

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

Fendgo LLC

Plaintiff,

v.

Samsung Electronics Co., Ltd. and Samsung
Electronics America, Inc.

Defendants.

Civil Action No. 2:23-cv-00221-JRG

JURY TRIAL DEMANDED

**PLAINTIFF FENDGO LLC’S DISCLOSURE OF
ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS**

Pursuant to Local Patent Rule 3-1 and 3-2, Plaintiff Fendgo LLC (“Fendgo” or “Plaintiff”) hereby makes the following Disclosure of Asserted Claims and Infringement Contentions to Defendants Samsung Electronic Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Samsung” or “Defendants”).

The following asserted claims and contentions are based upon Plaintiff’s good faith evaluation of information known to Plaintiff at this time. Discovery in this case has not begun, and Plaintiff reserves its right to supplement and/or amend these disclosures in view of information and/or documents that may be obtained during discovery, further investigation, the Court’s claim construction ruling, applicable case law and authorities, and/or any other reasons permitted by the Federal Rules of Civil Procedure, by the Local Rules of the Eastern District of Texas, or by order of the Court. *See Eolas Techs. Inc. v. Amazon.com, Inc.*, No. 6:15-CV-01038, 2016 WL 7666160, at *2 (E.D. Tex. Dec. 5, 2016) (“[G]iven Plaintiff’s assertion that Defendants have not produced all documents and code reflecting their server architectures, it is unreasonable to expect Plaintiff to draft ICs in great detail . . . [C]ontentions should become more detailed with the conclusion of fact discovery and claim construction.”).

I. P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions

a. Each claim of each patent in suit that is allegedly infringed by each opposing party.

Based on information presently available, Plaintiff contends that Defendants directly and/or indirectly infringe the claims identified in Exhibit 1, including the following claims of the patent-in-suit:

Claims 9 and 12 of U.S. Patent No. 11,265,404 (the “’404 Patent” or the “Asserted Patent”).

b. Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality” or “Accused Product”) of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus must be identified by name or model number, if known. Each method or process must be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process.

The Accused Instrumentalities/Products of which Plaintiff is aware are identified below. Plaintiff reserves the right, in response to discovery or as otherwise permitted, to supplement its identification of Accused Instrumentalities/Products.

The Accused Instrumentalities/Products for the ’404 patent include those identified in Exhibit 1 and any other similar products that include the elements of the asserted claims identified in the accompanying chart.

Plaintiff expressly reserves the right to seek leave of Court to augment and supplement these disclosures after discovery from Defendants, or as permitted under the Patent Rules. Plaintiff expects that this disclosure may be subject to amendment or supplementation to identify and accuse additional products developed or made available after the date on which these contentions are served, or of which Plaintiff was not aware at the time that these contentions were prepared.

- c. **A chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by 35 U.S.C. § 112 (¶ 6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function.**

A chart identifying where each element of the asserted claims is found within each Accused Instrumentality/Product is included as Exhibit 1 accompanying this document. Based on publicly available information and Plaintiff's research, Plaintiff asserts that the Accused Instrumentalities/Products for the asserted patent infringes the asserted claims of the Asserted Patent, as identified in the accompanying chart, in the same or substantially similar manner. On information and belief, Plaintiff contends that each of the Accused Instrumentalities/Products include the same or substantially same structures and functions as those identified for each asserted claim element in the accompanying chart. For example, Plaintiff believes that the Accused Instrumentalities/Products implement the same SOS Feature using substantially similar hardware and the same operating system (e.g., Android 12) or different version of the same operating system that are not materially different in terms of the infringing functionality. Thus, the attached claim chart is representative of the manner and theory of infringement pertaining to the Accused Instrumentalities/Products for the Asserted Patent.

The attached claim chart is based on publicly available information currently accessible to Plaintiff as discovery has yet to begin. Specifically, Plaintiff believes that evidence of infringement will be found in Defendants' source code, technical documents, specifications, testing documents, testing logs, usage logs, or other proprietary information, which has not yet been produced. Accordingly, Plaintiff reserves the right to amend its list of Accused Instrumentalities/Products or chart after obtaining relevant discovery from Defendants (including, but not limited to access to Defendants' source code disclosures, technical documents, specifications, testing documents,

testing logs, usage logs, and other proprietary information), or as permitted by the Court, the Patent Rules, or the Federal Rules of Civil Procedure.

Except as set forth in the accompanying exhibit, which set forth function and structure for claim elements Plaintiff believes are governed by 35 U.S.C. § 112 ¶6, Plaintiff does not contend that any claim element is governed by 35 U.S.C. § 112 ¶6.

d. Whether each element of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the Accused Instrumentality.

