

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

HERMES IP MANAGEMENT LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.  
and SAMSUNG ELECTRONICS  
AMERICA, INC.,

Defendants.

CASE NO. 2:24-CV-00540-JRG

JURY TRIAL DEMANDED

**DEFENDANTS SAMSUNG ELECTRONICS CO., LTD. AND SAMSUNG  
ELECTRONICS AMERICA, INC.'S FIRST AMENDED ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT**

Defendants Samsung Electronics Co., Ltd. ("SEC") and Samsung Electronics America, Inc. ("SEA") (collectively, "Samsung") hereby answer the Complaint of Plaintiff Hermes IP Management LLC ("Plaintiff" or "Hermes") for Patent Infringement, dated July 16, 2024 ("Complaint"), as follows:

**NATURE OF THE CASE**

1. Samsung admits that Paragraph 1 of the Complaint purports to allege patent infringement arising under the patent law of the United States, Title 35 of the United States Code § 1 *et seq.* Samsung denies that any of Hermes' claims have merit and denies the remaining allegations in Paragraph 1 of the Complaint.

**PARTIES**

2. Samsung lacks information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Complaint, and therefore denies them.

3. Samsung admits that SEC is a corporation organized under the laws of the Republic of Korea. Samsung admits that SEC has a location at 129, Samsung-Ro, YeongTong-Gu, Suwon-

Si, Gyeonggi-Do, 443-742, South Korea. Except as expressly admitted, Samsung denies the allegations of Paragraph 3 of Plaintiff's Complaint.

4. Samsung admits that SEA is a corporation organized under the laws of the State of New York. Samsung admits that SEA has a principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660. Samsung admits that SEA may be served through its registered agent for service of process, CT Corporation System, 1999 Bryant Street, Suite 900, Dallas, Texas 75201. Except as expressly admitted, Samsung denies the allegations of Paragraph 4 of Plaintiff's Complaint.

5. Samsung admits that SEA is a wholly-owned subsidiary of SEC. Except as expressly admitted, Samsung denies the allegations of Paragraph 5 of Plaintiff's Complaint.

6. Samsung denies that SEC is composed of three business units. SEC is divided into two major divisions: Device Solution (DS) division and Device eXperience (DX) division. The DS division includes the Memory Semiconductor, System LSI, and Foundry business units. The DX division includes the Mobile eXperience (MX), Visual Display (VD), and Consumer Electronics (CE) business units. The MX business unit makes and sells mobile devices. Except as expressly admitted, Samsung denies the allegations of Paragraph 6 of Plaintiff's Complaint.

7. Samsung admits that SEA is a wholly-owned subsidiary of SEC. Samsung admits that SEA's business includes distribution of certain Samsung consumer electronic products in the United States. Except as expressly admitted, Samsung denies any remaining allegations of Paragraph 7 of Plaintiff's Complaint.

8. Samsung admits that SEA's business includes distribution of certain Samsung consumer electronic products in the United States. Except as expressly admitted, Samsung denies the allegations of Paragraph 8 of Plaintiff's Complaint.

### **JURISDICTION AND VENUE**

9. Samsung admits that Paragraph 9 of the Complaint purports to invoke the patent laws of the United States, 35 U.S.C. § 1 *et seq.* Samsung denies that any of Hermes' claims have merit and denies the remaining allegations in Paragraph 9 of the Complaint.

10. Samsung admits that, for purposes of this case only, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). Samsung denies any remaining allegations in Paragraph 10 of the Complaint.

11. Samsung, for purposes of this case only, will not challenge personal jurisdiction for SEC in this Court. Samsung denies the remaining allegations in Paragraph 11 of the Complaint, and specifically denies that it has committed or is committing any act of patent infringement.

12. Samsung, for purposes of this case only, will not challenge personal jurisdiction for SEA in this Court. Samsung admits that SEA has a place of business at 6625 Excellence Way, Plano, Texas 75023.

13. Samsung admits that SEA maintains an office at 6625 Excellence Way, Plano, Texas 75023. Except as expressly admitted, Samsung denies the allegations of Paragraph 13 of Plaintiff's Complaint.

14. Samsung admits that SEA's business includes distribution of certain Samsung consumer electronic products in the United States. Except as expressly admitted, Samsung denies the allegations of Paragraph 14 of Plaintiff's Complaint and specifically denies that it has committed or is committing any act of patent infringement.

