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Richard Abramson

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

RICHARD ABRAMSON

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD., a  
Korean corporation; SAMSUNG ELECTRONICS  
AMERICA, INC., a New York corporation; and  
SAMSUNG RESEARCH AMERICA, INC., a  
Massachusetts corporation.

Defendants.

Case No: 4:22-cv-06064

**FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

**JURY TRIAL DEMANDED**

Complaint filed: October 14, 2022  
Trial Date: none set

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Richard Abramson (“Plaintiff” or “Abramson”), for its complaint against Defendants SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC., and SAMSUNG RESEARCH AMERICA, INC. (collectively “Samsung”), hereby demands a jury trial and alleges as follows:

**NATURE OF ACTION**

1. This is an action for patent infringement of United States Patent No. 10,115,292 (“the ‘292 Patent”) (the “Patent-in-suit”), arising under the patent laws of the United States of America, Title 35 of the United States Code, and seeking damages and other relief under 35 U.S.C. § 271, *et seq.*

**PARTIES**

2. Plaintiff is an adult and a resident and citizen of New York.

3. Defendant SAMSUNG ELECTRONICS CO., LTD. (referred to individually herein as “SEC”) is a corporation organized and existing under the laws of the country of the Republic of Korea (“South Korea”), with its principal place of business at the 416 Maetan-3dong, Yeongtong-gu, Suwon-City, Gyeonggi-do, 443-742, South Korea. On information and belief, SEC is South Korea’s largest company and one of Asia’s largest electronics companies. SEC designs, manufactures, and provides to the U.S. and world markets a wide range of products, including consumer electronics, computer components, and myriad mobile and entertainment products. SEC is comprised of three business divisions, including (1) Consumer Electronics (“CE”); (2) Information Technology & Mobile Communications (“IM”); and (3) Device Solutions (“DS”). The IM division is responsible for the design, manufacture, and sale of mobile devices, including smartphones that operate on cellular networks in the United States. According to Samsung, it “is one of the largest manufacturers of wireless communications devices in the world and has long focused on the United States as a critical market for its products.”<sup>1</sup>

<sup>1</sup> See *In the Matter of Certain Wireless Communications Equipment and Articles Therein*, USITC Inv. No. 337-TA-866, Complaint at ¶ 9 (Dec. 21, 2012).

1        4.        On information and belief, Samsung operates its IM business division in the United  
2 States through a variety of wholly-owned subsidiaries, including defendants SEA and SRA.

3        5.        Defendant SAMSUNG ELECTRONICS AMERICA, INC. (referred to individually  
4 herein as “SEA”) is a New York corporation, with its principal place of business at with its  
5 principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660. On  
6 information and belief, SEA was formed in 1977 as a subsidiary of SEC and markets, sells,  
7 and/or offers for sale a variety of consumer electronics.

8        6.        On information and belief, within Samsung’s IM business division, SEA operates an  
9 office in Mountain View, California, located at 665 Clyde Avenue, as depicted below. On  
10 information and belief, within the IM business division, SEA imports into the United States,  
11 and distributes, markets, and sells mobile devices in the United States, including smartphones  
12 that operate on cellular networks in the United States.



24        7.        On information and belief, defendant Samsung Research America, Inc. (referred to  
25 individually herein as “SRA”) is a Massachusetts corporation with its principal place of  
26 business in Mountain View, California, and is a direct or indirect wholly-owned subsidiary of  
27 Samsung. SRA is located at 665 Clyde Avenue in Mountain View, California, depicted above.  
28

On information and belief, within Samsung’s IM business division, SRA operates a variety of laboratories, including the Mobile Platform and Solutions Lab and the Advanced Processor Lab, both located at Mountain View, California, at 665 Clyde Avenue. On information and belief, SRA’s Mobile Platform and Solutions Lab develops “power, usability, and performance solutions” for “the family of Samsung Android smartphones and tablet devices,” including devices that operate on cellular networks in the United States.<sup>2</sup> On information and belief, SRA’s Advanced Processor Lab “focuses on the exploration and design of low energy circuits” and “the R&D of processor and system-level design solutions for traditional and emerging mobile computing applications,” including for smartphones that operate on cellular networks in the United States.<sup>3</sup>

8. On information and belief, there may be other corporate affiliates of Samsung who participated in the infringing acts complained of herein. The identities of such affiliates are currently unknown, because publicly available information does not permit the identification of each affiliate who participated in the infringing acts. Plaintiff expects the identities of such affiliates to be revealed in discovery. Plaintiff reserves the right to amend this Complaint to name such affiliates, if necessary, once they have been revealed.

