

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IRON OAK TECHNOLOGIES, LLC,
Plaintiff,

v.

SAMSUNG ELECTRONICS AMERICA,
INC. and SAMSUNG ELECTRONICS
COMPANY, LTD.,
Defendants.

CASE NO. _____

ORIGINAL COMPLAINT

For its complaint against Samsung Electronics America, Inc. and Samsung Electronics Company, Ltd. (collectively “Defendants”) Plaintiff Iron Oak Technologies, LLC (“Iron Oak”) alleges:

PARTIES

1. Plaintiff Iron Oak is a limited liability company organized under the laws of the State of Texas and has its principal place of business at 3605 Scranton Drive, Richland Hills, Texas, 76118. Iron Oak is a technology development company wholly-owned by prolific inventors William (Bill) C. Kennedy III of Dallas and Kenneth R. Westerlage of Ft. Worth. Mr. Kennedy and/or Mr. Westerlage are named inventors on each of the 22 patents owned by Iron Oak.

2. Samsung Electronics America, Inc. is a corporation organized and existing under the laws of the state of New York with its principal place of business in 85 Challenger Road, Ridgefield Park, New Jersey 07660. Samsung Electronics America, Inc. has designated CT Corporation System, 350 N. Saint Paul Street, Suite 2900, Dallas, TX 75201, as its representative

to accept service of process within the State of Texas. The contentions in this paragraph will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery.

3. Samsung Electronics Company, Ltd. is a corporation organized and existing under the laws of Korea with its principal place of business located at 416 Maetan-3dong, Yeongtong-gu, Suwon-City, Gyeonggi-do, Korea 443-742. Samsung Electronics America, Inc. is a wholly-owned subsidiary of Samsung Electronics Company, Ltd. The contentions in this paragraph will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery.

NATURE OF ACTION, JURISDICTION AND VENUE

4. This is an action for patent infringement under the Patent Act, 35 U.S.C. § 1 et seq.

5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (Federal Question) and § 1338 (Patent, Trademark and Unfair Competition).

6. Venue is proper under 28 U.S.C. §§ 1391(b), (c), & (d) and § 1400(b).

FACTS COMMON TO ALL COUNTS

7. Iron Oak is the owner through assignment of U.S. Patent No. 5,699,275 issued December 16, 1997 (“the ‘275 Patent”), which is valid and enforceable. The ‘275 Patent is directed to a system and method for remote patching of operating code located in a mobile unit. A true and correct copy of the ‘275 patent is attached as Exhibit A.

8. Iron Oak is the owner through assignment of U.S. Patent No. 5,966,658 issued October 12, 1999 (the ‘658 Patent”), which is valid and enforceable. The ‘658 Patent is directed to the automated selection of a communication path. A true and correct copy of the ‘658 patent is attached as Exhibit B.

COUNT I

Infringement of the '275 Patent

9. The allegations in the preceding paragraphs of this Complaint are hereby restated and incorporated by reference.

10. Defendants have committed acts of direct and indirect patent infringement of the '275 Patent by making, using, selling, offering to sell, and importing products, including but not limited to smartphones, tablets, and laptop computers, such as the Galaxy line of smartphones and tablets.

11. Defendants sell smartphones, tablets, and laptop computers ("Accused Products"). Defendants use various servers to deliver and install over-the-air operating code updates to the Accused Products. Communications between the Accused Products and these servers may be facilitated through Wi-Fi and/or cellular networks connected to the Internet.

12. Exhibit C is a web page describing how to update the software on a Samsung Galaxy S4 mini, and provides a software revision history, that may be found at <http://www.samsung.com/us/support/answer/ANS00015542/>.

13. Exhibit D is a web page describing how to update the software on a Samsung Galaxy Note 3 and provides a software revision history, that may be found at <http://www.samsung.com/us/support/answer/ANS00040003/>.

14. Exhibit E is a web page describing how to update the software on a Samsung Galaxy S4, and provides a software revision history, that may be found at <http://www.samsung.com/us/support/answer/ANS00041141/>.

