

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

ALBERT C. JONES,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 4:16-cv-00111
	§	
SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG ELECTRONICS CO. LTD., HUAWEI DEVICE (HONG KONG) CO., LTD.; HUAWEI TECHNOLOGIES USA INC., AND HUAWEI DEVICE USA INC,	§	
	§	
Defendants.	§	

PLAINTIFF’S AMENDED COMPLAINT

Plaintiff Albert C. Jones (“Plaintiff” or “Jones”), files this Amended Complaint against Samsung Electronics America, Inc., Samsung Electronics Co., Ltd., Huawei Devices (Hong Kong) Co., Ltd.; Huawei Technologies USA Inc., and Huawei Device USA Inc. for infringement of U.S. Patent No. 6,606,506 (“the ’506 patent”), and hereby alleges as follows:

I. THE PARTIES

1. Plaintiff Albert C. Jones is an individual residing in Charlotte, North Carolina, and owner of the ’506 patent.

2. Defendant Samsung Electronics America, Inc. (“Samsung America”) is a New York corporation with a principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660.

3. Defendant Samsung Electronics Co., Ltd. (“Samsung Korea”) is a corporation organized and existing under the laws of South Korea, with its principal place of business at

AMENDED COMPLAINT

1320-10, Seocho 2-dong, Seochu-gu, Seoul 137-857, South Korea. Collectively, Samsung America and Samsung Korea are referred to herein as the “Samsung Defendants.”

4. Defendant Huawei Technologies USA Inc. (“Huawei Tech”) is a Texas Corporation with a principal office located at 5700 Tennyson Parkway, Suite 600, Plano, Texas 75024.

5. Defendant Huawei Device USA Inc. (“Huawei Device”), is a Texas corporation with its principal place of business located at 5700 Tennyson Parkway, Suite 600, Plano, Texas 75024. Collectively, Huawei Tech and Huawei Device are referred to herein as the “Huawei Defendants.”

6. Defendant Huawei Device (Hong Kong) Co., Ltd. is a Hong Kong company with its principal place of business located at 9th Floor, Tower 6, The Gateway, No. 9 Canton Road, Tsim Sha Tsui, Kowloon HK, Hong Kong.

II. JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), as an action arising under an Act of Congress relating to patents, 35 U.S.C. §§ 1 et seq.

8. This Court has personal jurisdiction over the Samsung Defendants because the Samsung Defendants are subject to this Court’s specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.042, because at least Samsung Electronics America has a principal place of business within this judicial district, and the Samsung Defendants conduct substantial and ongoing business in Texas and this judicial district. The Samsung Defendants, directly and/or through third-party designers and/or manufacturers, design, test, manufacture and/or assemble products that are and have been offered for sale, sold, purchased, and used within the state of Texas and this judicial district. In addition, the Samsung Defendants, directly and/or through their distribution

networks, regularly place their products within the stream of commerce, with the knowledge and/or understanding that such products will be sold in Texas and this judicial district. The Samsung Defendants, on information and belief, are committing at least part of the infringing activities alleged herein within Texas and this judicial district, including, but not limited to, maintaining representatives at retail outlets for sales and informational purposes, providing the ability for end users within this judicial district to download apps for the Accused Products, are regularly and systematically doing business and soliciting business within Texas and this judicial district, and are deriving substantial revenue from goods sold and services provided to Texas residents and within this judicial district, including, but not limited to, goods and services subject to the infringement claims alleged herein. Thus, the Samsung Defendants, jointly and severally, have purposefully availed themselves of the benefits of the state of Texas and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

9. Venue as to the Samsung Defendants is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because, among other things, the Samsung Defendants are subject to personal jurisdiction in this judicial district, they have regularly conducted business in this judicial district, certain infringing acts complained of herein occurred in this judicial district, a substantial part of the acts giving rise to the allegations of this Complaint occurred in this judicial district, and at least Samsung Electronics America has a principal place of business within this judicial district.

