

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

Fendgo LLC

Plaintiff,

v.

Samsung Electronics Co., Ltd. and Samsung  
Electronics America, Inc.

Defendants.

Civil Action No. 2:23-cv-00221

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Fendgo LLC (“Fendgo” or “Plaintiff”), by its attorneys, demands a trial by jury on all issues so triable and for its complaint against Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Defendants”), and alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action for patent infringement under the patent laws of the United States, Title 35, United States Code, Section 271, *et seq.*, involving the following United States Patent (“Asserted Patent”): U.S. Patent No. 11,265,404 (Exhibit 1, “’404 patent”).

**THE PARTIES**

2. Plaintiff is a California Limited Liability Company. Plaintiff is the owner by assignment of the Asserted Patent.

3. On information and belief, Defendant Samsung Electronics Co., Ltd. (“SEC”) is a corporation organized under the laws of Republic of Korea, with its principal place of business at 129, Samsung-Ro, YeongTong-Gu, Suwon-Si, Gyonggi-Do, 443-742, Republic of Korea.

4. On information and belief, Defendant Samsung Electronics America, Inc. (“SEA”) is a United States corporation organized under the laws of the State of New York, with its principal

place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660. SEA is a wholly owned subsidiary of SEC.

5. On information and belief, SEA has corporate offices in the Eastern District of Texas at 1303 East Lookout Drive, Richardson, Texas 75082, 2800 Technology Drive, Suite 200, Plano, Texas 75074, and at 6625 Excellence Way, Plano, Texas 75023. On information and belief, SEA may be served with process through its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

6. Defendants are related entities that work in concert to design, manufacture, import, distribute, offer to sell and/or sell devices that infringe the Asserted Patent.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Each Defendant is subject to this Court's personal jurisdiction consistent with the principles of due process and the Texas Long Arm Statute. Tex. Civ. Prac. & Rem. Code §§ 17.041, et seq.

9. On information and belief, jurisdiction and venue for this action are proper in this District.

10. This Court has personal jurisdiction over each Defendant because each Defendant, directly or through intermediaries, has committed acts within this District giving rise to this action and/or has established minimum contacts with this District such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice. In particular, each Defendant (i) has a regular and established place of business in the State of Texas and this District; (ii) has purposefully availed itself of the rights and benefits of the laws of the State of Texas and

this District; (iii) has done and is doing substantial business in the State of Texas and this District, directly or through intermediaries, both generally and, on information and belief, with respect to the allegations in this Complaint, including its one or more acts of infringement in the State of Texas and this District; (iv) has derived and derives substantial revenues from infringing acts occurring in the State of Texas and this District; (v) maintains continuous and systematic contacts in the State of Texas and this District; and/or (vi) places products alleged to be infringing in this Complaint in the stream of commerce with awareness that those products are sold, used, and offered for sale in the State of Texas and this District.

11. For example, on information and belief, SEA maintains a regular and established place of business in this District at 6625 Excellence Way, Plano, Texas 75023 and has committed acts of infringement in this District.

12. Samsung's Plano office is home to its "Mobile" and "Mobile R&D and Engineering" divisions for its smartphone product lines.<sup>1</sup> Samsung has described this 216,000 square foot "flagship" Plano office, with over 1,000 employees, as part of its "longstanding and growing commitment to Texas."<sup>2</sup>

13. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(c) and 1400(b) at least because SEA has committed acts of infringement and is subject to personal jurisdiction in this District, including by way of maintain a regular and established place of business at 6625 Excellence Way, Plano, Texas 75023. SEA, through its own acts and/or through the acts of each other Defendant acting as its agent, representative, or alter ego, makes, uses, sells, offers to sell, and/or imports infringing products within this District, has a continuing presence within this

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<sup>1</sup> See <https://news.samsung.com/us/samsung-electronics-america-open-flagship-north-texas-campus/>.

<sup>2</sup> *Id.*

Judicial District, and has the requisite minimum contacts with this District such that venue is proper.

14. Additionally, venue is proper as to SEC under 28 U.S.C. § 1391(c)(3) because SEC is a foreign corporation organized and existing under the laws of the Republic of Korea. SEC is subject to personal jurisdiction in this district at least because it places products alleged to be infringing in this Complaint in the stream of commerce with the awareness and intention that those products are sold, used, and offered for sale in the State of Texas and this District.

