FILED by RB D.C.
ELECTRONIC
DEC. 5, 2007
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
(PALM BEACH COUNTY)

Case Number: 07-81148-CIV-MARRA/JOHNSON

INNOVATIVE PATENTED TECHNOLOGY, LLC,	)	
Plaintiff,	)	
v.	)	JURY DEMAND
SAMSUNG ELECTRONICS CO., LTD. and NOKIA CORPORATION,	)	
Defendants.	)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Innovative Patented Technology, LLC complains of defendants Samsung Electronics Co., Ltd. ("Samsung") and Nokia Corporation ("Nokia") as follows:

NATURE OF ACTION

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, including 35 U.S.C. §§ 271 and 281.

INNOVATIVE PATENTED TECHNOLOGIES AND THE PATENTS-IN-SUIT

2. Innovative Patented Technology, LLC ("IPT") is a Florida limited liability company with offices in Highland Beach, Florida.

3. The patents-in-suit are: United States Patent No. 7,096,187, entitled "Compressed Audio Information" which issued on August 22, 2006 ("the '187 patent"); United States Patent No. 7,260,421 entitled "Communication

Device That Communicates Events Using Compressed Audio Information" which issued on August 21, 2007 ("the '421 patent"); United States Patent No. 6,738,643 entitled "Telephone Sync" which issued on May 18, 2004 ("the '643 patent") and United States Patent No. 7,079,652 entitled "Login Renewal Based On Device Surroundings", which issued on July 18, 2006 ("the '652 patent").

4. IPT owns all right, title and interest in and has standing to sue for infringement of the '187, '421, '643 and '652 patents.

DEFENDANTS

5. Samsung is a Korean corporation. The Samsung Global Headquarters is located at Samsung Main Building, 250, Taepyeongno 2-ga, Jung-gu, Seoul 100-742 Korea. Samsung does substantial business in this district and throughout the United States and owns and controls a subsidiary Samsung Electronics Co. Ltd., which, likewise, does substantial business in this judicial district and elsewhere in the United States, including the marketing, sale and servicing of cell phones of the type at issue in this case.

6. Nokia is a Finnish corporation. The Nokia Head Office is located at Keilalahdentie 2-4, P.O. Box 226, FIN-00045 Nokia Group, Republic of Finland. Nokia does substantial business in this district and throughout the United States and has corporate offices in New York and Texas and through which, likewise, does business in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

7. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

8. Defendants are subject to personal jurisdiction in this judicial district because they have transacted business and have committed acts of infringement in this district, at least by making, using, offering to sell, and selling infringing products through defendants' (and their subsidiaries') retailer locations located in this judicial district and through websites that are designed to reach and are, in fact, used by customers in this judicial district.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b) because defendants are subject to personal jurisdiction, do business and have committed acts of infringement in this judicial district.

INFRINGEMENT

10. Samsung has directly infringed and is now directly infringing the asserted claims of the '187, '421, 643 and '652 patents through their manufacture, use, sale and/or offer for sale of cellular phones in violation of 35 U.S.C. §271. Samsung has also infringed the patents in suit by knowingly and actively inducing others to infringe, and by contributing to the infringement of others by the manufacture, use, sale, importation and/or offer for sale of its cellular phones.

11. Specifically, Samsung's manufacture, use, sale and/or offer for sale of its cellular phone models, including, but not limited to models: SGH-i607, SCH-a950, SPH-M610, and SPH-a880 constitutes infringement of at least claims 13,

15, 16 and 17 of the '187 patent; claims 1, 3, and 9 of the '421 patent; claim 7 of the '643 patent; and claim 7 of the '652 patent. Such infringing activities have occurred at least through the operation of stores selling Samsung cellular telephones and through Samsung websites (see, e.g., http://www.samsung.com).

12. Nokia has directly infringed and is now directly infringing the asserted claims of the '187, '421 and 643 patents through their manufacture, use, sale and/or offer for sale of cellular phones in violation of 35 U.S.C. § 271. Nokia has also infringed the patents in suit by knowingly and actively inducing others to infringe, and by contributing to the infringement of others by the manufacture, use, sale, importation and/or offer for sale of its cellular phones.

13. Specifically, Nokia's manufacture, use, sale and/or offer for sale of its cellular phone models, including, but not limited to model N75 constitutes infringement of at least claims 13, 15, 16 and 17 of the '187 patent; claims 1, 3, and 9 of the '421 patent; and claim 7 of the '643 patent. Such infringing activities have occurred at least through the operation of stores selling Nokia cellular telephones and through Nokia websites (see, e.g., http://www.nokia.com).

