

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ANCORA TECHNOLOGIES, INC.,

Plaintiff,

v.

SONY CORPORATION,
SONY MOBILE COMMUNICATIONS AB,
SONY MOBILE COMMUNICATIONS, INC.,
AND SONY MOBILE COMMUNICATIONS
(USA) INC.,

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, ANCORA TECHNOLOGIES, INC. (“Ancora”), for its Complaint against Sony Corporation, Sony Mobile Communications (USA), Inc., Sony Mobile Communications, Inc., and Sony Mobile Communications AB (collectively “Sony” or “Defendants”) states the following:

I. THE PARTIES

1. Plaintiff Ancora Technologies, Inc. is a corporation organized and existing under the laws of the State of Delaware and having a place of business at 23977 S.E. 10th Street, Sammamish, Washington 98075.

2. Upon information and belief, Sony Corporation is a corporation organized under the laws of Japan with its principal place of business located at 1-7-1 Konan Minato-ku, Tokyo, 108-0075 Japan.

3. Upon information and belief, Sony Mobile Communications, Inc. is a Japanese corporation that is a wholly-owned subsidiary of Sony Corporation with a principal place of business located at 4-12-3 Higashi-shinagawa, Shinagawa-ku, Tokyo, 140-0002, Japan. Upon information and belief, Sony Mobile Communications, Inc. offers for sale mobile devices, such as smartphones, through its website at <https://www.sonymobile.com/us/products/phones/>. Upon

information and belief, Sony Mobile Communications, Inc. offers for sale mobile devices, such as smartphones, through an Amazon storefront website at <https://tinyurl.com/Sony-Amazon-Store>. Upon information and belief, Sony Mobile Communications, Inc. directs sales of its mobile devices to Delaware residents through at least these websites.

4. Upon information and belief, Sony Mobile Communications AB is also a wholly-owned subsidiary of Sony Corporation and is incorporated under the laws of Sweden with its principal place of business at Nya Vattentornet SE-221, 88 Lund, Sweden. Upon information and belief, Sony Mobile Communications AB offers for sale mobile devices, such as smartphones, through its website at <https://www.sonymobile.com/us/products/phones/>. Upon information and belief, Sony Mobile Communications AB offers for sale mobile devices, such as smartphones, through an Amazon storefront website at <https://tinyurl.com/Sony-Amazon-Store>. Upon information and belief, Sony Mobile Communications AB directs sales of its mobile devices to Delaware residents through at least these websites.

5. Upon information and belief, Sony Mobile Communications (USA), Inc. is a wholly-owned subsidiary of Sony Mobile Communications AB and is incorporated under the laws of the State of Delaware with its principal place of business located at 2207 Bridgepointe Pkwy, San Mateo, CA 94404. Sony Mobile Communications (USA), Inc. may be served via its registered agent, Capitol Services, Inc., 1675 S. State St., Ste. B, Dover, DE, 19901.

6. Upon information and belief, Sony is in the business of supplying mobile devices, such as smartphones, to its customers in the United States, including within this District.

II. JURISDICTION

7. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code, namely 35 U.S.C. §§ 271, 281, and 284-285, among others.

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. Venue is proper in this District as to Sony Corporation and Sony Mobile Communications AB because they are foreign entities that may be sued in any judicial district under 28 U.S.C. § 1391(c).

10. Venue is proper in this District as to Sony Mobile Communications (USA) Inc. under 28 U.S.C. § 1400(b) because it was formed under the laws of the State of Delaware and, therefore, resides in this District.

11. Sony is subject to personal jurisdiction pursuant to due process due at least to its substantial business in this State, including: (A) at least part of its infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Delaware residents. Sony has conducted and regularly conducts business within the United States and this District. Sony has purposefully availed itself of the privileges of conducting business in the United States, and more specifically in Delaware and this District. Sony has sought protection and benefit from the laws of the State of Delaware by placing infringing products into the stream of commerce through an established distribution channel with the awareness and/or intent that they will be purchased by consumers in this District.

12. On information and belief, Sony has significant ties to, and presence in, this District, making venue in this District both proper and convenient for this action.

