little identifying information is necessary for [an infringer] to begin selling” and recommends “[s]ignificantly enhanced vetting of third-party sellers.” Exhibit 9 at 6, 11. Although federal legislation has been proposed that would “require third-party sellers to be verified and to disclose their name and address to shoppers” on Amazon.com and other online retail platforms, the Senate has not voted on it. *See, e.g.,* <https://fortune.com/2021/05/10/amazon-blocks-billion-counterfeit-crackdown/> (last visited May11, 2021).

18. Infringers hedge against the risk of being caught and having their websites taken down from an e-commerce platform by preemptively establishing multiple virtual storefronts. Exhibit 9 at 22. Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, infringers can have many different profiles that can appear unrelated even though they are commonly owned and operated. Exhibit 9 at 39. Further, “E-commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of [infringement].” Exhibit 8 at 31-32.

19. On information and belief, Defendants have provided false, misleading, and/or incomplete information to the Amazon.com e-commerce platform when registering their Merchant Names.

20. Defendants often employ common features on their e-commerce storefronts, including the use of common payment methods, failing to provide legitimate contact information, providing products that appear identical or substantially similar, using identical or similar prices and discounts, and using similar text and images.

21. On information and belief, entities like Defendants commonly consult and post information to “seller defense” websites (e.g., sellerdefense.cn, kuajingvs.com, and others) that provide early notice of new lawsuits so assets and evidence can be transferred, hidden, or destroyed before a Court can order appropriate preliminary or permanent relief.

22. Each of the products identified in Schedule A falls into one of three categories that, as indicated in Exhibits 3 through 5, only differ trivially from one another. Each of the products in each respective Category appears to be nearly, if not completely, identical to the others, and each of the three Categories exhibit infringing designs that are materially the same. Moreover, the products identified in Exhibit 3 are exact, or nearly exact, copies of [REDACTED], and the remaining products contain only trivial distinctions.

23. All Defendants advertise each of their respective products listed in Schedule A as equivalent to [REDACTED]. Many of the Defendants listed in Schedule A also [REDACTED]
[REDACTED]
[REDACTED] More than one Defendant sells products that purport to be [REDACTED]
[REDACTED]

24. On information and belief, and as discussed in greater detail below, Defendants directly and indirectly infringe one or more claim of the [REDACTED] Patent, including at least claim 1,

by selling, marketing, promoting use of, offering for sale, and/or importing products [REDACTED] [REDACTED] claimed in the [REDACTED] Patent. Defendants' products, including but not limited to those identified by the unique ASINs listed in Schedule A, embody Plaintiffs' patented [REDACTED] [REDACTED] Exhibits 10 through 12 contain charts that compare claim 1 of the [REDACTED] Patent to Category 1 through Category 3 products, respectively. As Exhibits 3 through 5 demonstrate, the product detailed in each chart is representative of all accused products in its respective Category.

25. On information and belief, Defendants' infringement of the [REDACTED] Patent has been, and continues to be, the result of egregious and willful misconduct that will continue absent immediate injunctive relief.

COUNT 1 FOR PATENT INFRINGEMENT
(Infringement of the [REDACTED] Patent)

26. Plaintiffs reallege and incorporate each of preceding paragraphs 1-25.

27. On [REDACTED] the U.S. Patent and Trademark Office duly and legally issued the [REDACTED] Patent, titled "[REDACTED]" A true and correct copy of the [REDACTED] Patent is attached as Exhibit 13. The claims of the [REDACTED] Patent are valid and enforceable.

28. LG Electronics Inc. was the original assignee of the [REDACTED] Patent and remains the sole owner of the [REDACTED] Patent.

29. LG Electronics Alabama, Inc. holds an exclusive license to the [REDACTED] Patent that grants it all substantial rights in the [REDACTED] Patent, including the right to sue for past, present, and future damage.

30. The [REDACTED] Patent discloses [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

31. Defendants have sold, marketed, promoted use of, offered for sale, and/or imported into the United States, and continue to do so, [REDACTED] products, including those identified in Schedule A, that practice at least one claim of the [REDACTED] Patent, including at least claim 1.

32. Exhibits 10 through 12 contain charts that compare claim 1 of the [REDACTED] Patent to Category 1 through Category 3 products, respectively. Those charts demonstrate how the accused products identified in Schedule A infringe at least claim 1 of the [REDACTED] Patent literally and/or under the doctrine of equivalents. Exhibits 3 through 5 demonstrate that the product detailed in each chart is representative of all accused products in its respective Category.

33. In violation of 35 U.S.C. § 271(a), Defendants have infringed (literally and/or under the doctrine of equivalents) and will continue to infringe one or more claims of the [REDACTED] Patent, including at least claim 1, by selling, offering for sale, and/or importing into the United States the products identified in Schedule A.

