

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

JOLED INC.,

Plaintiff,

v.

SAMSUNG ELECTRONICS  
AMERICA, INC., SAMSUNG  
DISPLAY CO., LTD., and SAMSUNG  
ELECTRONICS CO., LTD.

Defendants.

Civil Action No. 6:20-CV-00559-ADA

JURY TRIAL DEMANDED

**JOLED INC.'S PRELIMINARY INFRINGEMENT CONTENTIONS**

Pursuant to the Order Governing Proceedings for Patent Cases (“OGP version 3.2”), Plaintiff JOLED Inc. (“Plaintiff” or “JOLED”) hereby submits its preliminary infringement contentions against Defendants Samsung Electronics America, Inc. (“SEA”), Samsung Display Co., Ltd. (“SDC”), and Samsung Electronics Co., Ltd. (“SEC”) (collectively, “Defendants” or “Samsung”). JOLED reserves the right to add, delete, substitute, or otherwise amend these contentions based on discovery, the Court’s claim construction rulings, JOLED’s ongoing investigation, or other circumstances, or as new models are released, in a manner consistent with the Federal Rules of Civil Procedure, the Court’s Orders, including OGP version 3.2, and the Court’s rules, including the Local Court Rules for the Western District of Texas. JOLED reserves the right to modify and/or supplement these contentions with additional or different theories and/or additional or different evidence.

**I. DISCLOSURE OF ASSERTED CLAIMS AND PRELIMINARY INFRINGEMENT CONTENTIONS.**

**A. Asserted Patents and Claims.**

JOLED contends that Samsung infringes each of the following patents (“Asserted Patents”):

- U.S. Patent No. 9,728,130 B2 (“the ’130 Patent”), entitled “EL Display Apparatus”;
- U.S. Patent No. 9,922,597 B2 (“the ’597 Patent”), entitled “EL Display Apparatus”;
- U.S. Patent No. 9,997,108 B1 (“the ’108 Patent”), entitled “EL Display Apparatus”;
- U.S. Patent No. 10,134,336 B2 (“the ’336 Patent”), entitled “EL Display Apparatus”;
- U.S. Patent No. 10,198,992 B2 (“the ’992 Patent”), entitled “EL Display Apparatus.”

Based on JOLED’s investigation thus far, Samsung is liable under at least 35 U.S.C.

§ 271 (a) and (b) for infringement of at least the following claims (“Asserted Claims”):

| <b>Asserted Patent</b> | <b>Asserted Claims</b> |
|------------------------|------------------------|
| ’130 Patent            | 1-9, 11-13             |
| ’597 Patent            | 1, 4-14, 16-19         |
| ’108 Patent            | 1, 4-7, 9-20           |
| ’336 Patent            | 1-2, 5-12, 14-19       |
| ’992 Patent            | 1, 4-10, 13-15         |

Samsung was aware of each of the Asserted Patents and its infringement of the Asserted Patents by no later than May 15, 2020, the date upon when JOLED sent Samsung a letter attaching copies of each of the Asserted Patents and demanding that Samsung abate infringement

of each of the Asserted Patents by taking a license or otherwise. Despite being aware of the Asserted Patents, Samsung has continued, and is continuing, to use, sell, and offer to sell the accused products identified in Section I.B below (the “Accused Products”) within the United States, and to import the Accused Products into the United States, in each case without taking a license, and has provided, and continues to provide, instructions and support for the Accused Products to Samsung’s customers and end users in the United States, including with the knowledge or willful blindness that Samsung’s conduct will induce its customers and end users in the United States to infringe directly the Asserted Claims of each Asserted Patent. Samsung engages in activities that encourage its customers and end users in the United States to infringe the Asserted Patents, including providing instruction manuals that instruct users to operate the Accused Products in an infringing manner, as described in detail in the accompanying claim charts. Through such activities, Samsung intends that its customers and end users in the United States directly infringe the Asserted Claims, including each of the asserted method claims. Samsung has also directly infringed each of the asserted method claims through activities in the United States such as testing, retail displays/demonstrations, marketing, and other activities.

