

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MYPORT IP, INC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
HTC CORPORATION; HTC AMERICA, INC.;	§	Civil Action No.: 6:11-cv-00246
LG ELECTRONICS; LG ELECTRONICS	§	
MOBILECOMM U.S.A., INC.; NOKIA	§	
CORPORATION; NOKIA INC.; SAMSUNG	§	Jury Demanded
ELECTRONICS CO., LTD; SAMSUNG	§	
ELECTRONICS AMERICA, INC; SONY	§	
ERICSSON MOBILE COMMUNICATIONS	§	
(USA) INC., HUAWEI TECHNOLOGIES	§	
CO., LTD., and FUTUREWEI	§	
TECHNOLOGIES INC.,	§	
	§	
Defendants.	§	

PLAINTIFF’S SUPPLEMENTAL FIRST AMENDED COMPLAINT

Plaintiff MyPort IP, Inc. files this Supplemental First Amended Complaint in this action against Defendants HTC Corporation, HTC America, Inc., LG Electronics, LG Electronics Mobilecomm U.S.A., Inc.; Nokia Corporation, Nokia Inc., Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Sony Ericsson Mobile Communications (USA) Inc., Huawei Technologies Co., Ltd., and Futurewei Technologies, Inc., (herein, collectively, “Defendants”) and for its cause of action alleges:

THE PARTIES

1. MyPort IP, Inc. is a corporation organized and existing under the laws of Texas, with an address at 2711 Northview Drive, McKinney, Collin County, Texas 75070.

2. Upon information and belief, HTC Corporation is a corporation organized and existing under the laws of Taiwan, with its principal place of business at 23 Hsin Hua Rd., Taoyuan 330, Taiwan, Republic of China. HTC Corporation has appeared and answered.

3. Upon information and belief, HTC America, Inc. is a subsidiary of HTC B.V.I., which is a subsidiary of Defendant HTC Corporation. HTC America, Inc. is a corporation organized and existing under the laws of the State of Washington, with its principal place of business at 13920 SE Eastgate Way, Suite 400 Bellevue, Washington 98005. HTC America, Inc. has appeared and answered. Throughout this pleading, Defendants HTC Corporation and HTC America will be referenced collectively as the “HTC Defendants.”

4. Upon information and belief, LG Electronics is a corporation organized and existing under the laws of the Republic of Korea, with its principal place of business at LG Twin Towers, 20 Yeouido-dong, Yeongdeungpo-gu, Seoul 150-721, Republic of Korea. LG Electronics has appeared and answered.

5. Upon information and belief, LG Electronics Mobilcomm U.S.A., Inc. is a subsidiary of Defendant LG Electronics, and is a corporation organized and existing under the laws of the State of California, with its principal place of business at 10101 Old Grove Road, San Diego, California 92131. LG Electronics Mobilcomm U.S.A., Inc. has appeared and answered. Throughout this pleading, Defendants LG Electronics and LG Electronics Mobilcomm U.S.A., Inc. will be referenced collectively as the “LG Defendants.”

6. Upon information and belief, Nokia Corporation is a corporation organized and existing under the laws of Finland, with its principal place of business at Keilalahdentie 2-4, P.O. Box 226, FIN-00045 Nokia Group, Finland. Nokia Corporation has appeared and answered.

7. Upon information and belief, Nokia Inc. is a subsidiary of Defendant Nokia Corporation, and is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 6021 Connection Dr., Irving, TX 75039. Nokia Inc. has appeared and answered. Throughout this pleading, Defendants Nokia Corporation and Nokia Inc. will be referenced collectively as the “Nokia Defendants.”

8. Upon information and belief, Samsung Electronics Co., Ltd. is a corporation organized and existing under the laws of the Republic of Korea, with its principal place of business at Samsung Main Building, 250, Taepyeongno 2-ga, Jung-gu, Seoul 100-742, Republic of Korea. Samsung Electronics Co., Ltd. has appeared and answered.

