

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ADVANCED VIDEO TECHNOLOGIES LLC,	:	
	:	Civil Action No.
<i>Plaintiff,</i>	:	
v.	:	District Judge
	:	Magistrate Judge
SAMSUNG ELECTRONICS CO., LTD.,	:	
SAMSUNG ELECTRONICS AMERICA, INC.,	:	Jury Trial Demanded
SAMSUNG TELECOMMUNICATIONS	:	
AMERICA, LLC,	:	
	:	
<i>Defendants.</i>	:	
	:	X

COMPLAINT AND DEMAND FOR TRIAL BY JURY

Plaintiff Advanced Video Technologies LLC (“AVT”), by and for its complaint of patent infringement in this matter, hereby alleges through its attorneys as follows:

NATURE OF THE ACTION

This is an action for patent infringement of United States Patent No. 5,781,788 (“the ‘788 Patent”) under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, seeking damages and other relief under 35 U.S.C. § 281, *et seq.*

PARTIES

1. AVT is a limited liability company organized and existing under the laws of the State of New York, having its principal place of business at 75 Montebello Road, Suffern, New York 10901-3740.

2. Upon information and belief, Defendant Samsung Electronics Co., Ltd. (“Samsung Ltd.”) is a Korean corporation with a principal place of business at 250 2 Ka Taepyung Road, Chung Ku, Seoul, Korea M5 100742.

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

4. Upon information and belief, Defendant Samsung Telecommunications America, LLC (“Samsung LLC”) is a Delaware limited liability company with a principal place of business at 1301 East Lookout Drive, Richardson, Texas 75082.

5. Defendants Samsung Ltd., Samsung Inc. and Samsung LLC (collectively “Samsung”) engage in the design, manufacture, importation to the United States, offer for sale, sale after importation, and marketing of mobile communication devices.

JURISDICTION AND VENUE

6. Subject matter jurisdiction is conferred upon this Court under 28 U.S.C. §§ 1331 and 1338(a) because this action is for patent infringement arising under the patent laws of the United States and its Territories, 35 U.S.C. §§ 1 *et seq.*, §§ 271, 281, 284 and 285, among others.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b)), because, among other reasons, Defendants are subject to personal jurisdiction in this Judicial District, and Defendants have transacted business and have committed and continue to commit acts of patent infringement in this Judicial District, entitling AVT to relief. For example, upon information and belief, Defendants have made, used, sold, offered for sale, and/or imported in this Judicial District products that infringe the ’788 Patent.

8. Personal jurisdiction over Samsung exists because, upon information and belief, Samsung either directly or indirectly through one or more of their subsidiaries, affiliates, partners, or other related parties, have conducted and/or continue to conduct business within the State of New York, including in this Judicial District. Upon information and belief, Samsung has contributed to and/or committed the acts of patent infringement alleged in this Complaint in the

United States, the State of New York and this forum by, among other things, making, using, importing, offering for sale, and/or selling products that infringe the '788 Patent and has contacts with this forum by way of at least the sale or importation of mobile communications devices and/or other products in this district either directly or through distributors or retailers, or by placing their products within the stream of commerce, which is directed at this forum.

9. Defendants are subject to this Court's specific jurisdiction pursuant to due process and/or the New York Long Arm Statute, due to at least their substantial business in this forum, which is either conducted directly and/or through intermediaries. Such substantial business includes: (i) committing at least a portion of the infringements alleged herein, including using, distributing, importing, making, offering for sale, selling, and/or marketing, supporting and advertising of its infringing products in New York and in this Judicial District, and (ii) regularly doing or soliciting business in the State of New York and in this Judicial District, engaging in other persistent courses of conduct in this Judicial District including maintaining minimum contacts with this forum by way of at least the sale or importation of mobile communication devices and/or other products in this Judicial District either directly or through distributors or retailers, or by placing their products within the stream of commerce, which is directed at this forum, purposefully availing themselves of the privileges of doing business in New York and in this Judicial District, and/or deriving substantial revenue from goods and services provided to individuals in New York and in this Judicial District.

10. The exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice.

BACKGROUND

11. The '788 Patent, entitled "Full Duplex Single Chip Video Codec," was duly and lawfully issued on July 14, 1998, based upon an application filed by the inventors, Beng-Yu Woo,

Xiaoming Li, and Vivian Hsiun. A true and correct copy of the '788 Patent is attached hereto as **Exhibit A**.