Except as identified in Exhibit 1, and based on its current understanding of the claim language and publicly available information pertaining to the Accused Instrumentalities/Products, and without notice of any claim construction or non-infringement position from Defendants, Plaintiff currently contends that each element of each asserted claim is literally present. Further, as the Court has not construed any claim term, it is not yet clear whether Plaintiff will rely on the doctrine of equivalents for the remaining patent claims. Accordingly, Plaintiff reserves the right to amend its infringement contentions as necessary. However, any claim element not literally present in the Accused Instrumentalities/Products, as set forth in the attached claim chart, is satisfied under the doctrine of equivalents because any difference between such claim element and the accused element is insubstantial. In other words, the accused element performs substantially the same function, in substantially the same way to achieve substantially the same result as the corresponding claim element(s).

Plaintiff reserves the right to augment and supplement its disclosure concerning the doctrine of equivalents based upon additional information obtained through discovery or based upon the Court's claim construction.

- e. For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled.**

Each asserted claim in the Asserted Patent is entitled to a priority date no later than the filing date of the earliest application to which it claims priority. Plaintiff believes the asserted claims have the following priority date.

The asserted claims of the '404 Patent are entitled to a priority date at least as early as January 14, 2005.

Plaintiff reserves the right to amend its identification of priority date to the extent additional information becomes available.

- f. If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim.**

Plaintiff does not assert that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed inventions.

II. P.R. 3-2 Document Production Accompanying Disclosure

- a. Documents (e.g., contracts, purchase orders, invoices, advertisements, marketing materials, offer letters, beta site testing agreements, and third party or joint development agreements) sufficient to evidence each discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, the claimed invention prior to the date of application for the patent in suit. A party's production of a document as required herein shall not constitute an admission that such document evidences or is prior art under 35 U.S.C. §102.**

Plaintiff is not aware of any non-privileged documents in its possession, custody, or control that evidence discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, the claimed inventions prior to the January 14, 2005 priority date for the Asserted Patent.

- b. All documents evidencing the conception, reduction to practice, design, and development of each claimed invention, which were created on or before the date of application for the patent in suit or the priority date identified pursuant to P. R. 3-1(e), whichever is earlier.**

Plaintiff identifies the documents labeled FNDG0000391 – FNDG0000534 as responsive to P.R. 3-2(b). Plaintiff is not aware of any other non-privileged documents in its possession, custody, or control that evidences conception, reduction to practice, design, or development of the claimed inventions that were created on or before the above referenced date for the Asserted Patent. Plaintiff notes that documents responsive to P.R. 3-2(b) may be in the possession of the named inventors for the Asserted Patent. If discovery from any such party leads to documents that evidence conception, reduction to practice, design, and development of any claimed invention that were created on or before the date of application for the Asserted Patent, Plaintiff reserves the right to claim such date.

- c. A copy of the file history for each patent in suit.**

A copy of the file history for the Asserted Patent is produced herewith and bears production numbers as follows: FNDG0000012 – FNDG0000384.

Dated: July 13, 2023

Respectfully submitted,

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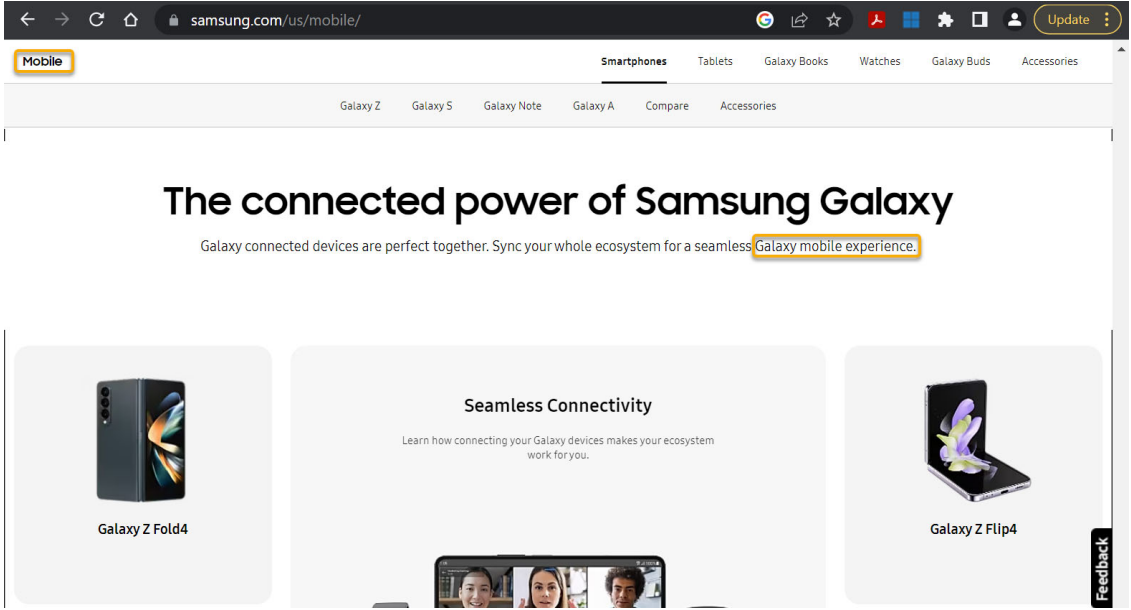
Attorneys for Plaintiff Fendgo LLC