15. Exhibit F is a User Guide for a Samsung Galaxy S4 bearing 2012 and 2013 copyrights by Samsung Telecommunications America, LLC of Richardson Texas, which may be found at http://cache.vzw.com/multimedia/mim/sam_galaxy_s4/samsung_galaxy_s_4_um.pdf.

16. Exhibit G is a User Manual for a Samsung Galaxy S4 bearing 2012 and 2013 copyrights by Samsung Telecommunications America, LLC of Richardson Texas, which may be found at https://www.att.com/support_static_files/manuals/Samsung_GalaxyS4.pdf.

17. Exhibit H is a User Manual for a Samsung Galaxy Note 3 bearing a 2013 copyright by Samsung Telecommunications America, LLC of Richardson Texas, which may be found at https://www.att.com/support_static_files/manuals/Samsung_Galaxy_Note_3.pdf.

18. Exhibit I is a User Guide for a Samsung Galaxy Note 3 bearing a 2013 copyright by Samsung Telecommunications America, LLC of Richardson Texas, which may be found at <http://cache.vzw.com/multimedia/mim/galaxy-note3/samsung-galaxy-note-3-user-manual.pdf>.

19. Samsung Telecommunications America, LLC of Richardson Texas was acquired by Defendant Samsung Electronics America, Inc. in 2015, according to Bloomberg L.P. as indicated at <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=4172403>.

20. Exhibit J is a User Manual for a Samsung Galaxy Note 3 bearing a 2013 copyright by Defendant Samsung Electronics, which may be found at http://support.bell.ca/_web/Guides/User-Guides/Mobile/Samsung/Samsung-EN/Samsung-Galaxy-NoteIII-user-guide.pdf.

21. The above User Guides and User Manuals explain how the operating and other software of select ones of the Accused Products is updated. The above User Guides and User Manuals also explain the various communications functionality of select ones of the Accused Products.

22. Defendants remotely upgrade the operating software for the Accused Products. Defendants store these software updates on servers that distribute the updates to the Accused Products. These servers initiate transmission of the update package. Factors such as size, connection speed, and number of updates will determine how many updates or patches are transmitted.

23. In connection with the Accused Products, Defendants provide “A system for remote patching of operating code located in a mobile unit, comprising”, as recited in claim 1 of the ‘275 Patent.

24. In connection with the Accused Products, Defendants provide “a manager host operable to initiate transmission through a wireless communication network of at least one discrete patch message defining at least one patch;”, as recited in claim 1 of the ‘275 Patent.

25. The Accused Products are operable to receive patch messages from the servers described above. The Accused Products update their software by merging the existing code with the changes defined in the patch in order to fix bugs and add new features. Once the software has been updated, the patch initiates the Accused Products to begin using the new version of the software.

26. The Accused Products comprise “a first mobile unit operable to receive the at least one discrete patch message, the first mobile unit further operable to create patched operating code by merging the at least one patch with current operating code located in the first mobile unit and to switch execution to the patched operating code”, as recited in claim 1 of the ‘275 Patent.

27. The Accused Products comprise “a second mobile unit operable to receive the at least one discrete patch message, the second mobile unit further operable to create patched operating code by merging the at least one patch with current operating code located in the second

mobile unit and to switch execution to the patched operating code”, as recited in claim 1 of the ‘275 Patent.

28. The servers compare the version number of the software running on the Accused Products to the version of the most recent patch. The servers used by Defendants then initiate patch transmissions to those Accused Products that do not have the current version of the patch. The servers will only initiate transmission of the upgrade patches to the Accused Products with outdated software.

29. The servers select a subset of those Accused Products with outdated software and transmit the patch only to the subset, rather than all of the Accused Products with outdated software.

30. In connection with the Accused Products, Defendants’ “manager host is further operable to address the at least one discrete patch message such that the at least one discrete patch message is transmitted to the first mobile unit but not to the second mobile unit”, as recited in claim 1 of the ‘275 Patent.

