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12
 13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**

15 **TJTM TECHNOLOGIES, LLC,**
 16
 Plaintiff,
 17
 v.
 18 **SAMSUNG ELECTRONICS AMERICA,**
 19 **INC.,**
 20
 Defendant.

Case No. _____

**COMPLAINT FOR
 PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

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1 Plaintiff TJTM Technologies, LLC (“TJTM”), brings this action against Samsung
2 Electronics America, Inc. (“Samsung”), to stop it from using TJTM’s patented technology in its
3 cell phones without permission. TJTM seeks damages and injunctive relief. On information and
4 belief, it alleges as follows:

5 **I. NATURE OF THE ACTION**

6 1. This is a civil action for patent infringement under 35 U.S.C. § 1 et seq.

7 2. On February 17, 2015, the United States Patent and Trademark Office (“USPTO”)
8 issued U.S. Patent No. 8,958,853, entitled “Mobile Device Inactive Mode and Inactive Mode
9 Verification” to its inventor (the “’853 Patent”). This describes the “OFF MODE” application. A
10 true and correct copy of the ‘853 Patent is attached hereto as Exhibit A.

11 3. The inventor of the ‘853 patent is an engineer, inventor and restaurateur. TJTM is
12 the legal owner of the ‘853 patent by assignment. The Managing Member of TJTM is the wife
13 of the inventor, Dr. Connie Morris, who practices dentistry in South San Francisco.

14 4. The “OFF MODE” application was invented in 2013. The inventor was concerned
15 that drivers were increasingly distracted by incoming calls and text messages while driving,
16 which creates a public safety hazard. The “OFF MODE” application allows users to block
17 telephone calls, text messages, and other notifications while driving and otherwise, gives them
18 the option of issuing automated replies to senders or callers informing them that the driver is
19 temporarily unavailable, and then provides a log of missed communications when “OFF MODE”
20 is turned off. “OFF MODE” increases highway safety by diminishing the urge to use one’s cell
21 phone while driving. This allows drivers to focus solely on the road and traffic.

22 5. The inventor paid a software engineer to build the “OFF MODE” application. He
23 made it available for downloading in 2013 on Google Play and his own website. Since then, it
24 has been downloaded more than 61,000 times.

25 6. “OFF MODE” was the first application of its kind and, given its novelty, the
26 inventor was issued the ‘853 patent.

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1 7. Samsung has infringed and continues to infringe one or more claims of the ‘853
2 Patent by offering its “Car Mode” feature in its Galaxy phones to millions of consumers
3 throughout the world. Samsung’s “Car Mode” mirrors the claims of the ‘853 patent.

4 8. It is inconceivable that Samsung did not know about the ‘853 patent and the “OFF
5 MODE” app when it first adopted the “Car Mode” feature for its Galaxy phones. Instead of
6 licensing the ‘853 patent for a reasonable royalty, however, Samsung helped itself to TJTM’s
7 invention and paid no compensation to it. On information and belief, Samsung gambled that
8 TJTM could not afford to litigate its claims under the ‘853 patent. This lawsuit followed, and
9 seeks, among other things, monetary damages and injunctive relief.

10 **II. THE PARTIES**

11 9. Plaintiff TJTM Technologies, LLC, is a California limited liability company with
12 its principal place of business in San Mateo, California. Dr. Connie Morris is its Managing
13 Member.

14 10. Defendant Samsung is a corporation organized and existing under the laws of the
15 State of New York. Its corporate headquarters are in Ridgefield Park, New Jersey.

16 **III. JURISDICTION**

17 11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 (Federal
18 question) and 1338 (a) (any act of Congress relating to patents and trademarks.).