15. Samsung denies that it has committed any acts of infringement, within this District or in any other judicial district. Except as expressly admitted, Samsung denies the allegations of Paragraph 15 of Plaintiff's Complaint.

16. Samsung admits that venue is proper in this District as to SEC and SEA for purposes of this particular action. Samsung denies that this is most convenient venue for this action under 28 U.S.C. §1404(a). Except as expressly admitted, Samsung denies the allegations of Paragraph 16 of Plaintiff's Complaint.

17. Samsung admits that SEC is a corporation organized and existing under the laws of the Republic of Korea and that SEA maintains an office at 6625 Excellence Way, Plano, Texas 75023. Except as expressly admitted, Samsung denies the allegations of Paragraph 17 of Plaintiff's Complaint.

18. Samsung admits that SEA is a wholly-owned subsidiary of SEC. Except as expressly admitted, Samsung denies the allegations of Paragraph 18 of Plaintiff's Complaint.

#### **THE ASSERTED PATENTS**

19. Samsung admits that what purports to be a copy of U.S. Patent No. 8,855,720 (the "'720 Patent") is attached to Plaintiff's Complaint as Exhibit A. Samsung admits that, on its face, the '720 Patent is titled "Method and Apparatus for Providing a Plurality of Screens in Idle State of Mobile Terminal" and states that it issued on October 7, 2014. Samsung denies that the '720 Patent was duly and legally issued. Samsung lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations of Paragraph 19 of Plaintiff's Complaint and, accordingly, denies them.

20. Samsung admits that, on its face, the '720 patent identifies application number 13/466,699 and a filing date of May 8, 2012. Samsung admits that, on its face, the '720 states "Continuation of application number 11/911,277, filed as application No. PCT/KR2006/002302 on Jun. 15, 2006." Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 20 of Plaintiff's Complaint and, accordingly, denies them.

21. Denied.

22. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 22 of Plaintiff's Complaint and, accordingly, denies them.

23. Samsung admits that what purports to be a copy of U.S. Patent No. 9,613,060 (the "'060 Patent") is attached to Plaintiff's Complaint as Exhibit B. Samsung admits that, on its face, the '060 Patent is titled "Location-Based Service Method and System Using Location Data Included in Image Data," and states that it issued on April 4, 2017. Samsung denies that the '060 Patent was duly and legally issued. Samsung lacks knowledge or information sufficient to form a belief as to the truth of any remaining allegations of Paragraph 23 of Plaintiff's Complaint and, accordingly, denies them.

24. Samsung admits that, on its face, the '060 patent identifies application number 11/911,879 and a PCT filing date of April 19, 2006. Samsung admits that, on its face, the '060 patent identifies KR 10-2005-0032452 under "Foreign Application Priority Data." Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 24 of Plaintiff's Complaint and, accordingly, denies them.

25. Denied.

26. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 26 of Plaintiff's Complaint and, accordingly, denies them.

27. Samsung admits that what purports to be a copy of U.S. Patent No. 8,537,977 (the "'977 Patent") is attached to Plaintiff's Complaint as Exhibit C. Samsung admits that, on its face, the '977 Patent is titled "Apparatus and Method for Voice Processing in Mobile Communication Terminal," and states that it issued on September 17, 2013. Samsung denies that the '977 Patent was duly and legally issued. Samsung lacks knowledge or information sufficient to form a belief

as to the truth of any remaining allegations of Paragraph 27 of Plaintiff's Complaint and, accordingly, denies them.

28. Samsung admits that, on its face, the '977 patent identifies application number 12/525,050 and a PCT filing date of April 4, 2008. Samsung admits that, on its face, the '977 patent identifies KR 10-2007-0035046 and KR 10-2008-0016382 under "Foreign Application Priority Data." Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 28 of Plaintiff's Complaint and, accordingly, denies them.

29. Denied.

30. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 30 of Plaintiff's Complaint and, accordingly, denies them.

### **THE ACCUSED PRODUCTS**

31. Denied.

32. Samsung admits that Exhibit D to the Complaint includes a list of Samsung products including Galaxy A Series, Galaxy S Series, Galaxy Z Series, Galaxy M Series products. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 32 of Plaintiff's Complaint and, accordingly, denies them. Samsung specifically denies that it has committed any acts of infringement..