### **FACTUAL BACKGROUND**

#### **Fendgo and its SOS Technology**

15. Fendgo was founded in 2019 by Samantha DiPerna. Samantha DiPerna and Jacqueline DiPerna are the inventors of three U.S. patents and one pending application, including the '404 Patent, all relating to the integration of safety features with mobile devices. Samantha DiPerna and her co-inventor Jacqueline DiPerna invented the patented technology and assigned the rights to Fendgo with the purpose to save lives and make women feel confident walking alone. This panic button/SOS feature has since become standard on many devices, including Samsung Galaxy phones.

16. Plaintiff Fendgo obtained all rights in the Asserted Patent.

### **THE ASSERTED PATENT**

#### **U.S. Patent No. 11,265,404**

17. Plaintiff is the lawful owner of all right, title, and interest in U.S. Patent No. 11,265,404 (“’404 patent” or “Asserted Patent”) entitled “Emergency personal protection system integrated with mobile devices,” including the right to sue and recover for infringement thereof. A copy of the ’404 patent is attached hereto as Exhibit 1, which was duly and legally issued on March 1, 2022, naming Samantha DiPerna and Jacqueline DiPerna as the inventors.

18. The '404 patent has 20 claims: 5 independent claims and 15 dependent claims.

19. The '404 patent discloses and claims a novel process for handling emergency situations using mobile devices that is incorporated into the Android operating system in mobile devices sold by Defendants.

20. The claims of the '404 patent, including claim 9 (reproduced below), recite at least these inventive concepts of the '404 patent.

9. A mobile device, comprising:

a camera unit, adapted to obtain at least one of image data and audio data;

a location unit, adapted to obtain location data;

a transmitting unit, adapted to transmit as emergency information the image data, the audio data, and the location data along with specific information including owner identification information; and

a panic button, adapted to activate the camera unit, the location unit, and the transmitting unit, and send the emergency information and the specific information to a specified location when the panic button is activated,

wherein the panic button is activated by a series of depressings of the panic button.

21. The subject matter described and claimed in the '404 patent, including the subject matter of claim 9, was an improvement in computer and communications functionality, performance, and efficiency, and was novel and not well-understood, routine, or conventional at the time of the '404 patent.

22. For example, the inventions provide the user of a mobile device, such as a

smartphone, a powerful solution for when confronted with a dangerous situation. These features are exclusively implemented utilizing computer technology including a mobile device with a camera unit, a location unit, a transmitting unit. The camera unit adapted to obtain at least one of image data and audio data. The location unit is adapted to obtain location data. The transmitting unit is adapted to transmit at least one of the image data, the audio data, and the location data. When the user presses a panic button, it activates the camera, the location unit, and the transmitting unit.

23. The claims of the '404 patent do not merely recite the performance of some pre-computing tasks on a computer. Instead, the claims of the '404 patent recite inventive concepts that are rooted in computerized smartphone technology, and overcome problems specifically arising in the realm of computerized emergency handling technologies.

24. The claims of the '404 patent recite inventions that are not merely the routine or conventional use of a smartphone. Instead, the inventions teach a unique combination of camera, location, and transmission technologies. Moreover, the inventions teach novel ways of adding functionality to existing smartphone hardware, including for example, taking, combining and sending video, audio, location and other information to an emergency contact in an emergency situation, using the power button as the panic button in such a way to avoid accidental activation by the user.

25. The technology claimed in the '404 patent does not preempt all ways of using a mobile device for emergency handling nor any other well-known prior art technology.

26. Accordingly, each claim of the '404 patent recites a combination of elements sufficient to ensure that the claim amounts to significantly more than a patent on an ineligible concept.

**BACKGROUND OF SAMSUNG'S INFRINGING CONDUCT**

27. Defendants are companies that make, use, sell, offer for sale in the United States, and/or import into the United States, or have otherwise made, used, sold, offered for sale in the United States, and/or imported in the United States, mobile devices that infringe the Asserted Patent.

28. On information and belief, Android 12, launched on October 4, 2021, includes the infringing SOS feature. To compete in this growing market, companies such as Defendants have worked to ensure that their products offer the cutting-edge SOS features their consumers' desire. As a result, mobile devices running Android 12 or other version(s) with the same functionality, such as Samsung Galaxy, (collectively, "Accused Products") infringe one or more claims of the Asserted Patent as alleged herein.

