
EXHIBIT D

PAUL HASTINGS

1(858) 458-3052
jeffreycomeau@paulhastings.com

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VIA E-MAIL

Ari Rafilson
Shore Chan DePumpo LLP
Bank of America Plaza
901 Main Street, Suite 3300
Dallas, Texas 75202
arafilson@shorechan.com

Re: *CyWee Group Ltd. v. Samsung Electronics Co., Ltd. et al.*, No. 2:17-cv-00140-RWS-RSP (E.D. Tex.): Infringement Contention Deficiencies

Dear Ari:

We write regarding deficiencies in CyWee's P.R. 3-1 Infringement Contentions. This letter is not intended to be an exhaustive list of the deficiencies in CyWee's contentions, but rather raises only certain points that are obvious upon our initial review.

I. CyWee cannot accuse products not specifically identified in its contentions

CyWee's contentions do not comply with P.R. 3-1(b), which requires a plaintiff to identify every accused instrumentality as specifically as possible. In contravention of this rule, while CyWee's contentions identify a limited number of accused products by name, the contentions also appear to broadly accuse any Samsung phone and/or tablet running any version of Android OS and also including certain sensor components.

This is improper. CyWee cannot rely on generic "functionality" language to sweep in additional products that are not identified specifically in its contentions. *See, e.g., Tivo Inc. v. Samsung Elecs. Co.*, No. 2:15-cv-1503-JRG, 2016 U.S. Dist. LEXIS 96299, at *10–11 (E.D. Tex. July 22, 2016).

Please confirm by August 23rd that CyWee is not accusing any Samsung product apart from those specifically identified by name in CyWee's contentions.

II. CyWee has failed to provide a claim chart for each Accused Instrumentality

P.R. 3-1(c) requires that CyWee provide: "[a] chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality[.]" CyWee's contentions accuse the Samsung Galaxy Note 7 of infringing both the '438 and '978 Patents. However,

PAUL
HASTINGS

August 18, 2017
Page 2

CyWee has not provided any claim charts mapping the asserted claims of the '438 and '978 Patents against that product.

Please confirm by August 23rd that CyWee will withdraw its infringement allegations against the Samsung Galaxy Note 7.

III. CyWee has failed to adequately allege infringement under the doctrine of equivalents

CyWee's contentions also do not comply with P.R. 3-1(e), which requires a plaintiff to identify: "[w]hether each element of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the Accused Instrumentality[.]" In contrast, CyWee's contentions merely provide a blanket statement that "CyWee contends that each asserted claim is literally infringed" but "[i]n the alternative, CyWee contends that any asserted claim not found to be literally infringed is infringed under the doctrine of equivalents." CyWee's boilerplate attempt to preserve a DOE argument is improper. See, e.g., *Eolas Techs. Inc. v. Amazon.com, Inc.*, No. 6:15-cv-01038, 2016 U.S. Dist. LEXIS 181948, at *12 (E.D. Tex. Dec. 5, 2016).

Please confirm by August 23rd that CyWee will withdraw its DOE allegations.

If CyWee does not agree to withdraw the allegations detailed above, we reserve the right to move to strike CyWee's contentions in whole or in part.

Very truly yours,



Jeffrey D. Comeau
for PAUL HASTINGS LLP