9. Upon information and belief, Samsung Electronics America, Inc. is a subsidiary of Defendant Samsung Electronics Co., Ltd., and is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 105 Challenger Road, Ridgefield Park, New Jersey 07660-2106. Samsung Electronics America, Inc. has appeared and answered. Throughout this pleading, Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. will be referenced collectively as the “Samsung Defendants.”

10. Upon information and belief, Sony Ericsson Mobile Communications (USA) Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 7001 Development Drive, Research Triangle Park, NC 27709. Sony Ericsson Mobile Communications (USA) Inc. has appeared and answered. Throughout this pleading, Defendant Sony Ericsson Mobile Communications (USA), Inc. will be referenced as “Sony Ericsson.”

11. Upon information and belief, Huawei Technologies Co., Ltd. is a corporation organized and existing under the laws of China, with its principal place of business at Bantian,

Longgang District, Shenzhen 518129, P.R. China. Huawei Technologies Co., Ltd. has appeared and answered.

12. Upon information and belief, Futurewei Technologies Inc. is an indirect subsidiary of Huawei Technologies Co., Ltd., and is a corporation organized and existing under the laws of Texas with its principal place of business at 5700 Tennyson Parkway, Suite #500, Plano, Texas 75024. Futurewei Technologies Inc. has appeared and answered. Throughout this pleading, Defendants Huawei Technologies Co., Ltd., and Futurewei Technologies Inc. will be referenced collectively as the “Huawei Defendants.”

THE PATENTS

13. On August 17, 2010, United States Patent No. 7,778,440, entitled “Apparatus and Method for Embedding Searchable Information Into a File for Transmission, Storage and Retrieval” was duly and legally issued (the “‘440 patent”). A true and correct copy of the ‘440 patent, with certificate of correction, is attached as Exhibit A.

14. On November 29, 2011, United States Patent No. 8,068,638, entitled “Apparatus and Method for Embedding Searchable Information Into a File for Transmission, Storage and Retrieval” was duly and legally issued (the “‘638 patent”). A true and correct copy of the ‘638 patent is attached as Exhibit B.

15. Pursuant to 35 U.S.C. § 282, the ‘440 patent is presumed valid.

16. Pursuant to 35 U.S.C. § 282, the ‘638 patent is presumed valid.

17. MyPort IP, Inc. is the owner by assignment of the entire right, title, and interest in the ‘440 and ‘638 patents.

JURISDICTION AND VENUE

18. This action arises under the patent laws of the United States, Title 35 United States Code, particularly §§ 271 and 281. This Court has jurisdiction over the claim for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

19. Personal jurisdiction exists generally over each of the Defendants because each Defendant has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within the Eastern District of Texas. Personal jurisdiction also exists specifically over each of the Defendants because each Defendant, directly or through subsidiaries or intermediaries, makes, uses, offers for sale, or sells products or services within the State of Texas and within the Eastern District of Texas, that infringe the patent-in-suit.

20. Venue is proper in this Court under Title 28 United States Code §§ 1391(b) and (c) and 1400(b).

21. Venue is convenient in this Court because, among other reasons, MyPort IP, Inc., a Texas corporation, was assigned the '440 patent from MyPort Technologies, Inc., a Delaware corporation having an office in McKinney, Texas. MyPort Technologies, Inc. was the original owner by assignment of the '440 patent, and other related patents, including the '638 patent, through its first listed inventor, Michael F. Malone, of McKinney, Texas. Mr. Malone has resided, and MyPort Technologies, Inc. has been located, in the Eastern District of Texas since at least November of 1999. MyPort IP, Inc. has been located in the Eastern District of Texas since its inception. Important documents are located, and witnesses having knowledge of important facts relating to the issues presented in this infringement matter reside in or near the Eastern District of Texas.