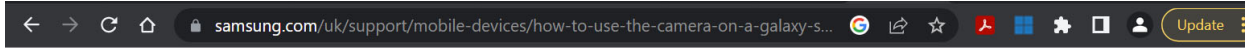
EXHIBIT 1

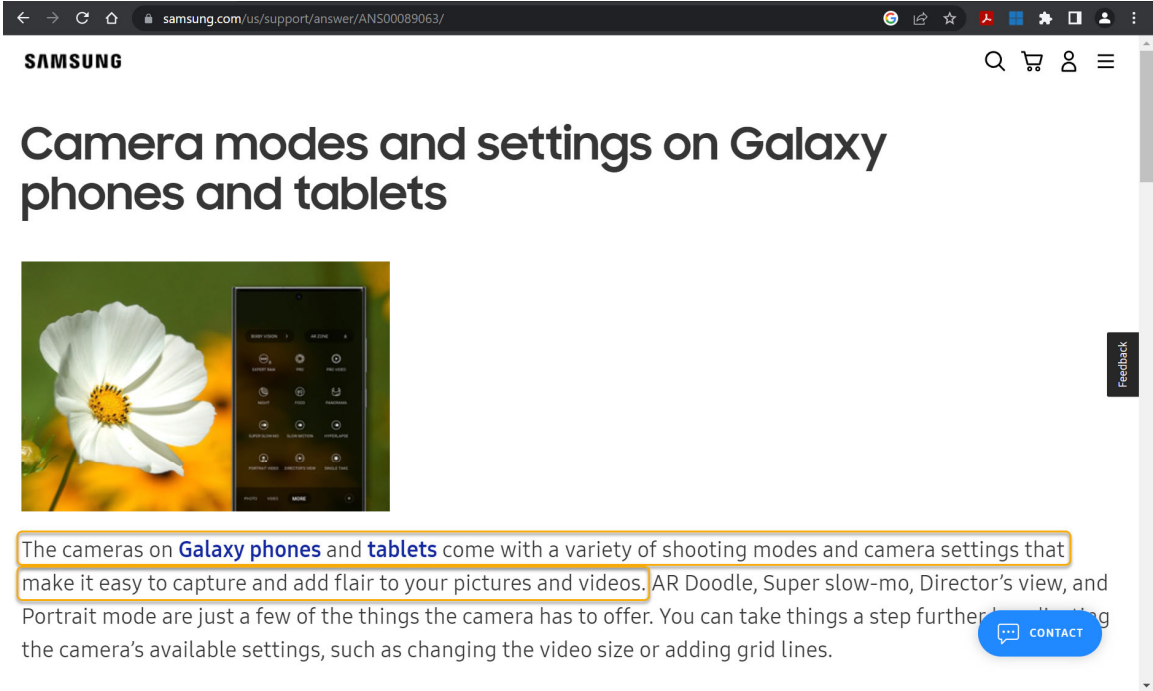
EXHIBIT 1 | Claim Chart for U.S. Patent No. 11,265,404

