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17 *Attorneys for Samsung Plaintiffs*

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 SAMSUNG ELECTRONICS CO., LTD.,)
21 SAMSUNG ELECTRONICS AMERICA,)
22 INC. and SAMSUNG RESEARCH)
AMERICA)
23 Plaintiffs,)
24 v.)
25 ZTE CORPORATION)
26 Defendant.)
27 _____)
28

CASE NO. _____

**COMPLAINT FOR BREACH OF
CONTRACT, VIOLATION OF
SECTION 2 OF THE SHERMAN ACT,
AND VIOLATION OF SECTION 17200**

**REDACTED VERSION OF
DOCUMENT SOUGHT TO BE
SEALED**

JURY TRIAL DEMANDED

1 Plaintiffs Samsung Electronics Co., Ltd. (“SEC”), Samsung Electronics America, Inc. (“SEA”)
2 and Samsung Research America (“SRA”) (collectively “Samsung”) seek a judgment against ZTE
3 Corporation (“ZTE”) that ZTE breached its contractual undertakings to license to Samsung certain
4 patents on fair, reasonable, and non-discriminatory (“FRAND”) terms, violated Section 2 of the
5 Sherman Act, and violated Cal. Bus. & Prof. Code § 17200, as set forth below.

6 **NATURE OF THE ACTION**

7 1. This action arises from ZTE’s contractual commitments to license patents essential to
8 industry standards, such as cellular communication standards, on FRAND terms. Rather than honor
9 these contractual commitments, ZTE has launched a campaign of aggressively pursuing excessive
10 royalties from industry participants.

11 2. Both ZTE and Samsung have been involved in technical work relating to development
12 of the 4G Long Term Evolution (“4G”) and 5G New Radio (“5G”) standards for cellular
13 communications. Samsung’s pioneering efforts in this work have led to numerous U.S. patents held
14 by Samsung relating to the 4G and 5G standards, as well as development of a wide range of other
15 technology used in Samsung’s mobile communication products. ZTE has also submitted declarations
16 asserting that it holds patents allegedly essential for the 4G and 5G standards.

17 3. Samsung is a leading innovator in developing consumer and commercial products that
18 practice the 4G, 5G, and other industry standards together with a vast array of other technology that is
19 distinct from these standards. For example, Samsung’s pioneering development of industry leading
20 smartphone technology relating to industrial design, cameras, touchscreens, software, and other
21 features has been widely recognized and has led to significant commercial success of Samsung
22 products relative to numerous other less successful products that practice the same industry standards.

23 4. Samsung and ZTE previously engaged in lengthy, substantive discussions regarding a
24 patent license. Despite non-FRAND demands and conduct by ZTE at that time, the parties were
25 ultimately able to reach mutually agreed upon payment terms in a July 2021 license.

26 5. During the past years, ZTE has experienced a decline in its product business, especially
27 in the United States where ZTE was found to have engaged in trade and security misconduct. For
28 example, in March 2017, ZTE pleaded guilty to violating trade sanctions by exporting U.S. technology

1 to Iran and North Korea, and was fined \$1.19 billion by the Department of Commerce. Further,
2 following adoption of the Secure Equipment Act of 2021, in November 2022, the Federal
3 Communications Commission banned certain ZTE products from the U.S. marketplace for national
4 security reasons.

5 6. In an apparent response to its declining product business in the United States and
6 elsewhere, ZTE has sought to unfairly compensate itself through further pursuit of its aggressive and
7 unreasonable patent licensing campaign. Through this campaign, ZTE is attempting to appropriate
8 for itself the benefit of innovations by other companies who participate in the product marketplace,
9 such as Samsung, by demanding excessive royalties for licensing patents that ZTE contends are
10 essential to industry standards.

11 7. The unfair and unreasonable nature of ZTE’s conduct is illustrated by the inconsistency
12 of [REDACTED]

13 [REDACTED]
14 [REDACTED]
15 [REDACTED] The unfair and
16 unreasonable nature of ZTE’s conduct is further illustrated by its practice of repeatedly divesting
17 patents subject to FRAND commitments to non-practicing entities for purposes of assertion against
18 product companies who remain targets for ZTE’s own licensing assertions as well, thus exposing such
19 companies to multiple sources of risk and payment demands in order to drive up the overall price in
20 violation of FRAND commitments.

21 8. ZTE has also acted unreasonably in resisting Samsung’s efforts to obtain FRAND
22 licensing terms. ZTE has [REDACTED]

23 [REDACTED]
24 leaving the door open to seek injunctions against Samsung’s product sales. ZTE has also sought to
25 obstruct Samsung’s effort to obtain a neutral determination of FRAND terms through rate setting by
26 the UK High Court—and has specifically refused to enter into a license agreement at the royalty rates
27 that will be set in the first-filed action before the UK High Court, despite acknowledging jurisdiction
28

1 by the UK High Court over the parties' patent licensing dispute. Instead, ZTE has pursued a redundant
2 and improper second-filed global rate setting action in China.

3 9. ZTE has further engaged in non-FRAND conduct by seeking patent infringement
4 injunctions against Samsung in multiple forums, after Samsung committed to binding, neutral
5 adjudication of rate-setting in both [REDACTED] and in the UK High Court. In particular, ZTE has sought
6 injunctions against Samsung products through lawsuits filed in the Unified Patent Court, Germany,
7 and most recently in Brazil and China. These injunction actions were brought by ZTE without first
8 complying with its FRAND obligations and ZTE has refused to refrain from pursuing injunctions
9 against Samsung products in view of pendency of the UK rate setting action. Indeed, these injunctions
10 actions serve no legitimate purpose and are instead aimed at seeking unfair leverage to pressure
11 Samsung into accepting ZTE's non-FRAND conduct, including with regard to U.S. SEPs.

12 10. ZTE's unreasonable conduct violates the contractual undertakings it made as a
13 participant in cellular standards bodies. Participants in such standards bodies are required to submit a
14 contractual undertaking to license "essential" patents on FRAND terms. ZTE has submitted such
15 undertakings, for which Samsung is an intended third-party beneficiary. ZTE has breached these
16 contracts via its demands for excessive royalties from Samsung, divestment scheme, obstruction of
17 neutral resolutions of FRAND terms, pursuit of an improper second-filed global rate setting action in
18 China, improper pursuit of patent infringement injunction actions as a means of seeking unfair
19 leverage over Samsung, and related unfair and unreasonable conduct. ZTE has also committed
20 antitrust violations through submission of deceptive FRAND licensing declarations to ETSI in
21 connection with standard setting activities.

22 11. As noted above, in an effort to resolve the parties' dispute over FRAND licensing terms
23 and to avoid further harm, Samsung has sought a judicial resolution by the UK High Court regarding
24 global FRAND terms for a license between the parties. While the UK action addresses FRAND "rate-
25 setting," this action is directed to seeking redress for the harm suffered by Samsung as a result of
26 ZTE's non-FRAND conduct. Samsung therefore brings this action to seek redress for this harm, and
27 to prevent further harm from misconduct by ZTE, including to Samsung's related business operations
28 in this District.

PARTIES

1
2 12. Samsung Electronics Co., Ltd. is a Korean corporation with its principal place of
3 business at 129 Samsung-ro, Maetan-dong, Yeongtong-gu Suwon-si, Gyeonggi-do 16677. SEC is
4 involved in design, development, manufacturing, and distribution of a range of products, including
5 products that implement industry standards for which ZTE has refused to provide licenses on FRAND
6 terms.

7 13. Samsung Electronics America, Inc. is a New York corporation with its principal place
8 of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660. SEA is involved in, sales,
9 marketing, distribution, and commercialization of products that implement industry standards for
10 which ZTE has refused to provide licenses on FRAND terms.

11 14. Samsung Research America is a California corporation with its principal place of
12 business at 665 Clyde Ave, Mountain View, CA 94043. SRA is involved in research and development
13 activities for Samsung products, including in connection with the standards at issue in this case for
14 which ZTE has refused to provide licenses on FRAND terms.

15 15. On information and belief, ZTE Corporation is a Chinese corporation with its principal
16 place of business at ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nanshan District, Shenzhen,
17 P.R. China.

18 **JURISDICTION & VENUE**

19 16. This Court has subject matter jurisdiction over Samsung’s antitrust claim under Section
20 4 of the Sherman Act, 15 U.S.C. § 4, and 28 U.S.C. §§ 1331, 1337. The Court further has supplemental
21 jurisdiction over state law claims under 28 U.S.C. § 1367 because they form part of the same case or
22 controversy as the federal claim and arise from a common nucleus of operative facts.

