

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

MICROGRAFX, LLC,

Plaintiff,

v.

SAMSUNG TELECOMMUNICATIONS  
AMERICA, LLC., SAMSUNG  
ELECTRONICS AMERICA, INC., and  
SAMSUNG ELECTRONICS CO., LTD.

Defendants.

Civil Action No. 3:13-CV-3599-N

JURY TRIAL DEMANDED

**FIRST AMENDED COMPLAINT**

Plaintiff Micrografx, LLC (“Micrografx”), by and through its attorneys, for its Complaint for Patent Infringement against Samsung Telecommunications America, LLC (“Samsung Telecom”), Samsung Electronics America, Inc. (“Samsung Electronics”), and Samsung Electronics Co., Ltd. (“Samsung Electronics Co.”) (individually and collectively, “Defendants” or “Samsung”) alleges as follows:

**PARTIES**

1. Micrografx is a limited liability corporation organized and existing under the laws of Texas, having a mailing address at 350 North St. Paul St., Suite 2900, Dallas, TX 75201.
2. Upon information and belief, Samsung Telecommunications America, LLC is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at 1301 East Lookout Drive, Richardson, Texas 75082.
3. Upon information and belief, Samsung Electronics America, Inc. is a corporation organized and existing under the laws of the State of New York, having its principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660.

4. Upon information and belief, Samsung Electronics Co., Ltd. is a corporation organized and existing under the laws of the Country of Korea, having its principal place of business at 1320-10, Seocho 2-dong, Seocho-gu, Seoul 137-857, Republic of Korea.

**JURISDICTION AND VENUE**

5. This is a civil action for the infringement of United States Patent Nos. 5,959,633 (“633 patent”); 6,057,854 (“854 patent”); and 6,552,732 (“732 patent”) (collectively, the “Patents-in-Suit”) under the laws of the United States, 35 U.S.C. § 100 *et seq.*, including in particular 35 U.S.C. § 271. Micrografx owns the Patents-in-Suit and holds the right to sue and recover damages for infringement thereof, including past infringement. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Defendants are subject to personal jurisdiction in this Court because, upon information and belief, Defendants do and have done substantial business in Texas and in this District, including both independently and through and with their subsidiaries and various commercial arrangements by manufacturing and selling accused infringing products in this District and by placing accused infringing products into the stream of commerce, which stream is directed at the State of Texas and this District, with the knowledge and/or understanding that such products would be sold in the State of Texas and this District. These acts have caused and continue to cause injury to Micrografx within this District. Defendants derive substantial revenue from the manufacturing and sale of infringing products from this District, and/or should expect or should reasonably expect their actions to have consequences within this District, and derive substantial revenue from interstate and international commerce. Upon information and belief, Defendants have research and development, testing and engineering, manufacturing, assembly, packaging, installation, customer service, repair, warranty support, sales and

marketing, and business offices in Richardson, Texas. Upon information and belief, Defendants also do business in this state because Defendants recruit Texas residents, directly or through an intermediary located in this state, for employment inside or outside this state.

7. On information and belief, Defendants have sufficient minimum contacts with the District that an exercise of personal jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice and would be appropriate under Tex. Civ. Prac. & Rem. Code § 17.042.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c), and/or 1400(b).

### **BACKGROUND**

9. Micrografx Inc., the original assignee of the Patents-in-Suit, was founded in 1982 in Richardson, Texas.

10. In 1995, Micrografx Inc.'s John R. Davis, Jr. of Garland, Texas, and Scott M. Glazer of Richardson, Texas, recognized a problem with providing graphics and associated information over the Internet. ('854 patent; '732 patent). Web pages included "embedded bit mapped graphics." ('854 patent at 1:15-27; '732 patent at 1:18-30). As "bit mapped graphics are computer graphics stored as collections of bits in memory locations corresponding to pixels on the screen ... bit mapped graphics files are generally large and take a relatively long amount of time to download over the Internet." *Id.* Furthermore, "bit mapped graphics are static and device dependent." *Id.*

11. Mr. Davis and Mr. Glazer also recognized a problem with "associat[ing] an action with a defined area of a graphic" explaining that the "hot spots" method was "inflexible in that only rectangular hot spots can generally be defined." ('854 patent at 1:28-36; '732 patent at

1:30-40). Furthermore, Mr. Davis and Mr. Glazer understood that this problem “becomes significant in certain applications such as maps where the regions are too complicated to describe using simple rectangles.” *Id.*

12. Their invention comprised systems and methods for providing over a network interactive vector graphics with an active area associated with a command to be performed in response to an event. (’854 patent; ’732 patent).

