

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

MYPORT IP, INC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
HTC CORPORATION; HTC AMERICA,	§	
INC.; LG ELECTRONICS; LG	§	
ELECTRONICS U.S.A.; INC.; NOKIA	§	
CORPORATION; NOKIA INC.; RESEARCH	§	
IN MOTION, LTD.; RESEARCH IN	§	
MOTION CORPORATION; SAMSUNG	§	Civil Action No.: 6:11-cv-00246
ELECTRONICS CO., LTD; SAMSUNG	§	
ELECTRONICS AMERICA, INC.; SHARP	§	
CORPORATION; SHARP ELECTRONICS	§	
CORPORATION; SONY CORPORATION;	§	
and SONY CORPORATION OF AMERICA	§	
	§	
Defendants.	§	

**PLAINTIFF’S ORIGINAL COMPLAINT**

Plaintiff MyPort IP, Inc. brings this action against Defendants HTC Corporation, HTC America, Inc., LG Electronics, LG Electronics U.S.A., Inc.; Nokia Corporation, Nokia Inc., Research in Motion, Ltd., Research in Motion Corporation, Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Sharp Corporation, Sharp Electronics Corporation, Sony Corporation, and Sony Corporation of America (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.

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. may be served with process by serving its registered agent, National Registered Agents, Inc. at 16055 Space Center Blvd., Ste. 235, Houston, Texas 77062-6212. 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.

5. Upon information and belief, LG Electronics USA, Inc. is a subsidiary of Defendant LG Electronics, and is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632-3302. LG may be served with process by serving its registered agent, United States Corporation Co., 701 Brazos Street, Suite 1050, Austin, Texas 78701-3232. Throughout this pleading, Defendants LG Electronics and LG Electronics 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.

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 may be served with process by serving its registered agent, National Registered Agents, Inc. at 16055 Space Center Blvd., Ste. 235, Houston, Texas 77062-6212. Throughout this pleading, Defendants Nokia Corporation and Nokia Inc. will be referenced collectively as the “Nokia Defendants.”

8. Upon information and belief, Research in Motion, Ltd. is a corporation organized and existing under the laws of Canada, with its principal place of business at 295 Phillip Street, Waterloo, Ontario, Canada N2L 3W8.

9. Upon information and belief, Research in Motion Corporation. is a subsidiary of Defendant Research in Motion, Ltd., and is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 122 W. John Carpenter Fwy., Ste. 430, Irving, Texas 75039. RIM Corp. may be served with process by serving its registered agent, CT Corporation at 350 N. Saint Paul Street, Ste. 2900, Dallas, Texas 75201-4234. Throughout this pleading, Defendants Research in Motion, Ltd. and Research in Motion Corporation will be referenced collectively as the “RIM Defendants.”

10. 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.

11. 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 may be served with process by serving its registered agent, CT Corporation System, 350 N. Saint Paul St., Dallas, Texas 75201-4201. Throughout this pleading, Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. will be referenced collectively as the “Samsung Defendants.”

12. Upon information and belief, Sharp Corporation is a corporation organized and existing under the laws of Japan, with its principal place of business at 22-22 Nagaike-cho, Abeno-ku, Osaka 545-8522, Japan.

13. Upon information and belief, Sharp Electronics Corporation (“Sharp”) is a subsidiary of Defendant Sharp Corporation, and is a corporation organized and existing under the laws of New York with its principal place of business at Sharp Plaza, Mahwah, New Jersey 07495-1163. Sharp may be served with process by serving its registered agent, CT Corporation System, 350 N. Saint Paul St., Dallas, Texas 75201-4201. Throughout this pleading, Defendants Sharp Corporation and Sharp Electronics Corporation will be referenced collectively as the “Sharp Defendants.”

14. Upon information and belief, Sony Corporation is a corporation organized and existing under the laws of Japan, with its principal place of business at 1-7-1 Konan, Minato-ku, Tokyo 108-0075, Japan.

15. Upon information and belief, Sony Corporation of America is a subsidiary of Defendant Sony Corporation, and is a corporation organized and existing under the laws of the State of New York, with its principal place of business at C/O SCA Legal Dept., 550 Madison

Ave., 27<sup>th</sup> Floor, New York, NY 10022. Sony Corporation of America may be served with process by serving its registered agent, CSC – Lawyers Incorporating Service, 2730 Gateway Oaks Drive, Ste. 100, Sacramento, CA 95833. Throughout this pleading, Defendants Sony Corporation and Sony Corporation of America will be referenced collectively as the “Sony Defendants.”

### **THE PATENT**

11. 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 is attached as Exhibit A.

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

13. MyPort IP, Inc. is the owner by assignment of the entire right, title, and interest in the ‘440 Patent.

### **JURISDICTION AND VENUE**

14. 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).

15. 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.

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

17. 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, through its first listed inventor, Michael F. Malone, of McKinney, Texas. The inventor of the '440 Patent 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**

18 The HTC Defendants, 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 EVO, EVO 4G, Wildfire, Legend, Pure, HD2, MyTouch 3G, Magic, Hero, Nexus, Touch Cruise, and Tilt 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.

19 The LG Defendants, 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 Chocolate, GC 900, GC 990, Incite CT810, KC910, and Viewty 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.

20 The Nokia Defendants, 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 Nokia 5800, 6810, C6, E75, N78, N8, N82, N86, N96, N97, and N900 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.

21 The RIM Defendants, 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 RIM Blackberry Curve, Bold, Pearl, Storm, Slider, Style and Tour series smart phones, 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.

22 The Samsung Defendants, 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 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, and i7110 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.

23 The Sharp Defendants, 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 Sharp Aquos 933SH and Sharp Sidekick LX 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.

24 The Sony Defendants, 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, and W705 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.

25 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.

26 In addition to their direct infringement of the '440 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.

27 The infringement of the '440 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.
- B. That Defendants account for and pay to MyPort IP, Inc. all damages caused by the infringement of the '440 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;
- 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: May 13, 2011

Respectfully submitted,

/s/ Matthew J.M. Prebeg

Matthew J.M. Prebeg (Texas Bar No. 00791465)

Stephen W. Abbott (Texas Bar No. 00795933)

Christopher M. Faucett (Texas Bar No. 00795198)

**CLEARMAN | PREBEG LLP**

815 Walker Street, Suite 1040

Houston, Texas 77002

Telephone: (713) 223-7070

Facsimile: (713) 223-7071

Email: mprebeg@clearmanprebeg.com

sabbott@clearmanprebeg.com

cfaucett@clearmanprebeg.com

Johnny Ward (Texas Bar No. 00794818)

Wesley Hill (Texas Bar No. 24032294)

**WARD & SMITH LAW FIRM**

111 W. Tyler Street

Longview, TX 75601

Telephone: (903) 757-6400

Facsimile: (903) 757-2323

Email: jw@wsfirm.com

wh@wsfirm.com

*Attorneys for Plaintiff, MyPort IP, Inc.*