29. Defendants infringe and continue to infringe the Asserted Patent by making, using, selling, offering to sell, and/or importing, without license or authority, the Accused Products as alleged herein.

30. On information and belief, Defendants had knowledge of the '404 patent and its infringement thereof at least as of January 11, 2022 when counsel for Fendgo sent a letter to SEA. Fendgo's letter informed Defendants that various mobile devices with an SOS feature were using the technology claimed in at least claim 16 of U.S. Patent Application No. 16/262,835. The claims of the '835 application issued as U.S. Patent No. 11,265,404, the Asserted Patent, on March 1, 2022. On information and belief, Defendants also had knowledge of the Asserted Patent and its infringement thereof at least as early as March 3, 2022 when counsel for Fendgo sent a claim chart showing how Samsung products infringed the claimed technology. Defendants confirmed, on March 28, 2022, that they were aware that the '835 application had issued as U.S. Patent No. 11,265,404. In addition, Defendants had knowledge of the Asserted Patent and their infringement

thereof at least as of the filing of this Complaint.

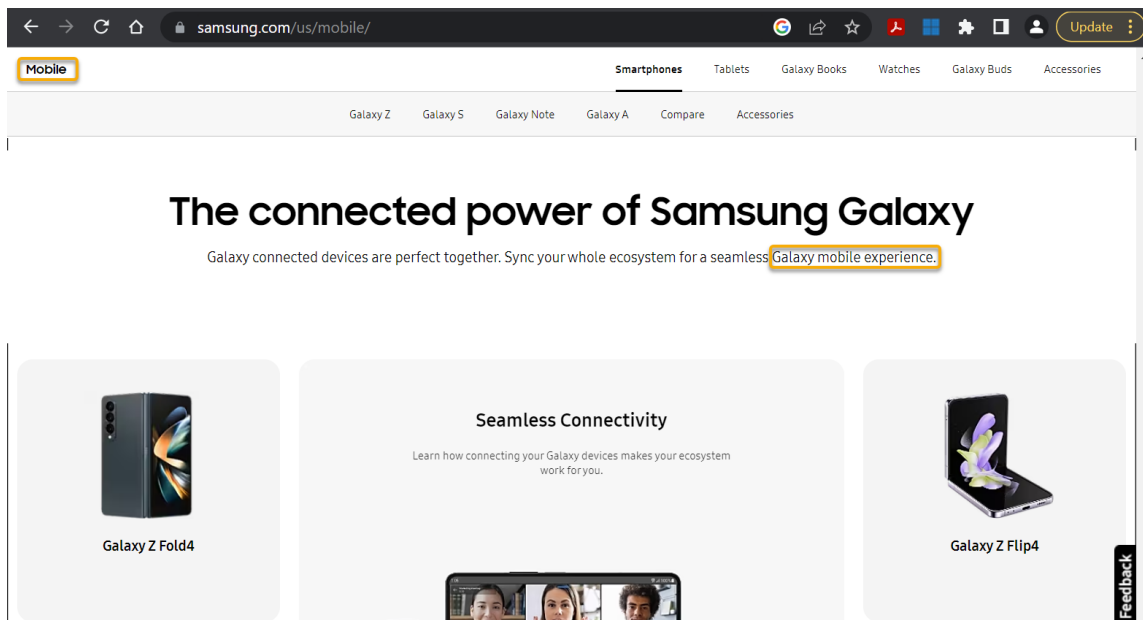
**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 11,265,404**

31. Plaintiff incorporates by reference the allegations contained in paragraphs 1–30.

32. Defendants have made, used, offered for sale, sold, and/or imported products, including at least the Accused Products, that infringe, either literally or under the doctrine of equivalents, one or more claims of the '404 patent in violation of 35 U.S.C. § 271(a). Defendants' infringement will continue unless enjoined by this Court.

33. On information and belief, Defendants have and continue to directly infringe at least claim 9 of the '404 patent through its Accused Products that include the infringing SOS feature.

34. For example, Defendants infringe at least claim 9 of the '404 patent by providing a mobile device. For example, the Accused Products are mobile devices. See <https://www.samsung.com/us/mobile/>, which shows that certain Galaxy smartphones are mobile devices.





