

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MASAKAZU USHIJIMA

Plaintiff,

v.

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

Defendants.

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Case No. 1:12-cv-00318-LY

Jury Demanded

PLAINTIFF'S THIRD AMENDED COMPLAINT

Plaintiff Masakazu Ushijima brings this action against Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (herein, collectively, "Defendants") and for his cause of action alleges:

THE PARTIES

1. Plaintiff is an individual Japanese citizen residing in Tokyo, Japan.
2. 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 416 Maetan-3dong, Yeongtong-gu, Suwon-si, Gyeonggi-do, Korea 443-742. Samsung Electronics Co., Ltd. has appeared and answered.
3. 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 85 Challenger Road,

Ridgefield Park, New Jersey 07660. Samsung Electronics America, Inc. has appeared and answered.

THE PATENT AND BACKGROUND

4. On February 27, 1996, United States Patent No. 5,495,405, entitled “Inverter Circuit for Use with Discharge Tube” was duly and legally issued (“the ‘405 patent”). A true and correct copy of the ‘405 patent is attached as Exhibit A.

5. Plaintiff is the owner of the ‘405 patent and has all rights, title and interest in and to the ‘405 patent, including the right to seek damages for its infringement.

6. The priority date for the ‘405 patent is August 30, 1993.

7. The ‘405 patent expired on August 29, 2014.

8. On March 3, 2015, after a trial between the parties to this action, a jury returned a verdict that claims 4 and 5 of the ‘405 patent was not invalid.

9. At that same trial, a jury returned a verdict that claims 4 and 5 of the ‘405 patent were not infringed by Defendants’ computer monitor and television products accused of infringement in that trial. Plaintiff disagrees with that finding. Defendants argued non-infringement primarily because of the shape of the cores found in the transformers in the accused computer monitors and television products. On information and belief, the additional products accused of infringement in this Third Amended Complaint have a shape that is generally different from those found in Defendants’ computer monitors and televisions.

JURISDICTION AND VENUE

10. 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 this claim for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

11. 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 Western 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 Western District of Texas, that infringe the patent-in-suit. Both Defendants have appeared and answered in this suit and therefore consented to the personal jurisdiction of this Court.

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

PATENT INFRINGEMENT COUNT

Direct Infringement

10. Defendants, on information and belief, made, used, sold, or offered to sell within the United States, and/or imported into the United States, or otherwise engaged in infringing activity with respect to devices generally known as laptop computer products (these products are collectively referenced herein as “Accused Laptops”)¹ that infringe at least claims 4 and 5 of the ‘405 patent between April 10, 2006 and August 29, 2014 (“Infringing Period”)². The Accused Laptops feature an inverter circuit for a discharge tube employing a resonance circuit (alternately called a resonant circuit) and a transformer with close and loose coupled secondary winding

¹ Plaintiff files this Third Amended Complaint without waiver of his right to contest the jury’s verdict of non-infringement of accused computer monitors and televisions.

² Pursuant to the parties’ Stipulation Regarding Laptop Computers (Dkt. No. 184) jointly filed on February 9, 2015, both parties agreed that Plaintiff’s claims of Defendants’ infringement of the ‘405 patent regarding the laptop computers, and Defendants’ counterclaims and defenses thereto, were dismissed prior to the first trial held on February 23 through March 3, 2015 without prejudice to being refiled and reasserted by the parties respectively, and that those claims were directed to Defendants’ infringement activities between April 10, 2006 and August 29, 2014.

portions, capable of supplying leakage flux sufficient to serve as an inductive component of a resonance circuit, as more fully described and claimed in the '405 patent. The Accused Laptops feature an LCD display lighted by a discharge lamp, such as a CCFL. Some of the infringing products contain a discrete capacitor in parallel with the lamp.

11. The Accused Laptops include those incorporating, for example, the following inverter circuit boards: BA44-00248A, BA44-00249A, BA44-00250A, etc., such as laptop type computers bearing Model Nos. NP-P460-AA01US, NP-P460-AA02US, NP-P460-AA04US, NP-R519-FA01US, NP-X22-K01/SEA, and many others.

12. By so making, using, selling, and offering to sell in the United States, and/or importing into the United States, the Accused Laptops, Defendants have directly infringed during the Infringing Period, either literally or by equivalents, at least claims 4 and 5 of the '405 patent.

Inducement of Infringement

13. Defendants have had actual knowledge of the '405 patent since at least as early as May 28, 2001.

14. Since becoming aware of the '405 patent and during the Infringing Period, Defendants have continued to intentionally, actively, and knowingly make, use, sell, offer to sell, and/or import inverter circuits and LCD panels for use in the Accused Laptops (collectively "Infringing Laptop Parts") through their retailers, resellers, distributors, and websites (including but not limited to www.samsungparts.com), as well as in other ways.

15. Since becoming aware of the '405 patent and during the Infringing Period, Defendants' advertising, sales, and/or manuals in relation to the Infringing Laptop Parts have intentionally, actively, knowingly, and willfully contained and continue to contain instructions, directions, suggestions, and/or invitations that intentionally, actively, and knowingly invite,

entice, lead on, influence, encourage, prevail on, move by persuasion, cause, and/or influence the public, Defendants' distributors, retailers, customers, and/or www.samsungparts.com website users to install the Infringing Laptop Parts into the Accused Laptops, and thereby directly infringe at least claims 4 and 5 of the '405 patent, either literally or under the doctrine of equivalents.

