

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

RAYTHEON COMPANY

Plaintiff,

v.

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

Defendants.

CIVIL ACTION NO: 2:15-cv-341

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Raytheon Company (“Raytheon”), makes this Complaint for Patent Infringement (“Complaint”) against Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Samsung Semiconductor, Inc., Samsung Telecommunications America, LLC (collectively, “Samsung” or “Defendants”), wherein, pursuant to 35 U.S.C. §§ 271 and 281, Raytheon seeks a judgment of infringement by Defendants of U.S. Patent No. 5,591,678 (the “’678 Patent”) and damages resulting therefrom pursuant to 35 U.S.C. § 284, and such other relief as the Court deems just and proper. In support Raytheon alleges the following.

THE PARTIES

1. Plaintiff, Raytheon Company (“Raytheon”) is a Delaware corporation and is headquartered at 870 Winter Street Waltham, MA 02451. Raytheon has multiple locations within the State of Texas, including its Plano and McKinney locations within this Judicial District.

2. On information and belief, Defendant Samsung Electronics Co., Ltd. (“SEC”) is a corporation organized and existing under the laws of the Republic of Korea, with its principal place of business at 416, Maetan 3-dong, Yeongtong-gu, Suwon-si, Gyeonggi-do 443-742, Korea.

3. On information and belief, Defendant Samsung Electronics America, Inc. (“SEA”) is a subsidiary of Defendant SEC and is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660.

4. On information and belief, Defendant Samsung Semiconductor, Inc. (“SSI”) is a subsidiary of Defendants SEC and SEA and is a corporation organized and existing under the laws of the State of California, with its principal place of business at 3655 North First Street, San Jose, California 95134.

5. On information and belief, Defendant Samsung Telecommunications America, LLC (“STA”) is a subsidiary of Defendants SEC and SEA and is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in this Judicial District at 1301 East Lookout Drive, Richardson, Texas 75082.

JURISDICTION AND VENUE

6. This action arises under the Patent Laws of the United States, namely, 35 U.S.C. §§ 1 et seq. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332(a) and 1338(a).

7. Venue is proper in this District pursuant to 28 U.S.C. §§1391 and 1400(b).

8. This Court has personal jurisdiction over Samsung. On information and belief, Samsung has sufficient minimum contacts within the State of Texas and the Eastern District of

Texas and, pursuant to due process and/or the Texas Long Arm Statute, Samsung has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas. On information and belief, Samsung has conducted and does conduct business within the State of Texas and within the Eastern District of Texas. At least one Samsung entity, STA, has its headquarters in this Judicial District. Samsung directly or through intermediaries (including distributors, retailers, and others), ships distributes, offers for sale, and/or sells its products in the United States, the State of Texas, and in the Eastern District of Texas. On information and belief, Samsung has purposefully and voluntarily placed one or more of its products, as described below, into the stream of commerce with the expectation that they will be purchased by consumers in the State of Texas and in the Eastern District of Texas.

9. On information and belief, and as discussed below, Samsung has committed acts of patent infringement within the State of Texas and within the Eastern District of Texas. On information and belief, Samsung purposefully and voluntarily placed one or more of its products made by the '678 Patent process, as described below, into the stream of commerce with the expectation that they will be purchased by consumers in the State of Texas and within the Eastern District of Texas before the expiration of the '678 Patent.

JOINDER

10. On information and belief, the right to relief asserted against Defendants under Count I of this Complaint arises out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, selling, offering and/or importing of microelectronic devices made during the term of the '678 Patent by a process or processes that fall within the scope of one or more claims of the '678 Patent, and/or products incorporating any

such microelectronic devices. Therefore, questions of fact common to all Defendants will arise in this action and joinder of Defendants under 35 U.S.C. § 299 are proper.

COUNT I
(INFRINGEMENT OF '678 PATENT)

11. Raytheon refers to and incorporates herein the allegations of paragraphs 1-10.

12. On January 7, 1997, the United States Patent and Trademark Office (“USPTO”) duly and legally issued U.S. Patent No. 5,591,678 entitled “Process of Manufacturing a Microelectric Device using a Removable Support Substrate and Etch-Stop” (“the ’678 Patent”). Though now expired, the ’678 Patent is and was valid and enforceable at this time and during the entirety of its term. A true and correct copy of the ’678 Patent is attached hereto as Exhibit A.

13. Presently, and during all times herein relevant, Raytheon, including any pertinent entity acquired by Raytheon, has been and is the sole owner of all right, title and interest in the ’678 Patent, including the right to recover for past infringement.

14. On information and belief, Samsung, through itself and/or one or more of its entities, subsidiaries, affiliates, business divisions, or business units, directly infringed the ’678 Patent pursuant to 35 U.S.C. § 271, including at least 35 U.S.C. § 271(g), by importing into the United States or offering to sell, selling, or using within the United States certain microelectronic devices that were made during the term of the ’678 Patent by a process or processes that fall within the scope of one or more claims of the ’678 Patent (“the ’678 Patent Processes”), without authority from Raytheon, including but not limited to devices known as the Samsung S5K2P1 and Samsung S5K3H2 back-illuminated complementary metal oxide semiconductor (“CMOS”) image sensors, as well as other microelectronic devices made by the ’678 Patent Processes (collectively, the “Samsung Microelectronic Devices”).

