IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

PEN-ONE ACQUISITION GROUP, LLC, Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., and SAMSUNG ELECTRONICS AMERICA, INC. Defendant.	**Civil Action No.** 1:17-cv-00180 **JURY TRIAL DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Pen-One Acquisition Group, LLC ("Pen-One" or "Plaintiff"), for its Complaint against Defendants Samsung Electronics Co., Ltd., ("Samsung, Ltd."), and Samsung Electronics America, Inc., ("Samsung U.S.A.") (individually each a "Defendant" and collectively "Defendants" or "Samsung") alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. Plaintiff is a limited liability company organized under the laws of the State of Alabama with a place of business at 951 Government Street, Suite B, Mobile, AL 36604.

3. Upon information and belief, Samsung, Ltd. is a corporation organized and existing under the laws of South Korea, with a place of business at Samsung Main Building 250, Taepyeongno 2-ga, Jung-gu Seoul 100-742 Korea. Upon information and belief, Samsung, Ltd. sells and offers to sell products and services throughout the United States, including in this

judicial district, and introduces products and services that into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

4. Upon information and belief, Samsung U.S.A. is a corporation organized and existing under the laws of the State of New York, with a place of business at 105 Challenger Road, Ridgefield Park, New Jersey 07660, and can be served through its registered agent, The Corporation Trust Company, 820 Bear Tavern Road, West Trenton, NJ 08628. Upon information and belief, Samsung U.S.A. sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c), (d) and/or 1400(b). On information and belief, each Defendant conducts business in this District, the claims alleged in this Complaint arise in this District, and the acts of infringement have taken place and are continuing to take place in this District.

8. On information and belief, each Defendant is subject to this Court's general and specific personal jurisdiction because Defendant has sufficient minimum contacts within the State of Alabama and this District, pursuant to due process and/or the Alabama long-arm statute under Ala. R. Civ. P. 4.2 because each Defendant purposefully availed itself of the privileges of conducting business in the State of Alabama and in this District, because each Defendant

regularly conducts and solicits business within the State of Alabama and within this District, and because Plaintiff's causes of action arise directly from each of Defendant's business contacts and other activities in the State of Alabama and this District.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,374,402

9. The allegations set forth in the foregoing paragraphs 1 through 8 are incorporated into this First Claim for Relief.

10. On February 12, 2013, U.S. Patent No. 8,374,402 ("the '402 patent"), entitled "DATA SECURITY SYSTEM" was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '402 patent is attached as Exhibit 1.

11. Plaintiff is the assignee and owner of the right, title and interest in and to the '402 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

12. Upon information and belief, each Defendant has and continues to directly infringe at least claims 1 and 2 of the '402 patent by making, using, selling, importing and/or providing and causing to be used electronic device systems within the scope of claims 1 and 2 of the '402 patent, including, but not limited to, the product with the following designation or trade name: Galaxy Note II, Galaxy Note 3, Galaxy Note 3 Neo, Galaxy Note 4, Galaxy Note Edge, Galaxy Note 5, and Galaxy Note 7 (the "'402 Claim 1 Infringing Instrumentalities"); and Galaxy S8, Galaxy S8+, Galaxy S7, Galaxy S7 edge, Galaxy S7 active, Galaxy S6, Galaxy S6 edge, Galaxy S6 edge+, Galaxy S6 active, Galaxy S5, Galaxy S4, Galaxy S3, Galaxy S2, Galaxy S, Galaxy Note II, Galaxy Note 3, Galaxy Note 3 Neo, Galaxy Note 4, Galaxy Note Edge, Galaxy Note 5, and Galaxy Note 7 (the "'402 Infringing Instrumentalities"). An exemplary image of the '402 Infringing Instrumentalities is provided below:



13. Claim 1 of the ’402 patent generally recites a pen-based computing device for entry of secure data into a secure network, the pen-based computing device having a casing, the device including a facial image sensor for capturing a facial image print, the facial image sensor being positioned in the pen-based computing device, whereby placement of the facial image sensor in the device enables an incidental capture of the facial image print of a user for purposes of identity authentication prior to each request to enter the secure data; and the placement of the facial image sensor in the device enables a continuous capture of a facial image print while the pen-based computing device is being used; and whereby user identity authentication is provided simultaneously with each request to enter each data stream into the secure network, providing assurance that any mobile worker seeking to enter data is authorized prior to each data entry.