### **JURISDICTION**

9. This is an action for infringement of claims of U.S. Patent No. 10,115,292, entitled “System and Method for automatic loss prevention of mobile communication devices”, which was duly issued by the United States Patent and Trademark Office on October 30, 2018 (“the ‘292 patent”). A true and accurate copy of the ‘292 patent is attached as Exhibit 1 to this Complaint.

10. This Court has subject matter jurisdiction over the parties pursuant to 28 U.S.C. §§1331 and 1338(a), because the claims arise under the patent laws of the United States, 35 U.S.C. §§1, *et seq.*

<sup>2</sup> “Mobile Platform and Solutions,” <http://www.sra.samsung.com/research/mobile-platform-and-solutions> (last visited May 19, 2016).

<sup>3</sup> “Advanced Processor,” <http://www.sra.samsung.com/research/advanced-processor> (last visited May 19, 2016).

11. This court has personal jurisdiction over SEC, SEA, and SRA because each of these Samsung entities has committed and continues to commit acts of infringement in violation of 35 U.S.C. § 271 and places infringing products into the stream of commerce, with the knowledge or understanding that such products are sold in the State of California, including in this District. The acts by SEC, SEA, and SRA cause injury to Plaintiff within this District. Upon information and belief, SEC, SEA, and SRA derive substantial revenue from the sale of infringing products within this District, expect their actions to have consequences within this District, and derive substantial revenue from interstate and international commerce.

### **VENUE**

12. Venue is proper over the Defendant in this judicial district under 28 U.S.C. §§1391 and/or 1400(b), for at least the following reasons:

13. Venue is proper within this District under 28 U.S.C. § 1391(b) and (c) because Samsung transacts business within this District and offers for sale in this District products that infringe the patent-in-suit. In addition, a substantial part of the events giving rise to the claims occurred in this District. Pursuant to Local Rule 3-2(c), intellectual property actions are assigned on a district-wide basis.

14. Venue is also proper over Samsung because, on information and belief, Samsung has committed direct infringement in this district, including by using Accused Instrumentalities in connection with its provision of services to customers in this district, and/or by using Accused Instrumentalities directly within this district.

15. Thus, venue is proper over Samsung under 28 U.S.C. § 1400(b), because Samsung resides in this district, has committed acts of infringement in this district, and has regular and established places of business in this district.

### **INTRADISTRICT ASSIGNMENT**

16. This case is a patent infringement dispute that is appropriate for district-wide

1 assignment. Assignment to the San Jose Division is appropriate because a substantial part of  
2 the events that gave rise to the claims asserted in this Complaint occurred in Santa Clara  
3 County.

#### 4 **THE ASSERTED PATENT**

5 17. Richard Abramson is the sole named inventor of the '292 patent.

6 18. On May 19, 2016, Richard Abramson filed with the United States Patent and  
7 Trademark Office ("USPTO") Provisional Patent Application no. 62/338,575 (the '575  
8 application) directed to his inventions. On April 24, 2017 Plaintiff filed with the USPTO a  
9 non-provisional patent application, U.S. Patent Application No. 15/494,548 (the '548  
10 application), claiming priority to the '575 application. On October 30, 2018, the USPTO issued  
11 the '292 patent from the '575 application. The '292 patent is entitled "System and Method for  
12 automatic loss prevention of mobile communication devices".

13 19. The '292 patent is valid and enforceable. The '292 patent claims patent-eligible matter.

