IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

GESTURE TECHNOLOGY PARTNERS, LLC, Plaintiff v. HUAWEI DEVICE CO., LTD., AND HUAWEI DEVICE USA, INC., Defendants.	**JURY TRIAL DEMANDED** C.A. NO. 2:21-cv-00040-JRG LEAD CONSOLIDATED CASE
SAMSUNG ELECTRONICS CO., LTD. AND SAMSUNG ELECTRONICS AMERICA, INC., Defendants.	C.A. NO. 2:21-cv-00041-JRG

[PROPOSED] JOINT PRETRIAL ORDER

The Pretrial Conference is scheduled for January 31, 2022 at 9:00 a.m. in Marshall, Texas. Pursuant to the Sixth Amended Docket Control Order (Dkt. 155), Local Rule CV-16(b), and Rule 16 of the Federal Rules of Civil Procedure, Gesture Technology Partners, LLC ("GTP") and Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.'s (collectively, "Samsung") submit this Joint Pretrial Order. Subject to the other rulings made at the Pretrial Conference, the Court enters this Order.

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B. STATEMENT OF JURISDICTION

This Court has subject matter jurisdiction of the action under Title 28, U.S.C. §§ 1331, 1338(a), because this action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.* Subject matter jurisdiction, personal jurisdiction, and venue under 28 U.S.C. §§ 1391(b) and

1400(b) are not disputed in this case with respect to GTP's claims of infringement or Samsung's defenses thereto.

C. NATURE OF ACTION

This is a case of alleged patent infringement. The case involves four United States Patents that have been asserted by GTP against Samsung: U.S. Patent No. 7,933,431 ("'431 Patent"), 8,194,924 ("'924 Patent"), 8,553,079 ("'079 Patent"), and 8,878,949 ("'949 Patent") (collectively, "Patents-in-Suit"). GTP alleges that Samsung has directly infringed Claims 1, 2, 3, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28 and 30 of the '431 Patent; Claims 1, 2, 3, 4, 5, 6, 7, 10, 12 and 14 of the '924 Patent; Claims 1, 2, 3, 4, 5, 6, 7, 9, 11, 14, 15, 19, 21, 22, 23, 24, 25 and 30 the '079 Patent; and Claims 13, 14, 16 and 18 of the '949 Patent (the "Asserted Claims").

GTP alleges that Samsung infringed the Asserted Patents through their use of the following applications and/or features in conjunction with the associated hardware on Samsung's cellular phones and tablets: Air Gestures, Palm Solutions, Iris Scan Unlock, Face ID Unlock, AR Emojis, and Smart Stay (the "Accused Features[1]").GTP alleges that Samsung made, used, sold, or imported the following cellular phones and tablets to infringe the Asserted Patents: Galaxy S5, Galaxy S6, Galaxy S6 Edge, Galaxy Note 5, Galaxy S6 Active, Galaxy Tab A 8.0 (2015), Galaxy S7, Galaxy S7 Edge, Galaxy S7 Active, Galaxy Note 7, Galaxy Tab A 10.1 (2016), Galaxy S8, Galaxy S8+, Galaxy S8 Active, Galaxy Tab S3, Galaxy Tab A 8.0 (2017), Galaxy Tab Active, Galaxy S9,

[1] GTP objects to the use of the defined term "Accused Features." GTP's infringement theories from the outset of this litigation revolve around hardware. Samsung's proposal interjects its noninfringement and/or invalidity theories into the jury instruction. GTP has not labeled anything in its infringement contentions as "Accused Features." As GTP has previously made clear, including in response to Samsung's Motion to dismiss, the term to "Accused Features" is not a defined term in the complaint. *See* Dkt. No. 1. In every other instance when referencing Samsung features, GTP uses the defined term "Features." *See* Dkt. No. 1 at ¶¶ 26, 41, 56, and 71.

Galaxy S9+, Galaxy Tab S4, Galaxy Tab A 10.5, Galaxy Note 9, Galaxy Tab A 8.0 (2019), Galaxy Tab A Kids 8.0 (2019), Galaxy Tab A 10.1 (2019), Galaxy S10, Galaxy S10+, Galaxy S10e, Galaxy S10 5G, Galaxy (Z) Fold, Galaxy Tab S5e, and Galaxy S6 Edge+ (the "Accused Products"). GTP seeks monetary damages that are adequate to compensate it for Samsung's alleged infringement, but in no event less than a reasonable royalty. GTP also seeks prejudgment and post-judgment interests and costs pursuant to 35 U.S.C. § 284, and attorney fees pursuant to 35 U.S.C. § 285.

Samsung denies that it has infringed any of the Asserted Claims. Samsung further contends that the Asserted Claims are invalid under 35 U.S.C. §§ 101, 102, 103, 112, 264[2] and/or 282, and also under the doctrine of double patenting. Samsung denies that GTP is entitled to any monetary relief whatsoever.

D. CONTENTIONS OF THE PARTIES

a. GTP Statement of Contentions

By providing these contentions, GTP does not concede that all of these issues are appropriate for trial. In addition, GTP does not waive any of its motions *in limine*.

1. GTP contends that Samsung infringed the Asserted Claims, under 35 U.S.C. § 271, literally, by implementing the Accused Features on the Accused Products without authority or license from GTP.

2. GTP is the owner of all rights, title and interest in and to the Asserted Patents and possesses all rights of recovery under the Asserted Patents.

[2] Reference to 35 U.S.C. § 264 for improper inventorship is meant to encompass pre-AIA 35 U.S.C. § 112(f).

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