14. As demonstrated in the exemplary images below, the ’402 Claim 1 Infringing Instrumentalities infringe claim 1 of the ’402 patent because they include a pen-based computing device that is a smartphone for accessing and entering secure data:





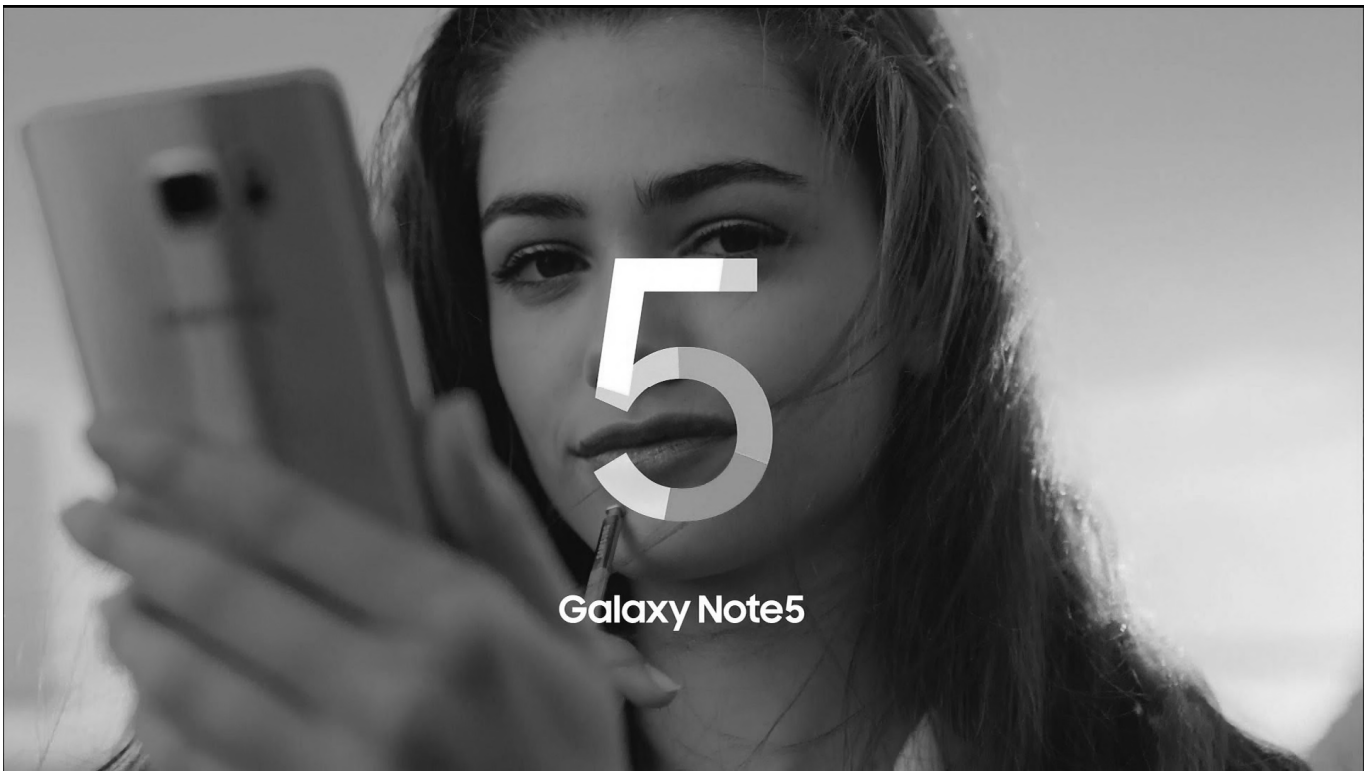
the ’402 Claim 1 Infringing Instrumentalities include a casing,



the device including a facial image sensor (a camera) for capturing a facial image print, the facial image sensor being positioned in the pen-based computing device,



placement of the facial image sensor in the ’402 Claim 1 Infringing Instrumentalities enables an incidental capture of the facial image of a user for identity authentication prior to each request to enter the secure data, and placement of the facial image sensor enables a continuous capture of a facial image while the pen-based computing device is being used;



whereby user identity authentication is provided simultaneously with each request to enter each data stream into the secure network, providing assurance that any mobile worker seeking to enter data is authorized prior to each data entry.

