

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

BRANDYWINE COMMUNICATIONS
TECHNOLOGIES, LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC,

Defendant.

Civil Action No. 6:12-cv-270-oll-36DAB

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Brandywine Communications Technologies, LLC (“Brandywine” or “Plaintiff”), for its Complaint against Samsung Electronics Co., Ltd. and Samsung Telecommunications America, LLC (collectively, “Samsung” or “Defendant”) alleges the following:

INTRODUCTION

1. This is an action for infringement of United States Patent Nos. 5,719,922 (“the ‘922 patent”) and 6,236,717 (“the ‘717 patent”) under 35 U.S.C. § 271(a), (b), and (c).

PARTIES

2. Plaintiff Brandywine is a limited liability company with its principal place of business at 1612 Mt. Pleasant Road, Villanova, Pennsylvania 19085.

3. Upon information and belief, Samsung Electronics Co., Ltd. is a corporation organized and existing under the laws of Korea and has its principal executive offices at Samsung Town, Seoul, South Korea. Upon information and belief, Samsung Electronics Co., Ltd. has one or more offices or facilities within this judicial district. Upon information and

belief, Samsung Electronics Co., Ltd. sells and offers to sell products and/or services throughout the United States, including in this judicial district and introduces products and/or services that perform infringing processes into the stream of commerce knowing that they will be sold in this judicial district and elsewhere in the United States.

4. Upon information and belief, Samsung Telecommunications America, LLC is a limited liability company organized and existing under the laws of the State of Delaware and has its principal executive offices at 1301 East Lookout Drive, Richardson, TX 75082. Upon information and belief, Samsung Telecommunications America, LLC has one or more offices or facilities within this judicial district. Upon information and belief, Samsung Telecommunications America, LLC sells and offers to sell products and/or services throughout the United States, including in this judicial district and introduces products and/or services that perform infringing processes into the stream of commerce knowing that they will be sold in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

7. This Court has personal jurisdiction over the Defendant. Upon information and belief, Defendant has transacted business in this judicial district directly or indirectly and has committed, contributed to, and/or induced acts of patent infringement in this judicial district including, among other things, through the sale of infringing products and/or products that perform infringing processes directly, or through retailers or other businesses located in Florida and this judicial jurisdiction.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

**FIRST CLAIM FOR RELIEF
PATENT INFRINGEMENT OF U.S. PATENT NO. 5,719,922
(35 U.S.C. § 271)**

9. The allegations set forth in the foregoing paragraphs 1 through 8 are incorporated into this First Claim for Relief.

10. On February 17, 1998, the '922 Patent, entitled "Simultaneous Voice/Data Answering Machine," was duly and legally issued by the United States Patent and Trademark Office to inventors Gordon Bremer and Richard Kent Smith (collectively "the '922 Inventors"), and has been duly and legally assigned to Brandywine. All of the '922 Inventors reside in this judicial district. A copy of the '922 patent is attached as Exhibit A.

11. Samsung has had actual knowledge of the '922 patent and its alleged infringement of that patent since at least October 3, 2011, when Plaintiff's Original Complaint in *Brandywine Communications Technologies, LLC v. Apple Inc., et al.*, Case 6:11-cv-01512-MSS-DAB (M.D. Fla. filed Sept. 13, 2011) was served. Samsung has also had knowledge since at least December 13, 2011, the date Brandywine sent Samsung a letter that provided additional notice of Samsung's infringement of the '922 patent.

12. Upon information and belief, Defendant Samsung has directly and indirectly infringed and continues to directly and indirectly infringe one or more claims of the '922 patent in this judicial district and elsewhere by making, using, selling and offering for sale, services and products that infringe and/or perform processes that infringe one or more claims of the '922 patent ("Samsung Accused Services and Products for the '922 patent").

13. Samsung Accused Services and Products for the '922 patent include, but are not limited to, Samsung Droid Charge; 4G LTE Mobile Hotspot; Fascinate Android Smartphone;