14 20. "[T]he prior art of record fails to disclose, teach, or suggest 'the ALPAS configured to  
15 have the option to turn on a "sync to activate" option; if the ALPAT is taken more than the user  
16 defined distance away from the mobile device, and then returns to within the user defined  
17 distance from the mobile device, the ALPAS is configured to reactivate if the "sync-to-  
18 activate" option is turned on in the ALPAS". This is from the July 18, 2018 "Notice of  
19 Allowance and Fees Due (PTOL-85)", pdf page 7, in the prosecution of the '292 patent, and  
20 can be found here:

21 <https://patentcenter.uspto.gov/applications/15494548/ifw/docs>

22 21. The July 18, 2018 "Notice of Allowance and Fees Due (PTOL-85)" is attached as  
23 Exhibit 2 to the Complaint.

24 22. The patentee and the U.S. patent and trademark office reviewed the prior art regarding a  
25 system and method for automatic loss prevention of mobile communication devices. The U.S.  
26 patent and trademark office found the quoted section above (paragraph 20) to not be disclosed  
27 in the prior art, and so that section discloses the inventive concept of the '292 patent.  
28

23. Samsung has actual knowledge of the '292 patent at least as of September 23, 2022 when an email regarding this patent was sent to the following recipients:

- a. Ken.Murata@samsung.com
- b. janice.kirk@samsung.com
- c. jongk.choi@samsung.com
- d. al.kargodor@samsung.com
- e. chriskennerly@paulhastings.com
- f. joshuayin@paulhastings.com

24. A copy of this September 23, 2022 email is attached as Exhibit 3 to this Complaint.

25. The entire right, title, and interest in and to the '292 patent, including all rights to past damages, is assigned to Richard Abramson as an individual. No assignment needs to be recorded with the USPTO, because without an assignment, title rests with the inventor.

26. The asserted claims of the '292 patent are systems and method claims. One of these is claim 1, an independent system claim. Claim 1 is reproduced below, with parenthetical annotations to identify the different elements of the claim:

A system for the automatic prevention of the loss of mobile communication devices by an owner, the system comprising:

a mobile device that includes a processor and memory;

Automatic Loss Prevention Alert Software ("ALPAS") installed on

the mobile device; a device which functions as an Automatic Loss

Prevention Alert Trigger ("ALPAT");

an owner-defined distance after which alarms will activate on either the mobile device, the ALPAT or both;

the ALPAS having the ability to detect when the ALPAT has moved away from the mobile device at the owner-defined distance;

the ALPAS having the ability to activate an alarm that will flash the screen of the mobile device brightly on and off and play a pre-recorded audio message repeatedly;

the ALPAT having the ability to play audio at a fixed decibel;



1 wherein the mobile device can potentially be any computing device, including a  
2 smartphone, a tablet or a wearable electronic device;

3 wherein only the owner of the mobile device can deactivate the alert by utilizing a unique  
4 password, or fingerprint, or other electronic id that is unique to the owner;

5 wherein the ALPAT can be a stand-alone small device, or can be an app on a wearable  
6 device; wherein the audio played in the event of an alarm on either the mobile device

7 with the ALPAS or the ALPAT can be customized by the owner;

8 the ALPAS configured to have the option to enter an “at home safe

9 zone” mode; the ALPAS configured to have the option to turn on a

10 “sync to activate” option;

11 in the “at home safe zone” mode, the ALPAS is configured to deactivate so that if the  
12 ALPAT is more than the owner-defined distance away from the mobile device with  
13 ALPAS, then ALPAS will not initiate an alarm;

14 if the ALPAT is taken more than the owner-defined distance away from the mobile  
15 device, and then returns to within the owner-defined distance from the mobile device, the  
16 ALPAS is configured to reactivate if the “sync-to-activate” option is turned on in the  
17 ALPAS.  
18

19 27. The last section {the last 4 lines) of claim 1 discloses the inventive concept of the ‘292  
20 patent.