35. The Accused Products comprise a camera unit, adapted to obtain at least one of image data and audio data. For example, the Accused Products include a camera unit for taking images, video and audio. See excerpt from: <https://www.samsung.com/uk/support/mobile-devices/how-to-use-the-camera-on-a-galaxy-smartphone/>;  
<https://www.samsung.com/us/support/answer/ANS00089063/>.

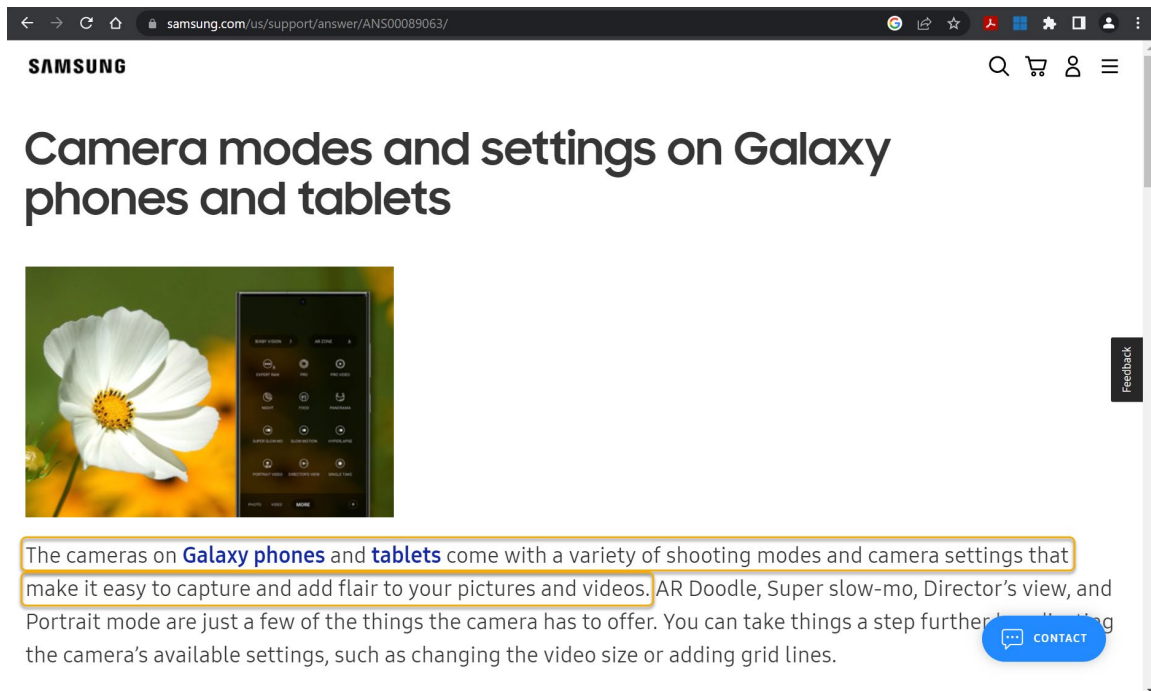


## How to use the camera on a Galaxy smartphone

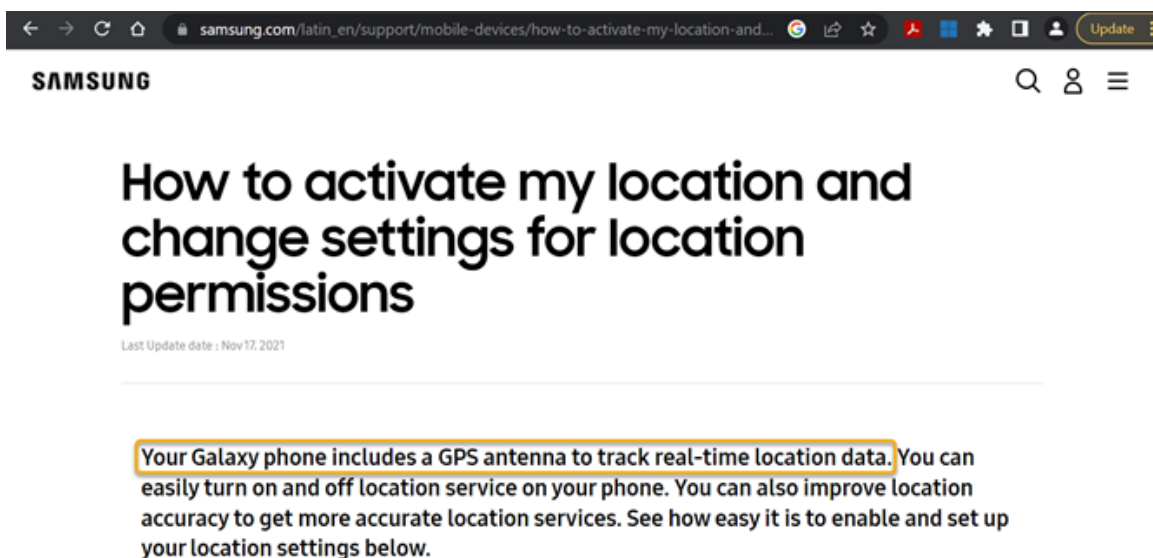


Give Feedback

Your smartphone is more than just a phone. It comes with a built-in professional-grade camera that's easy to use and there's a whole host of modes to help you capture every moment, from gorgeous selfies to stunning panoramas and spectacular slow-motion videos. Here you can learn about the key features of the camera on your Galaxy smartphone and find out how to use them quickly and easily.



36. The Accused Products comprise a location unit, adapted to obtain location data. For example, the Accused Products include a GPS which obtains location data. See excerpt from: [https://www.samsung.com/latin\\_en/support/mobile-devices/how-to-activate-my-location-and-change-settings-for-location-permissions/](https://www.samsung.com/latin_en/support/mobile-devices/how-to-activate-my-location-and-change-settings-for-location-permissions/) which shows that Galaxy phones include a GPS unit to track real-time location data.