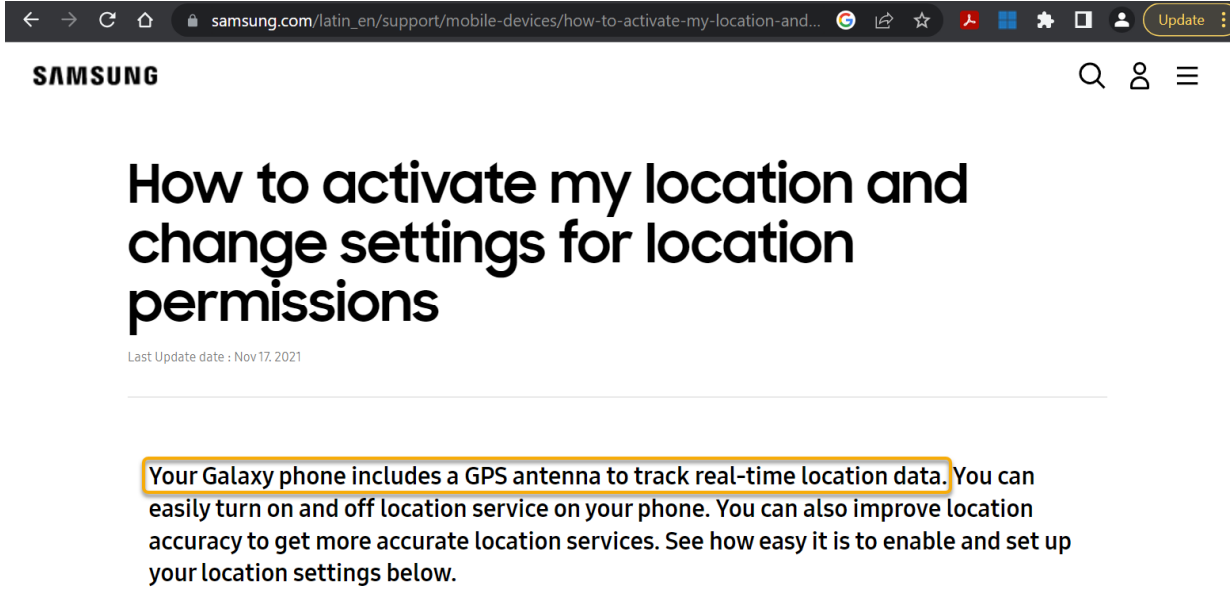
Claim 9	Samsung's Mobile Devices with SOS Feature¹
[9.p]. A mobile device, comprising:	To the extent the preamble is limiting, the Samsung's Mobile Devices are mobile devices. <i>See</i> https://www.samsung.com/us/mobile/ , which shows, for example, that Samsun Galaxy devices are mobile devices.

¹ Samsung's Mobile Devices with SOS Feature ("Samsung's Mobile Devices") refer to any Samsung's mobile devices running Android 12 or other version(s) with the infringing SOS Feature, including Galaxy S10, Galaxy S10e, Galaxy S10+, Galaxy S10 5G, Galaxy S10 Lite, Samsung Galaxy S20, Galaxy S20+, Galaxy S20 Ultra, Galaxy S20 FE, Galaxy S21, Galaxy S21+, Galaxy S21 Ultra, Galaxy S21 FE, Galaxy S22, Galaxy S22+, Galaxy S22 Ultra, Galaxy S23, Galaxy S23+ and Galaxy S23 Ultra, Galaxy Note 20, Galaxy Note 20 Ultra, Galaxy Note 10, Galaxy Note 10+, Galaxy Note 10 5G, Galaxy Z Fold 3, Galaxy Z Fold 2, Galaxy Z Fold, Galaxy Z Fold 5G, Galaxy W22, Galaxy Z Flip 3, Galaxy Z Flip, Galaxy Flip 5G, Galaxy A13, Galaxy A03/s, Galaxy A82 5G, Galaxy A72, Galaxy A52, Galaxy A52 5G, Galaxy A52s 5G, Galaxy A42 5G, Galaxy A32 5G, Galaxy A32 4G, Galaxy A22, Galaxy A12, Galaxy A71 5G, Galaxy A51 5G, Galaxy A51, Galaxy A41, Galaxy A31, Galaxy A21, Galaxy A12, Galaxy A02s, Galaxy A01, Galaxy A11, Galaxy Tab S7, Galaxy Tab S7+, Galaxy Tab S7 FE 5G, Galaxy Tab S6 Lite, Galaxy Tab S6, Galaxy Tab Active 3, Galaxy Tab A7 10.4, Galaxy Tab A7 Lite, Galaxy M62, Galaxy M22, Galaxy M31, Galaxy M21, Galaxy M11, Galaxy M31s, Galaxy M51, Galaxy F41, Galaxy F22, and Galaxy F12.