15. Claim 2 of the ’402 patent generally recites a handheld communication device for entering secure data into a secure network, said handheld communication device selected from the group consisting of a pocket computer, a palm-type computer, a cell-phone, and a pen-based computer, said handheld communication device including a facial image sensor for capturing user facial image print, said facial image sensor being embedded in said handheld communication device; whereby placement of said facial image sensor within said handheld communication device enables an incidental capture of said facial image print of a mobile user for purposes of identity authentication by a remote host computer prior to each request to enter the secure network data; whereby placement of said sensor in said handheld communication device enables a continuous capture of a facial image print while said handheld communication

device is being used; and whereby user identity authentication is provided simultaneously with each request to enter each data stream into said secure network, providing assistance that any mobile worker seeking to enter data is authorized prior to each data entry.

16. As demonstrated in the exemplary images below, the ’402 Infringing Instrumentalities infringe claim 2 of the ’402 patent because they are handheld communication devices (cell phones) for entering secure data into a secure network,

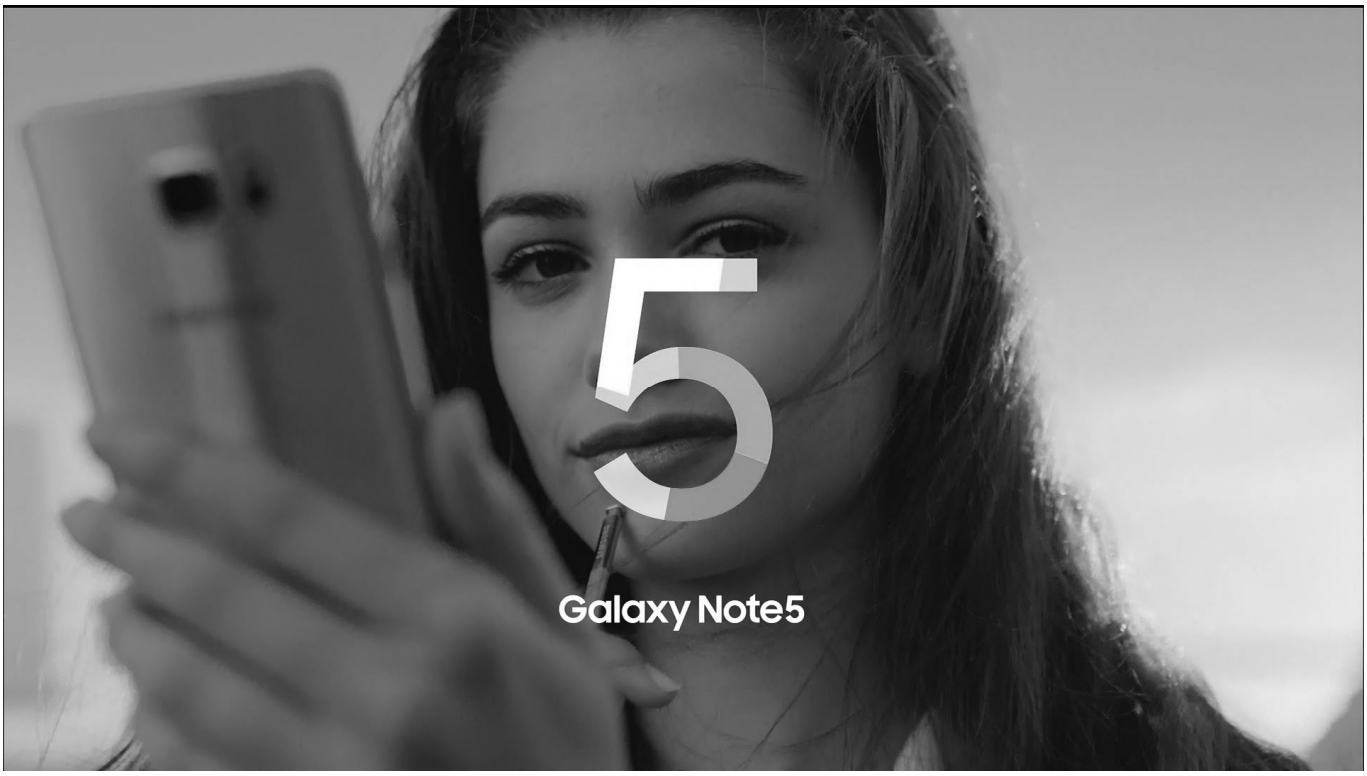




which include a facial image sensor (a camera) for capturing user facial image print, and said facial image sensor being embedded in said handheld communication devices;



