

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

PAPST LICENSING GmbH and Co. KG )  
a German Corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
SAMSUNG ELECTRO-MECHANICS CO., )  
LTD., a Korean Corporation, )  
 )  
Defendant. )

03C 1002  
Case No.

Judge JUDGE ANDERSEN

Mag. Judge  
MAGISTRATE JUDGE KEYS

DEMAND FOR JURY TRIAL

DOCKETED  
FEB 12 2003

CLERK  
DISTRICT COURT  
03 FEB 11 PM 12:55  
FILED-ED4

COMPLAINT FOR BREACH OF PATENT LICENSE  
AGREEMENT AND FOR PATENT INFRINGEMENT

Plaintiff, Papst Licensing GmbH & Co. KG ("Papst") for its Complaint against Defendant Samsung Electro-Mechanics Co., Ltd. ("SEM") states as follows.

1. Papst is a corporation existing under the laws of The Federal Republic of Germany with its principal place of business headquartered at Bahnhofstrasse 33, 78112 St. Georgen, Germany.
2. Upon information and belief, SEM is a Korean Corporation having its headquarters at 314, Maetan Dong, Paldal Gu, Suwon Si Kyoungki Do, Korea, 442-743.

**Count I: Patent Infringement**

3. This Court has federal question jurisdiction of Papst's patent infringement claims pursuant to 28 U.S.C. §1331 and 1338(a) because this action arises under the patent laws of the United States. 35 U.S.C. §§ 1, et seq.

4. On April 2, 1999, SEM entered into an agreement with Papst that requires SEM to make certain periodic payments to Papst (the "First Settlement Agreement"). The First Settlement Agreement concerns brushless DC motors for use in hard disk drive applications that are manufactured and sold by SEM (the "HDD Motors").

1-1

5. Venue over SEM is proper in this district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Furthermore, pursuant to the terms of the First Settlement Agreement, SEM agreed to submit to the jurisdiction and venue of this Court for all controversies and issues of enforcement concerning the First Settlement Agreement.

6. Papst is the lawful owner, by assignment, of the entire right, title, and interest in and to the United States Patents listed in paragraphs 7-12 of this Complaint.

7. United States Patent No. 4,998,032 duly and legally issued on March 5, 1991.

8. United States Patent No. 5,006,943 duly and legally issued on April 9, 1991.

9. United States Patent No. 5,382,853 duly and legally issued on January 17, 1995.

10. United States Patent No. 5,422,769 duly and legally issued on June 6, 1995.

11. United States Patent No. Re. 35,763 duly and legally issued on April 7, 1998.

12. United States Patent No. 5,774,302 duly and legally issued on June 30, 1998.

13. Upon information and belief, SEM has made, used, sold, or offered to sell to customers in the United States, or imported into the United States, certain HDD Motors that embody the elements of at least one claim of all of the patents listed in paragraphs 7-12 of this Complaint and, therefore, infringe those patents under the U.S. patent laws.

14. Upon information and belief, a reasonable opportunity for further investigation is likely to provide evidentiary support that SEM is liable to Papst either (i) under 35 U.S.C. §271(a) as active inducers of other's direct infringement of the patents listed in paragraphs 7-12 of this Complaint, or (ii) under 35 U.S.C. §271(c) as contributory infringers with regard to other's direct infringement of the patents listed in paragraphs 7-12 of this Complaint.

15. A reasonable opportunity for further investigation or discovery is likely to provide evidentiary support that SEM committed the said infringements willfully.

16. Papst can bring this action for patent infringement irrespective of the First Settlement Agreement because SEM has breached the First Settlement Agreement.

**Count II: Breach Of Patent License Agreement**

17. This Court has jurisdiction over Count II of this Complaint pursuant to 28 U.S.C. §1367(a).

18. Pursuant to the terms of the First Settlement Agreement, SEM is obligated to make certain periodic payments to Papst.

19. SEM has ceased making the agreed upon periodic payments to Papst pursuant to the terms of the First Settlement Agreement in breach thereof.