23 17. This Court has personal jurisdiction over ZTE because ZTE has purposefully directed
24 activities or transactions to this forum, has performed acts purposefully availing itself of the privilege
25 of conducting activities in this forum relating to the subject matter of this case, and has engaged in
26 misconduct having foreseeable effect in this forum. ZTE purports to hold hundreds of U.S. patents
27 that it contends are essential to industry standards and which are the basis for its excessive demands
28 for licensing based on, in part, the activities of Samsung in this District. Upon information and belief,

1 ZTE has supervised, coordinated with, and/or directed the activities of personnel in California in
2 connection with developing and asserting the patent portfolio and excessive payment demands at issue
3 in this case. Numerous patents that ZTE has declared as essential to 4G and/or 5G cellular standards
4 were prosecuted on ZTE's behalf, in furtherance of the misconduct by ZTE at issue in this case, by
5 attorneys located in California. Multiple patents that ZTE has declared as essential to 4G and/or 5G
6 cellular standards were developed and invented, in furtherance of the misconduct by ZTE at issue in
7 this case, by technical personnel located in California. Technical personnel located in California have
8 also participated in 3GPP standard setting activities on behalf of ZTE, likewise in furtherance of the
9 misconduct at issue. Further, upon information and belief, ZTE has directed communications and
10 assertions to multiple companies located in this District relating to the 4G and/or 5G patents at issue
11 in this case and relating to its efforts to obtain excessive royalties for licensing its patents, including
12 for example Apple. ZTE's communications and assertions to Samsung, which relate to multiple
13 Samsung entities, likewise are directed at business conducted in this District, including the
14 headquarters of SRA. Upon information and belief, each of the acts noted above was conducted in
15 connection with ZTE's plan of pursuing non-FRAND conduct and excessive royalty demands from
16 industry participants for patents allegedly essential to industry standards in violation of ZTE's
17 deceptive commitments to license the 4G and 5G patents at issue on FRAND terms, which is the
18 subject matter of this case. Further, ZTE's conduct has caused injury to Samsung in this District,
19 including impact upon business activities centered in this District.

20 18. The Court further has personal jurisdiction over the antitrust claims against ZTE based
21 upon its national contacts with the United States, pursuant to 15 U.S.C. § 22. ZTE's activities relating
22 to enforcement, prosecution, and development of 4G and 5G SEPs have been directed to California,
23 as set forth above, as well as to additional areas in the United States. Further, upon information and
24 belief, ZTE's global patent-related activities during at least a portion of the time period at issue in this
25 case were directed by personnel located in the United States, including for example Mang Zhu.

26 19. Venue is proper in this District pursuant to at least 28 U.S.C. § 1391(b)(2) and (c)(3)
27 and pursuant to 15 U.S.C. § 22.
28

DIVISIONAL ASSIGNMENT

1
2 20. For purposes of intradistrict assignment under Civil Local Rules 3-2(c) and 3-5(b), this
3 case involves an antitrust claim and is subject to district-wide assignment.

4 **BACKGROUND**

5 **SSOs & Industry Standards**

6 21. In order to ensure that cellular mobile handsets and network equipment made by
7 multiple manufacturers can work together, industry participants collaborate to develop standards that
8 define protocols for communication between these devices. One of the primary organizations involved
9 in such standard setting is the European Telecommunications Standards Institute (“ETSI”), which
10 helped produce the 4G and 5G standards, as well as certain 3G and 2G cellular communication
11 standards. ZTE and Samsung are both members of ETSI. Multiple other standard setting
12 organizations produce other standards relevant to Samsung’s products.

13 22. Standards are beneficial because compliance with a given set of standards by all
14 industry participants ensures that devices made by any company in the world can communicate with
15 each other because all devices speak the same “language.” This allows consumers to have confidence
16 that cellular mobile devices bought from numerous manufacturers will work with cellular networks
17 and with other cellular mobile devices. Once a standard is adopted, compliance with the standard is
18 mandatory for any company seeking to produce standard-complaint devices.

19 23. Certain risks to manufacturers arise when companies claim to have patents that are
20 “essential,” or required, for compliance with industry standards. Such patents are known as standard
21 essential patents (“SEPs”). In some instances, companies who propose and lobby for incorporating
22 certain protocols in the standard-setting process are also the holders of patents they allege are SEPs.

23 24. Manufacturers are thus at risk of being targeted with patent infringement assertions
24 based on their use of public industry standards if those standards are allegedly covered by patents.
25 This situation becomes particularly problematic when patent holders seek excessive royalty payments
26 and seek to “hold-up” industry participants, who have no choice but to use the protocols specified in
27 the standards—regardless of the extent to which any such technology allegedly covered by a particular
28 patent is inherently valuable or useful.

1 25. This also causes a potential conflict of interest within the standard-setting process,
2 where participants may second-guess the motivation of a company that proposes the use of a particular
3 protocol in the standard. Such proposals for inclusion of material into the standard may be motivated
4 by the proposing company's desire to assert that it holds SEPs covering such technology.

5 26. In an attempt to address the problems noted above, standard-setting organizations
6 typically adopt patent policies that govern licensing of SEPs. In particular, ETSI has adopted an
7 Intellectual Property Rights ("IPR") Policy, incorporated as Annex 5 of the ETSI Rules of Procedure.
8 The ETSI IPR Policy contractually requires members to disclose SEPs and to submit an IPR
9 Information Statement and Licensing Declarations ("IPR Declaration"), under which Clause 6.1 calls
10 for declarants to make contractual commitments to "grant irrevocable licen[s]es on fair, reasonable
11 and non-discriminatory ('FRAND') terms and conditions." A copy of the ETSI IPR Policy is attached
12 as Exhibit 1.

13 27. ZTE has submitted numerous IPR Declarations to ETSI with regard to patents relating
14 to cellular communication standards formulated by ETSI, including 5G, 4G, 3G, and 2G, which
15 contractually commit to "grant irrevocable licenses under its/their IPR(s) on terms and conditions
16 which are in accordance with Clause 6.1 of the ETSI IPR Policy." Each of these IPR Declarations is
17 a contract between ZTE and ETSI, with Samsung (and others) as an intended third-party beneficiary.
18 An exemplary IPR Declaration of ZTE is attached as Exhibit 2. In return for submitting declarations,
19 ZTE is permitted to participate in ETSI standard setting and to have its technical contributions and
20 technology potentially related to its patents considered for incorporation into ETSI standards. As such,
21 ZTE is contractually obligated to grant licenses to Samsung, an intended third-party beneficiary of the
22 IPR Declarations in accordance with the ETSI IPR policy, on FRAND terms for SEPs relating to these
23 communication standards. This includes an obligation to act in good faith in connection with licensing
24 the declared patents.

25 **ZTE's Market Power Regarding Technology Incorporated Into Standards**

26 28. Cellular communication standards, such as 4G and 5G, are formulated through the
27 work of technical committees or other types of working groups, comprised of representatives of ETSI
28 members. The committees consider submissions of technical materials, known as standards

1 contributions, that collectively contain multiple alternative protocols, technologies, or approaches for
2 implementing particular features sought to be incorporated into the standard. ZTE describes itself as
3 a major contributor and participant in the standard-setting process for cellular standards and purports
4 to have submitted many thousands of technical contributions during the ETSI standard-setting process.

5 29. For purposes of evaluating the anticompetitive effect of ZTE's conduct at issue in this
6 action, the relevant markets are the markets for input technologies comprising subject matter allegedly
7 covered by ZTE's patents together with the alternative technologies to ZTE's patents that could have
8 been used in the cellular standards—before adoption of the standards—to perform standardized
9 functionality allegedly covered by ZTE's SEPs (“Standardized Technology Markets”). The
10 functionality for cellular communication standards provided by the subject matter of each
11 Standardized Technology comprises an independent relevant market for antitrust purposes. For
12 example, competing standards contributions by other members of ETSI are reasonable substitutes for
13 subject matter of contributions submitted by ZTE (including such technology allegedly covered by
14 ZTE SEPs), because each of these alternatives are capable of performing the relevant functionality of
15 the standard. However, once the standard is adopted, formerly reasonable substitutes are no longer
16 available because implementation of technical subject matter chosen for inclusion in the standard is
17 required for standards-compliant products and thus companies producing such standards-compliant
18 products are locked in to use the required technology. ZTE therefore obtained a monopoly over the
19 relevant Standardized Technology Markets for which it allegedly holds SEPs. Cellular
20 communication standards are implemented throughout the world and standards contributions are
21 submitted by companies around the world. The geographic scope of the Standardized Technology
22 Markets is therefore global.