Nexus 4g Android; Epic 4G Android; Galaxy S Android; T-Mobile Sidekick 4G Android; Exhibit 4G; Vitality Android; a197 Cell Phone; Gravity TXT QWERTY Cellphone; Mythic Touchscreen Cell Phone; Gem Android; Comment Cell Phone; Chrono Cellphone; Admire Android; Convoy Cell Phone; Conquer 4G Android; Character Touchscreen Cell Phone; Freeform III Cell Phone; Dart Android; t528 Cell Phone; Indulge Android; Trender; t340 Cell Phone; t330 Cell Phone; Restore QWERTY Cell Phone; Reality Touchsreen Cell Phone; Gravity Touch QWERTY Cell Phone; Factor Cell Phone; m360 Cell Phone; Alias 2 QWERTY Cell Phone; Mondi Smartphone; Messenger II QWERTY Cell Phone; MyShot II Cell Phone; Omnia II Touchscreen Smartphone; Freeform QWERTY Cell Phone; Highlight Touchscreen Cell Phone; Smooth Cell Phone; t401g Cell Phone; Caliber Touchscreen Cell Phone; Flight QWERTY Cell Phone; Trill Cell Phone; Double Take QWERTY Cell Phone; Stunt Cell Phone; Sunburst Touchscreen Cell Phone; Strive QWERTY Cell Phone; Exec QWERTY Cell Phone; Rant QWERTY Cell Phone; r355c QWERTY Cell Phone; Stride Cell Phone; Seek Cell Phone; Rugby II Cell Phone; Smiley :) QWERTY Cell Phone; Code QWERTY Cell Phone; Intercept QWERTY Cell Phone; Haven Cell Phone; Intensity II QWERTY Cell Phone; SGH-T369 Cell Phone; Eternity II Touchscreen Cell Phone; Gusto Cell Phone; Messenger Touch QWERTY, t259 Cell Phone; Craft QWERTY; a187; t255G; R335C; Messenger III QWERTY; Contour Cell Phone; Zeal QWERTY; Profile QWERTY; Suede Touchscreen Cell; Gem Touchscreen Cell; Showcase i500 Android; Mesmerize i500 Android; Vibrant Android; Nexus Android; Acclaim Android; Galaxy Indulge QWERTY Cell Phone; Galaxy Prevail Android; a107 Cell Phone; Solstice II Touchscreen; Evergreen QWERTY; Focus Windows Smartphone; Transform QWERTY; and Replenish.

14. Furthermore, and/or in the alternative, upon information and belief, Samsung has committed joint infringement of the '922 patent. Samsung and its service providers, including, but not limited to, AT&T Mobility, LLC, have, acting jointly, infringed and continue to infringe at least claim 7 of the '922 patent by making, using, selling and offering for sale, services and products that infringe and/or perform processes that infringe at least claim 7 of the '922 patent. Moreover, Samsung has exercised and continues to exercise control and direction over the jointly infringing activities of its service providers, including, but not limited to, AT&T Mobility, LLC.

15. Upon information and belief, Samsung's continued infringement despite its knowledge of the '922 patent and Brandywine's accusations of infringement has been objectively reckless and willful.

16. Upon information and belief, since at least October 3, 2011, Samsung has committed and continues to commit acts of contributory infringement of at least claim 1 of the '922 patent under 35 U.S.C. § 271(c) in that Samsung has made, used, sold, offered to sell, and/or imported, or continues to make, use, sell, offer to sell services and products including Samsung Accused Services and Products for the '922 patent. These products have no substantial non-infringing uses and are especially adapted to work in a system or carry out a method claimed in the '922 patent, for example, by claim 1. Samsung provides such products to its customers, whose use of such products constitutes direct infringement of at least claim 1 of the '922 patent.

17. Upon information and belief, since at least October 3, 2011, Samsung has committed and continues to commit acts of contributory infringement of at least claim 7 of the '922 patent under 35 U.S.C. § 271(c) in that Samsung has made, used, sold, offered to sell, and/or imported, or continues to make, use, sell, offer to sell services and products including Samsung Accused Services and Products for the '922 patent. These products have no substantial

non-infringing uses and are especially adapted to work in a system or carry out a method claimed in the '922 patent, for example, by claim 7. Samsung provides such products to its service providers, including, but not limited to AT&T Mobility, LLC, whose use of such products constitutes direct infringement of at least claim 7 of the '922 patent, and where its service providers' customers' use of such products and services constitutes direct infringement of at least claim 7 of the '922 patent.

18. Upon information and belief, since at least October 3, 2011, Samsung has induced and continues to induce others to infringe at least claim 1 of the '922 patent under 35 U.S.C. § 271(b) by, among other things, actively and knowingly aiding and abetting others to infringe, including, but not limited to consumers whose use of such services and products constitutes direct infringement of at least claim 1 of the '922 patent. Samsung's aiding and abetting includes, for example, advertising, instructing, and/or supporting the consumers' directly infringing use.

19. Upon information and belief, since at least October 3, 2011, Samsung has induced and continues to induce others to infringe at least claim 7 of the '922 patent under 35 U.S.C. § 271(b) by, among other things, actively and knowingly aiding and abetting others to infringe, including, but not limited to, its service providers, such as AT&T Mobility, LLC, whose use and sale of such services and products constitutes direct infringement of at least claim 7 of the '922 patent, and where its service providers' customers' use of such products and services constitutes direct infringement of at least claim 7 of the '922 patent. Samsung's aiding and abetting includes, for example, marketing and promoting the sale of Samsung Accused Services and Products by others, such as AT&T Mobility, LLC.