PATENT INFRINGEMENT COUNT

22. The HTC Defendants, on information and belief, make, use, sell, or offer to sell products that infringe at least claims 1, 2 and 3 of the '440 patent, including for example and without limitation the EVO, EVO 4G, Wildfire, Legend, Pure, HD2, MyTouch 3G, Magic, Hero, Nexus, Touch Cruise, Tilt, Trophy, Droid Incredible 2, Sensation 4G, Sensation, HD7, HD7S, Merge, Incredible S, Desire S, Salsa, ChaCha, Flyer, Flyer Wi-Fi, Inspire 4G, Thunderbolt 4G, Gratia, WildFire S, 7 Trophy, EVO 3D, EVO 3D CDMA, EVO 3D, EVO VIEW 4G, EVO Shift 4G, 7 Surround, 7 Mozart, Arrive, Desire HD, and 7 Pro models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '440 patent. The HTC Defendants, on information and belief, also make, use, sell, or offer to sell products that infringe at least claim 1 of the '638 patent, including for example and without limitation the Evo Design, Evo 3D, Evo Shift 4G, Explorer, Incredible 2, Inspire 4G, Rezound, Sensation XL, Vivid, Wildfire (Virgin Mobile and US Cellular), and Wildfire models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '638 patent.

23. The LG Defendants, on information and belief, make, use, sell, or offer to sell products that infringe at least claims 1, 2 and 3 of the '440 patent, including for example and without limitation the Chocolate, GC 900, GC 990, Incite CT810, KC910, Viewty, Phoenix, Thrive, Thrill 4G, Optimus 3D, Optimus Pad, Optimus Chat, Optimus Me, Revolution, Quantum, Optimus 7q, Optimus 7, and Optimus C models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '440 patent. The LG Defendants, on information and belief, also make, use, sell, or offer to sell products that infringe at least claim 1 of the '638 patent, including for example and without

limitation the DoulePlay, Enlighten, Marquee, MyTouch Q, MyTouch T, Nitro, Optimus Slider, Prada 3.0, Revolution, and Thrill 4G models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '638 patent.

24. The Nokia Defendants, on information and belief, make, use, sell, or offer to sell products that infringe at least claims 1, 2 and 3 of the '440 patent, including for example and without limitation the Nokia 5800, 6810, C6, E75, N78, N8, N82, N86, N96, N97, N900, N9, N950, Oro, X7-00, E6, C7 Astound, C5-03, E7, C6-01, and C7 models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '440 patent. The Nokia Defendants, on information and belief, also make, use, sell, or offer to sell products that infringe at least claim 1 of the '638 patent, including for example and without limitation the E6, E7, and 700 models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '638 patent.

25. The Samsung Defendants, on information and belief, make, use, sell, or offer to sell products that infringe at least claims 1, 2 and 3 of the '440 patent, including for example and without limitation the Samsung NX10, NX, Vibrant, Captivate, Galaxy, Galaxy S, C425, Behold II, Flight, i7500, i8910, CL65, A877, Lucido S7220, Memoir, Ultra Touch S8300, Pixon M8800, i900 Omnia, i7110, Gravity Smart, Exhibit 4G, i9001 Galaxy S Plus, M580 Replenish, Galaxy Prevail, *Boost, M2201 Galaxy Neo, Google Nexus S 4G, i9100 Galaxy S II, Google S 4G, i9100 Galaxy S, S5780 Wave, i9003 Galaxy SL, Galaxy Ace S5830, Galaxy Fit S5670, Galaxy Gio S5660, Galaxy Mini S5570, Galaxy Pop i559, Galaxy S 4G, i997 Infuse 4G, R910 Galaxy Indulge, Droid Charge, Google Nexus S-3620, i9019 Galaxy Giorgio Armani-3625, i100 Gem-3738, Continuum i400, Focus, I8700 Omnia 7-3537, S5750 Wave-575, S8530 Wave II, Galaxy Tab T-Mobile, Galaxy Tab, P1000 Galaxy Tab, Galaxy Tab CDMA, Galaxy Tab 4G LTE,

Mesmerize i500, S7230E Wave 723, and M130L Galaxy U models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '440 patent. The Samsung Defendants, on information and belief, also make, use, sell, or offer to sell products that infringe at least claim 1 of the '638 patent, including for example and without limitation the Conquer 4G, Epic 4G Touch, Exhibit II 4G, Galaxy S II Skyrocket, I110 Illusion, M930 Transform Ultra, Nexus i515, and Stratosphere I405 models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '638 patent.