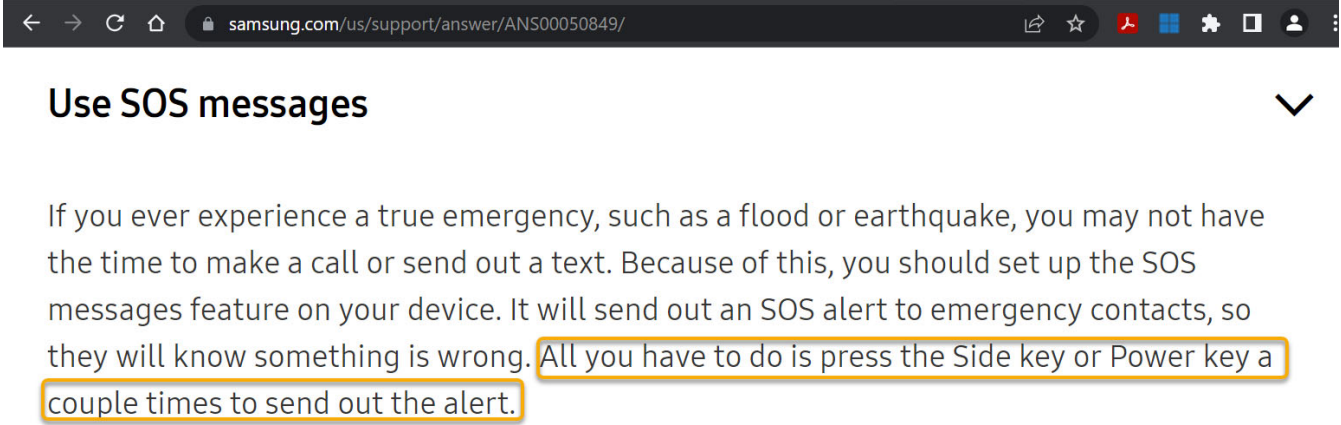
Claim 9	Samsung's Mobile Devices with SOS Feature ¹
	 The screenshot shows the Samsung US mobile website. The header includes navigation links for Mobile, Smartphones, Tablets, Galaxy Books, Watches, Galaxy Buds, and Accessories. The main headline reads 'The connected power of Samsung Galaxy' with a subtext 'Galaxy connected devices are perfect together. Sync your whole ecosystem for a seamless Galaxy mobile experience.' Below this, there are three main sections: 'Galaxy Z Fold4', 'Seamless Connectivity' (with a subtext 'Learn how connecting your Galaxy devices makes your ecosystem work for you.'), and 'Galaxy Z Flip4'. A 'Feedback' button is visible on the right side.
[9.i] a camera unit, adapted to obtain at least one of image data and audio data;	Samsung's Mobile Devices comprise a camera unit, adapted to obtain at least one of image data and audio data. Below is non-exhaustive, exemplary evidence from public sources demonstrating how Samsung infringes this claim element: For example, the Samsung Galaxy phones and tablets include a camera unit for taking images, video and audio. See excerpt from: https://www.samsung.com/uk/support/mobile-devices/how-to-use-the-camera-on-a-galaxy-smartphone/; https://www.samsung.com/us/support/answer/ANS00089063/.

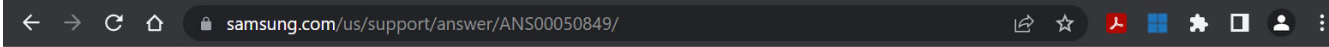
Claim 9	Samsung's Mobile Devices with SOS Feature ¹
	A screenshot of a web browser showing the Samsung UK support page for Galaxy smartphones. The address bar shows the URL: samsung.com/uk/support/mobile-devices/how-to-use-the-camera-on-a-galaxy-s... The page features the Samsung logo, navigation icons (search, shopping cart, user, menu), and an 'Update' button. The main heading is 'How to use the camera on a Galaxy smartphone'. Below the heading is a large image of a hand holding a Samsung smartphone. At the bottom, there is a paragraph of text with a yellow highlight box around the first sentence. How to use the camera on a Galaxy smartphone  Your smartphone is more than just a phone. It comes with a built-in professional-grade camera that's easy to use and there's a whole host of modes to help you capture every moment, from gorgeous selfies to stunning panoramas and spectacular slow-motion videos. Here you can learn about the key features of the camera on your Galaxy smartphone and find out how to use them quickly and easily. Give Feedback

Claim 9	Samsung's Mobile Devices with SOS Feature ¹
	 The cameras on Galaxy phones and tablets come with a variety of shooting modes and camera settings that make it easy to capture and add flair to your pictures and videos. AR Doodle, Super slow-mo, Director's view, and Portrait mode are just a few of the things the camera has to offer. You can take things a step further by adjusting the camera's available settings, such as changing the video size or adding grid lines.
[9.ii] a location unit, adapted to obtain location data;	Samsung's Mobile Devices comprise a location unit, adapted to obtain location data. Below is non-exhaustive, exemplary evidence from public sources demonstrating how Samsung infringes this claim element: For example, the Samsung's Mobile Devices include a GPS which obtains location data. See excerpt from: https://www.samsung.com/latin_en/support/mobile-devices/how-to-activate-my-location-and-change-settings-for-location-permissions/, which shows that Galaxy phones include a GPS unit to track real-time location data.