13. Their invention “provides interactive graphics that require less memory and therefore can be efficiently downloaded over the network [] to the client system [].” (’854 patent at 4:65-67; ’732 patent at 5:2-5).

14. As the inventors explained in the specification, “QUICKSILVER” was “manufactured by Micrografx, Inc. of Richardson, Tex.” and “may be used as the vector graphics application [].” (’854 patent at 7:39-48; ’732 patent at 7:46-54).

15. Mr. Davis and Mr. Glazer applied for and obtained the ’854 and ’732 patents.

16. Barton E. Showalter of Baker Botts L.L.P. prosecuted the ’854 and ’732 patents. Upon information and belief, Mr. Showalter maintains an office in this District.

17. Micrografx Inc.’s employees Kevin E. McFarland of Coppel, Texas and Rodney T. Whisnant of Plano, Texas recognized a problem with producing graphical images. (’633 patent). “Conventional systems only enable a user to draw and edit a limited number of shapes.” (’633 patent at 1:10-22). Thus, “once a computer program is released, it becomes difficult to update the program with additional shapes.” *Id.*

18. Mr. McFarland and Mr. Whisnant also recognized a problem with tools “limited to editing and creating shapes in ways permitted by the tools within the computer program.” (’633 patent at 1:22-35). “Thus, although shapes may be added after release of a computer

program, the shapes that may be added are limited to shapes that the internal tools in the computer program know how to create.” *Id.*

19. Their invention comprised methods and systems for producing graphical images providing several advantages:

New shapes may be added easily without rewriting the underlying computer program. Additionally, shapes may be developed by third parties, addressing particular markets. Furthermore, because shapes may be developed external to the computer program, they may be developed outside the application project schedule. Moreover, because shapes may be added easily, upgrades to the computer graphics package may be provided more frequently at lower cost. In addition, the invention provides for the modular production of additional shapes. Shapes may be grouped in different modules based on similarity of appearance or other characteristics, such as intended use. For example, shapes commonly used in a particular technical field may be grouped in one module. The invention also provides an architecture that allows for the integration of additional shapes with an existing computer program without modifying that existing program. ('633 patent at 1:60-2:9).

20. Mr. McFarland and Mr. Whisnant applied for and obtained the '633 patent.

21. Bradley P. Williams of Baker Botts L.L.P. prosecuted the '633 patent. Upon information and belief, Mr. Williams currently maintains an office in this District.

**COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,057,854**

22. Paragraphs 1 through 21 are incorporated as if fully set forth herein.

23. United States Patent No. 6,057,854, entitled “System And Method Of Providing Interactive Vector Graphics Over A Network,” issued on May 2, 2000, to inventors John R. Davis, Jr. and Scott M. Glazer. A true and correct copy of the '854 patent is provided as Exhibit A. The '854 patent is owned by Micrografx.

24. Upon information and belief, Samsung has infringed and continues to infringe one or more claims of the '854 patent in violation of 35 U.S.C. § 271(a), literally or under the

doctrine of equivalents, by making, using, offering for sale, and selling in the United States and by importing into the United States mobile phones, tablets, and notebooks that infringe one or more claims of the '854 patent. Upon information and belief, the mobile phones, tablets, and notebooks include applications, such as Google Maps and Chrome Browser, which provide and/or are operable to provide interactive vector graphics over a network. For example, at least the following systems directly infringe the '854 patent:

- Galaxy SIII
- Galaxy S4
- Galaxy Note II
- Galaxy Note 3
- Galaxy Tab 2
- Galaxy Tab 3
- Galaxy Note 10.1
- Galaxy Note 8.0
- Chromebook