whereby placement of the facial image sensor within the handheld communication device enables an incidental capture of the facial image print of a mobile user for purposes of identity authentication by a remote host computer prior to each request to enter the secure network data; whereby placement of the sensor in said handheld communication device enables a continuous capture of a facial image print while the handheld communication device is being used;



and whereby user identity authentication is provided simultaneously with each request to enter each data stream into said secure network, providing assistance that any mobile worker seeking to enter data is authorized prior to each data entry.

17. Since the date of this Complaint, each Defendant's infringement has been willful.

18. Plaintiff has been harmed by Defendants' infringing activities.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,281,135

19. The allegations set forth in the foregoing paragraphs 1 through 18 are incorporated into this Second Claim for Relief.

20. On October 9, 2007, U.S. Patent No. 7,281,135 ("the '135 patent"), entitled "PEN-BASED TRANSPONDER IDENTITY VERIFICATION SYSTEM" was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '135 patent is attached as Exhibit 2.

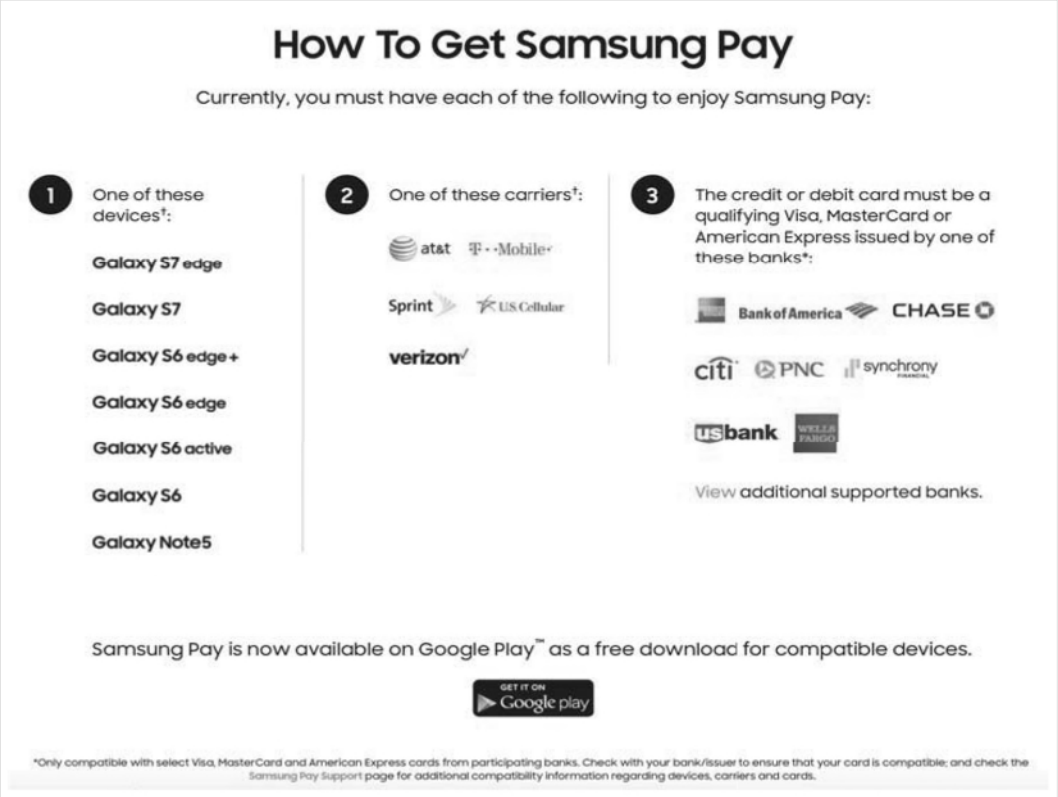
21. Plaintiff is the assignee and owner of the right, title and interest in and to the ’135 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