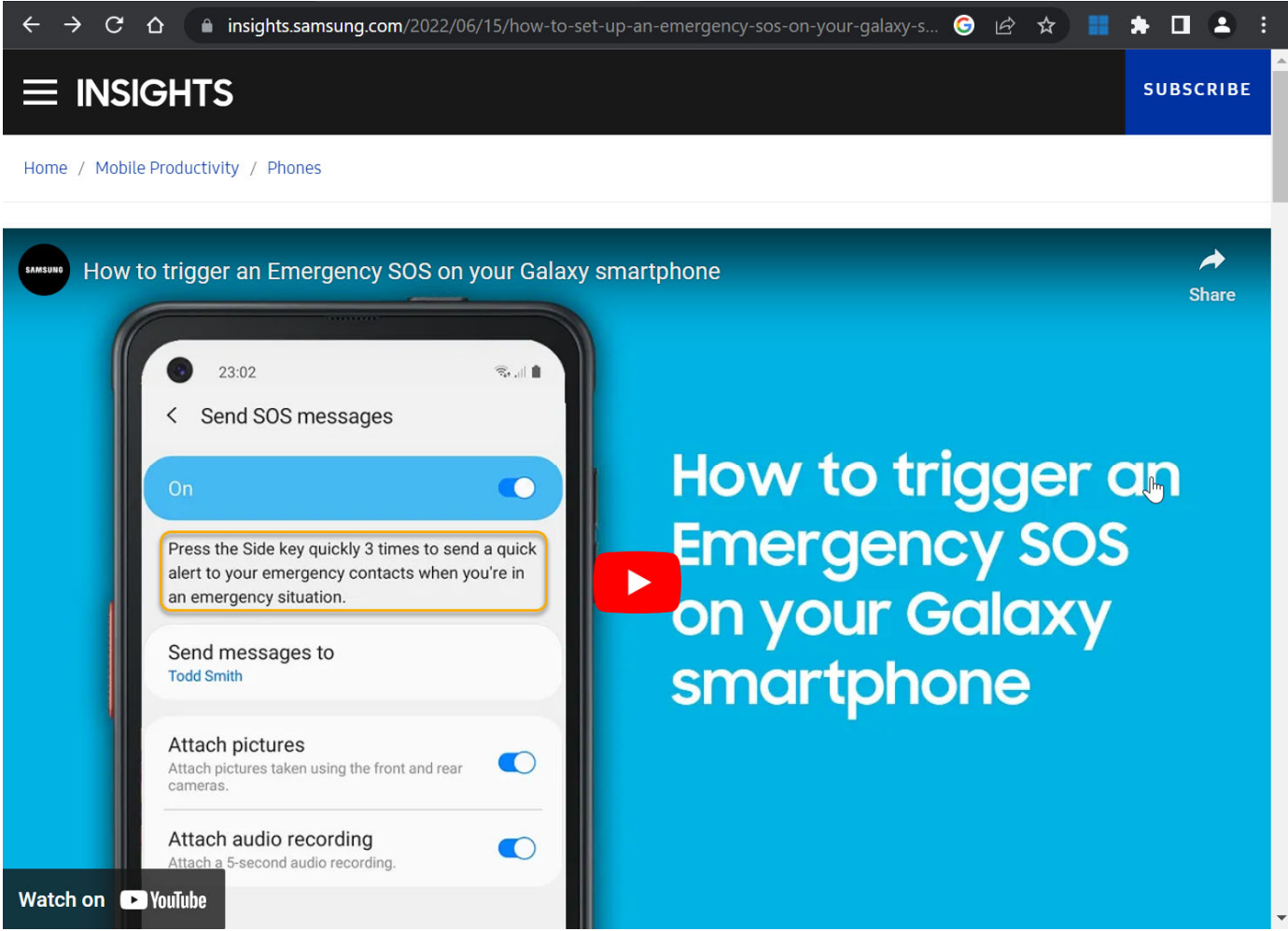
Claim 9	Samsung's Mobile Devices with SOS Feature ¹
	
[9.iii] a transmitting unit, adapted to transmit as emergency information the image data, the audio data, and the location data along with specific information including owner identification information; and	Samsung's Mobile Devices comprise a transmitting unit, adapted to transmit as emergency information the image data, the audio data, and the location data along with specific information including owner identification information. Below is non-exhaustive, exemplary evidence from public sources demonstrating how Samsung infringes this claim element: For example, the Accused Products include one or more transmitters that transmit image data, audio data, location data and caller information. <i>See</i> excerpt from https://www.samsung.com/us/support/answer/ANS00050849/, which indicates that when you use the SOS feature it sends “your location, photo, and voice recording” to your emergency contact(s).