10. This Court has personal jurisdiction over the Huawei Defendants because Huawei Tech and Huawei Device are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.042. The United States Huawei Defendants have their principal place of business within this

judicial district, and they conduct substantial and ongoing business in this State and this judicial district. Further, the Huawei Defendants, directly and/or through third-party manufacturers, manufacture or assemble products that are and have been offered for sale, sold, purchased, and used within the state of Texas. In addition, the Huawei Defendants, directly and/or through their distribution networks, regularly place their products within the stream of commerce, with the knowledge and/or understanding that such products will be sold in Texas. The Huawei Defendants, on information and belief, are committing at least part of the infringing activities alleged herein within Texas and this judicial district, are regularly and systematically doing business and soliciting business within Texas and this judicial district, and are deriving substantial revenue from goods sold and services provided to Texas residents and within this judicial district, including, but not limited to, goods and services subject to the infringement claims alleged herein. Thus, the Huawei Defendants have purposefully availed themselves of the benefits of the state of Texas and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

11. Venue as to the Huawei Defendants is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because, among other things, the United States Huawei Defendants have their principal place of business within this judicial district, they are subject to personal jurisdiction within this judicial district, certain infringing acts complained of herein occurred within this judicial district, and a substantial part of the acts giving rise to the allegations of this Complaint occurred within this judicial district.

III. THE ASSERTED PATENT

12. On August 12, 2003, the United States Patent and Trademark Office (“USPTO”) duly and legally issued U.S. Patent No. 6,606,506 (“the ’506patent”), to Mr. Albert C. Jones entitled “Personal Entertainment and Communication Device,” which matured from Application

No. 09/444,331 filed on November 19, 1999 and provisional application No. 60/109,100 filed on November 19, 1998. A true and correct copy of the '506 patent is attached as Exhibit A.

13. Mr. Jones is the owner of the '506 patent with sole rights to enforce the '506 patent and sue infringers.

IV. COUNT 1 – INFRINGEMENT OF THE '506 PATENT BY THE SAMSUNG DEFENDANTS

14. Jones incorporates by reference the allegations in each of the following paragraphs 1-3, 7-9, and 12-13 as if fully set forth herein.

15. The '506 patent is valid and enforceable.

16. In violation of 35 U.S.C. §271, the Samsung Defendants have infringed and continue to infringe the '506 patent in this judicial district and elsewhere in the United States, both literally and/or under the doctrine of equivalents. The Samsung Defendants have infringed and continue to infringe through the manufacture, use, offer for sale, sale, and/or importation of a system of products, associated software, and components sold through online store and retail stores, and the Gear App and Android Wear app software interfaces and the wireless headphone App software interface available for sale on the Galaxy App store and the Google Play store.

17. The “Samsung Accused System” is a personal entertainment and communication device comprised of three components: a headset portion, a remote unit worn as a watch, and a control/display portion.

18. The “Samsung Accused Watch” includes at least the following exemplary products: Samsung Galaxy Gear, Samsung GearS, Samsung Gear2, Samsung Gear2 Neo, and the Samsung Gear Live running either Tizen and/or Android Wear operating systems.

19. The “Samsung Accused Mobile Devices” include mobile devices running Android OS 4.3 and later, including, but not limited to the following exemplary devices:

Samsung Galaxy S5, Galaxy Grand 2, Galaxy Note 3, Galaxy Note 3 Neo, Galaxy Note 2, Galaxy S4, Galaxy S3, Galaxy S4 Zoom, Galaxy S4 Active, Galaxy S4 mini, Galaxy Mega 6.3, Galaxy Mega 5.8, Galaxy Note 10.1, and the Galaxy NotePRO.

20. The “Samsung Accused Headsets” include all wired and wireless headsets that comprise a pair of amplified speakers, a transceiver, a microphone, and hardware and/or software for providing at least digitally encoded music to the pair of amplified speakers which are compatible with and/or are capable of communicably linking with Samsung Accused Mobile Devices, including, but not limited to, the following exemplary products: Level On Wireless Headphones, Level On Wireless PRO Headphones, Level On Headphones, Level U Wireless Headphones, Level U Pro Wireless Headphones, Active In-Ear Headphones, Gear Circle, HS130 Wired Headset, MN910 Bluetooth Headset, MG900 Bluetooth Headset, HM 1950 Bluetooth Headset, HM3350 Bluetooth Headset, and the HM 1350 Bluetooth Headset.