23 30. As a result of inclusion into cellular communications standards of technical subject
24 matter allegedly covered by ZTE SEPs, ZTE has the power to take advantage of the effect of locking
25 in that technical subject matter, such as by raising prices and excluding competition with respect to
26 each of the protocols or technologies that is covered by its SEPs and was incorporated into the
27 standards. As set forth below, ZTE acquired that power improperly as a result of its misconduct,
28 including deceptive submission of false FRAND commitments to ETSI. Barriers to entry into the

1 Standardized Technology Markets are high because other technologies are no longer viable substitutes
2 after particular technologies were chosen for inclusion in the standard and potential re-formulation of
3 standards is a difficult, time-consuming process—which continues to grow more difficult as further
4 investments continue to be made in producing and rolling out products compliant with existing
5 standards. ZTE therefore holds monopoly power in the Standardized Technology Markets allegedly
6 covered by ZTE SEPs. Such monopoly power and misconduct by ZTE is further compounded by
7 ZTE’s requests for injunctive relief against Samsung products, and implicit threat of further such
8 requests in the future, to the extent Samsung does not agree to the excessive payment demands asserted
9 by ZTE as a result of its market power.

10 31. As noted above, ETSI seeks to address issues of this nature by conditioning its
11 consideration of technical material for incorporation into standards, including consideration of ZTE’s
12 technical contributions relative to alternative technologies contributed by other standard-setting
13 participants, on the provisions of the ETSI IPR Policy requiring FRAND licensing commitments. In
14 particular, ETSI relies upon FRAND licensing commitments in order to select and lock in technical
15 subject matter for inclusion in standards instead of selecting competing alternative technologies.

16 32. If a FRAND commitment is not available, the IPR Policy permits ETSI to change the
17 standard to avoid the SEP in question. Clause 8 of the ETSI IPR Policy addresses steps for avoiding
18 incorporating into standards technology for which licenses are not available on FRAND terms as well
19 as steps for mitigating the harm resulting from previous incorporation into standards technology for
20 which it subsequently turns out that licenses are not available on FRAND terms. For example, Clause
21 8.1.3 states as follows: “Prior to any decision by the General Assembly, the COMMITTEE should in
22 consultation with the ETSI Secretariat use their judgment as to whether or not the COMMITTEE
23 should pursue development of the concerned parts of the STANDARD or a TECHNICAL
24 SPECIFICATION based on the non-available technology and should look for alternative solutions.”
25 As a further example, Clause 8.2 provides, in part, that when “in respect of a published STANDARD
26 or TECHNICAL SPECIFICATION, ETSI becomes aware that licen[s]es are not available from an
27 IPR owner in accordance with Clause 6.1 above” steps taken by ETSI can include that a “vote shall
28 be taken in the General Assembly on an individual weighted basis to immediately refer the

1 STANDARD or TECHNICAL SPECIFICATION to the relevant COMMITTEE to modify it so that
2 the IPR is no longer ESSENTIAL.”

3 **ZTE’s Deceptive FRAND Commitments**

4 33. During the course of the past years, ZTE has continuously committed to ETSI that
5 licenses for SEPs held by ZTE would be available on FRAND terms. For example, ZTE submitted
6 dozens of FRAND commitments to ETSI during the past year, including for example a November 26,
7 2024 FRAND licensing declaration submitted by Mr. Guanglei Chen, IPR Director at ZTE, with
8 regard to various patents allegedly essential to the 5G cellular communication standard.

9 34. ZTE submitted its FRAND commitments to ETSI after ZTE was already asserting non-
10 FRAND positions and [REDACTED]
11 with Samsung, as well as after ZTE’s non-FRAND conduct in the previous licensing discussions
12 leading to the 2021 agreement. ZTE also submitted its FRAND commitments to ETSI after ZTE had
13 already embarked upon its patent divestment scheme, for example after ZTE’s September 25, 2020
14 patent assignment to G+ Communications LLC and ZTE’s December 21, 2022 patent assignment to
15 Advanced Standard Communication LLC.

16 35. Upon information and belief, ZTE submitted FRAND licensing declarations to ETSI
17 while knowing that it would fail to comply with its FRAND licensing obligations. ZTE’s deceptive
18 FRAND commitments would be expected to mislead, and have in fact misled, ETSI and the public
19 when they acted reasonably by relying on ZTE’s FRAND commitments in connection with selecting
20 technology for incorporation into standards and thus foregoing selection of reasonable alternative
21 technologies that were available at the time, such as standards contributions of companies other than
22 ZTE.

23 **Parties’ Previous License Agreement**

24 36. Samsung and ZTE previously entered into a license agreement in July 2021 (“2021
25 Agreement”).

26 37. The 2021 Agreement was entered into following extensive, substantive licensing
27 discussions. Samsung and ZTE ultimately mutually agreed upon licensing and payment terms
28 regarding the patent portfolios covered by the agreement.

ZTE’s Divestment of Patents

38. ZTE has engaged in multiple rounds of divesting patents subject to FRAND commitments to non-practicing entities, who have in turn asserted these patents against product companies who remain targets for ZTE’s licensing demands as well. Upon information and belief, these activities are conducted pursuant to a scheme and/or coordination between ZTE and the non-practicing entities in question.

39. ZTE’s divestment scheme serves to expose product companies to multiple sources of risk and payment demands, instead of the single source of risk and demands that existed while the patents were held by ZTE. This scheme serves to unfairly drive up the overall price of a license to the overall portfolio in violation of FRAND commitments.

ZTE’s Breach of FRAND

40. ZTE has publicly stated that it seeks to generate extensive revenue from patent licensing, particularly with regard to cellular standard essential patents. This strategy has been reflected in ZTE’s conduct, which has become increasingly aggressive and unreasonable in connection with improper attempts to pressure Samsung to pay excessive royalties.

41. Samsung, on its own behalf and behalf of its worldwide affiliates, has engaged in [REDACTED] [REDACTED] Despite repeated efforts by Samsung to [REDACTED] [REDACTED] ZTE has engaged in non-FRAND conduct, including insisting upon excessive royalty payments that are not FRAND and that are inconsistent with the mutually agreed terms in the parties’ previous agreement. ZTE has also unreasonably obstructed Samsung’s efforts to obtain a neutral resolution of the parties’ disputes [REDACTED] and through rate setting by the UK High Court—and has specifically refused to enter into a license agreement at the royalty rates that will be set in the first-filed action before the UK High Court, despite acknowledging jurisdiction by the UK High Court over the parties’ patent licensing dispute. Instead, ZTE has pursued a redundant and improper second-filed global rate setting action in China. ZTE has further engaged in non-FRAND conduct by pursuing patent infringement injunctions against Samsung in the Unified Patent Court, Germany, and most recently in Brazil and

1 China, after Samsung committed to binding, neutral adjudication of rate-setting in both [REDACTED] and
2 in the UK High Court. ZTE has refused to refrain from pursuing injunctions against Samsung products
3 in view of pendency of the UK rate setting action. These injunction actions improperly serve as a
4 means for ZTE to seek unfair leverage to pressure Samsung into non-FRAND terms for licensing the
5 SEPs at issue, including pressure to pay non-FRAND terms for licensing U.S. SEPs allegedly practiced
6 by Plaintiffs. ZTE's scheme to exert improper pressure on Samsung through injunction actions has
7 already resulted in entry of preliminary injunctive relief against Samsung in Brazil based on purported
8 SEP infringement.

9 **CLAIMS FOR RELIEF**

10 **COUNT I**

11 **(Breach of Contract)**

12 42. Samsung repeats and realleges each and every allegation contained in the paragraphs
13 above as if fully set forth herein.

14 43. ZTE's IPR Declarations to ETSI contractually bind ZTE to license SEPs and to act in
15 good faith regarding such licenses, including for cellular communication standards such as 5G and
16 4G, to Samsung as an intended third-party beneficiary, on FRAND terms. Companies whose business
17 activities involve standardized products and technologies, such as Samsung, are intended third-party
18 beneficiaries of ZTE's contractual commitments and are entitled to enforce these contracts.

19 44. As set forth above, ZTE has breached its contractual FRAND obligation in connection
20 with licensing patents that ZTE contends are SEPs for the 5G and 4G standards, including for example
21 through failure to provide FRAND licensing terms in response to Samsung's requests, demands for
22 excessive royalties from Samsung, divestment scheme, obstruction of neutral resolutions of FRAND
23 terms, pursuit of a redundant and improper second-filed global rate setting action in China, improper
24 pursuit of patent infringement injunction actions as a means of seeking unfair leverage over Samsung,
25 and related unfair and unreasonable conduct. ZTE's lack of compliance with FRAND licensing
26 obligations can be analyzed with respect to multiple factors including, for example, guidance provided
27 by the parties' 2021 Agreement, with reference to the FRAND royalty rates that will be set by the UK
28 High Court, and in connection with multiple instances of unfair and unreasonable conduct.

COUNT III

(Violation of Section 2 of the Sherman Act)

1
2
3 51. Samsung repeats and realleges each and every allegation contained in the paragraphs
4 above as if fully set forth herein.

5 52. ZTE has unlawfully monopolized multiple Standardized Technology Markets (defined
6 above) by deceptively committing to license SEPs on FRAND terms while intending not to honor this
7 commitment, including in view of the conduct described above. ZTE has engaged in this misconduct,
8 upon information and belief, with the intent to monopolize the Standardized Technology Markets.