12. The United States Patent and Trademark Office (“PTO”) issued a Reexamination Certificate on January 8, 2008 for the '788 Patent. A true and correct copy of the Reexamination Certificate is attached hereto as **Exhibit B**.

13. The '788 Patent generally teaches and claims, among other things, the ability to capture, store, and playback video via a single chip video codec that compresses and decompresses video information.

14. On May 1, 2015, AVT applied to the Court of Chancery of the State of Delaware for the appointment of a Receiver for AVC Technology, Inc. (“AVC”) in order to complete the transfer of ownership of the '788 Patent to AVT. A true and correct copy of the petition is attached hereto as **Exhibit C**.

15. On May 13, 2015, the Court of Chancery of the State of Delaware granted AVT’s petition appointing a Receiver for the dissolved company, AVC. The Receiver was appointed “for the sole purpose of transferring any ownership interest that AVC may have in [the '788 Patent].” A true and correct copy of the court’s Order is attached hereto as **Exhibit D**.

16. On June 5, 2015, the Receiver executed an Assignment that transferred all rights, title and interest, including the right to collect past damages, in the '788 Patent from AVC to AVT. A true and correct copy of the Assignment is attached hereto as **Exhibit E**.

17. AVT initially contacted Samsung regarding the '788 Patent in early June 2009. At that time, Samsung requested that AVT provide a claim chart to illustrate AVT’s claim of infringement.

18. AVT provided the requested claim chart (alleging that at least claim 13 was infringed) later that month.

19. AVT and Samsung continued to communicate regarding the '788 Patent, which included meetings in July and November 2014 at Samsung offices in Seoul, Korea and Suwon, Korea, respectively, and again in February 2015 at Samsung's office in Suwon.

CLAIM FOR RELIEF

Infringement of United States Patent No. 5,781,788 by Samsung

20. All of the foregoing allegations are restated and incorporated by reference as though fully set forth herein.

21. AVT is the assignee and the owner, which holds all rights, title, and interest in and to the '788 Patent, and has the right to sue and recover damages for the infringement thereof.

22. Defendants are not licensed under the '788 Patent, yet Defendants knowingly, actively, and lucratively practice the claimed inventions of the '788 Patent. Upon information and belief, Samsung is and has been engaged in the marketing and sale of mobile communications devices in the United States generally and in the Southern District of New York.

23. Upon information and belief, Samsung's mobile communications devices have the ability to capture video and contain a single chip video codec that compresses and decompresses video information.

24. Specifically, upon information and belief, Samsung has imported, sold, and offered for sale mobile communication devices, including but not limited to the Samsung Galaxy S4, Galaxy S5, SC-MX20ER, and WB600, which have the ability to capture video and which contain a single chip video codec that compresses and decompresses video information.

25. Samsung is in violation of 35 U.S.C. § 271(a) and has infringed literally and/or under the doctrine of equivalents at least claim 13 of the '788 Patent, which is generally directed to a single chip video codec that compresses and decompresses video information and includes dynamic random access memory (DRAM) for the temporary storage of incoming and outgoing video information. Samsung is in violation of 35 U.S.C. § 271(a) directly by at least making, using, importing, selling, and offering to sell, without license or authority, infringing devices to the general public and retailers, including but not limited to the Samsung Galaxy S4, Galaxy S5, SC-MX20ER and WB600, each of which contain a single chip video codec that performs each and every element of at least claim 13 of the '788 patent. As a result of Defendants' unlawful infringement of the '788 Patent, Plaintiff has suffered and will continue to suffer damages in an amount to be proven at trial. AVT is entitled to damages for the six years prior to the filing date of this lawsuit, except for the number of days between the date the '788 Patent expired and the filing date of this lawsuit, adequate to compensate for such infringement, in an amount no less than a reasonable royalty pursuant to 35 U.S.C. § 284, which have yet to be determined. The full measure of damages sustained as a result of Samsung's wrongful acts will be proven at trial.

26. Samsung is in violation of 35 U.S.C. §§ 271(b) and (c) and has infringed indirectly at least claim 13 of the '788 Patent by knowingly and specifically intending to induce and/or contribute to infringement by others (*e.g.*, including but not limited to end users and retailers such as Best Buy and Amazon.com) by the sale of at least the above-referenced mobile communications devices to others. The acts of inducement include, for example, advertisement and instructions to use the above-referenced devices to record and/or playback video.

27. Samsung has infringed and continues to infringe despite an objectively high likelihood that their actions constitute infringement of AVT's valid patent rights. Samsung knew

of or should have known of this objectively high risk, at least as early as of date when they first became aware of the '788 Patent. Samsung's acts of infringement of the '788 Patent occurred with knowledge of the '788 Patent and are willful and deliberate.