21. The Samsung Defendants’ infringement has been willful.

22. The Samsung Accused System, including the Samsung Accused Watch, the Samsung Accused Mobile Devices and the Samsung Accused Headset, directly infringes at least independent claim 1 of the ‘506 patent, and dependent claims 2, 3, 4, 5, 8, 9, 12, and 13.

23. With respect to the headset component of the Samsung Accused System, the Samsung Accused Headsets contain, at least, a pair of amplified speakers, a microphone, at least a receiver for receiving wireless and/or cellular signals, and the hardware and/or software to provide at least digitally encoded music to the amplified speakers.

24. With respect to the remote unit watch component of the system, the Samsung Accused Watch is a remote unit worn as a watch wherein the Samsung Accused Watch includes control functions and at least a transmitter for transmitting control signals, directly and/or

indirectly, to the receiver within the Samsung Accused Headsets for controlling at least the digitally encoded music.

25. With respect to the control/display component of the system, the Samsung Accused Mobile Devices are communicably linked to the Samsung Accused Headsets. The control/display component includes a cellular communication transceiver for sending and receiving cellular communications signals, hardware and/or software for selecting and routing system input signals, such as, without limitation, the digitally encoded music, the cellular communication signals and the system component signals for the Samsung Accused Mobile Devices system components. The hardware and/or software for selecting and routing system input signals within the Samsung Accused Mobile Devices are connected, directly and/or indirectly, to the cellular transceiver, the hardware and/or software for providing digitally encoded music, the microphone and pair of amplified speakers within the headphone component of the system, and a user interface for selecting and routing system input signals. The Samsung Accused Mobile Devices also include power sources for providing power to the cellular communication transceiver, the hardware and/or software for selecting and routing system input signals, and the hardware and/or software for providing digitally encoded music.

26. On January 22, 2014, Jones sent a letter to the Samsung Defendants notifying the Samsung Defendants of the '506 patent, and the Samsung Defendants' potential infringement of the '506 patent.

27. The Samsung Defendants have known of the '506 patent since at least as early as August 2006 when Samsung Electronics Co., Ltd. cited to the '506 patent in its own patent application. *See generally* U.S. Patent 8,693,702, filed June 6, 2007.

28. At least as early as August 2006 and as late as January 22, 2014, the Samsung Defendants have contributorily infringed and/or actively induced infringement of the '506 patent (literally and/or under the doctrine of equivalents) and/or will contributorily infringe and/or actively induce infringement of the '506 patent (literally and/or under the doctrine of equivalents) in violation of 35 U.S.C. §271(b)-(c), with knowledge of and/or willful blindness to the existence of the '506 patent, with specific intent to contributorily infringe and/or to induce infringement, and with knowledge or willful blindness that the intended acts would constitute patent infringement.

29. On information and belief, the Samsung Accused System—the Samsung Accused Watch, the Samsung Accused Mobile Devices, and the Samsung Accused Headset, each sold and/or offered for sale by Samsung—are not alone or in combination a staple article of commerce, but are individually a component of a patented combination, and material to practicing the invention in the claims of the '506 patent, and have no substantial non-infringing uses. The Samsung Defendants have contributed to the direct infringement of the '506 patent by the end users of the Samsung Accused System. These products are sold directly to customers and used by customers in a manner that infringes the '506 patent by way of utilizing the Samsung Accused Watch as a remote device to control, without limitation, the telephone features, the media features, and the text features of the Samsung Accused Mobile Devices and utilizing the Samsung Accused Watch to control, without limitation, the media playback features, and the volume and microphone features for media playback and mobile phone calls heard through the Samsung Accused headsets. The Samsung Defendants' contributory infringement is ongoing, and willful.