16. Since becoming aware of the '405 patent and during the Infringing Period, Defendants were willfully blind or knew that the public's, the distributors', the retailers', the customers' and/or the website users' acts relative to installing the Infringing Laptop Parts into the Accused Laptops directly infringe, either literally or under the doctrine of equivalents, at least claims 4 and 5 of the '405 patent.

17. For these reasons, Defendants are liable for inducing infringement of the '405 patent, either literally or under the doctrine of equivalents.

Contributory Infringement

18. At least for the reasons stated above, Defendants have had actual knowledge of the '405 patent since at least as early as May 28, 2001.

19. Since becoming aware of the '405 patent and during the Infringing Period, Defendants have intentionally, actively, and knowingly sold, or offered to sell the Infringing Laptop Parts within the United States, or imported the Infringing Laptop Parts into the United States.

20. The Infringing Laptop Parts are a component of a patented machine, manufacture, and/or combination because the Infringing Laptop Parts meet at least one element of at least claims 4 and 5 of the '405 patent, either literally or under the doctrine of equivalents.

21. Each of the Infringing Laptop Parts is a material part of the invention of at least claims 4 and 5 of the '405 patent, either literally or under the doctrine of equivalents. The inverter circuit is a material part because, at a minimum, it contains the leakage flux type step-up transformer as claimed in claims 4 and 5 of the '405 patent or its equivalent. The LCD panel is a material part because, at a minimum, it contains the discharge tube as claimed in claims 4 and 5 of the '405 patent or its equivalent.

22. The Infringing Laptop Parts are especially made or especially adapted for use in the infringement of at least claims 4 and 5 of the '405 patent, either literally or under the doctrine of equivalents. Since becoming aware of the '405 patent and during the Infringing Period, Defendants were willfully blind or knew that the Infringing Laptop Parts were especially made or especially adapted for use in the infringement of at least claims 4 and 5 of the '405 patent, either literally or under the doctrine of equivalents.

23. The Infringing Laptop Parts are not a staple article or commodity of commerce suitable for substantial non-infringing use because the only substantial use of the Infringing Laptop Parts is to be installed in the Accused Laptops which directly infringes at least claims 4 and 5 of the '405 patent, either literally or under the doctrine of equivalents. Since becoming aware of the '405 patent and during the Infringing Period, Defendants were willfully blind or knew that the Infringing Laptop Parts were not a staple article or commodity of commerce suitable for substantial non-infringing use

24. By selling, offering to sell, and/or importing into the United States one or more of the Infringing Laptop Parts and/or the components thereof, Defendants have contributed to the infringement by the public, the distributors, the retailers, the customers, and the website users who import, make, use, sell, offer to sell, lease, and/or offer to lease the Accused Laptops

installed with an Infringing Laptop Part, and thus directly infringe at least claims 4 and 5 of the '405 patent, either literally or under the doctrine of equivalents.

25. For these reasons, Defendants are contributory infringers of at least claims 4 and 5 of the '405 patent, either literally or under the doctrine of equivalents.

WILLFUL INFRINGEMENT

26. At least for the reasons stated above, Defendants have had actual knowledge of the '405 patent since at least as early as May 28, 2001.

27. Since becoming aware of the '405 patent, Defendants have continued to make, use, sell, offer to sell in the United States, and import into the United States, the Accused Laptops and Infringing Laptop Parts despite an objectively high likelihood that their actions constitute infringement, either direct or indirect, of the '405 patent.

28. The infringement of the '405 patent alleged above has injured Plaintiff and thus, he is entitled to recover damages adequate to compensate for Defendants' infringement, which in no event can be less than a reasonable royalty.

29. Because Defendants willfully infringed the '405 patent, Plaintiff is permitted under 35 U.S.C. § 284 to recover treble the amount of the actual damages sustained by Plaintiff.

EXCEPTIONAL CASE

30. Defendants' acts, including at least their willful infringement, have made the present case exceptional pursuant to 35 U.S.C. § 285 and/or other applicable authority. Therefore, the prevailing party shall be entitled to attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Masakazu Ushijima prays for entry of judgment:

A. That Defendants have infringed one or more claims of the '405 patent.

- B. That Defendants account for and pay to Plaintiff all damages caused by the infringement of the '405 patent, which by statute can be no less than a reasonable royalty;
- C. That the Court increase the damages up to three times the amount found or assessed;
- D. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to him by reason of Defendants' infringement of the '405 patent;
- E. That the Court declare this case exceptional, in favor of Plaintiff, under 35 U.S.C. § 285 and that Plaintiff be granted his attorneys' fees in this action;
- F. That costs be awarded to Plaintiff;
- G. That Plaintiff be granted such other and further relief that is just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all claims and issues so triable.

Dated: March 20, 2015

Respectfully submitted,

/s/ Matthew J.M. Prebeg

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of March, 2015, I electronically filed the foregoing Plaintiff's Third Amended Complaint with the Clerk of Court via the Court's CM/ECF system per Local Rule CV-5(a)(1), which will send notification of such filing to opposing counsel as follows:

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