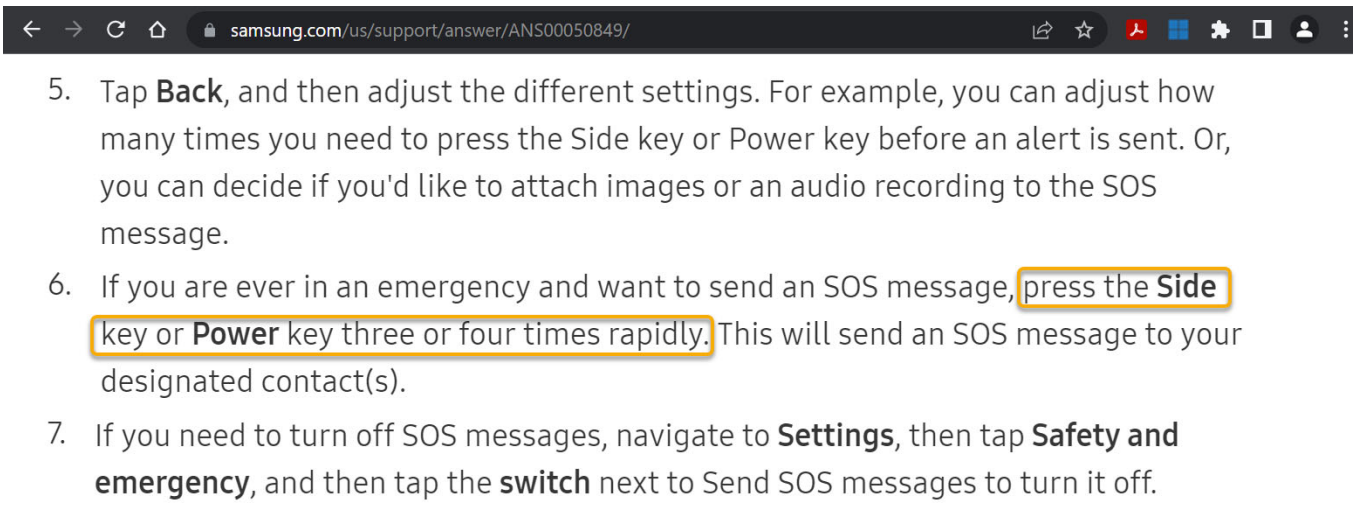
Claim 9	Samsung's Mobile Devices with SOS Feature ¹
	 The screenshot shows a web browser at samsung.com/us/support/answer/ANS00050849/. The page title is "Select from contacts". Below the title is a list of instructions for using the SOS feature. A blue button labeled "CONTACT" is visible at the bottom right of the page. 4. Make or choose your emergency contact - they will be the one who receives the SOS alerts. If desired, you can add multiple contacts. 5. Tap Back, and then adjust the different settings. For example, you can adjust how many times you need to press the Side key or Power key before an alert is sent. Or, you can decide if you'd like to attach images or an audio recording to the SOS message. 6. If you are ever in an emergency and want to send an SOS message, press the Side key or Power key three or four times rapidly. This will send an SOS message to your designated contact(s). 7. If you need to turn off SOS messages, navigate to Settings, then tap Safety and emergency, and then tap the switch next to Send SOS messages to turn it off. Note: The device must have an active SIM card in order to send an SOS alert. When using the SOS feature, your location, photo, and voice recording will be sent the first time a call is made. It will send updated locations (every 30 minutes for a span of 24 hours) until the alert is stopped. This also applies to Galaxy watch devices.
[9.iv] a panic button, adapted to activate the camera unit, the location unit, and the transmitting unit,	Samsung's Mobile Devices comprise a panic button, adapted to activate the camera unit, the location unit, and the transmitting unit, and send the emergency information and the specific information to a specified location when the panic button is activated.