20. Because of Samsung's infringement, inducement of infringement, and contributory infringement of the '922 patent, Brandywine has suffered damages and will continue to suffer damages in the future.

**SECOND CLAIM FOR RELIEF
PATENT INFRINGEMENT OF U.S. PATENT NO. 6,236,717
(35 U.S.C. § 271)**

21. The allegations set forth in the foregoing paragraphs 1 through 20 are incorporated into this Second Claim for Relief.

22. On May 22, 2001, the '717 Patent, entitled "Simultaneous Voice/Data Answering Machine" was duly and legally issued by the United States Patent and Trademark Office to inventors Gordon Bremer and Richard Kent Smith ("the '717 Inventors"), and has been duly and legally assigned to Brandywine. The '717 Inventors reside within this judicial district. A copy of the '717 patent is attached as Exhibit B.

23. Samsung has had actual knowledge of the '717 patent and its alleged infringement of that patent since at least October 3, 2011, when Plaintiff's Original Complaint in *Brandywine Communications Technologies, LLC v. Apple Inc., et al.*, Case 6:11-cv-01512-MSS-DAB (M.D. Fla. filed Sept. 13, 2011) was served. Samsung has also had knowledge since at least December 13, 2011, the date Brandywine sent Samsung a letter that provided additional notice of Samsung's infringement of the '717 patent.

24. Upon information and belief, Defendant Samsung has directly and indirectly infringed and continues to directly and indirectly infringe one or more claims of the '717 patent in this judicial district and elsewhere by making, using, selling and offering for sale, services and products that infringe and/or perform processes that infringe one or more claims of the '717 patent ("Samsung Accused Services and Products for the '717 patent").

25. Samsung Accused Services and Products for the '717 patent include, but are not limited to, Samsung Droid Charge; 4G LTE Mobile Hotspot; Fascinate Android Smartphone; Nexus 4g Android; Epic 4G Android; Galaxy S Android; T-Mobile Sidekick 4G Android; Exhibit 4G; Vitality Android; a197 Cell Phone; Gravity TXT QWERTY Cellphone; Mythic Touchscreen Cell Phone; Gem Android; Comment Cell Phone; Chrono Cellphone; Admire Android; Convoy Cell Phone; Conquer 4G Android; Character Touchscreen Cell Phone; Freeform III Cell Phone; Dart Android; t528 Cell Phone; Indulge Android; Trender; t340 Cell Phone; t330 Cell Phone; Restore QWERTY Cell Phone; Reality Touchsreen Cell Phone; Gravity Touch QWERTY Cell Phone; Factor Cell Phone; m360 Cell Phone; Alias 2 QWERTY Cell Phone; Mondi Smartphone; Messenger II QWERTY Cell Phone; MyShot II Cell Phone; Omnia II Touchscreen Smartphone; Freeform QWERTY Cell Phone; Highlight Touchscreen Cell Phone; Smooth Cell Phone; t401g Cell Phone; Caliber Touchscreen Cell Phone; Flight QWERTY Cell Phone; Trill Cell Phone; Double Take QWERTY Cell Phone; Stunt Cell Phone; Sunburst Touchscreen Cell Phone; Strive QWERTY Cell Phone; Exec QWERTY Cell Phone; Rant QWERTY Cell Phone; r355c QWERTY Cell Phone; Stride Cell Phone; Seek Cell Phone; Rugby II Cell Phone; Smiley :) QWERTY Cell Phone; Code QWERTY Cell Phone; Intercept QWERTY Cell Phone; Haven Cell Phone; Intensity II QWERTY Cell Phone; SGH-T369 Cell Phone; Eternity II Touchscreen Cell Phone; Gusto Cell Phone; Messenger Touch QWERTY, t259 Cell Phone; Craft QWERTY; a187; t255G; R335C; Messenger III QWERTY; Contour Cell Phone; Zeal QWERTY; Profile QWERTY; Suede Touchscreen Cell; Gem Touchscreen Cell; Showcase i500 Android; Mesmerize i500 Android; Vibrant Android; Nexus Android; Acclaim Android; Galaxy Indulge QWERTY Cell Phone; Galaxy Prevail Android; a107 Cell Phone;

Solstice II Touchscreen; Evergreen QWERTY; Focus Windows Smartphone; Transform QWERTY; and Replenish.