34. In violation of 35 U.S.C. § 271(b), Defendants have indirectly infringed and continue to indirectly infringe at least claim 1 of the [REDACTED] Patent by actively inducing others to use the products identified in Schedule A in an infringing manner, knowing such use would constitute infringement of the [REDACTED] Patent. Defendants' customers who use the products identified in Schedule A in accordance with Defendants' instructions infringe at least claim 1 of the [REDACTED] Patent, in violation of 35 U.S.C. § 271(a).

35. In violation of 35 U.S.C. § 271(c), Defendants have indirectly infringed and continue to indirectly infringe at least claim 1 of the [REDACTED] Patent by contributing to their customers' use of the products identified in Schedule A in an infringing manner, knowing those products are especially made or adapted for use to infringe the [REDACTED] Patent. Defendants' customers who buy and use the products identified in Schedule A in accordance with Defendants' instructions infringe at least claim 1 of the [REDACTED] Patent, in violation of 35 U.S.C. § 271(a).

36. The products identified in Schedule A are not staple articles commerce.

37. The products identified in Schedule A are not suitable for substantial non-infringing uses.

38. On information and belief, Defendants have been on notice of the [REDACTED] Patent since at least as early as Plaintiffs began marking their own [REDACTED] with the [REDACTED] Patent in [REDACTED].

39. Further, Defendants have been on notice of the [REDACTED] Patent since at least as early as service of this Complaint.

40. Defendants' continued actions of selling, marketing, promoting use of, offering for sale, and/or importing into the United States any of the products identified in Schedule A after receiving notice of the [REDACTED] Patent would be with Defendants' knowledge of the [REDACTED] Patent, knowledge of infringement of the [REDACTED] Patent, intent to encourage others (e.g., their U.S. consumers) to infringe the [REDACTED] Patent through use of the products identified in Schedule A, and knowledge that Defendants' encouragement actually results in direct infringement of the [REDACTED] Patent by Defendants' U.S. customers.

41. On information and belief, Defendants' infringement of the [REDACTED] Patent has been and continues to be deliberate and with willful disregard of the [REDACTED] Patent.

42. Plaintiffs have been injured by Defendants' infringement of the [REDACTED] Patent and will suffer irreparable harm unless Defendants are enjoined from infringing the [REDACTED] Patent.

DEMAND FOR JURY TRIAL

43. Plaintiffs reallege and incorporate each of preceding paragraphs 1-42.

44. Plaintiffs respectfully request a trial by jury on all issues so triable in accordance with Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs LG Electronics Inc. and LG Electronics Alabama, Inc. respectfully request that the Court enter judgment in their favor on the claim set forth above and respectfully request the following relief:

a. Entry of judgment that Defendants have directly and/or indirectly infringed at least one claim of the [REDACTED] Patent, and continue to do so;

b. Entry of an Order against Defendants and their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under, or in concert with them in the form of a temporary, preliminary, and permanent injunction restraining them from the following: (i) making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use any of the products identified in the attached Schedule A, or mere colorable variations thereof, not authorized by Plaintiffs; (ii) aiding, abetting, contributing to, or otherwise assisting anyone in infringing upon any claim of the [REDACTED] Patent; and (iii) effecting assignments or transfers, forming new entities or associations, or utilizing any other device with the

effect of circumventing or otherwise avoiding the prohibitions set forth in items (i) and (ii) of this paragraph;

c. Entry of an Order that, upon Plaintiffs' request, third-party online service providers with notice of the injunction, including without limitation Amazon.com, shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of goods that infringe the [REDACTED] Patent;

d. An award of damages to Plaintiffs adequate to compensate them for Defendants' direct and/or indirect infringement of the [REDACTED] Patent, and for any continuing or future infringement through the date such judgment is entered, including pre-judgment interest and post-judgment interest, costs, and expenses, as well as an accounting and award of damages against Defendants for all future infringing acts occurring after the date such judgment is entered;

e. Entry of judgment that Defendants' direct and/or indirect infringement of the [REDACTED] Patent has been willful and an award as provided by 35 U.S.C. § 284 for treble damages against Defendants for their willful direct and/or indirect infringement of the [REDACTED] Patent;

f. Entry of judgment as provided by 35 U.S.C. § 285 that this case is exceptional and an award granting Plaintiffs their reasonable attorneys' fees, expenses, and costs; and

g. Entry of judgment in favor of Plaintiffs granting any further or additional relief the Court deems just and proper.

DATED: May 13, 2021

Respectfully Submitted,

/s/ Lynn H. Murray

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