19 12. This Court has personal jurisdiction because Samsung resides in this District. It
20 employs thousands of people in offices in San Francisco, San Jose, Mountain View and Menlo
21 Park. It has a store in Palo Alto that sells the infringing phones, and it has sold phones to tens of
22 thousands of consumers in this District. On information and belief, it owns a California
23 corporation, Samsung Semiconductors, Inc., having its offices in San Jose. This Court also has
24 personal jurisdiction because Samsung has committed and induced acts of patent infringement
25 and has regularly and systematically conducted and solicited business in this District by and
26 through, at a minimum, its sales and offers for sale of Samsung products and services, and other

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1 contractual arrangements with Samsung customers and third parties using such Samsung products
2 and services, including the infringing Galaxy phones, located in and/or doing business within this
3 District.

4 **IV. VENUE AND INTRA-DISTRICT ASSIGNMENT**

5 13. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c) and 1400 (b).
6 Pursuant to Local Rule 3-2(c), intellectual property actions are assigned on a District-wide basis.

7 14. There was a previous case in this District involving the same patent, *SMTM*
8 *Technology, LLC, v. Apple, Inc.*, Case No. 4:19-cv-08133-YGR that was assigned to the Hon.
9 Yvonne Gonzalez Rogers. In the interests of judicial economy this case should be assigned to
10 her because it is a related case.

11 **V. FACTUAL ALLEGATIONS**

12 **A. THE INVENTOR CREATES A NOVEL APPLICATION TO SHUT OFF**
13 **CELL PHONE NOTIFICATIONS WHILE DRIVING**

14 15. The inventor is well known in the Bay Area for his restaurants, philanthropy, and
15 his line of LEFTY O'DOUL'S non-alcohol cocktail mixers.

16 16. What is not so well known about him, however, is that he earned a degree in
17 mechanical engineering from Cal Poly and has always had an intellectual curiosity for applying
18 that training to solving everyday problems. He owns several patents, including patents for
19 automatic earthquake shut off valves and systems.

20 17. In 2013, Dr. Morris and the inventor's children were complaining that he was
21 always on or checking his phone while he was driving. He took that to heart and invented "OFF
22 MODE," a breakthrough application for cell phones. He realized that he was not alone in
23 spending time on the phone while driving; there were an increasing number of automobile
24 accidents caused by driver distraction due to cell phone use. Automobile accidents caused by
25 distracted driving were on the rise and had become as serious a public safety problem as driving
26 while intoxicated. As many as 25% of all automobile accidents – or 1.6 million crashes – were
27 caused by texting and driving. Many drivers are aware of the risks of distracted driving but lack
28 the willpower not to use their phones while driving.

1 18. The inventor recognized a need for a technological solution that would limit user
2 distractions without forcing the user to turn off their phone and thereby miss essential
3 communications. In furtherance of this, the “OFF MODE” function of the ‘853 patent
4 automatically notifies the sender that the recipient is temporarily unavailable, and it provides a
5 log of missed communications once “OFF MODE” is turned off.

6 19. The proliferation of accidents caused by distracted driving also created a need for
7 a driver to prove, in the event of an accident, that he or she was not using their phone while
8 driving. Accordingly, the inventor created novel functionality for suppressing communications
9 to a user and a means for verifying that a user was not receiving or responding to
10 communications while driving.

11 20. In essence, “OFF MODE” as described in the ‘853 patent allows users to shut off
12 notifications while driving, and replies with automated responses letting people know they are
13 busy. The “OFF MODE” application blocks the screen from showing text, email, phone calls
14 and other notifications, eliminating distractions so that the driver can focus on road safety. Users
15 still receive incoming messages but without the distracting pop-up notifications, pings, dings,
16 vibrations or other sounds. When “OFF MODE” is turned off, a report of all missed texts and
17 calls is made available to the driver.

18 21. In 2013, after conceiving of the “OFF MODE” function, the inventor, hired a
19 software engineer to build an app for the Android platform and a patent lawyer to draft the patent
20 application. This cost him over \$50,000.

21 22. In May 2013, the “OFF MODE” app was released to the public. The inventor
22 created a Facebook page for it that has over 5,000 followers. He also made the app available on
23 the Google Play web site. The “OFF MODE” app has been downloaded more than 61,000 times.