26. Defendant Sony Ericsson, on information and belief, makes, uses, sells, or offers to sell products that infringe at least claims 1, 2 and 3 of the '440 patent, including for example and without limitation the Zylo, Yendo, Cedar, Xperia X8, Vivaz, Elm, Hazel, Aino, Sony Ericsson X2, Satio, T715, Idou, Yari, C510, Sony Ericsson W760i, C905, W902, T700, Xperia X1, W705, Xperia Ray, Xperia Active, Xperia Mini, Xperia Mini Pro, W8, Xperia Play, Xperia Pro, Xperia Neo, Xperia Arc, Xperia Play CDMA, Xperia X8, and Xperia X10 Mini models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '440 patent. Sony Ericsson, on information and belief, also makes, uses, sells, or offers to sell products that infringe at least claim 1 of the '638 patent, including for example and without limitation the Live with Walkman, Xperia ARC, Xperia Mini, and Xperia Neo V models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '638 patent.

27. The Huawei Defendants, on information and belief, make, use, sell, or offer to sell products that infringe at least claims 1, 2 and 3 of the '440 patent, including for example and without limitation the Ascend, Ascend X, U8500, s7 Slim, Tablet with GSM Voice, U9000 Ideos

X6, U9000 Ideos X5, and U8150 Ideos models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '440 patent. The Huawei Defendants, on information and belief, also make, use, sell, or offer to sell products that infringe at least claim 1 of the '638 patent, including for example and without limitation the Ascend II, U8860 Honor, U8800 Pro, U8650 Sonic, and U8850 Vision models, as well as any other devices that capture, geo-tag and transmit information on a cell phone as described and claimed in the '638 patent.

28. By so making, using, selling, and offering to sell the aforementioned products, each of the Defendants named in this Complaint have been and continue to infringe, either literally or by equivalents, and either directly or by inducement or contribution, MyPort IP, Inc.'s rights in the '440 patent and the '638 patent.

29. In addition to their direct infringement of the '440 patent and the '638 patent, each of the Defendants named in this Complaint is liable by actively inducing direct infringement by distributors, retailers, and end-users who sell, offer for sale, purchase, and/or use the aforementioned products.

30. The infringement of the '440 patent and the '638 patent alleged above has injured MyPort IP, Inc. and thus, it is entitled to recover damages adequate to compensate for Defendants' infringement, which in no event can be less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, MyPort IP, Inc. prays for entry of judgment:

A. That Defendants have infringed one or more claims of the '440 patent and the '638 patent.

B. That Defendants account for and pay to MyPort IP, Inc. all damages caused by the infringement of the '440 patent and the '638 patent, which by statute can be no less than a reasonable royalty;

C. That MyPort IP, Inc. be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Defendants' infringement of the '440 patent and the '638 patent;

D. That MyPort IP, Inc. be granted its attorneys' fees in this action;

E. That costs be awarded to MyPort IP, Inc.;

F. That MyPort IP, Inc. be granted such other and further relief that is just and proper under the circumstances.

DEMAND FOR JURY TRIAL

MyPort IP, Inc. demands a jury trial on all claims and issues so triable.

DATED: March 8, 2012.

Respectfully submitted,

/s/ Matthew J.M. Prebeg

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on March 8, 2012. Any other counsel of record will be served by first class U.S. mail.

/s/ Matthew J.M. Prebeg

Matthew J.M. Prebeg