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

E-WATCH, INC. AND E-WATCH CORPORATION, Plaintiff, v. APPLE, Inc. Defendants.	)	Civil Action No. 2:13-cv-01061-JRG-RSP (LEAD CASE) JURY TRIAL DEMANDED
SAMSUNG ELECTRONICS CO., LTD, ET AL.	)	2:13-cv-1062
HTC CORPORATION, ET AL.	)	2:13-cv-1063
LG ELECTRONICS INC., ET AL.	)	2:13-cv-1064
ZTE CORPORATION, ET AL.	)	2:13-cv-1070
SONY CORPORATION, ET AL.	)	2:13-cv-1073
SHARP CORPORATION, ET AL.	)	2:13-cv-1074
MICROSOFT MOBILE OY AND NOKIA INC.	)	2:13-cv-1075
HUAWEI TECHNOLOGIES CO. LTD., ET AL.	)	2:13-cv-1076
KYOCERA COMMUNICATIONS, INC., ET AL.	)	2:13-cv-1077
BLACKBERRY LIMITED, ET AL.	)	2:13-cv-1078

DEFENDANTS' AMENDED INVALIDITY CONTENTIONS

Pursuant to Local Patent Rules ("P.R.") 3-3 and 3-4, Defendants Apple Inc., Blackberry Corporation, Blackberry Limited, HTC America, Inc., HTC Corporation, Huawei Device Co., Ltd., Huawei Device USA, Inc., Kyocera Communications, Inc., Kyocera International Inc., LG Electronics, Inc., LG Electronics U.S.A., Inc., LG Electronics Mobilecomm U.S.A., Microsoft Mobile Oy, Nokia Inc., Samsung Electronics Co., Ltd., Samsung Telecommunications America, LLC, Sharp Corporation, Sharp Electronics Corporation, Sony Mobile Communications (USA) Inc., and ZTE (USA), Inc. (collectively, "Defendants") hereby serve these Amended Invalidity Contentions ("Contentions")

concerning United States Patent Nos. 7,365,871 (the "'871 Patent") and 7,643,168 (the "'168 Patent") (collectively, "patents-in-suit") and accompanying document production on Plaintiffs e-Watch, Inc. and e-Watch Corporation (collectively, "e-Watch"). Defendants' discovery and investigation in connection with this lawsuit are continuing, and these disclosures are based on information obtained to this date. Defendants reserve the right to supplement these Contentions if Defendants obtain additional information or if e-Watch asserts additional or different claims or otherwise modifies its assertions.

INTRODUCTION

Defendants' Contentions are based, in part, on their present understanding of e-Watch's Infringement Contentions concerning the scope and construction of the asserted patent claims and Defendants' understanding of the scope and construction of those claims at this time. Defendants reserve the right to interpret these terms differently over the course of the litigation, and do not adopt any interpretations impliedly or expressly put forth in these contentions. Accordingly, Defendants' Contentions, including the attached invalidity claim charts, may reflect alternative positions as to claim construction and scope. Nothing in this document, however, should be construed as an admission that Defendants agree with e-Watch's contentions or that any claim of the patents-in-suit, whether asserted or not, is valid, enforceable or infringed.

The accompanying invalidity claim charts list specific examples of prior art references, patents, knowledge, inventions, uses, sales, methods, and/or systems that included and/or disclosed, either expressly or inherently, each limitation of certain claims and/or examples of prior art references and systems in view of which a person of ordinary skill in the art would have considered each limitation and the claimed combination of such limitations obvious.

Defendants have endeavored to identify relevant portions and/or features of the identified prior art. The identified prior art, however, may contain additional descriptions of or alternative support for the claim limitations. The citations included in each chart are illustrative, not exhaustive. Defendants may rely on un-cited portions or features of the identified prior art, other documents, and fact and expert testimony to provide context or to aid in understanding the identified prior art. Where Defendants cite to a particular figure in a reference, the citation should be understood to encompass the caption and description of the figure and any text relating to the figure. Similarly, where Defendants cite to particular text referring to a figure, the citation should be understood to include the figure and caption as well. The claims addressed in the charts are anticipated and/or rendered obvious under 35 U.S.C. § 102 and/or § 103. To the extent a prior art reference is identified as part of one or more combinations of references under 35 U.S.C. § 103, Defendants reserve the right to chart that reference independently under 35 U.S.C. § 102 at a later date should circumstances dictate.

