

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

ACORN SEMI, LLC,

Plaintiff,

v.

**SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR,
INC., and SAMSUNG AUSTIN
SEMICONDUCTOR, LLC,**

Defendants.

Civil No. 2:19-cv-000347

JURY TRIAL DEMANDED

**SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS
AMERICA, INC., SAMSUNG SEMICONDUCTOR, INC., AND
SAMSUNG AUSTIN SEMICONDUCTOR, LLC
ANSWER AND AFFIRMATIVE DEFENSES**

Defendants Samsung Electronics Co., Ltd. (“SEC”), Samsung Electronics America, Inc. (“SEA”), Samsung Semiconductor, Inc. (“SSI”) and Samsung Austin Semiconductor, LLC (“SAS”) (collectively referred to herein as “Samsung” or “Defendants”) answer Plaintiff Acorn Semi, LLC’s (“Plaintiff” or “Acorn”) Complaint for Patent Infringement (“Complaint”; D.I. 1) as follows. Except as expressly admitted, Samsung denies each and every allegation in Plaintiff’s Complaint. Samsung’s specific responses to the numbered allegations are set forth below.

NATURE OF THE ACTION

1. Samsung admits that Plaintiff's pleading purports to be a complaint for patent infringement, but denies Samsung has infringed any valid and enforceable patent claim or that Plaintiff is entitled to any relief.

2. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Complaint, and therefore denies them.

3. Samsung denies that the allegations in paragraph 3 of the Complaint are complete or accurate, and on that basis denies them.

4. Samsung denies that the allegations in paragraph 4 of the Complaint are complete or accurate, and on that basis denies them.

5. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the Complaint, and therefore denies them. Samsung denies that the allegations in paragraph 5 of the Complaint are complete or accurate, and on that basis denies them.

6. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Complaint, and therefore denies them.

7. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 of the Complaint, and therefore denies them.

8. Samsung admits that the face of the patents attached to the Complaint as Exhibits 1-6 purport to list Daniel E. Grupp and Daniel J. Connelly as inventors. Except as expressly admitted, Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 of the Complaint, and therefore denies them.

9. Samsung admits that what appears to be a copy of United States Patent No. 7,084,423 (the “423 patent”) is attached to the Complaint as Exhibit 1. Samsung admits that the title of Exhibit 1 states “*Method for Depinning the Fermi Level of a Semiconductor at an Electrical Junction and Devices Incorporating Such Junctions.*” Samsung admits that the face of the patent attached to the Complaint as Exhibit 1 purports to list Daniel E. Grupp and Daniel J. Connelly as inventors. Samsung lacks the knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 9 of the Complaint and on that basis denies them.

10. Samsung admits that what appears to be a copy of United States Patent No. 8,766,336 (the “336 patent”) is attached to the Complaint as Exhibit 2. Samsung admits that the title of Exhibit 2 states “*Method for Depinning the Fermi Level of a Semiconductor at an Electrical Junction and Devices Incorporating Such Junctions.*” Samsung admits that the face of the patent attached to the Complaint as Exhibit 2 purports to list Daniel E. Grupp and Daniel J. Connelly as inventors. Samsung lacks the knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 10 of the Complaint and on that basis denies them.

11. Samsung admits that what appears to be a copy of United States Patent No. 9,209,261 (the “261 patent”) is attached to the Complaint as Exhibit 3. Samsung admits that the title of Exhibit 3 states “*Method for Depinning the Fermi Level of a Semiconductor at an Electrical Junction and Devices Incorporating Such Junctions.*” Samsung admits that the face of the patent attached to the Complaint as Exhibit 3 purports to list Daniel E. Grupp and Daniel J. Connelly as inventors. Samsung lacks the knowledge or information sufficient to form a belief

as to the truth of the remaining allegations of paragraph 11 of the Complaint and on that basis denies them.