37. The Accused Products comprise a transmitting unit, adapted to transmit as emergency information the image data, the audio data, and the location data along with specific information including owner identification information. For example, the Accused Products include one or more transmitters that transmit image data, audio data, location data and caller information. See excerpt from <https://www.samsung.com/us/support/answer/ANS00050849/>, which indicates that when you use the SOS feature it sends “your location, photo, and voice recording” to your emergency contact(s).



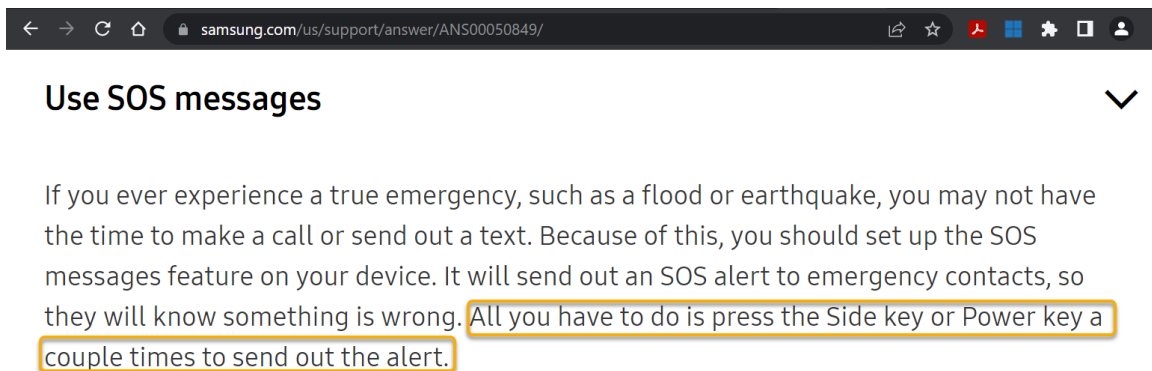
4. Make or choose your emergency contact - they will be the one who receives the SOS alerts. If desired, you can add multiple contacts.
5. Tap **Back**, and then adjust the different settings. For example, you can adjust how many times you need to press the Side key or Power key before an alert is sent. Or, you can decide if you'd like to attach images or an audio recording to the SOS message.
6. If you are ever in an emergency and want to send an SOS message, press the **Side** key or **Power** key three or four times rapidly. This will send an SOS message to your designated contact(s).
7. If you need to turn off SOS messages, navigate to **Settings**, then tap **Safety and emergency**, and then tap the **switch** next to Send SOS messages to turn it off.