33. Denied.

34. Samsung admits that Exhibit D to the Complaint includes a list of Samsung products including Galaxy A Series, Galaxy S Series, Galaxy Z Series, Galaxy M Series products. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 34 of Plaintiff's Complaint and, accordingly, denies them. Samsung specifically denies that it has committed any acts of infringement.

35. Denied.

36. Samsung admits that Exhibit E to the Complaint includes a list of Samsung products including Galaxy A Series, Galaxy S Series, Galaxy Z Series, Galaxy M Series products. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36 of Plaintiff's Complaint and, accordingly, denies them. Samsung specifically denies that it has committed any acts of infringement.

**CLAIM I: INFRINGEMENT OF THE '720 PATENT**

37. No response is required to Plaintiff's reference and incorporation of the preceding Paragraphs of Plaintiff's Complaint. To the extent a response is deemed required, Samsung repeats and incorporates by reference its answers to Paragraphs 1-36 as set forth above.

38. Denied.

39. Denied.

40. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 40 of Plaintiff's Complaint and, accordingly, denies them.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

**CLAIM II: INFRINGEMENT OF THE '060 PATENT**

46. No response is required to Plaintiff's reference and incorporation of the preceding Paragraphs of Plaintiff's Complaint. To the extent a response is deemed required, Samsung repeats and incorporates by reference its answers to Paragraphs 1-45 as set forth above.

47. Denied.

48. Denied.

49. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 49 of Plaintiff's Complaint and, accordingly, denies them.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

54. Denied.

**CLAIM III: INFRINGEMENT OF THE '977 PATENT**

55. No response is required to Plaintiff's reference and incorporation of the preceding Paragraphs of Plaintiff's Complaint. To the extent a response is deemed required, Samsung repeats and incorporates by reference its answers to Paragraphs 1-54 as set forth above.

56. Denied.

57. Denied.

58. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 58 of Plaintiff's Complaint and, accordingly, denies them.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

**RESPONSE TO PRAYER FOR RELIEF**

To the extent Plaintiff's Prayer for Relief is deemed to allege any facts or entitlements to the remaining relief requested, Samsung denies each and every allegation, and Samsung specifically denies that Plaintiff is entitled to any requested relief. Samsung further denies that any

conduct on its part subjects Samsung to judgment for willful or direct infringement, whether literally or under the doctrine of equivalents. Samsung further denies that any conduct on its part subjects Samsung to liability for damages for infringement or willful infringement, attorneys' fees and costs under 35 U.S.C. § 285, pre-judgment or post-judgment interest, reimbursement of costs, or any other form of relief. Samsung asks that the Court dismiss Plaintiff's Complaint with prejudice.

### **JURY DEMAND**

Plaintiff's demand for a trial by jury for all issues so triable by right does not state any allegation, and Samsung is not required to respond. Samsung also requests a jury trial of all issues triable to a jury in this action. To the extent that any allegations are included in the demand, Samsung denies these allegations.

### **GENERAL DENIAL**

To the extent that any allegations in Plaintiff's Complaint are not specifically admitted above, Samsung denies them.

### **AFFIRMATIVE DEFENSES**

Further answering Plaintiff's Complaint and as additional defenses thereto, Samsung states the following affirmative and other defenses, without admitting any allegation of the Complaint and without altering any burdens of proof otherwise applicable at law or equity.

#### **First Defense – No Patent Infringement**

Samsung does not and has not infringed (either literally or under the doctrine of equivalents) any valid and enforceable claim of the '720, '060, and '977 Patents (collectively, the "Asserted Patents") under any theory of infringement, directly, indirectly, or otherwise.

**Second Defense – Patent Invalidity**

On information and belief, the claims of the Asserted Patents are invalid pursuant to one or more of the provisions of Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101 (eligibility), 102 (anticipation), 103 (obviousness), 112 (indefiniteness, failure to satisfy the written description and/or enablement requirements, and/or failure to claim what the applicants regarded as their invention), for improper inventorship, and/or the rules, regulations, and laws pertaining thereto.

**Third Defense – Equitable Doctrines of Estoppel, Implied License, Waiver, Acquiescence, and/or Unclean Hands**

Plaintiff's claims against Samsung regarding the Asserted Patents are barred, and the patents are unenforceable against Samsung, and/or damages are barred or limited, due to the equitable doctrines of estoppel, implied license, express or implied waiver, acquiescence, and/or unclean hands.