14. These direct acts of infringement by defendants as set forth above have also occurred in this judicial district. They include defendants offering for sale and selling their cellular telephones at retailers located in this judicial district, such as the Best Buy location at 1880 Palm Beach Lakes Blvd, West Palm Beach, Florida 33401 and the Circuit City location at 1901 Okeechobee Blvd., West Palm Beach, Florida 33401. The selling of defendants' cellular telephones

has also occurred through defendants respective websites that reach customers in this district.

15. Samsung is also inducing third parties to infringe the '187, '421, '643, and '652 patents. These third parties include: Best Buy, Circuit City, Samsung website users, and service providers/retailers that offer plans compatible with Samsung cellular telephones and sell Samsung cellular telephones including: AT&T, Sprint, T-Mobile, and Verizon. Samsung is inducing such acts of infringement and/or contributing to the infringement of others by, among other activities, providing third parties with instructions on how to make, use, sell, and offer to sell Samsung cellular telephones as defined in at least claims 13, 15, 16 and 17 of the '187 patent; claims 1, 3, and 9 of the '421 patent; claim 7 of the '643 patent; and claim 7 of the '652 patent.

16. Nokia is also inducing third parties to infringe the '187, '421, and '643 patents. These third parties include: Best Buy, Circuit City, Nokia website users, and service providers/retailers that offer plans compatible with Nokia cellular telephones and sell Nokia cellular telephones including: ALLTEL, AT&T, Cellular One, T-Mobile, US Cellular, Verizon Wireless and Virgin Mobile. Nokia is inducing such acts of infringement and/or contributing to the infringement of others by, among other activities, providing third parties with instructions on how to make, use, sell, and offer to sell Nokia cellular telephones as defined in at least claims 13, 15, 16 and 17 of the '187 patent; claims 1, 3, and 9 of the '421 patent; and claim 7 of the '643 patent.

17. Defendants' infringement, contributory infringement and/or

inducement to infringe is and has been willful and deliberate, and has injured and will continue to injure IPT.

18. Accordingly, IPT is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

19. Samsung's infringement, contributory infringement and inducement to infringe has caused irreparable harm to IPT, who has no adequate remedy at law, and will continue to injure IPT, unless and until this Court enters an injunction prohibiting further infringement of the '187, '421, '643, and '652 patents.

20. Nokia's infringement, contributory infringement and inducement to infringe has, likewise, caused irreparable harm to IPT, who has no adequate remedy at law, and will continue to injure IPT, unless and until this Court enters an injunction prohibiting further infringement of the '187, '421, and '643 patents.

21. IPT has complied with the requirements of 35 U.S.C. §287.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, Innovative Patented Technology, LLC, respectfully requests this Court enter judgment against defendants, and against their subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

A. The entry of judgment in favor of IPT and against defendants;

B. An award of damages adequate to compensate IPT for the infringement that has occurred (together with prejudgment interest from the date the infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;

C. A finding that this case is exceptional and an award to IPT of its attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction prohibiting further infringement, inducement of infringement and/or contributory infringement of the'187, '421, '643, and '652 patents; and,

E. Such other relief that IPT is entitled to under law and any other relief that this Court or a jury may deem just and proper.

JURY DEMAND

IPT demands a trial by jury on all issues presented in this complaint.

INNOVATIVE PATENTED TECHNOLOGY, LLC.

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JS 44 (Rev. 11/05)

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.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

Innovative Patented Technology, LLC

(b) County of Residence of First Listed Plaintiff Palm Beach County, FL
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Niro, Scavone, Haller & Niro, 181 West Madison, Suite 4600, Chicago, Illinois 60602 (312) 236-0733

DEFENDANTS

Samsung Electronics Co., Ltd.

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

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.

Attorneys (If Known)

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(d) Check County Where Action Arose: ☐ MIAMI-DADE ☐ MONROE ☐ BROWARD ☑ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE HIGHLANDS

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)

07CV 81148 KAM/LRJ

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☑ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☑ 3	Foreign Nation	☐ 6	☐ 6

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

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☒ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☑ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed- (see VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S). (See instructions second page): a) Re-filed Case ☐ YES ☐ NO b) Related Cases ☐ YES ☐ NO

JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause **(Do not cite jurisdictional statutes unless diversity)**:

35 U.S.C. Section 271, patent infringement

LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23 **DEMAND $** CHECK YES only if demanded in complaint: **JURY DEMAND:** ☑ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE SIGNATURE OF ATTORNEY OF RECORD DATE December 4, 2007

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