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January 30, 2013

Jonathan E. Nelson
Bass, Berry Sims PLC
100 Peabody Place, Suite 900
Memphis, TN 38103

Re: *B.E. Technology, Inc. v. Samsung*,
USDC WD TN Case Nos. 12-cv-2824 JPM, 12-cv-2825 JPM

Dear Jonathan:

I write in response to your letter dated January 18, 2013 regarding B.E. Technology, Inc.'s ("B.E."), Initial Infringement Contentions against Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC (together, "Samsung"). In sum, we disagree with your assertion that B.E.'s Initial Infringement Contentions fail to satisfy the requirements of Local Patent Rule 3.1.

Samsung asserts that B.E.'s infringement claim charts fail to identify specifically where each limitation of each asserted claim is found within each accused Samsung product. In particular, Samsung asserts that B.E.'s infringement claim charts fail to explain where claim elements (a), (c) and (d) of claim 2 of the '290 patent are found the Samsung Acclaim product. We disagree. As explained below, our infringement contentions are sufficiently detailed.

With respect to claim element (a), the vast majority of B.E.'s infringement claim charts identify the internal memory, flash memory, hard drive, internal SD card, or ROM of the accused Samsung products as the "non-volatile data storage device." For the accused Samsung Acclaim product, B.E. only included screenshots in its claim chart because Samsung's website does not provide any information regarding the type of memory used in the Samsung Acclaim product. Nonetheless, the screenshots show that the Samsung Acclaim product has the Google Play (Android Market), YouTube, Samsung Apps, Media Hub or Music Hub program. Inherently, if these programs are found in the Samsung Acclaim product, the Samsung Acclaim product must have an internal memory to store these programs, flash memory, hard drive, internal SD card or ROM.

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Contrary to your assertion, the screenshots with respect to claim element (c) specifically show that each accused Samsung product has "a number of user-selectable items displayed in [the graphical user interface]," "a link to an information resource accessible via the network," and a program "operable upon execution and in response to selection by a user of one of said items to access the associated information resource over the network." For example, the screenshots for the Google Play program shows that there are a number of user-selectable items such as books, apps, magazines, music, and videos with associated links, which when selected by a user, allows the user to access the associated information resource over a network. B.E.'s infringement claim charts also specifically identify how the programs access the associated information resource over a network, such as by using Wi-Fi, cellular, or Ethernet connection.

Similarly, with respect to claim element (d), the screenshots in B.E.'s infringement claim charts specifically show that the programs are operable "to display a user-selectable item for user links contained within the user profile" and "in response to selection by a user of one of the user links to access the file associated with the selected user link from the user library associated with the received user profile." Using the Samsung Acclaim product as an example, B.E.'s infringement claim chart explains that "[t]he Google Play, YouTube, Android Market, Samsung Apps, Media Hub or Music Hub is operable upon execution to receive from server one of the user profiles (e.g., Google Account or Samsung Account user profile) and to display a user-selectable item for user links contained within the user profile." The screenshots support this explanation by specifically showing the user profiles displayed in each of the programs along with user-selectable items for user links contained within the user profiles. B.E.'s infringement claim chart for the Samsung Acclaim product further explains that "[t]he Google Play, YouTube, Android Market, Samsung Apps, Media Hub or Music Hub is operable in response to selection by a user of one of the user links to access the file (e.g., apps, books, magazines, music files, TV shows, movies, games, etc.) associated with the selected user link from the user library associated with the received user profile." The screenshots support this explanation by specifically showing that a user may access a file, such as app, book, magazine, music, TV, movie or game, associated with the selected user link from his or her user library. The information provided in B.E.'s infringement claim charts more than satisfies the requirements of Local Patent Rule 3.1.

Samsung further objects to B.E.'s assertion of infringement under the doctrine of equivalents. Samsung argues that B.E. must provide an explanation as to what feature(s) of each accused Samsung product constitutes an equivalent. Local Patent Rule 3.1(e), however, only requires B.E. to state "[w]hether each limitation of each asserted claim is alleged to be literally present or present under the doctrine of equivalents in the Accused Instrumentality." B.E. did so in its infringement contentions and the associated claim charts, and no further explanation is necessary under the Local Patent Rules. At the

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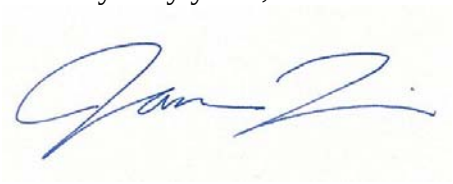
present time, we believe that all claim limitations are literally met. However, the parties have not exchanged claim constructions, and the Court has not construed the claims. After the conclusion of the claim construction proceeding, in accordance with the local patent rules, B.E. will provide its detailed positions regarding Samsung's infringement under the doctrine of equivalents to the extent the claim construction makes that necessary.

Finally, Samsung asserts that its Galaxy Ace, Galaxy Fit, Galaxy Gio, Galaxy Mini, Galaxy Pocket Duos, Galaxy Pocket and Galaxy S Advance products are not sold in the United States and thus cannot infringe the '290 patent. Publicly available information, including Samsung's website, indicates that Samsung imports, offers for sale, and sells these products in the United States. Obviously, BE is not seeking to recover damages for sales of products outside the United States. But it is reasonable for BE to rely on the representations that Samsung makes about its products on its website, particularly since no discovery has yet occurred. Once discovery identifies the products that are not sold in the United States, B.E. will no longer pursue an infringement claim against those products. At the present time, however, we have seen nothing that warrants amending the infringement contentions to eliminate products.

In conclusion, there is no reason for B.E. to supplement its infringement contentions or an extension of time for Samsung to comply with the requirements of Local Patent Rules 3.3 and 3.4. Nonetheless, B.E. is agreeable to a two-week extension for Samsung to comply with Local Patent Rules 3.3 and 3.4 as previously offered.

Very truly yours,



James Lin