21 28. The asserted claims of the ‘292 patent are systems and method claims. One of these is  
22 claim 6, an independent method claim. Claim 6 is reproduced below, with parenthetical annotations  
23 to identify the different elements of the claim:

24 A method for the automatic prevention of the loss of mobile communication devices by  
25 an owner, the method comprising:  
26 installing Automatic Loss Prevention Alert Software (“ALPAS”) on a mobile device  
27 that includes a processor and memory;  
28

1 the ALPAS communicating with a device which functions as an Automatic Loss  
2 Prevention Alert Trigger (“ALPAT”);  
3 the ALPAS constantly analyzing whether the ALPAT has moved away from the mobile  
4 device at an owner-defined distance;  
5 the ALPAS having the ability to activate an alarm that will flash the screen of the  
6 mobile device brightly on and off and play a pre-recorded audio message repeatedly;  
7 the ALPAS activating the alarm on either the mobile device, the ALPAT or both, if the  
8 ALPAS detects that the ALPAT has moved away from the mobile device at an owner-  
9 defined distance; the ALPAT having the ability to play audio at a fixed decibel;  
10 wherein the mobile device can potentially be any computing device, including a  
11 smartphone, a tablet or a wearable electronic device;  
12 wherein only the owner of the mobile device can deactivate the alert by utilizing a  
13 unique password, or fingerprint, or other electronic id that is unique to the owner;  
14 wherein the ALPAT can be a stand-alone small device, or can be an app on a wearable  
15 device;  
16 wherein the audio played in the event of an alarm on either the mobile device with the  
17 ALPAS or the ALPAT can be customized by the owner;  
18 the ALPAS having the option to enter an “at home safe zone” mode;  
19 the ALPAS having the option to turn on a “sync to activate” option;  
20 in the “at home safe zone” mode, the ALPAS deactivating so that if the ALPAT is more  
21 than the owner-defined distance away from the mobile device with ALPAS, then  
22 ALPAS will not initiate an alarm;  
23 if the ALPAT is taken more than the owner-defined distance away from the mobile  
24 device, and then returns to within the owner-defined distance from the mobile device,  
25 the ALPAS reactivating if the “sync-to-activate” option is turned on in the ALPAS.

26 29. The last section {the last 3 lines) of claim 6 discloses the inventive concept of the ‘292  
27 patent.  
28

**DEFENDANT’S INFRINGING USE**

30. On information and belief, Samsung and/or their affiliates, have directly infringed at least claims 1 and 6 of the ’292 patent, by making, using, selling and offering to sell, and by inducing and contributing to others’ infringement through their sales, offers for sale, and use of Samsung Galaxy smartphones and tablets running Android 8 or later, Galaxy Watch devices running Tizen 5.5 or later and Galaxy Buds+, Galaxy Buds Pro and Galaxy Buds Live, Samsung Galaxy smartphones such as Galaxy S9 and later running Android 8, Samsung Galaxy models that got an Android 8 update such as Galaxy S8, S8+, Note 8, S7, S7 Edge, and the latest Samsung Galaxy models such as Galaxy S22, S22+, S22 Ultra, Note 20, S20, S20+, S20 Ultra, Z Fold and Z Flip, Samsung Tablets such as Galaxy Tablets that got an Android 8 updates such as Tab A8.2 SM-T355, and the latest models such as Tab S8, S8+, S8 Ultra, Samsung Galaxy watches such as Watch 3, Galaxy Watch Active 2, Watch 4, Watch 4 Classic, Watch 5 and Watch 5 Pro, and other products depicted on Defendants’ websites and sold on third party websites (“the Accused Products”) within the United States, all without authorization or license from Plaintiff within the United States, less than six years before the filing of this Complaint, and prior to the April 24, 2037 expiration date of the ’292 patent (the “Relevant Time Period”).

**MARKING**

31. Plaintiff has never made, sold, used, offered to sell, or imported into the United States any article that practices any claim of the ’292 Patent. Plaintiff has never sold, commercially performed, or offered to commercially perform any service that practices any claim of the ’292 Patent.

32. Plaintiff had never authorized, licensed, or in any way permitted any third party to practice any claim of the ’292 Patent.

33. Because Plaintiff has never directly marketed any product or service that practices any of the claimed inventions of the ’292 Patent, and no third party was authorized to practice any claimed

inventions of the '292 patent prior to October 21, 2014, 35 U.S.C. § 287(a) cannot prevent or otherwise limit Plaintiff's entitlement to damages for acts of infringement.