12. Samsung admits that what appears to be a copy of United States Patent No. 9,461,167 (the “‘167 patent”) is attached to the Complaint as Exhibit 4. Samsung admits that the title of Exhibit 4 states “*Method for Depinning the Fermi Level of a Semiconductor at an Electrical Junction and Devices Incorporating Such Junctions.*” Samsung admits that the face of the patent attached to the Complaint as Exhibit 4 purports to list Daniel E. Grupp and Daniel J. Connelly as inventors. Samsung lacks the knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 12 of the Complaint and on that basis denies them.

13. Samsung admits that what appears to be a copy of United States Patent No. 9,905,691 (the “‘691 patent”) is attached to the Complaint as Exhibit 5. Samsung admits that the title of Exhibit 5 states “*Method for Depinning the Fermi Level of a Semiconductor at an Electrical Junction and Devices Incorporating Such Junctions.*” Samsung admits that the face of the patent attached to the Complaint as Exhibit 5 purports to list Daniel E. Grupp and Daniel J. Connelly as inventors. Samsung lacks the knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 13 of the Complaint and on that basis denies them.

14. Samsung admits that what appears to be a copy of United States Patent No. 10,090,395 (the “‘395 patent”) is attached to the Complaint as Exhibit 6. Samsung admits that the title of Exhibit 6 states “*Method for Depinning the Fermi Level of a Semiconductor at an Electrical Junction and Devices Incorporating Such Junctions.*” Samsung admits that the face of the patent attached to the Complaint as Exhibit 6 purports to list Daniel E. Grupp and Daniel J.

Connelly as inventors. Samsung lacks the knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 14 of the Complaint and on that basis denies them.

15. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 of the Complaint, and therefore denies them.

16. Samsung denies the allegations in paragraph 16 of the Complaint.

17. The allegations in paragraph 17 of the Complaint constitute conclusions of law to which no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations. Samsung specifically denies that it is in any way liable or indebted to Plaintiff under these or any other claims.

THE PARTIES

18. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 of the Complaint, and therefore denies them.

19. SEC admits that it is a Korean corporation and that SEC's headquarters are located at 129, Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, Korea. SEC denies the remaining allegations of paragraph 19 of the Complaint.

20. SEA admits that it is a New York corporation, that SEA's principal place of business is located at 85 Challenger Road, Ridgefield Park, New Jersey 07660, that it has an office located at 6625 Excellence Way, Plano, Texas 75023, and that it has a registered agent for service of process named CT Corporation System that has an address listed in Texas as 1999 Bryan St., Ste. 900, Dallas, TX 75201. SEA denies the remaining allegations of paragraph 20 of the Complaint.

21. SSI admits that it is a California corporation, that SSI's principal place of business is located at 3655 North First Street, San Jose, CA 95134, and that it has a registered agent for service of process named National Registered Agents that has an address listed in Texas as 1999 Bryan St., Ste. 900, Dallas, TX 75201. SSI denies the remaining allegations of paragraph 21 of the Complaint.

22. SAS admits that it is a Delaware company, that SAS's principal place of business is located at 12100 Samsung Boulevard, Austin, TX 78754, and that it has a registered agent for service of process named CT Corporation System that has an address listed in Texas as 1999 Bryan St., Ste. 900, Dallas, TX 75201. SAS denies the remaining allegations of paragraph 22 of the Complaint.

23. SAS admits that it is a wholly-owned subsidiary of SSI. SSI admits that it is a wholly-owned subsidiary of SEA. SEA admits that it is a wholly-owned subsidiary of SEC.

24. SEA, SSI and SAS admit that they have offered to sell products to actual or potential customers located in the Eastern District of Texas. Except as expressly admitted, Samsung denies the allegations of paragraph 24 of the Complaint.

JURISDICTION AND VENUE

25. Samsung admits that this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338(a), and that the Complaint purports to allege an action arising under the patent laws of the United States. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims.