**Fourth Defense – Prosecution Disclaimer / Estoppel**

On information and belief, the Asserted Patents are and were limited by amendment, by the prior art, and/or by statements made to the United States Patent and Trademark Office during prosecution of the applications that led to the issuance of the Asserted Patents and/or related applications, such that Plaintiff is barred, under the doctrines of prosecution disclaimer and/or prosecution history estoppel, from construing the claims of the Asserted Patents in such a way as may cover the Accused Products.

**Fifth Defense – Failure to State Claim**

Plaintiff's Complaint fails to state a claim upon which relief can be granted, including, but not limited to, failure of Plaintiff's Complaint to meet the standard for pleading set by the Supreme

Court in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).

**Sixth Defense – Lack of Standing and/or Statutory Cause of Action**

On information and belief, Plaintiff does not own or lacks all substantial rights in the Asserted Patents. Thus, Plaintiff either (1) lacks standing to assert the Asserted Patents; or (2) lacks a statutory cause of action to assert the Asserted Patents without joining one or more third parties.

**Seventh Defense – License**

On information and belief, Plaintiff’s claims for relief may be barred in whole or in part by one or more express and/or implied licenses.

**Eighth Defense – Patent Exhaustion**

Plaintiff’s claims for relief may be barred in whole or in part by the doctrine of patent exhaustion.

**Ninth Defense – Limitation on Patent Damages**

Plaintiff’s claims for damages, if any, against Samsung for alleged infringement of the Asserted Patents are statutorily limited by 35 U.S.C. § 286.

**Tenth Defense – Failure to Mark**

Plaintiff’s claims for damages, if any, are limited by its failure to comply with the patent marking statute, 35 U.S.C. § 287.

**Eleventh Defense – Preclusion of Costs**

Plaintiff is barred under 35 U.S.C. § 288 from recovering costs associated with its action.

**Twelfth Defense – No Attorneys’ Fees**

Plaintiff is precluded from recovering attorneys’ fees under 35 U.S.C. § 285 and/or pursuant to this Court’s inherent power.

**Thirteenth Defense – Patent Misuse**

Plaintiff's claims against Samsung regarding the Asserted Patents are barred, and the patents are unenforceable against Samsung, and/or damages are barred or limited, due to the doctrine of patent misuse, including, but not limited to, as a result of any failure by Plaintiff or its predecessor(s)-in-interest to disclose the Asserted Patents to standard-setting organizations to which Plaintiff or its predecessor(s)-in-interest were subject to a disclosure obligation.

**RESERVATION OF RIGHTS**

Samsung reserves the right to amend its Answer, including its First Amended Answer, to add additional defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other defenses, at law and/or equity (including, but not limited to, instances of inequitable conduct and/or patent misuse), as they become known throughout the course of discovery in this case. Assertion of a defense is not a concession that Samsung has the burden of proving the matter asserted.

**EXCEPTIONAL CASE**

On information and belief, this is an exceptional case entitling Samsung to an award of its attorneys' fees incurred in connection with defending and prosecuting this action pursuant to 35 U.S.C. § 285.

Dated: January 15, 2025

/s/ Melissa R. Smith

Jin-Suk Park  
[jin.park@arnoldporter.com](mailto:jin.park@arnoldporter.com)  
**ARNOLD & PORTER KAYE SCHOLER LLP**  
601 Massachusetts Ave., NW  
Washington, DC 20001-3743  
Telephone: (202) 942-5000  
Facsimile: (202) 942-5555

Patrick C. Reidy  
[patrick.reidy@arnoldporter.com](mailto:patrick.reidy@arnoldporter.com)

**ARNOLD & PORTER KAYE SCHOLER LLP**

70 West Madison Street, Suite 4200

Chicago, IL 60602

Telephone: (312) 583-2424

Facsimile: (312) 583-2360

-and-

Melissa Smith

[melissa@gillamsmithlaw.com](mailto:melissa@gillamsmithlaw.com)

**GILLAM & SMITH LLP**

303 South Washington Avenue

Marshall, TX 75670

Telephone: (903) 934-8450

Facsimile: (903) 934-9257

*Attorneys for Samsung Electronics Co., Ltd. and  
Samsung Electronics America, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic services are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on January 15, 2025.

/s/ *Melissa R. Smith*  
Melissa R. Smith