

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2010 AUG -6 P 3:28

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

SPANSION LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD;
SAMSUNG ELECTRONICS AMERICA, INC.;
SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC.; AND SAMSUNG AUSTIN
SEMICONDUCTOR, LLC.

Defendants.

Civil Action No. 1:10 CV 881

CMH/JFA

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Spansion LLC ("Spansion") alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement brought by Spansion against Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Samsung Telecommunications America, LLC, and Samsung Austin Semiconductor, LLC (collectively "Samsung") for infringement of United States Patent No. 7,151,027, United States Patent No. 6,359,307, and United States Patent No. 6,232,630 (collectively, "the Patents-in-Suit").

THE PARTIES

2. Plaintiff Spansion is a wholly owned operating subsidiary company of Spansion, Inc. Spansion LLC is organized under the laws of the State of Delaware and is located at 915 DeGuigne Road, Sunnyvale, California 94088. Spansion was formed as the result of a joint

venture between AMD's and Fujitsu's flash memory business. Spansion's parent company, Spansion Inc., is a separate independent, publicly traded company.

3. Upon information and belief, Defendant Samsung Electronics Co., Ltd. is a corporation organized under the laws of South Korea and has its principal place of business at 250, Taepyeongno 2-ga, Jung-gu, Seoul 100-742, South Korea.

4. Upon information and belief, Defendant Samsung Electronics America, Inc. is a subsidiary of Samsung Electronics Co., Ltd. It is organized under the laws of the State of New York and has its principal place of business at 105 Challenger Road, Ridgefield Park, New Jersey 07660. Samsung Electronics America, Inc. has a place of business at 1200 New Hampshire Ave, Suite 500, Washington, DC 20036. Samsung Electronics America, Inc. also has a registered agent in the Commonwealth of Virginia, that agent is CT Corporation System, and it has a place of business at 4701 Cox Rd Ste 301, Glen Allen, VA 23060-6802.

5. Upon information and belief, Defendant Samsung Telecommunications America, LLC is a subsidiary of Samsung Electronics Co., Ltd. It is organized under the laws of the State of Delaware and has its principal place of business at 1301 E. Lookout Drive, Richardson, Texas 75082. Samsung Telecommunications America, LLC also has a registered agent in the Commonwealth of Virginia, Corporation Service Company, and it has a place of business at 11 S. 12th St., PO Box 1463, Richmond, VA 23218.

6. Upon information and belief, Defendant Samsung Austin Semiconductor, LLC is a subsidiary of Samsung Electronics Co., Ltd. It is organized under the laws of the State of Delaware and has its principal place of business at 12100 Samsung Boulevard, Austin, Texas 78754.

JURISDICTION AND VENUE

7. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271 *et. seq.*

8. This Court has original jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over the Samsung Defendants because they engage in business in the United States and within this district, including by and through subsidiaries and related companies that are either directly or indirectly owned by Samsung Electronics Co., Ltd., and have placed infringing products into the stream of commerce by shipping products into this district (and/or knowing that the products would be shipped into this judicial district), and such infringing products have been sold and used in this district. The Samsung Defendants are also increasing their contacts with this district by, for example, advertising employment positions in Northern Virginia at locations such as Fairfax, Manassas, and Reston.

10. Venue is proper in this district under 28 U.S.C. §§ 1391(b) – (c) and 1400(b), because, among other reasons, the Samsung Defendants are subject to personal jurisdiction in this district and have infringed and continue to infringe, contributorily infringe and/or induce the infringement of the Patents-in-Suit in this district.

BACKGROUND FACTS

11. Spansion is the largest company in the world dedicated exclusively to designing, developing, manufacturing, marketing, and selling flash memory solutions. Spansion is also one of the last major manufacturers of flash memory left in the United States, selling about \$1.2 billion in flash memory each year. Flash memory is a technology used throughout the electrical and electronics industry to support a wide variety of applications.

12. Spansion designs, develops, manufactures, markets, licenses, and sells flash memory technology and solutions for retail, commercial, and institutional customers worldwide. Spansion manufactures flash memory products that use technology claimed in the Patents-in-Suit.

13. Spansion's ability to compete and its success as a company depend, in large part, on its ability to innovate and to protect its innovations. To that end, Spansion invests a substantial portion of its revenues on research and development efforts every year. Spansion employs over 200 persons, primarily located in Spansion's Sunnyvale, California facilities, who are engaged in research and development, process development, design, product development, and testing. Based on its research and development, Spansion is a recognized leader in innovation in the field of flash memory.