26. Samsung does not contest, solely for the purpose of the present litigation, whether personal jurisdiction over it properly lies in this District. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The remaining allegations in

paragraph 26 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

27. Samsung does not contest, solely for the purpose of the present litigation, whether personal jurisdiction over it properly lies in this District. Samsung admits that SEA has offices located in the Eastern District of Texas. Samsung denies that it makes, uses, sells, offers for sale, imports, advertises, makes available, and/or markets any products that infringe the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The remaining allegations in paragraph 27 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

28. Samsung does not contest, solely for the purpose of the present litigation, whether personal jurisdiction over it properly lies in this District. Samsung denies that has infringed or caused infringement of any of the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. Samsung admits that SEA has an office located in the Eastern District of Texas, in Plano, Texas, and that it has hired employees located in the State of Texas. SAS and SSI admit that they have offices located in the State of Texas, and that they have hired employees located in the State of Texas. The remaining allegations in paragraph 28 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations

29. Samsung does not contest at this time, and solely for the purpose of the present litigation, whether venue over it properly lies in this District, but SEC, SSI and SAS deny that venue in this District is convenient and SEC, SSI and SAS reserve the right to seek transfer to a more appropriate or convenient forum. Samsung denies that it makes, uses, sells, and/or offers

to sell any products that infringe the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The remaining allegations in paragraph 29 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

30. SEC does not contest at this time, and solely for the purpose of the present litigation, whether venue over it properly lies in this District, but SEC denies that venue in this District is convenient and SEC reserves the right to seek transfer to a more appropriate or convenient forum. SEC denies that it makes, uses, sells, offers to sell and/or imports any products that infringe the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The remaining allegations in paragraph 30 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

31. SEA does not contest at this time, and solely for the purpose of the present litigation, whether venue over it properly lies in this District. SEA admits that it has an office located in the Eastern District of Texas, in Plano, Texas. SEA denies that it makes, uses, sells, offers to sell, and/or promotes any products that infringe the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The remaining allegations in paragraph 31 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

32. SEA does not contest at this time, and solely for the purpose of the present litigation, whether venue over it properly lies in this District. SEA admits that it has registered with the Texas Secretary of State's office to do business in the State of Texas and that it has appointed a registered agent for service. SEA denies that it makes, uses, sells, offers to sell

and/or imports any products that infringe the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The remaining allegations in paragraph 32 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

33. Samsung admits that SEC, SEA, SSI and SAS have filed Answers to patent infringement complaints in this District that did not contest that venue was proper.

34. The allegations in paragraph 34 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

35. The allegations in paragraph 35 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

36. The allegations in paragraph 36 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

Samsung denies that it makes, uses, sells, offers to sell, and/or imports any products that infringe the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims.

37. The allegations in paragraph 37 constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations.

FACTUAL ALLEGATIONS

I. Acorn Technologies and the Inventors

38. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 38 of the Complaint, and therefore denies them.

39. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39 of the Complaint, and therefore denies them.

II. Background for the Inventions

40. Samsung denies that the allegations in paragraph 40 of the Complaint relating to general semiconductor technology are complete or accurate, and on that basis denies them.

41. Samsung denies that the allegations in paragraph 41 of the Complaint relating to general semiconductor technology are complete or accurate, and on that basis denies them.

42. Samsung denies that the allegations in paragraph 42 of the Complaint relating to general semiconductor technology, including the characterizations of research by Walter H. Schottky, are complete or accurate, and on that basis denies them.

43. Samsung denies that the allegations in paragraph 43 of the Complaint relating to general semiconductor technology, including the characterizations of research by Walter H. Schottky, are complete or accurate, and on that basis denies them.

44. Samsung denies that the allegations in paragraph 44 of the Complaint purporting to describe the asserted patents are complete or accurate, and on that basis denies them.

III. Acorn's Alleged Innovations

45. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45 of the Complaint, and therefore denies them. Samsung denies that the allegations in paragraph 45 of the Complaint relating to general semiconductor technology are complete or accurate, and on that basis denies them.

46. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46 of the Complaint, and therefore denies them.

47. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47 of the Complaint, and therefore denies them.

48. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48 of the Complaint, and therefore denies them. Samsung denies that the allegations in paragraph 48 of the Complaint relating to general semiconductor technology, including the allegations purporting to describe the asserted patents, are complete or accurate, and on that basis denies them.

49. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 49 of the Complaint, and therefore denies them.

50. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50 of the Complaint, and therefore denies them.

51. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 51 of the Complaint, and therefore denies them.

IV. Acorn Patents its Intellectual Property

52. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 52 of the Complaint, and therefore denies them.

V. Samsung's Alleged Infringement of the Acorn Patents

53. SEC and SAS admit that they have manufactured Samsung Exynos branded processors having transistors made in accordance with Samsung's 14nm FinFET process technology. Samsung denies that it makes, uses, sells, offers to sell, and/or imports any products that infringe the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims.

54. SEC and SAS admit that they have manufactured Samsung Exynos branded processors having transistors made in accordance with Samsung's 14nm FinFET process technology. Samsung denies that it makes, uses, sells, offers to sell, and/or imports any products

that infringe the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims.

55. SEC and SAS admit that they have manufactured Samsung Exynos branded processors having transistors made in accordance with Samsung's 14nm FinFET process technology. Samsung denies that it makes, uses, sells, offers to sell, and/or imports any products that infringe the asserted patents. Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims.

56. Samsung denies the allegations in paragraph 56 of the Complaint.

57. Samsung denies the allegations in paragraph 57 of the Complaint.

COUNT I

(Alleged Infringement of the '423 Patent)

58. Samsung incorporates by reference its responses to paragraphs 1-57 of the Complaint.

59. Samsung denies the allegations in paragraph 59 of the Complaint.

60. Samsung denies the allegations in paragraph 60 of the Complaint.

61. Samsung denies the allegations in paragraph 61 of the Complaint.

62. Samsung denies the allegations in paragraph 62 of the Complaint.

63. Samsung denies that it infringes any asserted claim of the asserted patents.

Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The allegations in paragraph 63 appear to constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations. To the extent the allegations in paragraph 63 purport to describe Samsung 14nm FinFET

technology, Samsung denies that the allegations in paragraph 63 are complete or accurate, and on that basis denies them.

64. Samsung denies the allegations in paragraph 64 of the Complaint.

65. Samsung denies the allegations in paragraph 65 of the Complaint.

66. Samsung denies the allegations in paragraph 66 of the Complaint.

67. Samsung denies the allegations in paragraph 67 of the Complaint.

COUNT II

(Alleged Infringement of the '336 Patent)

68. Samsung incorporates by reference its responses to paragraphs 1-67 of the Complaint.

69. Samsung denies the allegations in paragraph 69 of the Complaint.

70. Samsung denies the allegations in paragraph 70 of the Complaint.

71. Samsung denies the allegations in paragraph 71 of the Complaint.

72. Samsung denies the allegations in paragraph 72 of the Complaint.

73. Samsung denies that it infringes any asserted claim of the asserted patents.

Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The allegations in paragraph 73 appear to constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations. To the extent the allegations in paragraph 73 purport to describe Samsung 14nm FinFET technology, Samsung denies that the allegations in paragraph 73 are complete or accurate, and on that basis denies them.

74. Samsung denies the allegations in paragraph 74 of the Complaint.

75. Samsung denies the allegations in paragraph 75 of the Complaint.

76. Samsung denies the allegations in paragraph 76 of the Complaint.

77. Samsung denies the allegations in paragraph 77 of the Complaint.

COUNT III

(Alleged Infringement of the '261 Patent)

78. Samsung incorporates by reference its responses to paragraphs 1-77 of the Complaint.

79. Samsung denies the allegations in paragraph 79 of the Complaint.

80. Samsung denies the allegations in paragraph 80 of the Complaint.

81. Samsung denies the allegations in paragraph 81 of the Complaint.

82. Samsung denies the allegations in paragraph 82 of the Complaint.

83. Samsung denies that it infringes any asserted claim of the asserted patents.

Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The allegations in paragraph 83 appear to constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations. To the extent the allegations in paragraph 83 purport to describe Samsung 14nm FinFET technology, Samsung denies that the allegations in paragraph 83 are complete or accurate, and on that basis denies them.