9 53. The ETSI IPR Policy contains provisions (in Clauses 8.1 and 8.2) for excluding
10 technology from standards, both before and after adoption of a standard, in instances where a license
11 to patents covering such technology is not available on FRAND terms. Upon information and belief,
12 had ZTE disclosed its true intent to ETSI instead of submitting deceptive FRAND commitments, ETSI
13 would have chosen to standardize alternative technologies to perform the relevant functionality, would
14 have replaced standardized subject matter with alterative technology, or would have removed the
15 relevant functionality from the standard for the time being, allowing implementers to choose among
16 these alternative technologies, in accordance with the ETSI IPR Policy. ZTE therefore would not have
17 a monopoly in the Standardized Technology Markets but for the misconduct in question.

18 54. ZTE acted deceptively by continuously committing to ETSI that licenses for SEPs held
19 by ZTE would be available on FRAND terms despite knowing that this commitment was false. This
20 includes FRAND commitments submitted by ZTE in connection with the 5G standard during the past
21 year, after ZTE was already asserting non-FRAND positions and [REDACTED]
22 [REDACTED] with Samsung, as well as FRAND commitments submitted
23 after ZTE's non-FRAND conduct in the parties' previous licensing discussions leading to the 2021
24 agreement, and as well as FRAND commitments submitted after ZTE embarked upon its patent
25 divestment scheme. Upon information and belief, ZTE submitted FRAND licensing declarations to
26 ETSI while knowing that it would fail to comply with its commitments.

27 55. ZTE's deceptive FRAND commitments would be expected to mislead, and has in fact
28 misled, ETSI and the public when they acted reasonably by relying on ZTE's FRAND commitments

1 in connection with selecting technology for incorporation into standards, maintaining technology in
2 the standards, and foregoing selection of reasonable alternative technologies that were available at the
3 time, such as standards contributions of companies other than ZTE, as well as investing in producing
4 products compliant with the standards. ZTE's deceptive FRAND commitments proximately resulted
5 in incorporation into and maintenance in cellular communication standards of technology that is
6 allegedly covered by SEPs held by ZTE and by entities to whom ZTE divested SEPs. ZTE therefore
7 has unlawfully excluded competing technologies from the Standardized Technology Markets and
8 unlawfully acquired monopoly power in those markets. It was ZTE's willful misconduct, rather than
9 any alleged superior product, business acumen, or historic accident, that led to this monopoly power.

10 56. Samsung has suffered injury, and is threatened with imminent further injury, as a direct
11 and proximate result of ZTE's monopolization. In its role as a consumer in the Standardized
12 Technology Markets for technology incorporated into Samsung products, Samsung has suffered
13 anticompetitive injury because substitutable alternative technologies have been improperly excluded.
14 This has resulted in difficulty in obtaining license rights, higher costs for licenses to Samsung and the
15 industry, loss of personnel time spent dealing with improper assertions, and the prospect of injunctive
16 relief if Samsung does not concede to ZTE's unreasonable demands. Samsung may be further injured
17 by additional anticompetitive conduct by ZTE. The injury to Samsung is likely to continue, including
18 irreparable injury that cannot be reasonably compensated through monetary damages, absent relief
19 from the Court.

20 **COUNT IV**

21 **(Violation of Section 17200)**

22 57. Samsung repeats and realleges each and every allegation contained in the paragraphs
23 above as if fully set forth herein.

24 58. ZTE's conduct in connection with its failure to offer licenses on FRAND terms, its
25 patent divestment scheme, and its program of extracting excessive royalty payments from the industry
26 constitute unfair and/or fraudulent business acts or practices under Cal. Bus. & Prof. Code § 17200.

27 59. Once technology covered by a patent is adopted into and maintained in industry
28 standards, such as 4G and 5G, the patent owner obtains market power by virtue of the requirement for

1 the industry to implement the technology in question in order to produce and use products that comply
2 with the standard. More specifically, ZTE has market power in each of the markets comprising subject
3 matter allegedly covered by ZTE's SEPs together with the alternative technologies to ZTE's patents
4 that could have been used in the cellular standards—before adoption of the standards—to perform
5 standardized functionality allegedly covered by ZTE's SEPs. ETSI and the public therefore rely upon
6 FRAND licensing commitments to formulate standards with particular content, to maintain the content
7 of those standards, and to invest in producing products compliant with those standards, as set forth
8 above.

9 60. ZTE acted fraudulently by continuously committing to ETSI that licenses for SEPs held
10 by ZTE would be available on FRAND terms. This includes declarations submitted by ZTE in
11 connection with the 5G standard in the past year, during the course of [REDACTED]
12 [REDACTED], as well as licensing declarations submitted after ZTE's non-FRAND conduct in the parties'
13 previous licensing discussions leading to the 2021 agreement, and as well as licensing declarations
14 submitted after ZTE embarked upon its patent divestment scheme. Upon information and belief, ZTE
15 submitted FRAND licensing declarations to ETSI while knowing that it would fail to comply with its
16 FRAND licensing obligation and would seek to extract excessive royalty payments from Samsung and
17 from other companies. Upon information and belief, ZTE's fraudulent conduct would be expected to
18 mislead, and has in fact misled, ETSI and the public when they act reasonably by relying on ZTE's
19 FRAND commitments in the manner noted above.

20 61. ZTE also acted unfairly by virtue of the misconduct discussed above, which at a
21 minimum, violates the policy and spirit of antitrust laws through unfairly obtaining market power by
22 virtue of having technology allegedly covered by ZTE patents incorporated into and maintained in
23 industry standards, such as 4G and 5G, through deceptive conduct. This conduct harms Samsung and
24 the public and injures marketplace competition by, at a minimum, avoiding incorporation of alternative
25 technologies into the standards and instead driving up the price of standards-compliant products and
26 raising the specter of injunctions under ZTE's patent assertions. Upon information and belief, this
27 harm is not outweighed by any justification on the part of ZTE, which merely seeks to unethically
28 inflate the royalty payments it receives for licensing its patents.

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§ 15(a); and

J. That the Court award Samsung any and all other relief to which Samsung may show itself to be entitled and that the Court may deem just, equitable, and proper.

JURY DEMAND

Samsung demands a jury trial on all issues and claims so triable.

1 DATED: February 25, 2025

Respectfully submitted,

2 /s/ Brandon H. Brown

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Attorneys for Samsung Plaintiffs

Exhibit 1

ANNEX 6: ETSI Intellectual Property Rights Policy**1 Introduction**

The General Assembly of ETSI has established the following Intellectual Property Rights POLICY.

2 Definitions

Terms in the POLICY which are written in capital letters shall have the meaning set forth in Clause 15 entitled DEFINITIONS.

3 Policy Objectives

- 3.1 It is ETSI's objective to create STANDARDS and TECHNICAL SPECIFICATIONS that are based on solutions which best meet the technical objectives of the European telecommunications sector, as defined by the General Assembly. In order to further this objective the ETSI IPR POLICY seeks to reduce the risk to ETSI, MEMBERS, and others applying ETSI STANDARDS and TECHNICAL SPECIFICATIONS, that investment in the preparation, adoption and application of STANDARDS could be wasted as a result of an ESSENTIAL IPR for a STANDARD or TECHNICAL SPECIFICATION being unavailable. In achieving this objective, the ETSI IPR POLICY seeks a balance between the needs of standardization for public use in the field of telecommunications and the rights of the owners of IPRs.
- 3.2 IPR holders whether members of ETSI and their AFFILIATES or third parties, should be adequately and fairly rewarded for the use of their IPRs in the implementation of STANDARDS and TECHNICAL SPECIFICATIONS.
- 3.3 ETSI shall take reasonable measures to ensure, as far as possible, that its activities which relate to the preparation, adoption and application of STANDARDS and TECHNICAL SPECIFICATIONS, enable STANDARDS and TECHNICAL SPECIFICATIONS to be available to potential users in accordance with the general principles of standardization.

4 Disclosure of IPRs

- 4.1 Subject to Clause 4.2 below, each MEMBER shall use its reasonable endeavours, in particular during the development of a STANDARD or TECHNICAL SPECIFICATION where it participates, to inform ETSI of ESSENTIAL IPRs in a timely fashion. In particular, a MEMBER submitting a technical proposal for a STANDARD or TECHNICAL SPECIFICATION shall, on a bona fide basis, draw the attention of ETSI to any of that MEMBER's IPR which might be ESSENTIAL if that proposal is adopted.
- 4.2 The obligations pursuant to Clause 4.1 above do however not imply any obligation on MEMBERS to conduct IPR searches.
- 4.3 The obligations pursuant to Clause 4.1 above are deemed to be fulfilled in respect of all existing and future members of a PATENT FAMILY if ETSI has been informed of a member of this PATENT FAMILY in a timely fashion. Information on other members of this PATENT FAMILY, if any, may be voluntarily provided.