JOLED has yet to receive production or disclosure of certain documents or information, such as technical manuals or design specifications sufficient to show the operation of the Accused Products, that may affect the substance of JOLED’s disclosure of asserted claims. Accordingly, JOLED reserves the right to amend or otherwise modify its identification of asserted claims based upon JOLED’s review of the relevant documents and information to be produced by Samsung and JOLED’s continuing investigation.

The Defendants have stated in their answer that they lack knowledge or information sufficient to form a belief as to whether the Defendants had knowledge of the Asserted Patents

before the notice date of May 15, 2020. (Dkt. 16, ¶¶ 27, 67, 78, 110, and 130.) The Defendants have also asserted in their answer an affirmative defense that “JOLED’s claims for damages prior to the date of notice to Defendants are barred to the extent the requirements of 35 U.S.C. § 287 have not been met.” (Dkt. 16, p. 26, Seventh Defense.) The Court has not yet entered a Scheduling Order. When allowable under the Court’s Scheduling Order, JOLED intends to take discovery regarding (a) when each of the Defendants first had knowledge of each of the Asserted Patents, and (b) the Defendants’ affirmative defense based on 35 U.S.C. § 287. The results of such discovery will inform JOLED’s decision whether or not to drop certain apparatus claims from its infringement contentions and to assert instead only method claims as to which the requirements of 35 U.S.C. § 287 do not apply. JOLED therefore reserves its right to withdraw voluntarily one or more of the asserted apparatus claims set forth in these preliminary infringement contentions, on a patent-by-patent basis, after such discovery is complete and without prejudice to JOLED’s ability to seek past damages prior to notice with respect to the remaining asserted method claims. *See, e.g., CliniComp Int’l, Inc. v. athenahealth, Inc.*, No. A-18-CV-00425-LY, 2020 WL 5745914, at \*4 (W.D. Tex. Aug. 12, 2020).

**B. Accused Products.**

JOLED identifies all Samsung smartphones with OLED displays used, sold, or offered for sale within the United States, or imported in the United States, on or after August 8, 2017, as the “Accused Products.”

Based on JOLED’s investigation thus far, the Accused Products include all Samsung smartphones that (i) include OLED displays, and (ii) were or will be used, sold, or offered for sale within the United States and/or imported into the United States by Samsung or any other entity. For the ’130 Patent, JOLED accuses Samsung smartphones with OLED displays that were or will be used, sold, or offered for sale within the United States and/or imported into the

United States on or after August 8, 2017. For the '597 Patent, JOLED accuses Samsung smartphones with OLED displays that were or will be used, sold, or offered for sale within the United States and/or imported into the United States on or after March 20, 2018. For the '108 Patent, JOLED accuses Samsung smartphones with OLED displays that were or will be used, sold, or offered for sale within the United States and/or imported into the United States on or after June 12, 2018. For the '336 Patent, JOLED accuses Samsung smartphones with OLED displays that were or will be used, sold, or offered for sale within the United States and/or imported into the United States on or after November 20, 2018. For the '992 Patent, JOLED accuses Samsung smartphones with OLED displays that were or will be used, sold, or offered for sale within the United States and/or imported into the United States on or after February 5, 2019.

JOLED accuses Samsung smartphones with OLED displays that were or will be used, sold, or offered for sale within the United States and/or imported into the United States within at least the following categories as Accused Products: Samsung Galaxy S products, Samsung Galaxy Note products, Samsung Galaxy A products, Samsung Galaxy J products, Samsung Galaxy Fold/Flip products, and Other Samsung Galaxy Products. JOLED has also made reasonable efforts to determine the specific model names of Samsung products that satisfy the above criteria. Based on JOLED's investigation thus far, the Accused Products include but are not limited to the following<sup>1</sup>:

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<sup>1</sup> JOLED accuses all versions of the listed products regardless of any options such as carrier, storage capacity, color, 4G capability, 5G capability, UW (Ultra Wideband) capability, release year, etc. JOLED has endeavored to identify all model names for each Accused Product, including where a separate "4G," "5G," "UW," release year, or other version of a model has been used, sold, offered for sale, or imported, but accuses any and all such versions of each Accused Product regardless of whether a "4G," "5G," "UW," release year, or other version is expressly identified in the list of Accused Products.

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