14. Spansion's ability to compete also depends, in large part, on protecting its inventions by seeking and obtaining patents covering those inventions. Spansion's long-term financial success depends, in significant part, on its ability to establish, maintain, and protect its proprietary technology through enforcement of its patent rights. Spansion has been significantly damaged by the acts complained of in this Complaint.

15. Samsung is a global manufacturer, seller, and distributor of consumer electronics, including, among other things flash memory devices, which include, for example the K9HDG08U5M-LCB0 (35 nm), K9GAG08U0D (42 nm), K9GAG08U0M-PCB0 (51 nm), and K9G8G08U0M-PCB0 (65 nm), and/or products that contain the accused flash memory products (collectively, the "Accused Products"). Samsung makes, uses, sells, offers for sale, imports and/or distributes in the United States such flash memory devices and/or products that contain those devices.

16. Spansion is informed and believes that Samsung also sells and offers for sale such flash memory products to third parties, who in turn incorporate these accused flash memory products into consumer electronic goods that are sold, offered for sale, imported and/or distributed in the United States. For example, such flash memory products are contained in

memory cards of all varieties, universal serial bus (“USB”) drives, solid state drives (“SSDs”), computers and other devices containing NAND mass storage, mobile phones and smart phones, portable media (“MP3”) players, cameras, camcorders, televisions, Blu-Ray players, digital picture frames.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,151,027

17. Paragraphs 1 through 16 are incorporated herein as fully set forth above.

18. Spansion is the owner by assignment of all rights under U.S. Patent No. 7,151,027 (“the ‘027 patent”), including the right to sue for past, current, and future infringement.

19. The ‘027 patent was duly and lawfully issued by the United States Patent and Trademark Office on December 19, 2006, and is entitled “Method and Device for Reducing Interface Area of a Memory Device”. A true and correct copy of the ‘027 patent is attached as Exhibit A and made a part hereof.

20. The ‘027 patent is valid and enforceable under the United States Patent Laws.

21. Spansion is informed and believes that the Samsung Defendants have infringed, and are currently infringing, the ‘027 patent, in violation of 35 U.S.C. § 271 *et seq.*, directly and/or indirectly, by without authority making, using, selling, offering for sale in the United States, and/or importing into the United States products covered by one or more claims of the ‘027 patent, and importing flash memory devices and products containing the devices covered by one or more claims of the ‘027 patent, and/or contributing to or inducing infringement by third parties of one or more claims of the ‘027 patent.

22. The infringing products include, but are not limited to, products embodied by chips in the 42 nm and 51 nm nodes, including without limitation Samsung’s K9GAG08U0D and K9GAG08U0M-PCB0 flash memory chips, and products that contain the chips.

23. On information and belief, the Samsung Defendants sell and offer for sale those products knowing of the ‘027 patent, and knowing them to be specially made or adapted for

infringing the '027 patent and not to be a staple article or commodity of commerce suitable for substantial non-infringing use.

24. On information and belief, the Samsung Defendants, knowing of the '027 patent, actively induce infringement of the '027 patent, intending that infringement to take place and in quantities where it has taken place as intended in substantial numbers.

25. On information and belief, Samsung's infringement of the '027 patent has been and continues to be willful.

26. Spansion has been damaged by Samsung's infringement of the '027 patent and will continue to be damaged unless enjoined by this Court.

27. Spansion does not have an adequate remedy at law.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,359,307

28. Paragraphs 1 through 27 are incorporated herein as fully set forth above.

29. Spansion is also the owner by assignment of all rights under U.S. Patent No. 6,359,307 ("the '307 patent"), including the right to sue for past, current, and future infringement.

30. The '307 patent was duly and lawfully issued by the United States Patent and Trademark Office on March 19, 2002, entitled "Method for Forming Self-Aligned Contacts and Interconnection Lines Using Dual Damascene Techniques". A true and correct copy of the '307 patent is attached as Exhibit B and made a part hereof.

31. The '307 patent is valid and enforceable under the United States Patent Laws.

32. Spansion is informed and believes that the Samsung Defendants have infringed, and are currently infringing, the '307 patent, in violation of 35 U.S.C. § 271 *et seq.*, directly and/or indirectly, by without authority making, using, selling, offering for sale in the United States, and/or importing into the United States products covered by one or more claims of the '307 patent, and importing flash memory devices and products containing the devices covered by

one or more claims of the '307 patent, and/or contributing to or inducing infringement by third parties of one or more claims of the '307 patent.