**Note:** The device must have an active SIM card in order to send an SOS alert. When using the SOS feature, your location, photo, and voice recording will be sent the first time a call is made. It will send updated locations (every 30 minutes for a span of 24 hours) until the alert is stopped. This also applies to Galaxy watch devices.

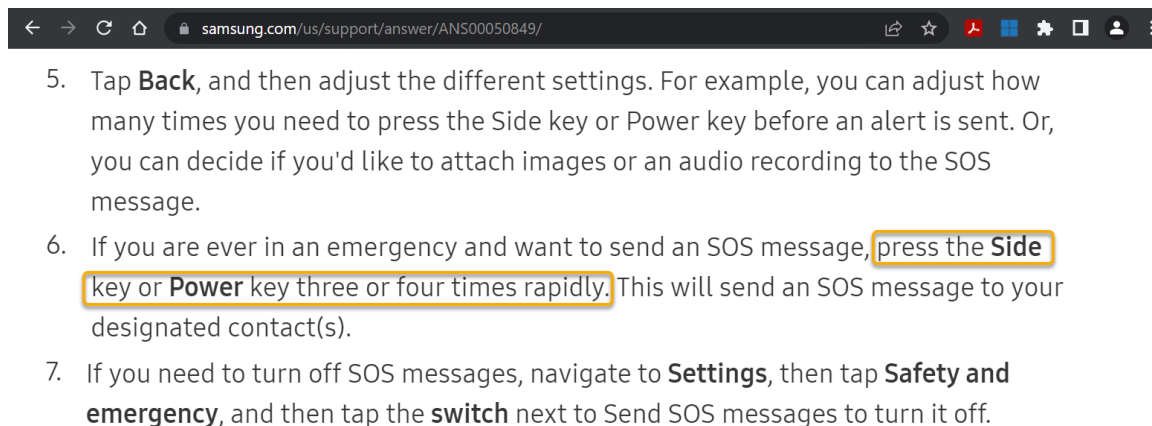


38. The Accused Products comprise a panic button, adapted to activate the camera unit, the location unit, and the transmitting unit, and send the emergency information and the specific information to a specified location when the panic button is activated. For example, the Accused Products utilize the power button as the panic button. See excerpt from

<https://www.samsung.com/us/support/answer/ANS00050849/>, which indicates that the Side key or Power key (i.e., Panic Button) is pressed three or four times to activate the SOS feature and when the SOS feature is activated, the phone transmits “your location, photo, and voice recording” to your emergency contact(s). Messages also include the telephone number of the mobile device.



39. The Accused Products comprise a panic button such that the panic button is activated by a series of depressings of the panic button. For example, the Accused Products utilize the power button as the panic button. See below excerpt from <https://www.samsung.com/us/support/answer/ANS00050849/>, which indicates that the Side key or Power key (i.e., Panic Button) is pressed multiple times (three or four times, adjustable by the owner) to send out the SOS alert.



40. On information and belief, with knowledge of the '404 patent, Defendants have actively induced and continue to induce the direct infringement of one or more claims of the '404

patent, including claim 9, in violation of 35 U.S.C. § 271(b) by its customers and/or end users of their products, including at least the Accused Products, by selling, providing support for, providing instructions for use of, and/or otherwise encouraging its customers and/or end-users to directly infringe, either literally and/or under the doctrine of equivalents, one or more claims of the '404 patent, including claim 9, with the intent to encourage those customers and/or end-users to infringe the '404 patent.

41. By way of example, on information and belief, Defendants actively induce infringement of the '404 patent by encouraging, instructing, and aiding one or more persons in the United States, including but not limited to customers and end users who purchase, test, operate, and use the Accused Products, to make, use, sell, and/or offer to sell the Accused Products in a manner that infringes at least one claim of the '404 patent, including claim 9. For example, as described above, Defendants actively market, advertise, offer for sale, and/or otherwise promote their Accused Products on their websites (*e.g.*, <https://www.samsung.com/>). Defendants further actively market, advertise, offer for sale, and/or otherwise promote their Accused Products by publishing and distributing data sheets, manuals, and guides for the Accused Products. Therein, Defendants describe and tout the use of the subject matter claimed in the '404 patent (*e.g.*, the SOS feature).