22. Upon information and belief, each Defendant has and continues to directly infringe at least claims 1, 2, 3, 17, 18, and 19 of the ’135 patent by making, using, selling, importing and/or providing and causing to be used electronic device systems within the scope of claims 1, 2, 3, 17, 18, and 19 of the ’135 patent, including, but not limited to, the products with the following designations or trade names: Galaxy S8, Galaxy S8+, Galaxy S7, Galaxy S7 edge, Galaxy S7 active, Galaxy S6, Galaxy S6 edge, Galaxy S6 edge+, Galaxy S6 active, and Galaxy Note 5 (each a “Galaxy device”) operating with Samsung Pay; each in conjunction with merchant devices, telecommunications equipment, and/or payment processing servers with which the Galaxy devices operate (the “’135 Infringing Instrumentalities”). On information and belief, Samsung has developed the ’135 Infringing Instrumentalities in partnership with merchants, telecommunications companies, and/or payment processing companies, all of whom cooperate to provide the Infringing Instrumentalities. An exemplary image of an exemplary Galaxy device ’135 Infringing Instrumentalities is provided below:



23. Claim 1 of the ‘135 patent generally recites a system for conducting a commercial transaction, a user of the commercial transaction system being registered and digitally linked with an account for payment, the system comprising a host computer having access to data that digitally links the user with the user account; a first electronic device disposed at a point-of-sale terminal, the first electronic device being digitally linked to the host computer; a second electronic device that is wireless, the second electronic device being carried by the user, the second electronic device communicating identity verification data with the first electronic device, radio frequency transmission being used for data transfer between the first electronic device and the second electronic device; and a member for capturing a digital signature image of the user while the member is being used; whereby the sensed digital signature image is compared to a reference digital signature image upon a request to process the commercial transaction, the reference digital signature image being captured during a registration process; and whereby the request to process the commercial transaction is denied absent a match of the sensed digital signature image and the reference digital signature image.

24. As demonstrated in the exemplary images below, the ’135 Infringing Instrumentalities infringe claim 1 of the ’135 patent because they comprise a mobile payment and digital wallet service:



to create an electronic system that can be used by users to conduct a commercial transaction at a point-of-sale terminal (POS), the user making payment using Samsung Pay by holding the Galaxy device near a point-of-sale terminal as shown in the following figure and further authenticating using fingerprint thereby completing the transaction:



"…Samsung has lined up several partners to back its payment system. Payment networks Visa and MasterCard have committed to Samsung Pay, as have financial players such as American Express, Bank of America and JP Morgan Chase."
http://www.cnet.com/news/samsung-pay-takes-on-apple-pay-as-mobile-payments-war-heats-up/

where a commercial transaction using Samsung Pay on the Galaxy device requires the user to register his/her payment card (*e.g.* Visa, MasterCard, American Express), that is digitally linked with an account for payment,

E.g., Samsung Pay can be used to make payment with Visa using compatible Samsung devices:

Samsung Pay

A smarter way to pay with Visa security built in.

Introducing Samsung Pay, supported by Visa Token Service. The safe and simple way to make mobile payments virtually anywhere you can swipe your Visa card. From the grocery store to your favorite coffee shop and everywhere in between.

Only compatible with select cards and Samsung devices (Galaxy S7, Galaxy S7 edge, Galaxy S7 active, Galaxy S6, Galaxy S6 edge, Galaxy S6 edge+, Galaxy S6 active, Galaxy Note5).

Works virtually everywhere

Samsung's proprietary technology works with existing card readers so you can make purchases virtually everywhere you can swipe your Visa card.

Simple to set up. Simple to pay.



Launch the app

Swipe up from the bottom of your screen to launch Samsung Pay, or open the app from your home screen.



Add a card

Scan your Visa card and secure your account with your fingerprint or PIN, and the provided authorization code.