28. AVT has no adequate remedy at law.

29. Plaintiff is entitled to pre-suit damages, and is not barred from pre-suit damages by 35 U.S.C. § 287.

30. On June 8, 2009, Kathlene Ingham, a manager for AVT and Director of Licensing for General Patent Corporation ("GPC"), sent a notice letter to Mr. Chang-Soo Choi, President and CEO of Samsung Inc., with a copy of the '788 Patent. By this letter, Samsung was put on notice of infringement of the '788 Patent. A true and correct copy of this letter is attached hereto as **Exhibit F**. On June 23, 2009, Kathlene Ingham received a reply from Steve Sang-Rok Han, Licensing Manager for Samsung Ltd. On May 7, 2013, Kathlene Ingham sent another letter to Mr. Y.K. Kim, CEO of Samsung Inc. A true and correct copy of this letter is attached hereto as **Exhibit G**. On May 23, 2013, Kathlene Ingham received an email from Daejin Jeon, Licensing Manager for Samsung Ltd. requesting a claim chart. On June 19, 2013, Kathlene Ingham sent an email with an attached claim chart to Daejin Jeon. True and correct copies of this email and the claim chart are attached hereto as **Exhibit H**. On August 26, 2013, Kathlene Ingham sent a follow-up email to Daejin Jeon. A true and correct copy of this email is attached hereto as **Exhibit I**. On October 30, 2013, Kathlene Ingham sent another follow-up email to Daejin Jeon. A true and correct copy of this email is attached hereto as **Exhibit J**. On November 14, 2013, Kathlene Ingham sent an email to Daejin Jeon advising him of the Court ruling denying the defendants' motion for summary judgment of invalidity in the pending cases against HTC, Motorola Mobility and BlackBerry and making a settlement offer. A true and correct copy of this email is attached

hereto as **Exhibit K**. On November 15, 2013, Kathlene Ingham received a response from Daejin Jeon. On December 31, 2013, Kathlene Ingham sent a follow-up email to Daejin Jeon reiterating AVT's settlement offer. A true and correct copy of this email is attached hereto as **Exhibit L**. On January 8, 2014, Kathlene Ingham received an email from Daejin Jeon inviting AVT licensing team to visit Samsung in Korea. Between that time and May of 2014, multiple emails were exchanged between Kathlene Ingham and Daejin Jeon negotiating a Standstill Agreement, which was finally executed on May 13, 2014. On May 14, 2014, Kathlene Ingham sent another email to Daejin Jeon enclosing two claim charts reading the '788 Patent on Samsung Galaxy S4 and S5. True and correct copies of this email and the claim charts are attached hereto as **Exhibit M**. In the following months, multiple emails were exchanged between Michael Barry, patent counsel for GPC, and Daejin Jeon scheduling the meeting in Korea. On July 2, 2014, Michael Barry and Dr. Yoriko Morita, Vice President of Licensing for GPC met with Samsung's licensing team, which included Daejin Jeon and senior engineer, Ilsung Tak, in Seoul. Over the next few months, multiple emails were exchanged between Michael Barry and Daejin Jeon. On November 4, 2014, AVT's licensing team that included Dr. Yoriko Morita, Michael Barry and Dr. Vyacheslav Zavadsky (independent technology expert) met with Daejin Jeon and Ilsung Tak at Samsung Ltd.'s office in Suwon. Over the next two months, many emails were exchanged between Michael Barry and Daejin Jeon. On February of 2015, Dr. Yoriko Morita, Michael Barry and Dr. Vyacheslav Zavadsky met for the third time with Daejin Jeon and Ilsung Tak in Seoul. Multiple emails were then exchanged between Michael Barry and Daejin Jeon over the next sixth months. On July 16, 2015, Michael Barry sent an email to Daejin Jeon, in which he stressed that time was of the essence. A true and correct copy of this letter is attached hereto as **Exhibit N**. On August 10, 2015, a teleconference took place between Michael Barry and Daejin Jeon at which time, Michael

Barry expressed to Daejin Jeon AVT's frustration with the lack of progress in negotiations and advised him that unless a reasonable offer is received from Samsung, AVT would have no choice but bring an action for patent infringement.