84. Samsung denies the allegations in paragraph 84 of the Complaint.

85. Samsung denies the allegations in paragraph 85 of the Complaint.

86. Samsung denies the allegations in paragraph 86 of the Complaint.

87. Samsung denies the allegations in paragraph 87 of the Complaint

COUNT IV

(Alleged Infringement of the '167 Patent)

88. Samsung incorporates by reference its responses to paragraphs 1-87 of the Complaint.

89. Samsung denies the allegations in paragraph 89 of the Complaint.

90. Samsung denies the allegations in paragraph 90 of the Complaint.

91. Samsung denies the allegations in paragraph 91 of the Complaint.

92. Samsung denies the allegations in paragraph 92 of the Complaint.

93. Samsung denies that it infringes any asserted claim of the asserted patents.

Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The allegations in paragraph 93 appear to constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations. To the extent the allegations in paragraph 93 purport to describe Samsung 14nm FinFET technology, Samsung denies that the allegations in paragraph 93 are complete or accurate, and on that basis denies them.

94. Samsung denies the allegations in paragraph 94 of the Complaint.

95. Samsung denies the allegations in paragraph 95 of the Complaint.

96. Samsung denies the allegations in paragraph 96 of the Complaint.

97. Samsung denies the allegations in paragraph 97 of the Complaint.

COUNT V

(Alleged Infringement of the '691 Patent)

98. Samsung incorporates by reference its responses to paragraphs 1-97 of the Complaint.

99. Samsung denies the allegations in paragraph 99 of the Complaint.

100. Samsung denies the allegations in paragraph 100 of the Complaint.

101. Samsung denies the allegations in paragraph 101 of the Complaint.

102. Samsung denies the allegations in paragraph 102 of the Complaint.

103. Samsung denies that it infringes any asserted claim of the asserted patents.

Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other claims. The allegations in paragraph 103 appear to constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations. To the extent the allegations in paragraph 103 purport to describe Samsung 14nm FinFET technology, Samsung denies that the allegations in paragraph 103 are complete or accurate, and on that basis denies them.

104. Samsung denies the allegations in paragraph 104 of the Complaint.

105. Samsung denies the allegations in paragraph 105 of the Complaint.

106. Samsung denies the allegations in paragraph 106 of the Complaint.

107. Samsung denies the allegations in paragraph 107 of the Complaint.

COUNT VI

(Alleged Infringement of the '395 Patent)

108. Samsung incorporates by reference its responses to paragraphs 1-107 of the Complaint.

109. Samsung denies the allegations in paragraph 109 of the Complaint.

110. Samsung denies the allegations in paragraph 110 of the Complaint.

111. Samsung denies the allegations in paragraph 111 of the Complaint.

112. Samsung denies the allegations in paragraph 112 of the Complaint.

113. Samsung denies that it infringes any asserted claim of the asserted patents.

Samsung denies that it is in any way liable or indebted to Plaintiff under these or any other

claims. The allegations in paragraph 113 appear to constitute conclusions of law and no response of Samsung is required; to the extent an answer is required, Samsung denies the allegations. To the extent the allegations in paragraph 113 purport to describe Samsung 14nm FinFET technology, Samsung denies that the allegations in paragraph 113 are complete or accurate, and on that basis denies them.

114. Samsung denies the allegations in paragraph 114 of the Complaint.

115. Samsung denies the allegations in paragraph 115 of the Complaint.

116. Samsung denies the allegations in paragraph 116 of the Complaint.

117. Samsung denies the allegations in paragraph 117 of the Complaint.

AFFIRMATIVE DEFENSES

Subject to the responses above, Samsung alleges and asserts the following defenses in response to the allegations in Plaintiff's Complaint, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. In addition to the affirmative defenses described below, subject to its responses above, Samsung specifically reserves all rights to allege additional affirmative defenses that become known through the course of discovery.