25. Upon information and belief, Samsung has induced and continues to induce infringement of the '854 patent in violation of 35 U.S.C. § 271(b) by encouraging customers, subsidiaries, resellers, or other third parties to make, use, offer for sale, sell, or import the accused instrumentalities identified in paragraph 24 above. Such making, using, offering for sale, selling, or importing of the accused instrumentalities of paragraph 24 above constitutes infringement, literally or under the doctrine of equivalents, of one or more claims of the '854 patent by such customers, subsidiaries, resellers, or third parties. Samsung intends its customers, subsidiaries, resellers, or other third parties to make, use, sell, offer to sell, or import the accused instrumentalities of paragraph 24 above and encourages infringement by: providing the accused instrumentalities in paragraph 24 above that provide and/or are operable to provide interactive vector graphics over a network and thus infringe one or more claims of the '854 patent literally or under the doctrine of equivalents; providing other components of and accessories for the

accused instrumentalities identified in paragraph 24 above; providing maintenance for the accused instrumentalities of paragraph 24 above; advertising the accused instrumentalities of paragraph 24 above through their own and third party websites; and providing user manuals and other information for the accused Galaxy instrumentalities of paragraph 24 above that promote the use of the accused Galaxy instrumentalities of paragraph 24 above in a manner that infringes one or more claims of the '854 patent literally or under the doctrine of equivalents.

26. Samsung Telecom, Samsung Electronics, and Samsung Electronics Co. individually or collectively encourage infringement through the provision of user manuals. The user manuals for the accused Galaxy instrumentalities are accessible through <http://www.samsung.com/us/>. The “Legal” link indicates that “All information, documents, products and services, trademarks, logos, graphics, and images (‘Materials’) provided on this site are copyrighted or trademarked and are the property of Samsung Group, Samsung Electronics and it’s listed subsidiaries” and “SAMSUNG controls and operates this site from it’s headquarters in the United States of America and Seoul, Korea.” Ex. B, Samsung, Legal, <http://www.samsung.com/us/common/legal.html>. The “Corporate & Affiliates” contact information first lists “Samsung Electronics America” with its address at “85 Challenger Road,” and second lists “SAMSUNG Telecommunication America” with its address at “1301 East Lookout Drive.” Ex. C, Image of <http://www.samsung.com/us/support/contact> (showing contact information for “Samsung Electronics America”); Ex. D, Image of <http://www.samsung.com/us/support/contact> (showing contact information for “SAMSUNG Telecommunication America”). Samsung Electronics holds the copyright for some user manuals and Samsung Telecom holds the copyright for others. *Infra* Ex. E (Samsung Telecom); Ex. F (Samsung Telecom); Ex. G (Samsung Telecom); Ex. H (Samsung Telecom); Ex. I (Samsung

Electronics); Ex. J (Samsung Electronics); Ex. K (Samsung Electronics); Ex. L (Samsung Electronics).

27. Samsung promotes the use of Google Maps and Chrome Browser. Samsung user manuals for the accused Galaxy instrumentalities provide instructions for using Google Maps and instruct users on the purposes of Google Maps:

- “Google Maps allow you to track your current location, view real-time traffic issues, and view detailed destination directions.” Ex. E, Samsung, Samsung Galaxy SIII available at T-Mobile Mobile Phone User Manual 180-81 (2013), *available at* [http://downloadcenter.samsung.com/content/UM/201312/20131212025427375/TMO\\_SGH-T999\\_GS\\_3\\_JB\\_English\\_User\\_Manual\\_MJC\\_F2.pdf](http://downloadcenter.samsung.com/content/UM/201312/20131212025427375/TMO_SGH-T999_GS_3_JB_English_User_Manual_MJC_F2.pdf).
- “Use Google Maps to find your current location, get directions, and other location-based information.” Ex. F, Samsung, Samsung Galaxy S4 4G LTE Smartphone Android Smartphone User Manual 118 (2013), *available at* [http://downloadcenter.samsung.com/content/UM/201311/20131128001219700/USC\\_SCH-R970\\_Galaxy\\_S\\_4\\_JB\\_English\\_User\\_Manual\\_MK2\\_F1.pdf](http://downloadcenter.samsung.com/content/UM/201311/20131128001219700/USC_SCH-R970_Galaxy_S_4_JB_English_User_Manual_MK2_F1.pdf).
- “[Y]ou can view basic, custom, and satellite maps and local business information, including locations, contact information, and driving directions.” Ex. G, Samsung, Samsung Galaxy Note II 4G LTE Smartphone User Manual 153-54 (2012), *available at* [http://downloadcenter.samsung.com/content/UM/201312/20131231060924500/ATT\\_SGH-i317\\_Galaxy\\_Note\\_II\\_JB\\_English\\_User\\_Manual\\_MK6\\_F3\\_AC.pdf](http://downloadcenter.samsung.com/content/UM/201312/20131231060924500/ATT_SGH-i317_Galaxy_Note_II_JB_English_User_Manual_MK6_F3_AC.pdf); *see also* Ex. H, Samsung, Samsung Galaxy Note 3 4G LTE Smartphone User Manual 180 (2013), *available at* [http://downloadcenter.samsung.com/content/UM/201311/20131128002418576/ATT\\_SM-N900A\\_Galaxy\\_Note\\_3\\_English\\_JB\\_User\\_Manual\\_MI9\\_F5\\_AC.pdf](http://downloadcenter.samsung.com/content/UM/201311/20131128002418576/ATT_SM-N900A_Galaxy_Note_3_English_JB_User_Manual_MI9_F5_AC.pdf) (same).
- “Use Google Maps to find your current location, get directions, and other location-based information.” Ex. I, Samsung, Samsung Galaxy Tab 2 7.0 Android Tablet User Manual 59-60 (2012), *available at* [http://downloadcenter.samsung.com/content/UM/201302/20130212081122716/GT-P3113\\_English\\_User\\_Manual\\_MA1\\_F3.pdf](http://downloadcenter.samsung.com/content/UM/201302/20130212081122716/GT-P3113_English_User_Manual_MA1_F3.pdf); *see also* Ex. J, Samsung, Galaxy Tab 3 Android Tablet User Manual 58 (2013), *available at* [http://downloadcenter.samsung.com/content/UM/201401/20140116053050384/GEN\\_SM-T210R\\_Galaxy\\_Tab\\_3\\_English\\_JB\\_User\\_Manual\\_MF1\\_F5.pdf](http://downloadcenter.samsung.com/content/UM/201401/20140116053050384/GEN_SM-T210R_Galaxy_Tab_3_English_JB_User_Manual_MF1_F5.pdf) (same); Ex. K, Samsung, Samsung Galaxy Note 10.1 2014 Edition Android Tablet User Manual 118 (2013), *available at*



[http://downloadcenter.samsung.com/content/UM/201310/20131011214546174/GEN\\_SM-P600\\_Galaxy\\_Note\\_101\\_English\\_JB\\_User\\_Manual\\_MIE\\_F4.pdf](http://downloadcenter.samsung.com/content/UM/201310/20131011214546174/GEN_SM-P600_Galaxy_Note_101_English_JB_User_Manual_MIE_F4.pdf) (same); Ex. L, Samsung, Samsung Galaxy Note 8.0 Android Tablet user Manual 72-73 (2013), *available at* [http://downloadcenter.samsung.com/content/UM/201401/20140116051029286/GEN\\_GT-N5110\\_Galaxy\\_Note8\\_JB\\_English\\_User\\_Manual\\_MCA\\_F7.pdf](http://downloadcenter.samsung.com/content/UM/201401/20140116051029286/GEN_GT-N5110_Galaxy_Note8_JB_English_User_Manual_MCA_F7.pdf) (same).