5 Procedures for Committees

ETSI shall establish guidelines for the Chairs of COMMITTEES with respect to ESSENTIAL IPRs.

6 Availability of Licences

- 6.1 When an ESSENTIAL IPR relating to a particular STANDARD or TECHNICAL SPECIFICATION is brought to the attention of ETSI, the Director-General of ETSI shall immediately request the owner to give within three months an irrevocable undertaking in writing that it is prepared to grant irrevocable licences on fair, reasonable and non-discriminatory ("FRAND") terms and conditions under such IPR to at least the following extent:
 - MANUFACTURE, including the right to make or have made customized components and sub-systems to the licensee's own design for use in MANUFACTURE;

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- sell, lease, or otherwise dispose of EQUIPMENT so MANUFACTURED;
- repair, use, or operate EQUIPMENT; and
- use METHODS.

The above undertaking may be made subject to the condition that those who seek licences agree to reciprocate.

6.1bis Transfer of ownership of ESSENTIAL IPR

FRAND licensing undertakings made pursuant to Clause 6 shall be interpreted as encumbrances that bind all successors-in-interest. Recognizing that this interpretation may not apply in all legal jurisdictions, any Declarant who has submitted a FRAND undertaking according to the POLICY who transfers ownership of ESSENTIAL IPR that is subject to such undertaking shall include appropriate provisions in the relevant transfer documents to ensure that the undertaking is binding on the transferee and that the transferee will similarly include appropriate provisions in the event of future transfers with the goal of binding all successors-in-interest. The undertaking shall be interpreted as binding on successors-in-interest regardless of whether such provisions are included in the relevant transfer documents.

- 6.2** An undertaking pursuant to Clause 6.1 with regard to a specified member of a PATENT FAMILY shall apply to all existing and future ESSENTIAL IPRs of that PATENT FAMILY unless there is an explicit written exclusion of specified IPRs at the time the undertaking is made. The extent of any such exclusion shall be limited to those explicitly specified IPRs.
- 6.3** As long as the requested undertaking of the IPR owner is not granted, the COMMITTEE Chairs should, if appropriate, in consultation with the ETSI Secretariat use their judgment as to whether or not the COMMITTEE should suspend work on the relevant parts of the STANDARD or TECHNICAL SPECIFICATION until the matter has been resolved and/or submit for approval any relevant STANDARD or TECHNICAL SPECIFICATION.
- 6.4** At the request of the European Commission and/or EFTA, initially for a specific STANDARD or TECHNICAL SPECIFICATION or a class of STANDARDS/TECHNICAL SPECIFICATIONS, ETSI shall arrange to have carried out in a competent and timely manner an investigation including an IPR search, with the objective of ascertaining whether IPRs exist or are likely to exist which may be or may become ESSENTIAL to a proposed STANDARD or TECHNICAL SPECIFICATIONS and the possible terms and conditions of licences for such IPRs. This shall be subject to the European Commission and/or EFTA meeting all reasonable expenses of such an investigation, in accordance with detailed arrangements to be worked out with the European Commission and/or EFTA prior to the investigation being undertaken.

6bis Use of the IPR Licensing Declaration Forms

MEMBERS shall use one of the ETSI IPR Licensing Declaration forms at the Appendix to this ETSI IPR Policy to make their IPR licensing declarations.

7 Information on IPR by ETSI

- 7.1** Any published STANDARD or TECHNICAL SPECIFICATION shall include information pertaining to ESSENTIAL IPRs which are brought to the attention of ETSI prior to such publication.
- 7.2** ETSI shall establish appropriate procedures to allow access to information at any time with respect to ESSENTIAL IPRs which have been brought to the attention of ETSI.

8 Non-availability of Licences

- 8.1** Non-availability of licences prior to the publication of a STANDARD or a TECHNICAL SPECIFICATION
- 8.1.1** Existence of a viable alternative technology

Where prior to the publication of a STANDARD or a TECHNICAL SPECIFICATION an IPR owner informs ETSI that it is not prepared to license an IPR in respect of a STANDARD or

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TECHNICAL SPECIFICATION in accordance with Clause 6.1 above, the General Assembly shall review the requirement for that STANDARD or TECHNICAL SPECIFICATION and satisfy itself that a viable alternative technology is available for the STANDARD or TECHNICAL SPECIFICATION which:

- is not blocked by that IPR; and
- satisfies ETSI's requirements.

8.1.2 Non-existence of a viable alternative technology

Where, in the opinion of the General Assembly, no such viable alternative technology exists, work on the STANDARD or TECHNICAL SPECIFICATION shall cease, and the Director-General of ETSI shall observe the following procedure:

- a) If the IPR owner is a MEMBER,
 - i) the Director-General of ETSI shall request that MEMBER to reconsider its position.
 - ii) If that MEMBER however decides not to withdraw its refusal to license the IPR, it shall then inform the Director-General of ETSI of its decision and provide a written explanation of its reasons for refusing to license that IPR, within three months of its receipt of the Director-General's request.
 - iii) The Director-General of ETSI shall then send the MEMBER's explanation together with relevant extracts from the minutes of the General Assembly to the ETSI Counsellors for their consideration.
- b) If the IPR owner is a third party,
 - i) the Director-General of ETSI shall, wherever appropriate, request full supporting details from any MEMBER who has complained that licences are not available in accordance with Clause 6.1 above and/or request appropriate MEMBERS to use their good offices to find a solution to the problem.
 - ii) Where this does not lead to a solution the Director-General of ETSI shall write to the IPR owner concerned for an explanation and request ultimately that licences be granted according to Clause 6.1 above.
 - iii) Where the IPR owner refuses the Director-General's request and decides not to withdraw its refusal to license the IPR or does not answer the letter within three months after the receipt of the Director-General's request, the Director-General shall then send the IPR owner's explanation, if any, together with relevant extracts from the minutes of the General Assembly to the ETSI Counsellors for their consideration.

8.1.3 Prior to any decision by the General Assembly, the COMMITTEE should in consultation with the ETSI Secretariat use their judgment as to whether or not the COMMITTEE should pursue development of the concerned parts of the STANDARD or a TECHNICAL SPECIFICATION based on the non-available technology and should look for alternative solutions.

8.2 Non-availability of licences after the publication of a STANDARD or a TECHNICAL SPECIFICATION

Where, in respect of a published STANDARD or TECHNICAL SPECIFICATION, ETSI becomes aware that licences are not available from an IPR owner in accordance with Clause 6.1 above, that STANDARD or TECHNICAL SPECIFICATION shall be referred to the Director-General of ETSI for further consideration in accordance with the following procedure:

- i) The Director-General shall request full supporting details from any MEMBER or third party who has complained that licences are not available in accordance with Clause 6.1 above.

- ii) The Director-General shall write to the IPR owner concerned for an explanation and request that licences be granted according to Clause 6.1 above. Where the concerned IPR owner is a MEMBER, it shall inform the Director-General of ETSI of its decision and provide a written explanation of its reasons in case of continuing refusal to license that IPR.
- iii) Where the IPR owner refuses the Director-General's request or does not answer the letter within three months, the Director-General shall inform the General Assembly and, if available, provide the General Assembly with the IPR owner's explanation for consideration. A vote shall be taken in the General Assembly on an individual weighted basis to immediately refer the STANDARD or TECHNICAL SPECIFICATION to the relevant COMMITTEE to modify it so that the IPR is no longer ESSENTIAL.
- iv) Where the vote in the General Assembly does not succeed, then the General Assembly shall, where appropriate, consult the ETSI Counsellors with a view to finding a solution to the problem. In parallel, the General Assembly may request appropriate MEMBERS to use their good offices to find a solution to the problem.
- v) Where (iv) does not lead to a solution, then the General Assembly shall request the European Commission to see what further action may be appropriate, including non-recognition of the STANDARD or TECHNICAL SPECIFICATION in question.

In carrying out the foregoing procedure due account shall be taken of the interest of the enterprises that have invested in the implementation of the STANDARD or TECHNICAL SPECIFICATION in question.