31. At least as early as of June 2009, Defendants have had knowledge of the '788 Patent, which is entitled to statutory presumption of validity under 35 U.S.C. § 282. AVT intends to seek a willfulness finding and treble damages under 35 U.S.C. § 284 as well as its attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff AVT prays for judgment and respectfully requests that the Court find in its favor and against Samsung, and demands judgment as follows:

- A. An order adjudging Samsung to have infringed the '788 Patent, literally and/or under the doctrine of equivalents;
- B. Judgment that such infringement has been willful;
- C. Holding that the '788 Patent is valid and enforceable;
- D. An award of damages adequate to compensate AVT for the infringement by Samsung along with prejudgment and post-judgment interest, but in no event less than a reasonable royalty, such damages to be trebled pursuant to the provisions of 35 U.S.C. § 284;
- E. A declaration that this is an exceptional case and an award of AVT's reasonable attorney fees and expenses pursuant to the provisions of 35 U.S.C. § 285;
- F. An award of AVT's costs; and
- G. Such other and further relief as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Fed. R. Civ. P. 38(b), AVT hereby demands a jury trial on all issues so triable raised in this action.

Respectfully submitted,

Dated: May 26, 2016

/s/ Robert W. Morris
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Attorneys for Plaintiff

Advanced Video Technologies LLC

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 1.6(a)

The undersigned hereby certifies, pursuant to Local Civil Rule 1.6(a), that with respect to the matter in controversy herein, plaintiff Advanced Video Technologies LLC is not aware of any other action pending in any court, or of any pending arbitration or administrative proceeding, to which this matter is subject. However, the patent at issue in this case was the subject matter in the following:

- *Advanced Video Technologies LLC v. Pure Digital Technology, Inc.*, Civil Action No. 1:08-cv-03627 (S.D.N.Y. filed April 16, 2008) — Settled and dismissed
- *Advanced Video Technologies LLC v. Thomson Inc.*, Civil Action No. 1:09-cv-03527 (S.D.N.Y. filed April 7, 2009) — Settled and dismissed
- *Advanced Video Technologies LLC v. Audiovox Corporation, Audiovox Electronics Corporation*, Civil Action No. 1:09-cv-04516 (S.D.N.Y. filed May 17, 2009) — Settled and dismissed
- *Advanced Video Technologies LLC v. Casio America Inc., Casio Computer Co., LTD*, Civil Action No. 2:09-cv-05220 (D.N.J. filed October 13, 2009) — Settled and dismissed
- *Advanced Video Technologies LLC v. Aiptek, Inc. USA et al.*, Civil Action No. 1:10-cv-09013 (S.D.N.Y. filed December 2, 2010) — Settled and dismissed
- *Advanced Video Technologies LLC v. HTC Corporation et al.*, Civil Action No. 1:11-cv-6604 (S.D.N.Y. filed September 22, 2011) — Dismissed
- *Advanced Video Technologies LLC v. Motorola Mobility LLC*, Civil Action No. 1:12-cv-00918 (S.D.N.Y. filed January 6, 2012) — Dismissed

- *Advanced Video Technologies LLC v. Research in Motion Ltd. et al.*, Civil Action No. 1:11-cv-8908 (S.D.N.Y. filed December 6, 2011) — Dismissed
- *Advanced Video Technologies LLC v. HTC Corporation et al.*, Appeal Nos. 16-1476, -1514, -1515 (Fed. Cir. filed January 12, 2016) – Filed
- *Advanced Video Technologies LLC v. HTC Corporation et al.*, Civil Action No. 1:15-cv-4626 (S.D.N.Y. filed June 15, 2015) – Filed
- *Advanced Video Technologies LLC v. Motorola Mobility LLC*, Civil Action No. 1:15-cv-4632 (S.D.N.Y. filed June 15, 2015) – Filed
- *Advanced Video Technologies LLC v. Blackberry Ltd. et al.*, Civil Action No. 1:15-cv-4631 (S.D.N.Y. filed June 15, 2015) – Filed
- *Advanced Video Technologies LLC v. Lenovo Group Limited et al.*, Civil Action No. 1:15-cv-5212 (S.D.N.Y. filed July 7, 2015) – Filed
- *Advanced Video Technologies LLC v. Nikon Corporation et al.*, Civil Action No. 1:15-cv-5547 (S.D.N.Y. filed July 16, 2015) – Filed
- *Advanced Video Technologies LLC v. LG Electronics Inc.*, Civil Action No. 1:15-cv-5546 (S.D.N.Y. filed July 16, 2015) – Filed

Dated: May 26, 2016

/s/ Robert W. Morris
Robert W. Morris (RWM 2268)
Thomas M. Smith (TMS 9962)
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