31. Defendants’ Accused Products meet each and every limitation of at least claim 1 of the ‘275 Patent.

32. In addition to directly infringing the ‘275 Patent through making, using, selling, offering to sell, and importing the accused products, the use of Defendants’ accused products by others, as intended by Defendants and in accordance with instructions provided by Defendants, directly infringes the ‘275 Patent. Specifically, Defendants sell the accused products to customers in the United States with the expectation and intent that such customers will use and/or resell the accused products thereby directly infringing the ‘275 Patent. As such, Defendants have induced infringement of the ‘275 Patent.

33. Defendants' accused products are not staple articles of commerce and have no substantial uses that do not infringe the '275 Patent. Specifically, because Defendants' accused products themselves infringe the '275 Patent, any use or sale thereof infringes the '275 Patent. As such, Defendants' sale, offering for sale and importation into the United States of Defendants' accused products also constitutes contributory infringement of the '275 Patent.

34. Defendants had knowledge of the '275 patent prior to the filing of the Original Complaint in this action and prior to the expiration of the '275 patent.

35. At all relevant times, Plaintiff has complied with any applicable obligations required by 35 U.S.C. § 287.

36. Defendants' infringement of the '275 patent was willful. Despite knowing of the '275 Patent, Defendants engaged in acts that infringe the '275 Patent.

37. Iron Oak has been damaged as a result of Defendants' infringing conduct. Defendants are, thus, liable to Iron Oak in an amount that adequately compensates it for which, by law, cannot be less than a reasonable royalty, together with interest and costs, including lost profits, as affixed by this Court under 35 U.S.C. § 284.

COUNT II

Infringement of the '658 Patent

38. The allegations in the preceding paragraphs of this Complaint are hereby restated and incorporated by reference.

39. Defendants have committed acts of direct and indirect patent infringement of the '658 Patent by making, using, selling, offering to sell, and importing products, including but not limited to smartphones, tablets, and laptop computers, such as the Galaxy line of smartphones and tablets.

40. Defendants sell smartphones, tablets, and laptop computers (“Accused Products”). The Accused Products automatically select communication paths on cellular, Wi-Fi, and wired networks.

41. The Accused Products select one of the communications paths based on the type, speed, and/or cost of the communications. When a wired connection is not available, the Accused Products may use a Wi-Fi connection. When a Wi-Fi connection is not available, the Accused Products may use a cellular network.

42. Exhibit K is a web page describing communications functionality of a Samsung Galaxy S4, including how communication paths are selected, that may be found at <http://www.samsung.com/us/support/answer/ANS00039686/>.

43. Exhibit K is a web page describing communications functionality of a Samsung Galaxy Note 3, including how communication paths are selected, that may be found at <http://www.samsung.com/us/support/answer/ANS00037511/>.

44. The Accused Products comprise “An apparatus for automatically selecting one of a plurality of communication paths”, as recited in claim 1 of the ‘658 patent.

45. The Accused Products contain memory allowing them to store ordered lists of communication paths on wired Ethernet, Wi-Fi, and/or cellular networks. Each of these ordered lists is associated with a communications attribute (such as the type of network or the speed of the communication). Moreover, each communication attribute represents a separate priority for communication (e.g., “home” Wi-Fi networks).

46. The Accused Products include “a memory operable to store a plurality of ordered lists of communication paths, each ordered list associated with one of a plurality of

communication attributes, each communication attribute representing a separate priority for communication”, as recited in claim 1 of the ‘658 patent.

47. The Accused Products contain processors operable to receive communication requests from their users, such as through the use of applications on the Accused Products. The processors communicate with cellular, Wi-Fi, and/or wired networks after receiving communication requests.

48. The communication requests received by the processors in the Accused Products include the appropriate communication attributes based on the type of request. For example, phones and tablets may use cellular communication when Wi-Fi is not available, for higher priority communication requests. Alternatively, phones and tablets may simply not perform certain low priority communication requests when Wi-Fi is not available.