9 ETSI ownership of IPRs

- 9.1 The ownership of the copyright in STANDARDS and TECHNICAL SPECIFICATIONS documentation and reports created by ETSI or any of its COMMITTEES shall vest in ETSI but due acknowledgement shall be given to copyrights owned by third parties that are identifiable in ETSI copyrighted works.
- 9.2 In general, in the absence of any exceptional circumstances, where SOFTWARE is included in any element of a STANDARD or TECHNICAL SPECIFICATION there shall be no requirement to use that SOFTWARE for any purpose in order for an implementation to conform to the STANDARD or TECHNICAL SPECIFICATION.
 - 9.2.1 Without prejudice to Clause 9.1, any MEMBER contributing SOFTWARE for inclusion in a STANDARD or TECHNICAL SPECIFICATION hereby grants, without monetary compensation or any restriction other than as set out in this Clause 9.2.1, an irrevocable, non-exclusive, worldwide, royalty-free, sub-licensable copyright licence to prepare derivative works of (including translations, adaptations, alterations) the contributed SOFTWARE and reproduce, display, distribute and execute the contributed SOFTWARE and derivative works for the following limited purposes:
 - a) to ETSI and MEMBERS to evaluate the SOFTWARE and any derivative works thereof for determining whether to support the inclusion of the SOFTWARE in that STANDARD or TECHNICAL SPECIFICATION;
 - b) to ETSI to publish the SOFTWARE in that STANDARD or TECHNICAL SPECIFICATION; and
 - c) to any implementer of that STANDARD or TECHNICAL SPECIFICATION to evaluate the SOFTWARE and any derivative works thereof for inclusion in its implementation of that STANDARD or TECHNICAL SPECIFICATION, and to determine whether its implementation conforms with that STANDARD or TECHNICAL SPECIFICATION.
 - 9.2.2 (i) The copyright licence granted in Clause 9.2.1 shall also extend to any implementer of that STANDARD or TECHNICAL SPECIFICATION for the purpose of using the SOFTWARE in any compliant implementation unless (ii) the contributing MEMBER gives an irrevocable undertaking in writing at the time of contribution that it is prepared to grant an irrevocable

copyright licence on fair, reasonable and non-discriminatory terms and conditions for the purpose of using the SOFTWARE in any compliant implementation.

- 9.2.3 Any MEMBER contributing SOFTWARE for inclusion in a STANDARD or TECHNICAL SPECIFICATION represents and warrants that to the best of its knowledge, it has the necessary copyright rights to license that contribution under Clauses 9.2.1 and 9.2.2 to ETSI, MEMBERS and implementers of the STANDARD or TECHNICAL SPECIFICATION.

Other than as expressly provided in this Clause 9.2.3: (1) SOFTWARE contributed for inclusion in a STANDARD or TECHNICAL SPECIFICATION is provided "AS IS" with no warranties, express or implied, including but not limited to, the warranties of merchantability, fitness for a particular purpose and non infringement of intellectual property rights and (2) neither the MEMBER contributing SOFTWARE nor ETSI shall be held liable in any event for any damages whatsoever (including, without limitation, damages for loss of profits, business interruption, loss of information, or any other pecuniary loss) arising out of or related to the use of or inability to use the SOFTWARE.

- 9.2.4 With respect to the copyright licenses set out in Clauses 9.2.1 and 9.2.2, no patent licence is granted by implication, estoppel or otherwise.
- 9.3 In respect of IPRs other than copyright in STANDARDS and TECHNICAL SPECIFICATIONS documentation and reports, ETSI shall only seek ownership of IPRs generated either by its employees or by secondees to ETSI from organizations who are not MEMBERS.
- 9.4 ETSI shall, on request by a non-member, grant licences to that non-member on fair and reasonable terms and conditions in respect of any IPRs, other than those referred to in Clause 9.1 above, owned by ETSI. MEMBERS shall be allowed to use IPRs owned by ETSI free of charge.

10 Confidentiality

The proceedings of a COMMITTEE shall be regarded as non-confidential except as expressly provided below and all information submitted to a COMMITTEE shall be treated as if non-confidential and shall be available for public inspection unless:

- the information is in written or other tangible form; and
- the information is identified in writing, when submitted, as confidential; and
- the information is first submitted to, and accepted by, the Chair of the COMMITTEE as confidential.

CONFIDENTIAL INFORMATION incorporated in a STANDARD or TECHNICAL SPECIFICATION shall be regarded as non-confidential by ETSI and its MEMBERS, from the date on which the STANDARD or TECHNICAL SPECIFICATION is published.

11 Reproduction of Standards Documentation

MEMBERS may make copies of STANDARDS and TECHNICAL SPECIFICATIONS documentation produced by ETSI for their own use free of charge but may not distribute such copies to others.

12 Law and Regulation

The POLICY shall be governed by the laws of France. However, no MEMBER shall be obliged by the POLICY to commit a breach of the laws or regulations of its country or to act against supranational laws or regulations applicable to its country insofar as derogation by agreement between parties is not permitted by such laws.

Any right granted to, and any obligation imposed on, a MEMBER which derives from French law and which are not already contained in the national or supranational law applicable to that MEMBER is to be understood as being of solely a contractual nature.

13 Policy Decisions

Without prejudice to ETSI's Statutes and Rules of Procedure, no decisions shall be taken by ETSI in relation to implementation of the POLICY unless supported by a 71 % majority of the weighted individual votes cast by MEMBERS.

14 Violation of Policy

Any violation of the POLICY by a MEMBER shall be deemed to be a breach, by that MEMBER, of its obligations to ETSI. The ETSI General Assembly shall have the authority to decide the action to be taken, if any, against the MEMBER in breach, in accordance with the ETSI Statutes.

15 Definitions

1 "**AFFILIATE**" of a first legal entity means any other legal entity:

- directly or indirectly owning or controlling the first legal entity; or
- under the same direct or indirect ownership or control as the first legal entity; or
- directly or indirectly owned or controlled by the first legal entity;

for so long as such ownership or control lasts.

Ownership or control shall exist through the direct or indirect:

- ownership of more than 50 % of the nominal value of the issued equity share capital or of more than 50 % of the shares entitling the holders to vote for the election of directors or persons performing similar functions; or
- right by any other means to elect or appoint directors, or persons who collectively can exercise such control. A state, a division of a state or other public entity operating under public law, or any legal entity, linked to the first legal entity solely through a state or any division of a state or other public entity operating under public law, shall be deemed to fall outside the definition of an AFFILIATE.

2 "**COMMITTEE**" shall mean any Technical Body of ETSI and shall include ETSI Projects, Technical Committees, ETSI Partnership Projects, and their Working Groups.

3 "**CONFIDENTIAL INFORMATION**" shall mean all information deemed to be confidential pursuant to Clause 10 of the POLICY disclosed directly or indirectly to the MEMBER.

4 "**EQUIPMENT**" shall mean any system, or device fully conforming to a STANDARD.

5 "**METHODS**" shall mean any method or operation fully conforming to a STANDARD.

6 "**ESSENTIAL**" as applied to IPR means that it is not possible on technical (but not commercial) grounds, taking into account normal technical practice and the state of the art generally available at the time of standardization, to make, sell, lease, otherwise dispose of, repair, use or operate EQUIPMENT or METHODS which comply with a STANDARD without infringing that IPR. For the avoidance of doubt in exceptional cases where a STANDARD can only be implemented by technical solutions, all of which are infringements of IPRs, all such IPRs shall be considered ESSENTIAL.

7 "**IPR**" shall mean any intellectual property right conferred by statute law including applications therefor other than trademarks. For the avoidance of doubt rights relating to get-up, confidential information, trade secrets or the like are excluded from the definition of IPR.

8 "**MANUFACTURE**", shall mean production of EQUIPMENT.

9 "**MEMBER**" shall mean a member or Associate member of ETSI. References to a MEMBER shall wherever the context permits be interpreted as references to that MEMBER and its AFFILIATES.

10 "**POLICY**" shall mean ETSI's Intellectual Property Rights Policy.

- 11 **"STANDARD"** shall mean any standard adopted by ETSI including options therein or amended versions and shall include European Standards (ENs), ETSI Standards (ESs), Common Technical Regulations (CTRs) which are taken from ENs and including drafts of any of the foregoing, and documents made under the previous nomenclature, including ETSs, I-ETSs, parts of NETs and TBRs, the technical specifications of which are available to all MEMBERS, but not including any standards, or parts thereof, not made by ETSI.

The date on which a STANDARD is considered to be adopted by ETSI for the purposes of this POLICY shall be the date on which the technical content of that STANDARD was available to all MEMBERS.

- 12 **"TECHNICAL SPECIFICATION"** shall mean any Technical Specification (TS) adopted by ETSI including options therein or amended version including drafts, the Technical Specifications of which are available to all MEMBERS, but not including any technical specifications, or parts thereof, not made by ETSI.

The date on which a TECHNICAL SPECIFICATION is considered to be adopted by ETSI for the purposes of this POLICY shall be the date on which the technical content of that TECHNICAL SPECIFICATION was available to all MEMBERS.

- 13 **"PATENT FAMILY"** shall mean all the documents having at least one priority in common, including the priority document(s) themselves. For the avoidance of doubt, "documents" refers to patents, utility models, and applications therefor.