24 23. The inventor felt so strongly about the public safety advantages of his app that he
25 made it available to the public for free. He did not charge anything for the download.

26 **B. THE USPTO ISSUES THE ‘853 PATENT**

27 24. On June 14, 2013, the inventor filed a provisional patent application for the “OFF
28 MODE” app titled “Mobile Device Inactive Mode and Inactive Mode Verification.”

1 25. On February 9, 2014, the inventor filed a non-provisional patent application for
2 “OFF MODE.”

3 26. On February 17, 2015, the inventor was issued United States Patent No.
4 8,958,853 for “Mobile Device Inactive Mode and Inactive Mode Verification.” See Exhibit A.

5 **C. SAMSUNG INFRINGES THE ‘853 PATENT BY LAUNCHING THE “CAR
6 MODE” FEATURE OF ITS GALAXY PHONES**

7 27. In or around August 2015, Samsung launched its Galaxy 5 phone. This featured
8 what it touted as a significant new and novel application, “Drive Mode,” (now called “Car
9 Mode.”) It had the same features as the “OFF MODE” invention. “Car Mode” while driving
10 causes the Galaxy phone to stay silent and the screen to stay dark while the user is driving.
11 Likewise, if someone sends a message, they receive an automatic reply letting them know that
12 the user is temporarily unavailable. If the message is important, the sender can type the word
13 “urgent” to make sure the user receives a notification. Samsung’s “Car Mode” feature for its
14 Galaxy phones mirrors or constitutes the equivalent of the elements comprising the ‘853 patent.



1 28. While “Car Mode” while driving may have been new to Samsung, it was certainly
2 not new to the marketplace. The Galaxy 5 phone was released over two and a half (2 1/2) years
3 after the TJTM released its “OFF MODE” app and six (6) months after the grant of the ‘853
4 patent. Given the massive legal resources available to Samsung to search its new technology for
5 patent infringement, and the knowledge that its software engineers and business executives have
6 of the apps available for download, it is inconceivable that Samsung was not fully aware of the
7 TJTM app and the ‘853 patent at the time it adopted “Car Mode” for its Galaxy phones.

8 29. On information and belief, “Car Mode” has been included in every subsequent
9 version of the Galaxy phone.

10 **D. THE PTAB AFFIRMS THE VALIDITY OF THE PATENT**

11 30. The inventor learned that Apple had incorporated his invention into its iOS 11
12 software for its iPhones and was profiting from it. He believed it was wrong for Apple to steal
13 his invention, profit from it and not pay him royalties. He therefore contacted Apple, told it that
14 it was using the technology covered by the ‘853 patent and requested that he be paid an
15 appropriate royalty. Apple refused.

16 31. Shortly thereafter, the ‘853 patent was challenged at the Patent Trial and Appeal
17 Board (“PTAB”)¹ by a company called Unified Patents, Inc. Unified Patents is a membership-
18 based organization dedicated to eliminating what a member considers to be a “poor quality
19 patent,” particularly in the tech field. On information and belief, Apple and Samsung are both
20 members of Unified Patents.

21 32. Unified Patents claimed that the ‘853 patent was invalid because the technology
22 was already known, or strongly suggested by, previous patents. The PTAB disagreed, and on
23 July 30, 2019, issued a decision holding that United Patents “failed to demonstrate a reasonable
24 likelihood that it would prevail in showing the unpatentability of at least one challenged claim of
25 the ‘853 Patent.” The PTAB decision is attached as Exhibit B.

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27 ¹ The Patent Trial and Appeal Board is an adjudicative body within the U.S. Patent and
28 Trademark Office. It decides appeals from decisions of the patent examiners, and adjudicates
the patentability of issued patents challenged by third parties in post-grant proceedings.

1 33. TJTM ultimately sued Apple for infringing the ‘853 patent. That lawsuit settled
2 before trial.²

3 34. At a minimum, Samsung learned of the ‘853 patent from Unified Patents either at
4 the time the proceeding was filed or after its unsuccessful conclusion. Notwithstanding this
5 knowledge, Samsung continued using “Car Mode” in its Galaxy phones.