**WHEREFORE**, Papst prays as follows:

A. Damages adequate to compensate for the said infringements together with all applicable interest and costs;

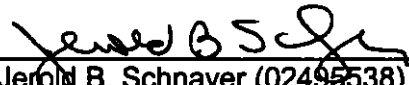
B. An increase of damages to three times the amount found or assessed together with attorney fees;

C. Damages resulting from SEM's breach of the First Settlement Agreement, including, but not limited to, the royalties due and owing under the First Settlement Agreement together with all applicable interest and costs incurred in pursuing this matter; and

D. Such other and further relief as the Court may deem just and proper and as is warranted by the evidence.

**A TRIAL BY JURY** is demanded for any and all issues triable of right by a jury.

Dated: February 11, 2003

  
Jerold B. Schnayer (02495538)  
John L. Ambrogi (06203626)  
Jeffrey W. Salmon (06220442)  
**WELSH & KATZ, LTD.**  
120 S. Riverside Plaza, 22<sup>nd</sup> Floor  
Chicago, Illinois 60606  
(312) 655-1500

**Attorneys for Plaintiff Papst Licensing GmbH & Co. KG**

**WEGE ANDERSEN**  
**Magistrate Judge Keys**

JS 44 (Rev. 3/99)

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**(a) PLAINTIFFS**  
 PAPST LICENSING GmbH and Co, KG  
 a German Corporation

**(b) County of Residence of First Listed Plaintiff** Germany  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**DEFENDANTS**  
 SAMSUNG ELECTRO-MECHANICS CO., LTD.  
 a Korean Corporation

County of Residence of First Listed Korean  
 (IN U.S. PLAINTIFF CASES ONLY)

**(c) Attorney's (Firm Name, Address, and Telephone Number)** (312) 655-1500  
 Jerold B. Schnayer, Esq., John L. Ambrogio, Esq.,  
 Jeffrey W. Salmon, Esq. WELSH & KATZ LTD. 120  
 S. Riverside Plaza, 22nd Floor, Chgo, IL 60606

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
 PROPERTY INVOLVED.  
 ATTORNEY'S (If Known)  
**03000000**  
**FEB 12 2003**  
 CLERK OF COURT  
 U.S. DISTRICT COURT  
 EASTERN DISTRICT OF ILLINOIS  
 CHICAGO, ILLINOIS

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input checked="" type="checkbox"/> 3	<input checked="" type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Inj.	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 137 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 430 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Ins. Security Act	<input type="checkbox"/> 861 NIA (1395B) <input type="checkbox"/> 863 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(a)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 863 RSI (403(a)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Patent Infringement Pursuant to 35 U.S.C. Section 271

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ TO BE DETERMINED

CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. This case**

is not a refiling of a previously dismissed action.

is a refiling of case 02C8161, previously dismissed by Judge Wayne R. Andersen

DATE: 2/11/03

SIGNATURE OF ATTORNEY OF RECORD: Jerold B. Schnayer

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of **PAPST LICENSING GmbH and Co. KG v. SAMSUNG ELECTRO-MECHANICS CO., LTD.**

**JUDGE ANDERSEN**

**030 1002**  
Case Number

MAGISTRATE JUDGE KEYS

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

FILED-ED4  
CLERK  
DISTRICT COURT  
03 FEB 11 PM 12:55

**PAPST LICENSING GmbH and Co.**

**DOCKETED**

FEB 12 2003

(A)

(B)

SIGNATURE *Jerold B. Schnayer*  
NAME **Jerold B. Schnayer**  
FIRM **WELSH & KATZ, LTD**  
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TELEPHONE NUMBER **(312) 655-1500**

SIGNATURE *John L. Ambrogi*  
NAME **John L. Ambrogi**  
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TELEPHONE NUMBER **(312) 655-1500**

IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) **02495538**

MEMBER OF TRIAL BAR?	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
TRIAL ATTORNEY?	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>

IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) **06208626**

MEMBER OF TRIAL BAR?	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
TRIAL ATTORNEY?	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
DESIGNATED AS LOCAL COUNSEL?	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>

(C)

(D)

SIGNATURE *Jeffrey W. Salmon*  
NAME **Jeffrey W. Salmon**  
FIRM **WELSH & KATZ, LTD**  
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SIGNATURE  
NAME  
FIRM  
STREET ADDRESS  
CITY/STATE/ZIP  
TELEPHONE NUMBER

IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) **06220442**

MEMBER OF TRIAL BAR?	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
TRIAL ATTORNEY?	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
DESIGNATED AS LOCAL COUNSEL?	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>

IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)

MEMBER OF TRIAL BAR?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
TRIAL ATTORNEY?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
DESIGNATED AS LOCAL COUNSEL?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>

1-3