- 14 For the purpose of this IPR Policy, **"SOFTWARE"** shall mean:

- a set of instructions written in any programming language that either directly, or when further compiled, performs a function when executed by hardware that processes data according to instructions, such as an audio or video CODEC; but also
- data and stream structure definitions, such as ASN.1, TTCN, or XML data representations; and
- schema examples, such as SDL diagrams and data flow charts;

which can be transformed, either directly, or when further compiled, into usable/implementable code.

ANNEX 6 - Appendix A: IPR Licensing Declaration forms

The two (2) forms in this Appendix A are kept for historical reference and remain a substantive basis for the contents of the on-line Declaration Forms which were made available to all ETSI members from 8th March 2011.

Starting from 14 April 2021, they shall no longer be used for submitting paper Declarations, unless as instructed by the ETSI Secretariat under exceptional circumstances (e.g. in case of non-availability of Licenses or in dealings with non-members).

IPR Declarations shall be submitted by Declarants using the on-line Declarations Forms, available under the IPR Declaration DataBase application at <https://ipr.etsi.org/>, and its linked context-sensitive guides, as maintained by the ETSI Secretariat.

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A.1 GENERAL IPR LICENSING DECLARATION

IPR HOLDER / ORGANISATION ("Declarant")

Legal Name: _____

CONTACT DETAILS FOR LICENSING INFORMATION:

Name and Title: _____

Department: _____

Address: _____

Telephone: _____

Fax: _____

Email: _____

URL: _____

GENERAL IPR LICENSING DECLARATION

In accordance with Clause 6.1 of the ETSI IPR Policy the Declarant and/or its AFFILIATES hereby informs ETSI that (**check one box only**):

- with reference to ETSI STANDARD(S) or TECHNICAL SPECIFICATION(S) No.: _____, or
- with reference to ETSI Project(s): _____, or
- with reference to all ETSI STANDARDS AND TECHNICAL SPECIFICATIONS

and with reference to (**check one box only**):

- IPR(s) contained within technical contributions made by the Declarant and/or its AFFILIATES, or
- any IPRs

the Declarant hereby irrevocably declares that (1) it and its AFFILIATES are prepared to grant irrevocable licenses under its/their IPR(s) on terms and conditions which are in accordance with Clause 6.1 of the ETSI IPR Policy, in respect of the STANDARD(S), TECHNICAL SPECIFICATION(S), or the ETSI Project(s), as identified above, to the extent that the IPR(s) are or become, and remain ESSENTIAL to practice that/those STANDARD(S) or TECHNICAL SPECIFICATION(S) or, as applicable, any STANDARD or TECHNICAL SPECIFICATION resulting from proposals or Work Items within the current scope of the above identified ETSI Project(s), for the field of use of practice of such STANDARD or TECHNICAL SPECIFICATION; and (2) it will comply with Clause 6.1bis of the ETSI IPR Policy with respect to such ESSENTIAL IPR(s).

- This irrevocable undertaking is made subject to the condition that those who seek licences agree to reciprocate (check box if applicable).

The construction, validity and performance of this General IPR licensing declaration shall be governed by the laws of France.

Terms in ALL CAPS on this form have the meaning provided in Clause 15 of the ETSI IPR Policy.

SIGNATURE

By signing this General IPR Licensing Declaration form, you represent that you have the authority to bind the Declarant and/or its AFFILIATES to the representations and commitments provided in this form.

Name of authorized person: _____

Title of authorized person: _____

Place, Date: _____

Signature: _____

Please return this form duly signed to: Director-General
ETSI - 650, route des Lucioles - F-06921 Sophia Antipolis Cedex - France / Fax. +33 (0) 4 93 65 47 16

A.2 IPR INFORMATION STATEMENT AND LICENSING DECLARATION**IPR HOLDER / ORGANISATION ("Declarant")**

Legal Name: _____

CONTACT DETAILS FOR LICENSING INFORMATION:

Name and Title: _____

Department: _____

Address: _____

Telephone: _____

Fax: _____

Email: _____

URL: _____

IPR INFORMATION STATEMENT

In accordance with Clause 4.1 of the ETSI IPR Policy the Declarant and/or its AFFILIATES hereby informs ETSI that it is the Declarant's and/or its AFFILIATES' present belief that the IPR(s) disclosed in the attached IPR Information Statement Annex may be or may become ESSENTIAL in relation to at least the ETSI Work Item(s), STANDARD(S) and/or TECHNICAL SPECIFICATION(S) identified in the attached IPR Information Statement Annex.

The Declarant and/or its AFFILIATES (check one box only):

- are the proprietor of the IPR(s) disclosed in the attached IPR Information Statement Annex.
- are not the proprietor of the IPR(s) disclosed in the attached IPR Information Statement Annex.

IPR LICENSING DECLARATION

In accordance with Clause 6.1 of the ETSI IPR Policy the Declarant and/or its AFFILIATES hereby irrevocably declares the following (check one box only, and subordinate box, where applicable):

- To the extent that the IPR(s) disclosed in the attached IPR Information Statement Annex are or become, and remain ESSENTIAL in respect of the ETSI Work Item, STANDARD and/or TECHNICAL SPECIFICATION identified in the attached IPR Information Statement Annex, the Declarant and/or its AFFILIATES are (1) prepared to grant irrevocable licences under this/these IPR(s) on terms and conditions which are in accordance with Clause 6.1 of the ETSI IPR Policy; and (2) will comply with Clause 6.1bis of the ETSI IPR Policy.
- This irrevocable undertaking is made subject to the condition that those who seek licences agree to reciprocate (check box if applicable).
- The Declarant and/or its AFFILIATES are not prepared to make the above IPR Licensing Declaration (reasons may be explained in writing in the attached IPR Licensing Declaration Annex).

The construction, validity and performance of this IPR information statement and licensing declaration shall be governed by the laws of France.

Terms in ALL CAPS on this form have the meaning provided in Clause 15 of the ETSI IPR Policy.

SIGNATURE

By signing this IPR Information Statement and Licensing Declaration form, you represent that you have the authority to bind the Declarant and/or its AFFILIATES to the representations and commitments provided in this form.

Name of authorized person: _____

Title of authorized person: _____

Place, Date: _____

Signature: _____

Please return this form duly signed to: Director-General

ETSI - 650, route des Lucioles - F-06921 Sophia Antipolis Cedex - France / Fax. +33 (0) 4 93 65 47 16

IPR Information Statement Annex

Standard, Technical Specification or ETSI Work Item				Proprietor	Application No.	Publication No.	Patent/Application Title	Country of registration	FURTHER INFORMATION Other members of this PATENT FAMILY, if any *		
Project or Standard name	Work Item or Standard No.	Illustrative Specific part of the standard (e.g. section)	Version (VX.X.X)						Application No.	Publication No.	Country of registration
e.g. UMTS	ETSI TS 125 215	6.1.1.2	V3.5.0	Abcd		EP 1131972	Scheduling of slotted-mode related measurements	EPC CONTRACTING STATES {		AU 12740/00	Australia
										CN 99813100.8	China P.R.
										FI 108270	Finland
										JP 11-318161	Japan
										US 6532226	USA

* Information on other members of a PATENT FAMILY is provided voluntarily (Clause 4.3 of the ETSI IPR Policy).

Please return this form together with the "IPR Information Statement and Licensing Declaration form" to:
 Director-General - ETSI - 650, route des Lucioles - F-06921 Sophia Antipolis Cedex - France / Fax. +33 (0) 4 93 65 47 16

RULES OF PROCEDURE

IPR Licensing Declaration Annex

Optional written explanation of reasons for not making the IPR Licensing Declaration

The Declarant and/or its AFFILIATES are unwilling to grant irrevocable licences under the IPR(s) disclosed in the attached IPR Information Statement Annex on terms and conditions which are in accordance with Clause 6.1 of the ETSI IPR Policy.

The Declarant and/or its AFFILIATES are unable to grant irrevocable licences under the IPR(s) disclosed in the attached IPR Information Statement Annex on terms and conditions which are in accordance with Clause 6.1 of the ETSI IPR Policy, because

the Declarant and/or its AFFILIATES are not the proprietor of the IPR(s) disclosed in the attached IPR Information Statement Annex,

the Declarant and/or its AFFILIATES do not have the ability to licence the IPR(s) disclosed in the attached IPR Information Statement Annex on terms and conditions which are in accordance with Clause 6.1 of the ETSI IPR Policy. In this case, please provide Contact information of those who may have this ability:

Legal Name: _____

Name and Title: _____

Department: _____

Address: _____

Telephone: _____ Fax: _____

Email: _____

Other reasons (please specify):

Please return this form together with the "IPR Information Statement and Licensing Declaration form" to:
Director-General
ETSI - 650, route des Lucioles - F-06921 Sophia Antipolis Cedex - France / Fax. +33 (0) 4 93 65 47 16

Exhibit 2

ETSI Rules of Procedure, 29-30 November 2022

IPR INFORMATION STATEMENT AND LICENSING DECLARATION**IPR HOLDER / ORGANISATION ("Declarant")**

Legal Name: ZTE Corporation

CONTACT DETAILS FOR LICENSING INFORMATION:

Name and Title: Mr. Guanglei Chen, IPR Director

Department: Intellectual Property Dept.