Claim 9	Samsung's Mobile Devices with SOS Feature ¹
and send the emergency information and the specific information to a specified location when the panic button is activated,	Below is non-exhaustive, exemplary evidence from public sources demonstrating how Samsung infringes this claim element: For example, the Accused Products utilize the power button as the panic button. See excerpt from https://www.samsung.com/us/support/answer/ANS00050849/, which indicates that the Side key or Power key (i.e., Panic Button) is pressed three or four times to activate the SOS feature and when the SOS feature is activated, the phone transmits “your location, photo, and voice recording” to your emergency contact(s). Messages also include the telephone number of the mobile device.  The screenshot shows a web browser window with the URL samsung.com/us/support/answer/ANS00050849/. The page title is "Use SOS messages". The text on the page reads: "If you ever experience a true emergency, such as a flood or earthquake, you may not have the time to make a call or send out a text. Because of this, you should set up the SOS messages feature on your device. It will send out an SOS alert to emergency contacts, so they will know something is wrong. All you have to do is press the Side key or Power key a couple times to send out the alert." The last sentence is highlighted with a yellow box.
[9.v] wherein the panic button is activated by a series of depressings of the panic button.	Samsung's Mobile Devices comprise a panic button such that the panic button is activated by a series of depressings of the panic button. Below is non-exhaustive, exemplary evidence from public sources demonstrating how Samsung infringes this claim element:

Claim 9	Samsung's Mobile Devices with SOS Feature ¹
	For example, the Accused Products utilize the power button as the panic button. See below excerpt from https://www.samsung.com/us/support/answer/ANS00050849/, which indicates that the Side key or Power key (i.e., Panic Button) is pressed multiple times (three or four times, adjustable by the owner) to send out the SOS alert.  The screenshot shows a web browser address bar with the URL samsung.com/us/support/answer/ANS00050849/. Below the browser, there are three numbered steps: 5. Tap Back, and then adjust the different settings. For example, you can adjust how many times you need to press the Side key or Power key before an alert is sent. Or, you can decide if you'd like to attach images or an audio recording to the SOS message. 6. If you are ever in an emergency and want to send an SOS message, press the Side key or Power key three or four times rapidly. This will send an SOS message to your designated contact(s). 7. If you need to turn off SOS messages, navigate to Settings, then tap Safety and emergency, and then tap the switch next to Send SOS messages to turn it off.

Claim 12	Samsung's Mobile Devices with SOS Feature ¹
[12]. The mobile device of claim 9, wherein a number of depressings of the panic button to activate the panic button is three.	Samsun's Mobile Devices include the system of Claim 9 as shown above, and wherein a number of depressings of the panic button to activate the panic button is three. Below is non-exhaustive, exemplary evidence from public sources demonstrating how Samsung infringes this claim element: For example, the default setting on Samsung is that the Side key or Power key (i.e., Panic Button) is pressed three times to send out the SOS alert. See https://insights.samsung.com/2022/06/15/how-to-set-up-an-emergency-sos-on-your-galaxy-smartphone-2/

Claim 12	Samsung's Mobile Devices with SOS Feature ¹
	 The screenshot shows a web browser displaying an article from Samsung Insights. The URL in the address bar is insights.samsung.com/2022/06/15/how-to-set-up-an-emergency-sos-on-your-galaxy-s.... The article title is "How to trigger an Emergency SOS on your Galaxy smartphone". The main image shows a smartphone screen with the "Send SOS messages" settings. A yellow box highlights the instruction: "Press the Side key quickly 3 times to send a quick alert to your emergency contacts when you're in an emergency situation." The screen also shows options to "Send messages to" (Todd Smith), "Attach pictures" (toggle on), and "Attach audio recording" (toggle on). A red YouTube play button is overlaid on the image. The text "How to trigger an Emergency SOS on your Galaxy smartphone" is written in large white letters on a blue background. A "Watch on YouTube" button is at the bottom left of the image area. See also, https://www.samsung.com/us/support/answer/ANS00050849/, which indicates that the Side key or Power key (i.e., Panic Button) is pressed three or four times, adjustable by the owner, to send out the SOS alert.

Claim 12	Samsung's Mobile Devices with SOS Feature ¹
	 The screenshot shows a web browser window with the address bar displaying 'samsung.com/us/support/answer/ANS00050849/'. The page content includes three numbered steps: 5. Tap Back, and then adjust the different settings. For example, you can adjust how many times you need to press the Side key or Power key before an alert is sent. Or, you can decide if you'd like to attach images or an audio recording to the SOS message. 6. If you are ever in an emergency and want to send an SOS message, press the Side key or Power key three or four times rapidly. This will send an SOS message to your designated contact(s). 7. If you need to turn off SOS messages, navigate to Settings, then tap Safety and emergency, and then tap the switch next to Send SOS messages to turn it off.

CERTIFICATE OF SERVICE

The undersign hereby certifies that on July 13, 2023, a copy of **PLAINTIFF FENDGO LLC'S DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS** was served on the following counsel of record in the manner indicated below:

BY EMAIL

Melissa R. Smith
melissa@gillamsmithlaw.com

/s/ James R. Nuttall
James R. Nuttall