49. The Accused Products, based on the type of request and available paths, automatically select the most suitable communication path. The Accused Products determine the appropriate communication path based on an ordered list of paths, using factors such as preferred cellular networks, authenticated Wi-Fi networks, and wired networks.

50. Support for automatic selection of a cellular network is mandated in standard 3GPP TS 23.122 (“the Standard”). A version of the Standard, applicable to at least a portion of the term of the ‘658 patent, is attached as Exhibit M may be found at http://www.etsi.org/deliver/etsi_ts/123100_123199/123122/09.03.00_60/ts_123122v090300p.pdf.

51. If cellular data is enabled in the Accused Products, it will seek to establish a data connection. The Highest priority accessible network is automatically selected, as explained in Section 3.1 of the standard:

3.1 PLMN selection and roaming

The MS normally operates on its home PLMN (HPLMN) or equivalent home PLMN (EHPLMN). However a visited PLMN (VPLMN) may be selected, e.g., if the MS loses coverage. There are two modes for PLMN selection:

- i) Automatic mode - This mode utilizes a list of PLMNs in priority order. The highest priority PLMN which is available and allowable is selected.
- ii) Manual mode - Here the MS indicates to the user which PLMNs are available. Only when the user makes a manual selection does the MS try to obtain normal service on the VPLMN.

52. The Standard describes the operation of the Accused Products when registering onto a network for service. The Standard describes that use of various ordered lists.

53. The Accused Products also have certified capability to access Wi-Fi networks complying with IEEE standards (802.11 a/b/g/n/ac). The particular communication path is selected from an ordered list according to the best available network connection.

54. The Accused Products store network identities and associated security attributes of Wi-Fi networks that have been accessed previously and automatically connects to these networks.

55. The Accused Products include “a processor operable to receive a request for communication, the request indicating a communication attribute, the processor further operable to automatically select a communication path from an ordered list associated with the indicated communication attribute”, as recited in claim 1 of the ‘658 patent.

56. Defendants’ Accused Products meet each and every limitation of at least claim 1 of the ‘658 Patent.

57. In addition to directly infringing the ‘658 Patent through making, using, selling, offering to sell, and importing the accused products, the use of Defendants’ accused products by others, as intended by Defendants and in accordance with instructions provided by Defendants, directly infringes the ‘658 Patent. Specifically, Defendants’ sell its accused products to customers in the United States with the expectation and intent that such customers will use and/or resell the

accused products thereby directly infringing the '658 Patent. As such, Defendants have induced infringement of the '658 Patent.

58. Defendants' accused products are not staple articles of commerce and have no substantial uses that do not infringe the '658 Patent. Specifically, because Defendants' accused products themselves infringe the '658 Patent, any use or sale thereof infringes the '658 Patent. As such, Defendants' sale, offering for sale and importation into the United States of Defendants' accused products also constitutes contributory infringement of the '658 Patent.

59. Defendants had knowledge of the '658 patent prior to the filing of the Original Complaint in this action and prior to the expiration of the '658 patent.

60. At all relevant times, Plaintiff has complied with any applicable obligations required by 35 U.S.C. § 287.

61. Defendants' infringement of the '658 patent was willful. Despite knowing of the '658 Patent, Defendants engaged in acts that infringe the '658 Patent.

62. Iron Oak has been damaged as a result of Defendants' infringing conduct. Defendants are, thus, liable to Iron Oak in an amount that adequately compensates it for, which, by law, cannot be less than a reasonable royalty, together with interest and costs, including lost profits, as affixed by this Court under 35 U.S.C. § 284.

PRAYER

WHEREFORE, Iron Oak requests judgment against Defendants as follows:

1. An award of damages, increased as deemed appropriate by the court, under 35 U.S.C. § 284;
2. An award of attorneys' fees under 35 U.S.C. § 285;
3. An award of prejudgment interest and costs of the action; and

4. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

May 10, 2017

Respectfully submitted,

/s/ Robert J. McAughan, Jr.

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