6 **FIRST CLAIM FOR RELIEF**
7 **(Infringement of Patent No. 8,958,853)**

8 35. TJTM re-alleges and incorporates by reference the allegations in Paragraphs 1-34
9 of this Complaint.

10 36. Samsung has directly infringed, and continues to infringe, all claims of the ‘853,
11 pursuant to 35 U.S.C. § 271, by making, using, selling, or offering to sell within the United
12 States, without authority, Galaxy phones containing the infringing “Car Mode” during the term
13 of the ‘853 patent.

14 37. As just one non-limiting example, set forth below is a description of Samsung’s
15 infringement of claim one of the ‘853 patent in connection with Samsung’s “Car Mode” feature
16 of its galaxy phones. TJTM reserves the right to modify this description, including, for example,
17 on the basis of information about Samsung’s “Car Mode” feature that is obtained through
18 discovery.

19 38. The “Car Mode” feature of the Galaxy phones infringes the ’853 patent in the
20 following ways:

U.S. Patent No. 8,958,853	Galaxy Phone “Car Mode”
Claim 1	
1. A mobile device comprising:	The Galaxy phone is a mobile device.
a wireless communication module;	The Galaxy phone includes a wireless communication module for sending and receiving phone calls, messages and the like.
a processor, controlling the wireless communication module; and	The Galaxy phone includes a microprocessor that controls the wireless communication module.
a memory controlled by the processor, the	Car Mode is performed by the execution of the

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28 ² The ‘853 patent was assigned to TJTM after the PTAB proceeding and the Apple case.

1	memory including instructions that when executed by the processor cause the processor to perform the steps of:	instructions stored in the memory of the mobile devices by the processor.
2		
3	providing a graphical user interface through which a user customizes one or more functions of the mobile device when placed in an inactive mode;	The user can customize one or more functions, e.g., how it activates, etc.
4		
5		
6	receiving a user selection to automatically initiate the inactive mode in response to the pairing of the mobile device with a vehicle;	The user can select “Car Mode” (inactive mode) to automatically engage when the mobile device pairs to the vehicle via Bluetooth.
7		
8	receiving a user selection of an away message to use when the mobile device is in inactive mode;	The Galaxy phone used in conjunction with Car Mode, allows customization of an away message to use when the mobile device is in inactive mode while driving.
9		
10	in response to the pairing of the mobile device and the vehicle, automatically initiating a process to place the mobile device in inactive mode;	The Galaxy phone can be set to automatically engage when the mobile device pairs with the vehicle via Bluetooth.
11		
12	when the mobile device is in inactive mode, in response to receiving a communication from the wireless communication module, transmitting the user selected away message via the wireless module and suppressing one or more sound, visual, or vibration communication cues that would have accompanied the communication had the mobile device not been in inactive mode.	When the mobile device is in inactive mode, Car Mode provides a means for a user to send the away message to users upon receiving a communication from the wireless communication module, allowing the user to transmit the user selected away message via the wireless module. Also, in response to receiving a communication from the wireless communication module, any one of sound, visual, or vibration that would have accompanied the communication had the mobile device not been in inactive mode is suppressed.
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20 39. As the direct and proximate result of Samsung’s infringing conduct, TJTM has
 21 suffered injury and, if Samsung’s conduct is not stopped, will continue to suffer, irreparable
 22 injury, and significant damages, in an amount to be proven at trial. Because TJTM’s remedy at
 23 law is inadequate, it seeks permanent injunctive relief.

24 40. This is not the first time that Samsung has infringed patents with its Galaxy
 25 phones. Apple filed a patent infringement lawsuit in this District against Samsung alleging
 26 infringement of patents related to its iPhone. A jury ruled that Samsung had infringed the Apple
 27 patents and awarded Apple substantial damages.

28 41. TJTM is informed and believes, and on that basis alleges, that Samsung’s