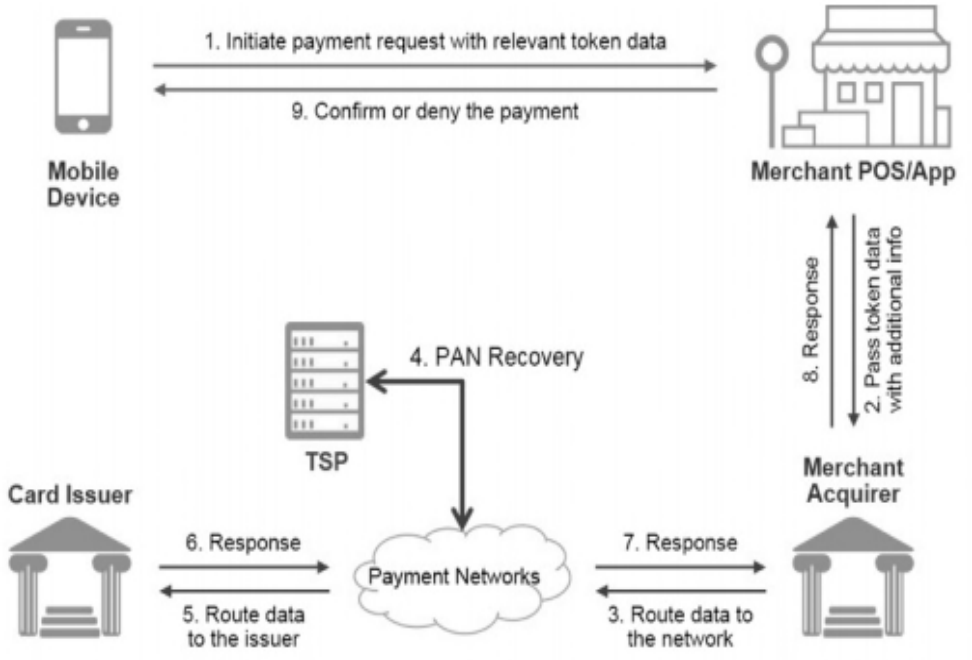


Hover to pay

Verify your fingerprint and hold your phone near the reader.

https://usa.visa.com/pay-with-visa/featured-technologies/samsung-pay-consumer.html#2

where the system for conducting a commercial transaction comprises a host computer, (*e.g.* processing entity server), which has access to data that digitally links the user with the user account, the system further comprising a first electronic device (called the "interrogator" - "Merchant POS/App" in figure) disposed at the POS terminal that is digitally linked to the host computer, as shown in the following figure:



the system further comprising a second electronic device (the "mobile device" in the above figure) that is wireless and is carried by the user, the Galaxy device communicating identity verification data with the interrogator, where radio frequency transmission is used for the data transfer between the interrogator and the Galaxy device:



("NFC" is "near-field communication," used in devices for identity verification via radio wave.)

the system including a "member", *e.g.*, the fingerprint sensor, that is part of the Infringing Instrumentalities, the member for capturing a digital fingerprint signature image while the Infringing Instrumentalities are being used:



"With Samsung Pay, consumers will benefit from a simple and easy-to-use application leading to a positive consumer experience. Adding a card requires a few simple steps. Once added, the user simply swipes up from the bezel to invoke the Samsung Pay app, chooses the desired payment card, and authenticates with the fingerprint sensor. Tapping the device to the point-of-sale (POS) terminals allows for a fast, secure, and easy purchase."

http://www.samsung.com/uk/news/local/samsung-announces-samsung-pay-a-groundbreaking-mobile-payment-service

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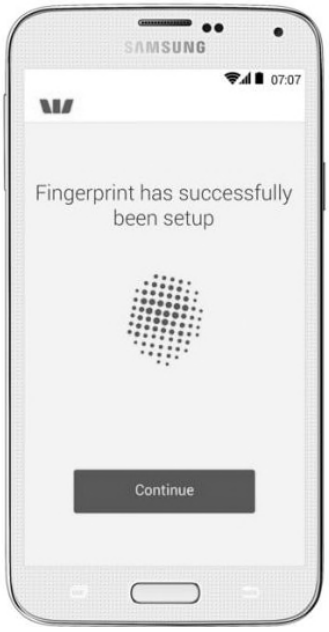
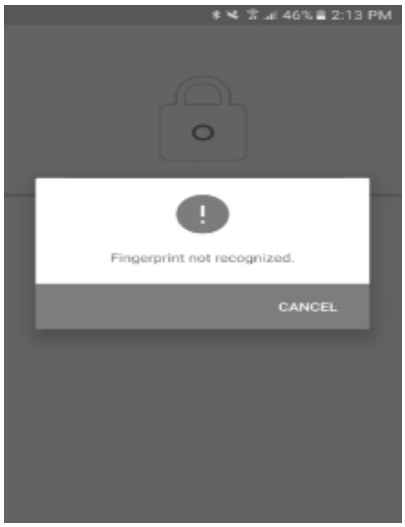
where the sensed digital fingerprint signature image is compared to a reference digital fingerprint signature image upon a request to process the commercial transaction, the reference fingerprint signature image of the Infringing Instrumentalities being captured during a registration process:





and where the request to process the commercial transaction is denied absent a match of the sensed digital fingerprint signature image with the reference digital fingerprint signature image:





"Scan your fingerprint to pay" *"Fingerprint not recognized"*

25. Claim 2 of the '135 patent generally recites the system of claim 1 where the digital signature image is a fingerprint image.

26. The '135 Infringing Instrumentalities infringe claim 2 of the '135 patent. A digital fingerprint signature image is used for identity verification in the Infringing Instrumentalities, as described in paragraph 22.

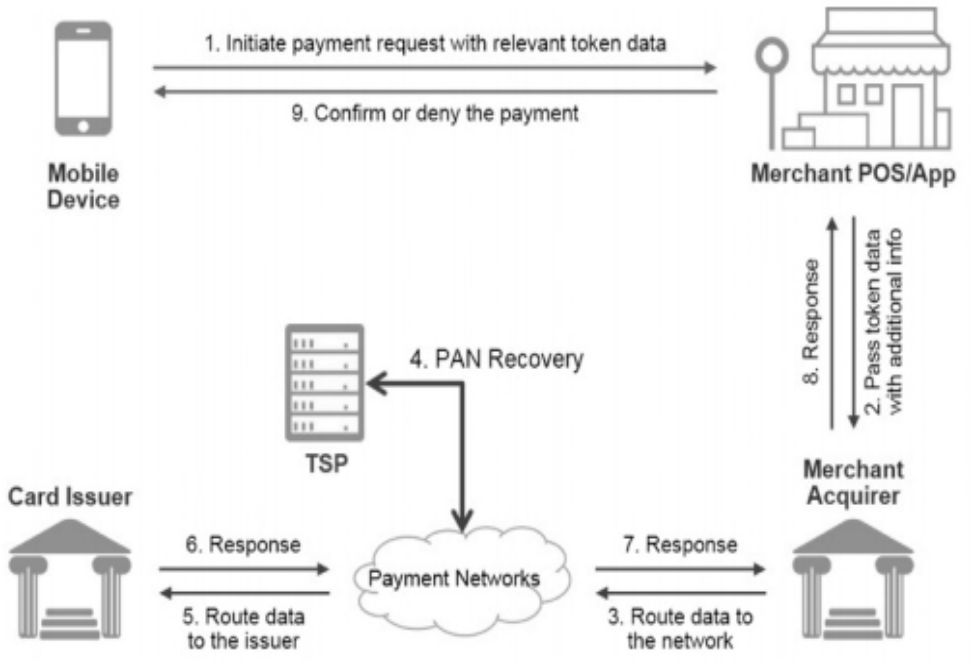
27. Claim 3 of the '135 patent is to the system of claim 1 where the reference digital signature image is disposed in the second electronic device.

28. The '135 Infringing Instrumentalities infringe claim 3 of the '135 patent. A digital fingerprint signature image can be registered in the Infringing Instrumentalities, as describe in Paragraph 22.

29. Claim 17 of the '135 patent generally recites a system for conducting a commercial transaction, a user of the commercial transaction system being registered and digitally linked with an account for payment, the system comprising a host computer having access to data that digitally links the user with the user account; an electronic device disposed at

a point-of-sate terminal, the electronic device being digitally linked to the host computer; and a member that is wireless, the member being carried by the user, the member having at least one sensor, the sensor capturing a digital signature image of the user while the member is being used, the member communicating and transmitting identity verification data with the electronic device, at least some of the data transmission between the electronic device to the member being by radio frequency; where the sensed digital signature image is compared to a reference digital signature image upon a request to process the commercial transaction, the reference digital signature image being captured during a registration process, and where the request to process the commercial transaction is denied absent a match of the sensed digital signature image and the reference digital signature image.