15. On information and belief, Samsung, including SSI, working at the direction of and/or under the control of SEC and/or SEA, used or caused others to use the '678 Patent Processes during the term of the '678 Patent to make all or a substantial portion of the Samsung Microelectronic Devices that were used, sold, offered for sale, and/or imported within or into the United States in violation of at least 35 U.S.C. § 271(g).

16. On information and belief, and as an example, Samsung, including SEC, SEA, and/or Samsung entities working at the direction of and/or under the control of entities such as SEC and/or SEA, used, sold, offered for sale, and/or imported within or into the United States certain devices that incorporated the Samsung Microelectronic Devices made using the '678 Patent Processes during the term of the '678 Patent in violation of at least 35 U.S.C. § 271(g), including but not limited to devices within the Samsung "SMART" family of digital cameras (including, but not limited to the WB 250 SMART Camera, the WB800F SMART Camera and the EX2F SMART Camera), the Samsung "Galaxy" family of digital cameras (including, but not limited to the Galaxy Camera Wi-Fi, the GC100 Galaxy Camera AT&T and the GC120 Galaxy Camera Verizon), the Samsung family of digital camcorders (including, but not limited to the Q20, QF30, W300 and S15 32GB SSD Wi-Fi Camcorder) (the foregoing collectively, the "Samsung Infringing Camera Products").

17. On information and belief, and as another example, Samsung, including SEC, SEA, STA and/or Samsung entities working at the direction of and/or under the control of entities such as SEC, SEA and/or STA, used, sold, offered for sale, and/or imported within or into the United States certain devices that incorporated the Samsung Microelectronic Devices made using the '678 Patent Processes during the term of the '678 Patent in violation of at least 35 U.S.C. § 271(g), including but not limited to tablets and smartphones within the Samsung

“Galaxy” family of tablets and smartphones (including, but not limited to the Galaxy S III, Galaxy S4 and Galaxy Note II) (the foregoing collectively, the “Samsung Infringing Mobile Devices”).

18. Samsung has been on actual notice of the '678 Patent since no later than June 2013 when Raytheon provided Samsung with information showing the substantial likelihood, pursuant to 35 U.S.C. § 295, that the process(es) that Samsung used to manufacture the Samsung Microelectronic Devices during the term of the '678 Patent, fall within the scope of one or more claims of the '678 Patent.

19. Pursuant to 35 U.S.C. § 295, Raytheon requested that Samsung reveal its process(es) for making the Samsung Microelectronic Devices and has otherwise made reasonable efforts to determine the process(es) that Samsung used during the term of the '678 Patent to manufacture the Samsung Microelectronic Devices. To date, Samsung has refused to reveal the process(es) it used during the term of the '678 Patent to manufacture the Samsung Microelectronic Devices. Therefore, pursuant to at least 35 U.S.C. § 295, the Samsung Microelectronic Devices shall be presumed to have been made by processes that infringe the '678 Patent and the burden of establishing that the Samsung Microelectronic Devices were not made by infringing processes shall be on Samsung.

20. On information and belief, with actual notice of the '678 Patent and its applicability to the process(es) that Samsung used to manufacture Samsung Microelectronic Devices during the term of the '678 Patent, as described above, Samsung induced infringement of the '678 Patent during its term in violation of at least 35 U.S.C. § 271(b) by, among other things, knowingly and with intent, actively encouraging others to use, sell, offer for sale, and/or import Samsung Microelectronic Devices in a manner that constitutes infringement of one or

more claims of the '678 Patent pursuant to at least 35 U.S.C. § 271(g). On information and belief, this inducing activity was ongoing during the term of the '678 Patent and did not stop after Samsung received actual notice of the '678 Patent as described above.

21. As a result of Samsung's infringement of the '678 Patent, Raytheon has suffered damage. Raytheon is entitled to recover from Samsung damages adequate to compensate for such infringement, which have yet to be determined.

22. On information and belief, despite its knowledge of the '678 Patent, Samsung made the decision to continue to use its processes and thus infringe the '678 Patent during its term. As a result, Samsung's knowledge of the '678 Patent may be willful, and if so, Raytheon is entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284, 285.

JURY DEMAND

23. Raytheon demands a trial by jury of any and all issues triable of right before a jury, pursuant to Rule 38 of the Federal Rules of Civil Procedure and Eastern District of Texas Local Rule 38.

PRAYER FOR RELIEF

24. WHEREFORE, Raytheon respectfully prays for the following relief:

25. An order adjudging that Defendants' processes presumptively infringe under 35 U.S.C. § 295;

26. An order adjudging that Defendants have infringed, directly and indirectly by way of inducing the infringement of, the '678 Patent under 35 U.S.C. § 271;

27. An order adjudging that Defendants' infringement was willful;

28. An order adjudging that this case is “exceptional” within the meaning of 35 U.S.C. § 285 against Defendants;

29. A full accounting for an award of damages to Raytheon for Defendants’ infringement of the ’678 Patent, including enhanced damages pursuant to 35 U.S.C. § 284, together with pre- and post-judgment interest, costs and disbursements;

30. An award of Raytheon’s reasonable attorneys’ fees, expenses, and costs; and

31. A grant of such other and further equitable or legal relief as this Court may deem just and proper.

Dated: March 6, 2015

Respectfully Submitted,

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