42. On information and belief, with knowledge of the '404 patent, Defendants also contribute to the infringement of one or more claims of the '404 patent in violation of 35 U.S.C. § 271(c), including claim 9, by making, using, offering to sell or selling and/or importing a patented component or material constituting a material part of the invention, including at least the mobile device with a camera unit, a location unit, and a transmitting unit, knowing the same to be especially made or especially adapted for use in an infringement and not a staple article or

commodity of commerce suitable for substantial non-infringing use. This is evidenced by, among other things, the design, configuration, and functionality of Defendants' Accused Products, which are especially made or especially adapted for use in an infringement of the '404 patent when used for their normal and intended purpose. This is also evidenced by, among other things, Defendants' informational and promotional materials described above, which describe the normal use and intended purpose of the Accused Products and demonstrate that the Accused Products are especially made or especially adapted for a use that infringes the '404 patent.

43. As a result of Defendants' inducement of, and/or contribution to, infringement, their customers and/or end users made, used, sold, or offered for sale, and continue to make, use, sell, or offer to sell the Accused Products, in ways that directly infringe one or more claims of the '404 patent, including claim 9. On information and belief, Defendants had actual knowledge of its customers' and/or end users' direct infringement at least by virtue of its sales, instruction, and/or otherwise promotion of the Accused Products, at least as of March 3, 2022 when counsel for Fendgo emailed Samsung and provided a claim chart showing that Samsung products infringe the Asserted Patent. Defendants also had actual knowledge of its customers' and/or end user's direct infringement no later than the filing of this Complaint.

44. On information and belief, at least as of March 3, 2022 when counsel for Fendgo emailed Samsung and provided a claim chart showing that Samsung products infringe the Asserted Patent, Defendants' infringement of the '404 patent has been willful. On information and belief, with knowledge of the '404 patent, Defendants have willfully, deliberately, and intentionally infringed the '404 patent, and continue to willfully, deliberately, and intentionally infringe the '404 patent. On information and belief, Defendants had actual knowledge of the '404 patent and Defendants' infringement of the '404 patent as set forth above. On information and belief, after

acquiring that knowledge, Defendants directly and indirectly infringed the '404 patent as set forth above. On information and belief, Defendants knew or should have known that its conduct amounted to infringement of the '404 patent at least because Plaintiff notified Defendants of the '404 patent and its infringement of the '404 patent as set forth above.

45. On information and belief, Defendants will continue to infringe the '404 patent unless and until they are enjoined by this Court. Defendants, by way of their infringing activities, have caused and continues to cause Plaintiff to suffer damages in an amount to be determined, and have caused and are causing Plaintiff irreparable harm. Plaintiff has no adequate remedy at law against Defendants' acts of infringement and, unless they are enjoined from their infringement of the '404 patent, Plaintiff will continue to suffer irreparable harm.

46. Plaintiff is entitled to recover from Defendants damages at least in an amount adequate to compensate for its infringement of the '404 patent, which amount has yet to be determined, together with interest and costs fixed by the Court.

47. Plaintiff has complied with 35 U.S.C. § 287 with respect to the '404 patent.

### **JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Fendgo requests that the Court enter judgment for Plaintiff and against Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. and enter the following relief:

A. A judgment that U.S. Patent No. 11,265,404 (Exhibit 1, "'404 patent") is valid, enforceable, and infringed by each Defendant;

B. A permanent injunction restraining and enjoining each Defendant, its officers, partners, agents, servants, employees, parents, subsidiaries, divisions, affiliate corporations, joint ventures, other related business entities and all other persons acting in concert, participation, or in privity with them, and their successors and assigns, from infringing the Asserted Patent before its expiration;

C. An award of damages to Plaintiff arising from each Defendant's past and continuing infringement up until the date each Defendant is finally and permanently enjoined from further infringement, including compensatory damages and an accounting of all infringements and/or damages not presented at trial;

D. A determination that each Defendant's infringement of the Asserted Patent has been willful, and an award of treble damages to Plaintiff pursuant to 35 U.S.C. § 284;

E. A determination that this is an exceptional case and awarding Plaintiff's attorneys' fees pursuant to 35 U.S.C. § 285;

F. An order awarding Plaintiff costs and expenses in this action;

G. An order awarding Plaintiff pre- and post-judgment interest on its damages; and

H. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.



Dated: May 19, 2023

Respectfully submitted,

By: /s/ James R. Nuttall w/permission Claire  
Abernathy Henry

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