30. As demonstrated in the exemplary images below and in Paragraph 22, the ’135 Infringing Instrumentalities infringe claim 17 of the ’135 patent because they comprise a mobile payment and digital wallet service to create an electronic system that can be used by users to conduct a commercial transaction at a point-of-sale terminal (POS), the user making payment using Samsung Pay by holding the Galaxy device near a POS terminal and further authenticating using fingerprint thereby completing the transaction, where a commercial transaction using Samsung Pay on the Galaxy device requires the user to register his/her payment card (*e.g.* Visa, MasterCard, American Express), that is digitally linked with an account for payment, where the system for conducting a commercial transaction comprises a host computer, (*e.g.* processing entity server), which has access to data that digitally links the user with the user account, the system further comprising an electronic device (called the “interrogator” - “Merchant POS/App” in figure) disposed at the POS terminal that is digitally linked to the host computer, as shown in the following figure:



the system further comprising a member with at least one sensor (the Infringing Instrumentalities with a digital fingerprint signature image sensor, in this case the sensor being part of the member – "mobile device" in the above figure) that is wireless and is carried by the user, the sensor capturing a digital fingerprint signature image while the Infringing Instrumentality is being used:



"With Samsung Pay, consumers will benefit from a simple and easy-to-use application leading to a positive consumer experience. Adding a card requires a few simple steps. Once added, the user simply swipes up from the bezel to invoke the Samsung Pay app, chooses the desired payment card, and authenticates with the fingerprint sensor. Tapping the device to the point-of-sale (POS) terminals allows for a fast, secure, and easy purchase."

http://www.samsung.com/uk/news/local/samsung-announces-samsung-pay-a-groundbreaking-mobile-payment-service

the member with sensor - Galaxy device with digital fingerprint signature image sensor – communicating and transmitting identity verification data with the interrogator, where radio frequency transmission is used for the data transfer between the interrogator and the Galaxy device with sensor, where the sensed digital fingerprint signature image is compared to a reference digital fingerprint signature image upon a request to process the commercial transaction, the reference fingerprint signature image of the Infringing Instrumentalities being captured during a registration process, and where the request to process the commercial transaction is denied absent a match of the sensed digital fingerprint signature image with the reference digital fingerprint signature image.

31. Claim 18 is to the system of claim 17 where the digital signature image is a fingerprint image.

32. The ’135 Infringing Instrumentalities infringe claim 18 of the ’135 patent. A digital fingerprint signature image is used for identity verification in the Infringing Instrumentalities, as described in paragraph 28.

33. Claim 19 is to a system of claim 17 where the reference digital signature image is “disposed in the second electronic device [sic]” – properly written as “disposed in the member.”

34. The ’135 Infringing Instrumentalities infringe claim 19 of the ’135 patent. A digital fingerprint signature image can be registered in the Infringing Instrumentalities, as describe in paragraph 28.

35. On information and belief, the’135 Infringing Instrumentalities are used marketed, provided to, and/or used by or for each of Defendant’s partners, clients, customers and end users across the country and in this District.

36. Each of Defendants is made aware of the ’135 patent and its infringement thereof at least as early as the filing of this Complaint.

37. Upon information and belief, since at least the time each Defendant received notice through this Complaint, each Defendant has induced and continues to induce others to infringe at least one claim of the ’135 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to each of Defendant’s partners, clients, customers, and end users, whose use of the ’135 Infringing Instrumentalities constitutes direct infringement of at least one claim of the ’135 patent.

38. In particular, each Defendant’s actions that aid and abet others such as its partners, customers, clients, and end users to infringe include advertising and distributing the ’135 Infringing Instrumentalities and providing instruction materials, training, and services regarding the ’135 Infringing Instrumentalities. On information and belief, each Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because each Defendant has had actual knowledge of the ’135 patent and knowledge that its acts were inducing infringement of the ’135 patent since at least the date Samsung, Ltd. and Samsung U.S.A. received notice through this Complaint that such activities infringed the ’135 patent.

39. Since the date of this Complaint, each Defendant’s infringement has been willful.

40. Plaintiff has been harmed by Defendants’ infringing activities.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment for itself and against Defendants as follows:

A. An adjudication that each Defendant has infringed the ’402 and the ’135 patents;

B. An award of damages to be paid by Defendants adequate to compensate Plaintiff for Defendants’ past infringement of the ’402 and ’135 patents, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff’s reasonable attorneys’ fees; and

D. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Dated: April 25, 2017

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