### **FIRST CLAIM FOR RELIEF**

#### **(Infringement of the '292 Patent)**

34. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-20 above as if fully set forth herein and further alleges:

35. Samsung has committed direct infringement of at least claims 1 and 6 of the '292 patent, in violation of 35 U.S.C. § 271(a), by performing all the steps of at least claims 1 and 6 in the U.S., during the Relevant Time Period.

36. Defendants have infringed and continue to infringe one or more of the claims of the '292 Patent by making, using, selling and offering to sell, and by inducing and contributing to others' infringement through their sales, offers for sale, and use of the Accused Products, all without authorization or license from Plaintiff. A chart providing exemplary evidence of infringement of the '292 patent is attached to this Complaint as Exhibit 4 to this Complaint.

37. On information and belief, Plaintiff alleges Defendants have been, and are currently, infringing the '292 patent in violation of 35 U.S.C. § 271. Defendants' acts of infringement include direct infringement and infringement under the Doctrine of Equivalents.

38. Defendants have continued their infringement despite having notice of the '292 Patent. Defendants have committed and are committing willful and deliberate patent infringement. On information and belief Plaintiff alleges Defendants' acts of willful and deliberate infringement will continue after service of this Complaint, rendering this case appropriate for treble damages under 35 U.S.C. §284 and making this an exceptional case under 35 U.S.C. §285.

39. Defendant has indirectly infringed and continues to infringe at least claims 1 and 6 of the '292 patent by inducement under 35 U.S.C. 271(b). Defendant has induced and continues to induce users and retailers of the Accused Products to directly infringe at least claims 1 and 6 of the '292 patent.

1       40.     Upon information and belief, Defendant knowingly induced customers to use its  
2       Accused Products, including, for example, by promoting such products online (e.g.,  
3       www.Samsung.com) and/or providing customers with instructions and/or manuals for using the  
4       Accused Products. Likewise, Defendant knowingly induced retailers to market and sell the  
5       Accused Products.

6       41.     On information and belief, Defendant has contributed to the infringement of at least  
7       claims 1 and 6 of the '292 patent by the use and/or importation of the Accused Products in  
8       violation of 35 U.S.C. § 271(c).

9       42.     Plaintiff is informed and believes, and on that basis alleges, that Defendants have  
10      gained profits by virtue of their infringement of the '292 Patent.

11      43.     Defendants' acts of infringement are and have been without Plaintiff's permission,  
12      consent, authorization or license. Defendants' acts of infringement have caused and continue  
13      to cause damage to Plaintiff. Plaintiff is entitled to recover from Defendants the damages  
14      sustained by Plaintiff as a result of Defendants' wrongful acts, together with interest and costs  
15      as fixed by this Court under 35 U.S.C. §284.

16      44.     As a direct and proximate result of Defendants' infringement of the '292 Patent,  
17      Plaintiff has, and will suffer, monetary damages and irreparable injury. Plaintiff's monetary  
18      damages include, without limitation, lost profits, or at a minimum, the right to recover a  
19      reasonable royalty. Furthermore, unless Defendants are enjoined by this Court from continuing  
20      its infringement of the '292 Patent, Plaintiff has, and will suffer, additional irreparable damages  
21      and impairment of the value of its patent rights. Thus, an injunction against further  
22      infringement is appropriate.

23  
24                   **PRAYER FOR RELIEF**

25       WHEREFORE, Plaintiff prays judgment against each Defendant as follows:

- 26       A.     That each Defendant has infringed and is infringing the '292 Patent;  
27       B.     That such infringement is willful;

- 1 C. That each defendant be ordered to pay Plaintiff damages caused by said Defendants’  
2 infringement of the ‘292 Patent and that such damages be trebled in accord with 35  
3 U.S.C. § 284, together with interest thereon;
- 4 D. That this case be declared exceptional pursuant to 35 U.S.C. § 285 and that Plaintiff be  
5 awarded reasonable attorney’s fees and costs; and
- 6 E. That Plaintiff shall have such other and further relief as this Honorable Court may deem  
7 just and proper.

8  
9 **DEMAND FOR JURY TRIAL**

10 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff, Richard Abramson,  
11 hereby demands a jury trial on *all* of his claims, causes of action and issues that are triable by jury.

12  
13 Dated: November 29, 2022

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