33. The infringing products include, but are not limited to, products embodied by chips in the 35 nm and 42 nm nodes, including without limitation Samsung's K9HDG08U5M-LCB0 and K9GAG08U0D flash memory chips, and products that contain the chips.

34. On information and belief, the Samsung Defendants sell and offer for sale those products knowing of the '307 patent, and knowing them to be specially made or adapted for infringing the '307 patent and not to be a staple article or commodity of commerce suitable for substantial non-infringing use.

35. On information and belief, the Samsung Defendants, knowing of the '307 patent, actively induce infringement of the '307 patent, intending that infringement to take place and in quantities where it has taken place as intended in substantial numbers.

36. On information and belief, Samsung's infringement of the '307 patent has been and continues to be willful.

37. Spansion has been damaged by Samsung's infringement of the '307 patent and will continue to be damaged unless enjoined by this Court.

38. Spansion does not have an adequate remedy at law.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 6,232,630

39. Paragraphs 1 through 38 are incorporated herein as fully set forth above.

40. Spansion is also the owner by assignment of all rights under U.S. Patent No. 6,232,630 ("the '630 patent"), including the right to sue for past, current, and future infringement.

41. The '630 patent was duly and lawfully issued by the United States Patent and Trademark Office on May 15, 2001, entitled "Light Floating Gate Doping To Improve Tunnel Oxide Reliability". A true and correct copy of the '630 patent is attached as Exhibit C and made a part hereof.

42. The '630 patent is valid and enforceable under the United States Patent Laws.

43. Spansion is informed and believes that the Samsung Defendants have infringed, and are currently infringing, the '630 patent, in violation of 35 U.S.C. § 271 *et seq.*, directly and/or indirectly, by without authority making, using, selling, offering for sale in the United States, and/or importing into the United States products covered by one or more claims of the '630 patent, and importing flash memory devices and products containing the devices covered by one or more claims of the '630 patent, and/or contributing to or inducing infringement by third parties of one or more claims of the '630 patent.

44. The infringing products include, but are not limited to, products embodied by chips in the 35 nm, 42 nm, 51 nm, and 65 nm nodes, and include without limitation Samsung's K9HDG08U5M-LCB0, K9GAG08U0D, K9GAG08U0M-PCB0, and K9G8G08U0M-PCB0 flash memory chips, and products that contain the chips.

45. On information and belief, the Samsung Defendants sell and offer for sale those products knowing of the '630 patent, and knowing them to be specially made or adapted for infringing the '630 patent and not to be a staple article or commodity of commerce suitable for substantial non-infringing use.

46. On information and belief, the Samsung Defendants, knowing of the '630 patent, actively induce infringement of the '630 patent, intending that infringement to take place and in quantities where it has taken place as intended in substantial numbers.

47. On information and belief, Samsung's infringement of the '630 patent has been and continues to be willful.

48. Spansion has been damaged by Samsung's infringement of the '630 patent and will continue to be damaged unless enjoined by this Court.

49. Spansion does not have an adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Spansion requests that this Court enter judgment as follows ordering that:

A. The Samsung Defendants have infringed the '027, '307, and '630 patents by without authority making, using, selling and offering for sale in the United States, and/or importing into the United States products covered by one or more claims of the '027, '307, and '630 patents, and/or by contributing to or inducing such infringement;

B. Samsung's infringement of the '027, '307, and '630 patents has been willful;

C. Samsung and their affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and any and all those acting for any of them or on their behalf, or acting in concert or participation with them, be preliminarily and permanently enjoined from infringement of Spansion's patents;

D. Spansion be awarded compensatory damages, together with prejudgment interest and costs;

E. Spansion be awarded treble damages for willful patent infringement;

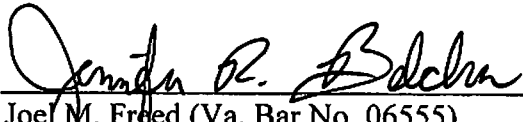
F. This case be adjudged an exceptional case under 35 U.S.C. § 285 in favor of Spansion, and that Spansion be awarded its costs, attorneys' fees, and all other expenses incurred in this action; and

G. Spansion be awarded such other relief as the Court deems just and proper.

JURY DEMAND

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

Dated: August 6, 2010

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