

the law and must be treated as equals in a court of justice. The Court and the parties expect that you will carefully and impartially consider all of the evidence, follow the law as I will give it to you, and reach a just verdict. You are instructed that all persons, including Summit 6, and the Samsung Defendants in this case, stand equal before the law, and are to be dealt with as equals in this Court.

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as the telephone, a cell phone, smart phone, iPhone, Blackberry or computer, the Internet, any Internet service, any text or instant messaging service, any internet chat room, blog, or website such as Facebook, MySpace, LinkedIn, YouTube or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict. In other words, you cannot talk to anyone on the phone, correspond with anyone, or electronically communicate with anyone about this case. You can only discuss the case in the jury room with your fellow jurors during deliberations. I expect you will inform me as soon as you become aware of another juror's violation of these instructions.

You may not use these electronic means to investigate or communicate about the case because it is important that you decide this case based solely on the evidence presented in this courtroom. Information on the internet or available through social media might be wrong, incomplete, or inaccurate. You are only permitted to discuss the case with your fellow jurors during deliberations because they have seen and heard the same evidence you have. In our judicial system, it is important that you are not influenced by anything or anyone outside of this courtroom. Otherwise, your decision may be based on information known only by you and not your fellow jurors or the parties in the case. This would unfairly and adversely impact the judicial process.

I will now briefly review the contentions of the parties and give you some additional instructions and definitions that will guide you in deciding the issues or facts that you must resolve in this case.

I. SUMMIT 6'S CLAIMS AND SAMSUNG'S DEFENSES

The patent claims in issue are Claims 40, 44, 45, 46 and 49 of U.S. Patent 7,765,482, which has been referred to as "the '482 Patent." I will refer to the '482 Patent as the Patent-in-Suit.

The Plaintiff, Summit 6, LLC, contends that Defendant Samsung Electronics Co., Ltd. and Defendant Samsung Telecommunications America, LLC (jointly "the Samsung Defendants") have infringed Claims 40, 44, 45, 46 and 49 of the '482 Patent by making, using, or inducing their customers or end-users to use MMS technology to perform each of the steps or requirements of those claims. Summit 6 contends it is entitled to damages to compensate for the Samsung Defendants' alleged infringement in the form of a reasonable royalty.

The Samsung Defendants each deny Summit 6's claims. The Samsung Defendants contend they do not infringe, and do not induce their customers or end-users to infringe, the asserted claims of the '482 Patent. The Samsung Defendants contend the asserted claims of the '482 patent are invalid. As a result, the Samsung Defendants contend that Summit 6 is not entitled to any damages.

Your job is to decide whether each of the Samsung Defendants has infringed any of the asserted claims and whether each of the asserted claims is invalid. If you decide that any claim of the '482 patent has been infringed by the Samsung Defendants and is not invalid, you will then need to decide any money damages to be awarded to Summit 6 from the Samsung Defendants to compensate Summit 6 for the infringement.

II. BURDENS OF PROOF

Summit 6 bears the burden of proof by a preponderance of the evidence that the Samsung Defendants infringed the asserted claims of the '482 Patent. In other words, Summit 6 must show that the Samsung Defendants' infringement is more likely true than not true.

Summit 6 also has the burden of proof by a preponderance of the evidence for the amount of damages caused by the Samsung Defendants' infringement.

The Samsung Defendants bear the burden of proof by clear and convincing evidence that the asserted claims of the '482 Patent are invalid.

To review, "preponderance of the evidence" means that you must be persuaded by the evidence that the claim is more likely true than not true.

Clear and convincing evidence is a higher standard than proof by a preponderance of the evidence. Clear and convincing evidence means that the evidence leaves you with a firm belief or clear conviction that the facts are as the party contends. Nevertheless, the clear and convincing evidence standard is not as high as the burden of proof applied in a criminal case, which is "beyond a reasonable" doubt.

In deciding whether any fact has been proven by a preponderance of the evidence or by clear and convincing evidence, you may, unless otherwise instructed, consider the testimony of all witnesses, regardless of who may have called them, and all exhibits received in evidence, regardless of who may have produced them.

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