Address:

Telephone: +8629 83636285

Fax:

Email: chen.guanglei2@zte.com.cn

URL:

IPR INFORMATION STATEMENT

In accordance with Clause 4.1 of the ETSI IPR Policy the Declarant and/or its AFFILIATES hereby informs ETSI that it is the Declarant's and/or its AFFILIATES' present belief that the IPR(s) disclosed in the attached *IPR Information Statement Annex* may be or may become ESSENTIAL in relation to at least the ETSI Work Item(s), STANDARD(S) and/or TECHNICAL SPECIFICATION(S) identified in the attached *IPR Information Statement Annex*.

The Declarant and/or its AFFILIATES (*check one box only*):are the proprietor of the IPR(s) disclosed in the attached *IPR Information Statement Annex*.are not the proprietor of the IPR(s) disclosed in the attached *IPR Information Statement Annex*.**IPR LICENSING DECLARATION**

In accordance with Clause 6.1 of the ETSI IPR Policy the Declarant and/or its AFFILIATES hereby irrevocably declares the following (*check one box only, and subordinate box, where applicable*):



To the extent that the IPR(s) disclosed in the attached *IPR Information Statement Annex* are or become, and remain ESSENTIAL in respect of the ETSI Work Item, STANDARD and/or TECHNICAL SPECIFICATION identified in the attached *IPR Information Statement Annex*, the Declarant and/or its AFFILIATES are (1) prepared to grant irrevocable licences under this/these IPR(s) on terms and conditions which are in accordance with Clause 6.1 of the ETSI IPR Policy; and (2) will comply with Clause 6.1 bis of the ETSI IPR Policy.



This irrevocable undertaking is made subject to the condition that those who seek licences agree to reciprocate (*check box if applicable*):



The Declarant and/or its AFFILIATES are not prepared to make the above IPR Licensing Declaration (reasons may be explained in writing in the attached *IPR Licensing Declaration Annex*).

The construction, validity and performance of this IPR information statement and licensing declaration shall be governed by the laws of France. Terms in ALL CAPS on this form have the meaning provided in Clause 15 of the ETSI IPR Policy.

SIGNATURE

By signing this IPR Information Statement and Licensing Declaration form, you represent that you have the authority to bind the Declarant and/or its AFFILIATES to the representations and commitments provided in this form.

Name of authorized person: Mr. Guanglei Chen

Title of authorized person:

Place, Date: ZTE Plaza, Hi-Tech Road/South, Shen Zhen, China, 30/10/2024

Signature:


Guanglei Chen (Oct 30, 2024 22:19 GMT+8)

Please return this form duly signed to: ETSI Director-General
ETSI - 650, route des Lucioles - F-06921 Sophia Antipolis Cedex - France / Fax. +33 (0) 4 93 65 47 16

ETSI Rules of Procedure, 29-30 November 2022

IPR Information Statement Annex

STANDARD, TECHNICAL SPECIFICATION or ETSI Work Item					Applicant/holder	Application No.	Publication No.	Patent/Application Title	Country of registration	FURTHER INFORMATION		
Disclosure Number	Project or Standard name	Work Item or Standard No.	Illustrative Specific part of the standard (e.g. Section)	Version (V.X.X.X)						Other members of this PATENT FAMILY, if any *		
					Application No.	Publication No.	Country of registration					
1	5G	TS 24.341 TS 29.540			ZTE CORP	CN201410652812	CN105682058 B	METHOD AND DEVICE FOR ROUTING SHORT MESSAGE	CHINA			
2	5G	TS 29.212			ZTE CORP	CN201410579315	CN105591783 B	METHOD AND DEVICES FOR REALIZING POLICY RULE SYNCHRONIZATION BETWEEN NETWORK ELEMENTS	CHINA			
3	5G	TS 38.211			ZTE CORP	CN202211620318	CN118214526 A	INFORMATION PROCESSING METHOD, COMMUNICATION DEVICE, STORAGE MEDIUM AND PROGRAM PRODUCT	CHINA			
4	5G	TS 26.140 TS 26.141 TS 22.281 TS 26.281 TS 26.118 TS 26.265			ZTE CORP	CN201110340195	CN103096047 B	FRAGMENT LAYER PARAMETER SET DECODING AND ENCODING METHOD AND DEVICE	CHINA			
5	5G	TS 26.140 TS 26.141 TS 22.281 TS 26.281 TS 26.118 TS 26.265			ZTE CORP	CN20121067197	CN103313048 B	METHOD FOR SELF-ADAPTIVELY CONTROLLING BIN QUANTITY BY ARITHMETIC CODING CONTEXT CODING MODE	CHINA			
6	5G	TS 26.119 TS 26.264			ZTE CORP	CN201210551314	CN103873453 B	IMMERSSION COMMUNICATION CLIENT, IMMERSSION COMMUNICATION SERVER AND CONTENT VIEW OBTAINING METHOD	CHINA			
7	5G	TS 26.119 TS 26.113 TS 26.264			ZTE CORP	CN201310571730	CN104639518 B	SESSION BUILDING METHOD AND DEVICE AND SESSION CONTENT DELIVERING METHOD AND DEVICE	CHINA			

* Information on other members of a PATENT FAMILY is provided voluntarily (Clause 4.3 of the ETSI IPR Policy).

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ETSI_ISLD-202410-087.pdf

Final Audit Report

2024-10-30

Created:	2024-10-30
By:	ETSI IPR E-SIGN (ipresign@etsi.org)
Status:	Signed
Transaction ID:	OBJCHBCAABAAPxSmJ68VWDy_PxN-NEvGDH-6v1F1k10m

"ETSI_ISLD-202410-087.pdf" History

-  Document created by ETSI IPR E-SIGN (ipresign@etsi.org)
2024-10-30 - 14:18:12 GMT - IP address: 195.238.226.3
-  Document emailed to chen.guanglei2@zte.com.cn for signature
2024-10-30 - 14:18:16 GMT
-  Email viewed by chen.guanglei2@zte.com.cn
2024-10-30 - 14:19:16 GMT - IP address: 58.251.27.114
-  Signer chen.guanglei2@zte.com.cn entered name at signing as Guanglei Chen
2024-10-30 - 14:19:43 GMT - IP address: 58.251.27.114
-  Document e-signed by Guanglei Chen (chen.guanglei2@zte.com.cn)
Signature Date: 2024-10-30 - 14:19:45 GMT - Time Source: server - IP address: 58.251.27.114
-  Agreement completed.
2024-10-30 - 14:19:45 GMT



CIVIL COVER SHEET

This civil cover sheet does not replace or supplement the filing and service of pleadings or other papers. The information on this form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket. Instructions are on the reverse of this form.

I. PLAINTIFF(S)

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

County of Residence of First Listed Plaintiff: South Korea

Attorney or Pro Se Litigant Information (Firm Name, Address, and Telephone Number) Kirkland & Ellis LLP, 555 California Street, San Francisco, CA 94104, (415) 439-1400

DEFENDANT(S)

ZTE Corporation

County of Residence of First Listed Defendant:

Defendant's Attorney's Name and Contact Information (if known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- U.S. Government Plaintiff, Federal Question (U.S. Government Not a Party), U.S. Government Defendant, Diversity

III. CAUSE OF ACTION

Cite the U.S. Statute under which you are filing: (Use jurisdictional statutes only for diversity) 15 U.S.C. § 2 Brief description of case: Deception of standard setting organization and breach of contract in connection with licensing standard essential patents

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- Original Proceeding, Removed from State Court, Remanded from Appellate Court, Reinstated or Reopened, Transferred from Another District, Multidistrict Litigation-Transfer, Multidistrict Litigation-Direct File

VI. FOR DIVERSITY CASES ONLY: CITIZENSHIP OF PRINCIPAL PARTIES

Table for Plaintiff and Defendant citizenship: Citizen of California, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In California, Incorporated and Principal Place of Business In Another State, Foreign Nation

VII. REQUESTED IN COMPLAINT

- Check if the complaint contains a jury demand. Check if the complaint contains a monetary demand. Amount: Check if the complaint seeks class action status under Fed. R. Civ. P. 23. Check if the complaint seeks a nationwide injunction or Administrative Procedure Act vacatur.

VIII. RELATED CASE(S) OR MDL CASE

Provide case name(s), number(s), and presiding judge(s).

IX. DIVISIONAL ASSIGNMENT pursuant to Civil Local Rule 3-2

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 02/25/2025 SIGNATURE OF ATTORNEY OR PRO SE LITIGANT /s/ Brandon H. Brown