26. Furthermore, and/or in the alternative, upon information and belief, Samsung has committed joint infringement of the '717 patent. Samsung and its service providers, including, but not limited to, AT&T Mobility, LLC, have, acting jointly, infringed and continue to infringe at least claim 15 of the '717 patent by making, using, selling and offering for sale, services and products that infringe and/or perform processes that infringe at least claim 15 of the '717 patent. Moreover, Samsung has exercised and continues to exercise control and direction over the jointly infringing activities of its service providers, including, but not limited to, AT&T Mobility, LLC.

27. Upon information and belief, Samsung's continued infringement despite its knowledge of the '717 patent and Brandywine's accusations of infringement has been objectively reckless and willful.

28. Upon information and belief, since at least October 3, 2011, Samsung has committed and continues to commit acts of contributory infringement of at least claim 1 of the '717 patent under 35 U.S.C. § 271(c) in that Samsung has made, used, sold, offered to sell, and/or imported, or continues to make, use, sell, offer to sell services and products including Samsung Accused Services and Products for the '717 patent. These products have no substantial non-infringing uses and are especially adapted to work in a system or carry out a method claimed in the '717 patent, for example, by claim 1. Samsung provides such products to its customers, whose use of such products constitutes direct infringement of at least claim 1 of the '717 patent.

29. Upon information and belief, since at least October 3, 2011, Samsung has committed and continues to commit acts of contributory infringement of at least claim 15 of the '717 patent under 35 U.S.C. § 271(c) in that Samsung has made, used, sold, offered to sell,

and/or imported, or continues to make, use, sell, offer to sell services and products including Samsung Accused Services and Products for the '717 patent. These products have no substantial non-infringing uses and are especially adapted to work in a system or carry out a method claimed in the '717 patent, for example, by claim 15. Samsung provides such products to its service providers, including, but not limited to AT&T Mobility, LLC, whose use of such products constitutes direct infringement of at least claim 15 of the '717 patent, and where its service providers' customers' use of such products and services constitutes direct infringement of at least claim 15 of the '717 patent.

30. Upon information and belief, since at least October 3, 2011, Samsung has induced and continues to induce others to infringe at least claim 1 of the '717 patent under 35 U.S.C. § 271(b) by, among other things, actively and knowingly aiding and abetting others to infringe, including, but not limited to consumers whose use of such services and products constitutes direct infringement of at least claim 1 of the '717 patent. Samsung's aiding and abetting includes, for example, advertising, instructing, and/or supporting the consumers' directly infringing use.

31. Upon information and belief, since at least October 3, 2011, Samsung has induced and continues to induce others to infringe at least claim 15 of the '717 patent under 35 U.S.C. § 271(b) by, among other things, actively and knowingly aiding and abetting others to infringe, including, but not limited to, its service providers, such as AT&T Mobility, LLC, whose use of such services and products constitutes direct infringement of at least claim 15 of the '717 patent, and where its service providers' customers' use of such products and services constitutes direct infringement of at least claim 15 of the '717 patent. Samsung's aiding and abetting includes, for

example, marketing and promoting the sale of Samsung Accused Services and Products by others, such as AT&T Mobility, LLC.

32. Because of Samsung's infringement, inducement of infringement, and contributory infringement of the '717 patent, Brandywine has suffered damages and will continue to suffer damages in the future.

PRAYER FOR RELIEF

Wherefore, Plaintiff Brandywine demands judgment against Samsung, and against Samsung's respective subsidiaries, affiliates, agents, servants, employees, licensees, and all persons acting or attempting to act in active concert or participation with them or acting on their behalf, granting the following relief:

A. A judgment in favor of Brandywine that Defendant has infringed, directly and/or indirectly, and by way of inducing and/or contributing to the infringement, and by joint infringement, of the '922 and '717 patents;

B. An award of damages adequate to compensate Brandywine for the infringement, inducement of infringement, contributory infringement, and joint infringement, together with pre- and post-judgment interest and an accounting;

C. An award to Brandywine of increased damages pursuant to 35 U.S.C. § 284;

D. A finding that this case is exceptional and an award to Brandywine of its attorneys' fees, expenses and costs pursuant to 35 U.S.C. § 285; and

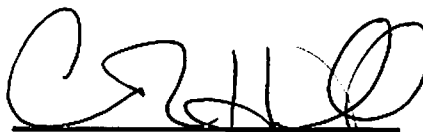
E. Such other and further relief as this Court may deem just and proper.

JURY DEMAND

Brandywine demands a trial by jury.

Dated: February 21, 2012

Respectfully submitted,

A handwritten signature in black ink, appearing to read "CT Hill", written over a horizontal line.

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