Samsung's user manuals have also recognized that Google Maps can be used to "view locations on a *vector* or aerial map," Ex. E, at 180 (emphasis added); and further promoted the use of Google Maps by having the shortcut display by default on the Home screen, *see* Ex. F, at 118; Ex. I, at 31. Samsung also touts, and thereby promotes, as one of the "Features of Your Device," "Features of Your Phone," or simply "Features" the "Full Integration of Google Mobile™ Services (Gmail, YouTube, *Google Maps*, Google Voice Search)" or the "[f]ull integration of Google applications (Gmail, YouTube, *Google Maps*, and Voice Search)." *See* Ex. E, at 18-19 (emphasis added); Ex. G, at 20 (emphasis added); Ex. H, at 14 (emphasis added); Ex. I, at 17 (emphasis added); Ex. J, at 17 (emphasis added); Ex. K, at 18 (emphasis added); Ex. L, at 17 (emphasis added). Samsung also knows that users will use Google applications because "Google has become *more intertwined with other applications*," and so provides instructions on "a quick and ready access point to configure preferences for Google+, *Maps & Latitude*, Location, etc." to facilitate the use of these Google products. Ex. E, at 169 (emphasis added); *see also* Ex. H, at 174 (same). Samsung has even instructed users during the initial set up of an accused instrumentality to establish a Google account to utilize Google Maps. *See* Ex. F, at 17 ("Your new phone uses your Google account to fully utilize its Android features, including Gmail, *Google Maps*, Google Talk, and the Google™ Play. When you turn on your phone *for the first time*, you *should* set up a connection with your existing Google account, or create a new Google account." (emphasis added)). In addition to the user manuals, Samsung provides further

instructions for using Google Maps on the Galaxy Tab, thereby promoting the use of Google Maps. *See* Ex. M, Samsung, How to Configure & Use Google Maps on the Galaxy Tab, <http://www.samsung.com/us/support/howtoguide/N0000408/5449/41684>. Many of Samsung's user manuals for the accused Galaxy instrumentalities also provide instructions for using Chrome Browser. *See* Ex. F, at 105 (Galaxy S4); Ex. G, at 144 (Galaxy Note II); Ex. H, at 170 (Galaxy Note 3); Ex. J, at 97 (Galaxy Tab 3); Ex. K, at 113 (Galaxy Note 10.1); Ex. L, at 110 (Galaxy Note 8.0).

28. Samsung proceeds in this manner despite actual knowledge of the '854 patent and with specific intent that the actions it actively induced and continues to induce on the part of its customers, subsidiaries, and resellers, and other third parties constitute infringement of the '854 patent. Samsung was on notice of the '854 patent and the accused infringement since Micrografx served its initial complaint, and yet Samsung continues to induce infringement.

29. Upon information and belief, Samsung has contributed to and continues to contribute to the infringement of the '854 patent pursuant to 35 U.S.C. § 271(c) by selling and offering to sell within the United States and importing into the United States to its customers, subsidiaries, resellers, or other third parties the specific functional components of the accused instrumentalities in paragraph 24 above. For example, upon information and belief, Samsung contributed to and continues to contribute to the infringement of the accused instrumentalities in paragraph 24 above by selling, offering to sell, and importing the accused instrumentalities with the Google Maps and Chrome Browser applications and thereby selling, offering to sell, and importing the functionality to provide and/or operable to provide interactive vector graphics over a network as claimed in the '854 patent. As indicated by the discussion of Google Maps in Samsung's user manuals, as described in paragraph 27 above, Google Maps is included on the

accused instrumentalities. Nearly every manual refers to Google Maps in its list of features. *See* Ex. E, at 18-19; Ex. G, at 20; Ex. H, at 14; Ex. I, at 17; Ex. J, at 17; Ex. K, at 18; Ex. L, at 17. Also, other websites indicate that accused instrumentalities of paragraph 24 are sold with Google Maps and in many cases Chrome Browser. *See* Ex. N, Image of [https://play.google.com/store/devices/details/Samsung\\_Galaxy\\_S\\_4\\_Google\\_Play\\_edition?id=samsung\\_galaxy\\_s4](https://play.google.com/store/devices/details/Samsung_Galaxy_S_4_Google_Play_edition?id=samsung_galaxy_s4) (showing the Galaxy S4 Google Play edition and stating “Google Maps, Chrome, YouTube, Gmail -- it’s all just there” and “The Galaxy S 4 Google Play edition comes with the best Google apps pre-installed, so it’s ready to use right out of the box”); Ex. O, Image from [https://play.google.com/store/devices/details/Samsung\\_Chromebook\\_Wi-Fi?id=chromebook\\_samsung\\_wifi](https://play.google.com/store/devices/details/Samsung_Chromebook_Wi-Fi?id=chromebook_samsung_wifi) (showing the Chromebook with both Google Maps and Chrome Browser); *see also* Ex. P, Verizon, Samsung Galaxy S 4, <http://www.verizonwireless.com/b2c/device/smartphone/samsung-galaxy-s4> (indicating in the “specs” that Google Maps and Chrome Browser are included on the Galaxy S4); Ex. Q, Verizon, Samsung Galaxy Note 3, <http://www.verizonwireless.com/b2c/device/smartphone/samsung-galaxy-note-3-black> (same for the Galaxy Note 3); Ex. R, Verizon, Samsung Galaxy Note 10.1 16GB, <http://www.verizonwireless.com/b2c/device/tablet/samsung-galaxy-note-10> (same for the Galaxy Note 10.1); Ex. S, Samsung, Samsung Galaxy Note 8.0, <http://www.samsung.com/global/microsite/galaxynote/note8.0/specifications.html> (indicating in the “Specifications” that Google Maps and Chrome Browser are included on the Galaxy Note 8.0); Ex. T, Samsung, Samsung Galaxy SIII, <http://www.samsung.com/global/galaxys3/specifications.html> (indicating in the “Specifications” that Google Maps is included on the Galaxy SIII); Ex. U, Verizon, Samsung Galaxy Tab 2 (10.1)