30. The Samsung Defendants' indirect infringement by inducement will occur by the Samsung Defendants engaging in at least the following activities directly and/or through the contractual relationship with others: designing and manufacturing the Samsung Accused System, individually, and their components specifically for sale and use in the United States, including Texas, selling and offering to sell the Samsung Accused System, individually, and their components in the United States or importing these devices and their components into the United States, including Texas, through promotional and instructional manuals, materials, websites (including support information, video instructions, tutorials, and frequently asked questions that direct customers to use the devices in an infringing manner), securing designated representatives at retail outlets in the United States, including Texas, activities relating to utilizing the Samsung Accused Watch as a remote control unit for mobile phones and wireless headphones, and by providing access to and encouraging use of the Gear App and the Android Wear App and headphone App, and promoting the use of third-party applications. This induces the end users to use the Samsung Accused System in a manner that infringes the '506 patent. The Samsung Defendants' inducement is ongoing, and willful.

31. Jones has been damaged as a result of the Samsung Defendants' infringing conduct described in this Count. The Samsung Defendants are, thus, liable to Jones in an amount that adequately compensates Jones for the Samsung Defendants' infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

V. COUNT 2 – INFRINGEMENT OF THE '506 PATENT BY THE HUAWEI DEFENDANTS

32. Jones incorporates by reference the allegations in each of the following paragraphs 1, 4-7, and 10-13 as if fully set forth herein.

33. The '506 patent is valid and enforceable.

34. In violation of 35 U.S.C. §271, the Huawei Defendants have infringed and continue to infringe the '506 patent in this judicial district and elsewhere in the United States, both literally and/or under the doctrine of equivalents. The Huawei Defendants have infringed and continue to infringe through the manufacture, use, offer for sale, sale, and/or importation of a system of products, associated software, and components sold through their online store and directly to retail stores in the United States, the Huawei Wear App software interface, and the headphone App software interface available for sale on at least the Google Play store.

35. The “Huawei Accused System” is a personal entertainment and communication device comprised of three components: a headset portion, a remote unit worn as a watch, and a control/display portion.

36. The “Huawei Accused Watch” include all Huawei Smartwatch series running Android Wear operating systems, including, but not limited to, the following exemplary devices: Huawei Watch Stainless Steel with Black Leather Strap, Huawei Watch Stainless Steel with Stainless Steel Mesh Band, Huawei Watch Stainless Steel with Stainless Link Band, Huawei Watch Black Stainless Steel with Black Stainless Steel Link Band, Huawei Watch Rose Gold Stainless Steel Brown Leather Strap, and Huawei Watch Rose Gold Plated Stainless Steel with Rose Gold Plated Stainless Steel Band.

37. The “Huawei Accused Mobile Devices” include all mobile devices running Android 4.3 and later, including but not limited to the following exemplary Huawei devices: Mate 8, Mate S, G8, Nexus 6P, P8, P8elite, P8max, ShotX, GR5, GR3, the Ascend series phones, the Y series phones, Media Pad M2 10.0, Media Pad M2 8.0, as well as with limited

functionality all Apple mobile devices running iOS 8.2 and later, including but not limited to the following exemplary models: iPhone 5, iPhone 5c, iPhone 5s, iPhone 6 and iPhone 6 plus.

38. The “Huawei Accused Headsets” include all wired and wireless Headsets that comprise a pair of amplified speakers, a transceiver, a microphone, and the capability to provide at least digitally encoded music to the pair of amplified speakers which are compatible with and/or are capable of connecting with Huawei Accused Mobile Devices, and linking with Apple mobile devices running iOS 8.2 and later.

39. The Huawei Defendants’ infringement has been willful.

40. The Huawei Accused System, including the Huawei Accused Watch, the Huawei Accused Mobile Devices and the Huawei Accused Headset, directly infringes at least independent claim 1 of the ’506 patent, and dependent claims 2, 3, 4, 5, 8, 9, 12, and 13.

41. With respect to the headset component of the Huawei Accused System, the Huawei Accused Headsets contain, at least, a pair of amplified speakers, a microphone, at least a receiver for receiving wireless and/or cellular signals, and the hardware and/or software to provide at least digitally encoded music to the amplified speakers.

42. With respect to the remote unit watch component of the system, the Huawei Accused Watch is a remote unit worn as a watch wherein the Huawei Accused Watch includes control functions and at least a transmitter for transmitting control signals, directly and/or indirectly, to the receiver within the Huawei Accused Headsets for controlling at least the digitally encoded music.