III. BACKGROUND

13. On June 25, 2002, U.S. Patent No. 6,411,941 (“the ’941 patent”) entitled “Method Of Restricting Software Operation Within A License Limitation” was duly and legally issued. (See Exhibit A, U.S. Patent No. 6,411,941.) A reexamination certificate also issued to the ’941 patent on June 1, 2010 where the patentability of all claims was confirmed by the United States Patent Office. (Exhibit B, *Ex Parte* Reexamination Certificate Issued Under 35 U.S.C. § 307.)

14. The '941 patent has been involved in litigation against Microsoft Corporation, Dell Incorporated, Hewlett Packard Incorporated, and Toshiba America Information Systems. (*See* 2009-cv-00270, Western District of Washington.)

15. The '941 patent has also been involved in litigation against Apple Incorporated. (*See* 2015-cv-03659, Northern District of California.)

16. The '941 patent is currently involved in litigation against HTC America, Inc. and HTC Corporation. (*See* 2016-cv-01919, Western District of Washington.)

17. The '941 patent is currently involved in litigation against Samsung Electronics America, Inc. and Samsung Electronics Co., Ltd. (*See* 2019-cv-00385, Western District of Texas.)

18. The '941 patent is currently involved in litigation against LG Electronics USA, Inc. and LG Electronics, Inc. (*See* 2019-cv-00384, Western District of Texas.)

19. The '941 patent was involved in a Covered Business Method proceeding before the U.S. Patent and Trademark Office (*See* PTAB-CBM2017-00054). The U.S. Patent and Trademark Office denied institution of the petition filed by HTC and found the '941 patent recites a “technological improvement to problems arising in prior art software and hardware methods of restricting an unauthorized software program’s operation.” (*See* PTAB-CBM2017-00054, Paper No. 7 at pg. 9.)

20. The U.S. Court of Appeals for the Federal Circuit further issued an order on November 16, 2018 regarding the validity of the '941 patent. (*See* CAFC 18-1404, Dkt. # 39.) In this appeal, the U.S. Court of Appeals for the Federal Circuit held:

[T]he claimed invention moves a software-verification structure to a BIOS location not previously used for this computer-security purpose and alters how the function is performed (in that the BIOS memory used for verification now interacts with distinct computer memory to perform a software-verification function), yielding a tangible technological benefit (by making the claimed system less susceptible to hacking).

CAFC 18-1404, Dkt. # 39, pg. 13.

21. The U.S. Court of Appeals for the Federal Circuit further issued an order on March 3, 2014 regarding claim construction and invalidity of the '941 patent. (*See* CAFC 13-1378, Dkt. # 57.)

22. Ancora is the owner of all right, title and interest in the '941 patent.

IV. COUNT I – PATENT INFRINGEMENT

23. Ancora realleges the preceding paragraphs as though set forth fully herein.

24. Sony has infringed the '941 patent in violation of 35 U.S.C. § 271(a) by, prior to the expiration of the '941 patent, using, selling, and/or offering for sale in the United States, and/or importing into the United States, without authorization, products that are capable of performing at least Claim 1 of the '941 patent literally or under the doctrine of equivalents and/or, without authorization, causing products to perform each step of at least Claim 1 of the '941 patent.

25. Sony's products which infringe the '941 patent include, but are not limited to, the Xperia X, Xperia XZ, Xperia XA, Xperia XA1, Xperia XZ1, Xperia XZ2, Xperia E5, and Xperia XA Ultra ("Accused Products"). (*See e.g.*, [https://www.androidauthority.com/android-7-0-update-679175/.](https://www.androidauthority.com/android-7-0-update-679175/))

26. At a minimum, such Accused Products include servers/software utilized by Sony to transmit over-the-air ("OTA") software updates, as well as those smartphones and other devices and technology that received from Sony, or received at Sony's direction, an OTA update that cause the Accused Products to perform the method recited in Claim 1 prior to the expiration of the '941 patent. Sony also provides software that enables the Accused Products to connect to servers/software utilized by Sony to transmit software updates, as well as those smartphones and other devices and technology that received from Sony, or received at Sony's direction, that cause the Accused Products to perform the method recited in Claim 1 prior to the expiration of the '941 patent. (*See e.g.*, [https://support.sonymobile.com/gb/software/.](https://support.sonymobile.com/gb/software/))

27. Such Accused Products are configured by Sony such that they are capable of performing each step of Claim 1 of the '941 patent and to which Sony provided one or more OTA

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