Prior art patents or publications included in these Contentions may be related (*e.g.*, as a divisional, continuation, continuation-in-part, parent, child, or other relation or claim of priority) to earlier or later filed patents or publications, may have counterparts filed in other jurisdictions, or may incorporate (or be incorporated by) other patents or publications by reference. The listed patents or publications are intended to be representative of these other patents or publications, to the extent they exist.

Consistent with P.R. 3-6, Defendants reserve the right to supplement and/or amend these contentions and the associated document production to the extent e-Watch changes its position with respect to the claim scope and/or claim construction it purports to apply to the asserted claims, should e-Watch later provide any information that it failed to provide in its

P.R. 3-1 and 3-2 disclosures, should e-Watch amend its P.R. 3-1 or 3-2 disclosures in anyway, as additional facts and/or additional discovery is obtained, and/or as other conditions require. In particular, Defendants have not yet completed their search for and analysis of relevant prior art. Thus, Defendants reserve the right to revise, amend, and/or supplement the information provided herein, including identifying, charting, and relying on additional references, should Defendants' further search and analysis yield additional information or references, consistent with the Patent Rules and the Federal Rules of Civil Procedure. For example, Defendants expect to issue subpoenas to third parties believed to have knowledge, documentation and/or corroborating evidence concerning some of the prior art listed below and/or additional prior art. These third parties may include, without limitation, the authors, inventors, or assignees of the references listed in these disclosures.

Defendants may also rely on other documents and information, including inventor admissions, concerning the scope of the asserted claims, and prior art relevant to the asserted claims, found in: the patents-in-suit, the patent prosecution history for the patents-in-suit, and related patents and/or patent applications; any deposition testimony of any inventor of the patents-in-suit; any previous trial testimony of any inventor of the patents-in-suit, and any papers filed or any evidence produced or submitted by e-Watch in connection with this litigation, or any previous litigation, related to the patents-in-suit. In particular, Defendants reserve the right to contend that the asserted claims are invalid under 35 U.S.C. § 102(f) in the event Defendants obtain evidence that inventor named in the asserted patents did not invent (either alone or in conjunction with others) the subject matter claimed in the asserted patents.

In addition to the prior art identified below and the accompanying invalidity claim charts, Defendants also incorporate by reference any additional invalidity contentions,

identified prior art, or invalidity claim charts disclosed at any date by any party to any other litigation or U.S. Patent & Trademark Office proceeding involving the asserted patent or any related patent, including, without limitation, any parties' invalidity contentions (including all amendments/supplementations), and expert reports, and any references identified in any reexamination request or proceeding relating to any of the patents-in-suit.

These Contentions are not intended to reflect Defendants' claim construction positions, which will be disclosed in due course in accordance with this Court's Docket Control Order and Local Patent Rules. Further, by including prior art that would anticipate or render obvious claims based on e-Watch's apparent claim construction or any other particular claim construction, Defendants are not adopting e-Watch's claim construction or admitting to the accuracy of any particular claim construction.

Defendants' Invalidity Contentions are based on their current knowledge and understanding of the prior art at this early date in the present action. For example, Defendants have not deposed any of the individuals identified as inventors on the patent-in-suit. Defendants' discovery and investigation in connection with this lawsuit are continuing, and, thus, these disclosures are based on information obtained to date. Defendants reserve the right, to the extent permitted by the Court and the applicable statutes and rules, to modify and supplement these Contentions, whether in response to any amendment by e-Watch of its Infringement Contentions, or otherwise becoming aware of additional prior art or further material information. Additionally, Defendants reserve the right to modify their contentions should any of the claim limitations be construed by the Court.

In an effort to focus the issues, Defendants cite exemplary relevant portions of identified prior art references and inventions, even where a reference or invention may contain additional

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