43. With respect to the control/display component of the system, the Huawei Accused Mobile Devices are communicably linked to the Huawei Accused Headsets. The control/display component includes a cellular communication transceiver for sending and receiving cellular

communications signals, hardware and/or software for selecting and routing system input signals, such as, without limitation, the digitally encoded music, the cellular communication signals and the system component signals for the Huawei Accused Mobile Devices system components. The hardware and/or software for selecting and routing system input signals within the Huawei Accused Mobile Devices are connected, directly and/or indirectly, to the cellular transceiver, the hardware and/or software for providing digitally encoded music, the microphone and pair of amplified speakers within the headphone component of the system, and a user interface for selecting and routing system input signals. The Huawei Accused Mobile Devices also include power sources for providing power to the cellular communication transceiver, the hardware and/or software for selecting and routing system input signals, and the hardware and/or software for providing digitally encoded music.

44. At least as late as the service of this Complaint, the Huawei Defendants have contributorily infringed and/or actively induced infringement of the '506 patent (literally and/or under the doctrine of equivalents) and/or will contributorily infringe and/or actively induce infringement of the '506 patent (literally and/or under the doctrine of equivalents) in violation of 35 U.S.C. §271(b)-(c), with knowledge of and/or willful blindness to the existence of the '506 patent, with specific intent to contributorily infringe and/or to induce infringement, and with knowledge or willful blindness that the intended acts would constitute patent infringement.

45. The Huawei Accused System—the Huawei Accused Watch, the Huawei Accused Mobile Devices, and the Huawei Accused Headset, each sold and/or offered for sale by the Huawei Defendants—are not alone or in combination a staple article of commerce, but are individually a component of a patented combination, and material to practicing the invention in the claims of the '506 patent, and have no substantial non-infringing uses. The Huawei

Defendants have contributed to the direct infringement of the '506 patent by the end users of the Huawei Accused System. These products are sold directly to customers and used by customers in a manner that infringes the '506 patent by way of utilizing the Huawei Accused Watch as a remote device to control, without limitation, the telephone features, the media features, and the text features of the Huawei Accused Mobile Devices and utilizing the Huawei Accused Watch to control, without limitation, the media playback features, and the volume and microphone features for media playback and mobile phone calls heard through the Huawei Accused Headsets. The Huawei Defendants' contributory infringement is ongoing, and willful.

46. The Huawei Defendants' indirect infringement by inducement will occur by the Huawei Defendants engaging in at least the following activities directly and/or through the contractual relationship with others: designing and manufacturing the Huawei Accused System, individually, and their components specifically for sale and use in the United States, including Texas, selling and offering to sell the Huawei Accused System, individually, and their components in the United States or importing these devices and their components into the United States, including Texas, through promotional and instructional manuals, materials, websites (including support information, video instructions, tutorials, and frequently asked questions that direct customers to use the devices in an infringing manner), activities relating to utilizing the Huawei Accused Watch as a remote control unit for mobile phones and wireless headphones, and by providing access to and encouraging use of, at least, the Huawei Wear App and headphone App, and promoting the use of third-party applications, such as Android Wear. This induces the end users to use the Huawei Accused System in a manner that infringes the '506 patent. The Huawei Defendants' inducement is ongoing, and willful.

47. Jones has been damaged as a result of the Huawei Defendants' infringing conduct described in this Count. The Huawei Defendants are, thus, liable to Jones in an amount that adequately compensates Jones for the Huawei Defendants' infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

DEMAND FOR JURY TRIAL

Plaintiff Albert C. Jones hereby demands, pursuant to Federal Rule of Civil Procedure 38, a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, in addition to the relief requested elsewhere herein, Jones requests that:

- A. This Court find Defendants have infringed the '506 patent;
- B. Jones be awarded all damages adequate to compensate him for Defendants' infringement of the '506 patent, such damages to be determined by a jury and an accounting, if necessary, to adequately compensate Jones for the infringement;
- C. The damages awarded to Jones be trebled, including pre-judgment and post-judgment interest;
- D. This case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that Jones be awarded his attorney fees, costs and expenses incurred in connection with this case; and
- E. Jones be awarded such other relief as this Court deems just and proper.

Dated: March 1, 2016

Respectfully submitted,

/s/ Mateo Z. Fowler

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