FIRST AFFIRMATIVE DEFENSE (Failure to State a Claim)

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE (No Infringement)

Samsung does not infringe any valid and enforceable claim of any asserted patent in any manner under 35 U.S.C. § 271(a), (b), (c), and/or (f), literally or under the doctrine of

equivalents, directly or indirectly, willfully or otherwise. Samsung has not performed any act and is not proposing to perform any act in violation of any rights validly belonging to Plaintiff.

THIRD AFFIRMATIVE DEFENSE
(Invalidity)

The asserted claims of the asserted patents are invalid for failure to satisfy the requirements of 35 U.S.C. § 100, *et seq.*, including, but not limited to, one or more of the following: 35 U.S.C. §§ 101, 102, 103 and/or 112.

FOURTH AFFIRMATIVE DEFENSE
(Limitation on Damages)

Plaintiff's claims for damages are statutorily limited under 35 U.S.C. §§ 286 and 287.

FIFTH AFFIRMATIVE DEFENSE
(Prosecution History Estoppel and Disclaimer)

Plaintiff's claims are barred in whole or in part by the doctrines of prosecution history estoppel and/or prosecution disclaimer.

SIXTH AFFIRMATIVE DEFENSE
(Ensnarement)

Plaintiff's claims are barred or limited in whole or in part by the doctrine of ensnarement.

RESERVATION OF AFFIRMATIVE DEFENSES

Samsung hereby reserves the right to supplement its affirmative defenses as discovery proceeds in this case.

PRAYER FOR RELIEF

WHEREFORE, Samsung requests that:

1. Plaintiff takes nothing by way of its Complaint;
2. The Court enter judgment in favor of Samsung and against Plaintiff, thereby dismissing the Complaint in its entirety, with prejudice, and deny Plaintiff all requested relief;

3. The Court find that the asserted claims of the asserted patents are invalid and/or unenforceable;

4. The Court find that Samsung has not infringed, literally or under the doctrine of equivalents, directly or indirectly, willfully or otherwise, any valid claim of any asserted patent;

5. The Court find that Plaintiff cannot recover any damages from Samsung for any infringement of any asserted patent and is not entitled to injunctive relief;

6. The Court declare that this case is exceptional, entitling Samsung to its attorneys' fees under 35 U.S.C. § 285, and award Samsung its costs and reasonable attorneys' fees; and

7. The Court grant Samsung all other and further relief that the Court deems appropriate.

JURY DEMAND

Samsung demands a trial by jury on all issues so triable.

Dated: February 12, 2020

Respectfully submitted,

By: /s/Melissa R. Smith

Melissa R. Smith
State Bar No. 24001351
GILLAM & SMITH, LLP
303 South Washington Avenue
Marshall, Texas 75670
Telephone: (903) 934-8450
Facsimile: (903) 934-9257
Email: melissa@gillamsmithlaw.com

John M Guaragna
Texas Bar No. 24043308
DLA PIPER LLP (US)
401 Congress Avenue, Suite 2500
Austin, TX 78701-3799
Tel: 512.457.7125
Fax: 512.457.7001

john.guaragna@dlapiper.com

Mark Fowler (*pro hac vice*)
Alan Limbach (*pro hac vice*)
Aaron Wainscoat (*pro hac vice*)
Erik R. Fuehrer (*pro hac vice*)
DLA Piper LLP (US)
2000 University Avenue
Palo Alto, CA 94303-2215
Telephone: (650) 833-2000
Fax: (650) 833-2001
mark.fowler@dlapiper.com
alan.limbach@dlapiper.com
aaron.wainscoat@dlapiper.com
erik.fuehrer@dlapiper

*ATTORNEYS FOR DEFENDANTS
SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR,
INC. and SAMSUNG AUSTIN
SEMICONDUCTOR, LLC*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a) on February 12, 2020. Any other counsel of record will be served by a facsimile and/or first class mail.

/s/ *Melissa R. Smith*
Melissa R. Smith