8GB, <http://www.verizonwireless.com/b2c/device/tablet/samsung-galaxy-tab-2-10-0> (indicating in the “specs” that Google Maps is included on the Galaxy Tab 2).

30. Upon information and belief, the Google Maps and Chrome Browser applications contain a component of the machine, manufacture, combination or composition patented in the '854 patent, or a material or apparatus for use in practicing the process patented in the '854 patent. This component, material, or apparatus is a material part of the invention patented in the '854 patent and is especially made or especially adapted for use in infringement of the '854 patent. This component, material, or apparatus is not a staple article of commerce suitable for substantial non-infringing use at least because the component, material, or apparatus has no use apart from or that does not include providing and/or being operable to provide interactive vector graphics over a network as claimed in the '854 patent. Upon information and belief, Google Maps and Chrome Browser each contain a software tool especially made or especially adapted to provide and/or to be operable to provide interactive vector graphics over a network as claimed in the '854 patent, the only use of this software tool is to infringe the '854 patent, and this software tool is not suitable for any substantial non-infringing use. Therefore, by offering for sale, selling, or importing the accused instrumentalities identified in paragraph 24 above with Google Maps and Chrome Browser containing these components, Samsung contributes to the infringement of the '854 patent pursuant to 35 U.S.C. § 271(c).

31. Upon information and belief, Samsung has proceeded despite knowledge that the combination for which the component, material, or apparatus is especially designed was patented and infringing. When the accused instrumentalities of paragraph 24 above are used by Samsung's customers, subsidiaries, resellers, or other third parties, those customers, subsidiaries, resellers, or other third parties are thereby infringing, literally or under the doctrine of

equivalents, one or more claims of the '854 patent. Samsung was on notice of the '854 patent and the accused infringement since Micrografx served its initial complaint, and yet Samsung continues its contributory infringement. Samsung has known since Micrografx served its complaint, for the reasons described above, that the component, material, or apparatus supplied by Samsung in the accused instrumentalities of paragraph 24 above is especially made and/or especially adapted for use in infringing the '854 patent.

32. Samsung was on notice of the '854 patent since Micrografx served its initial complaint. Upon information and belief, Samsung has continued to infringe the '854 patent despite knowledge of the '854 patent by, for example, continuing to make, use, sell, offer for sale, or import the accused instrumentalities in paragraph 24 above. Upon information and belief, Samsung acted and continues to act despite an objectively high likelihood that its actions constitute infringement of the '854 patent. The '854 patent is presumed valid. *See* 35 U.S.C. § 282. Samsung's accused instrumentalities in paragraph 24 above infringe, as described above. Further, upon information and belief, Samsung's objectively high risk of infringement was known or so obvious that it should have been known since Micrografx served its initial complaint. Thus, upon information and belief, Samsung's infringement of the '854 patent has been and continues to be willful after Micrografx served its initial complaint, entitling Micrografx to enhanced damages pursuant to 35 U.S.C. § 284.

**COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,552,732**

33. Paragraphs 1 through 32 are incorporated as if fully set forth herein.

34. United States Patent No. 6,552,732, entitled "System And Method Of Providing Interactive Vector Graphics Over A Network," issued on April 22, 2003, to inventors John R.

Davis, Jr. and Scott M. Glazer. A true and correct copy of the '732 patent is provided as Exhibit V. The '732 patent is owned by Micrografx.

35. Upon information and belief, Samsung has infringed and continues to infringe one or more claims of the '732 patent in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, offering for sale, and selling in the United States and by importing into the United States mobile phones, tablets, and notebooks that infringe one or more claims of the '732 patent. Upon information and belief, the mobile phones, tablets, and notebooks include applications, such as Google Maps and Chrome Browser, which provide and/or are operable to provide interactive vector graphics over a network. For example, at least the following systems directly infringe the '732 patent:

- Galaxy SIII
- Galaxy S4
- Galaxy Note II
- Galaxy Note 3
- Galaxy Tab 2
- Galaxy Tab 3
- Galaxy Note 10.1
- Galaxy Note 8.0
- Chromebook

36. Upon information and belief, Samsung has induced and continues to induce infringement of the '732 patent in violation of 35 U.S.C. § 271(b) by encouraging customers, subsidiaries, resellers, or other third parties to make, use, offer for sale, sell, or import the accused instrumentalities identified in paragraph 35 above. Such making, using, offering for sale, selling, or importing of the accused instrumentalities of paragraph 35 above constitutes infringement, literally or under the doctrine of equivalents, of one or more claims of the '732 patent by such customers, subsidiaries, resellers, or third parties. Samsung intends its customers, subsidiaries, resellers, or other third parties to make, use, sell, offer to sell, or import the accused

instrumentalities of paragraph 35 above and encourages infringement by: providing the accused instrumentalities in paragraph 35 above that provide and/or are operable to provide interactive vector graphics over a network and thus infringe one or more claims of the '732 patent literally or under the doctrine of equivalents; providing other components of and accessories for the accused instrumentalities identified in paragraph 35 above; providing maintenance for the accused instrumentalities of paragraph 35 above; advertising the accused instrumentalities of paragraph 35 above through their own and third party websites; and providing user manuals and other information for the accused Galaxy instrumentalities of paragraph 35 above that promote the use of the accused Galaxy instrumentalities of paragraph 35 above in a manner that infringes one or more claims of the '732 patent literally or under the doctrine of equivalents.

37. Samsung Telecom, Samsung Electronics, and Samsung Electronics Co. individually or collectively encourage infringement through the provision of user manuals. The user manuals for the accused Galaxy instrumentalities are accessible through <http://www.samsung.com/us/>. The "Legal" link indicates that "All information, documents, products and services, trademarks, logos, graphics, and images ('Materials') provided on this site are copyrighted or trademarked and are the property of Samsung Group, Samsung Electronics and its listed subsidiaries" and "SAMSUNG controls and operates this site from its headquarters in the United States of America and Seoul, Korea." Ex. B. The "Corporate & Affiliates" contact information first lists "Samsung Electronics America" with its address at "85 Challenger Road," and second lists "SAMSUNG Telecommunication America" with its address at "1301 East Lookout Drive." Ex. C (showing contact information for "Samsung Electronics America"); Ex. D (showing contact information for "SAMSUNG Telecommunication America"). Samsung Electronics holds the copyright for some user manuals and Samsung

Telecom holds the copyright for others. Ex. E (Samsung Telecom); Ex. F (Samsung Telecom); Ex. G (Samsung Telecom); Ex. H (Samsung Telecom); Ex. I (Samsung Electronics); Ex. J (Samsung Electronics); Ex. K (Samsung Electronics); Ex. L (Samsung Electronics).

38. Samsung promotes the use of Google Maps and Chrome Browser. Samsung user manuals for the accused Galaxy instrumentalities provide instructions for using Google Maps and instruct users on the purposes of Google Maps:

- “Google Maps allow you to track your current location, view real-time traffic issues, and view detailed destination directions.” Ex. E, at 180-81.
- “Use Google Maps to find your current location, get directions, and other location-based information.” Ex. F, at 118.
- “[Y]ou can view basic, custom, and satellite maps and local business information, including locations, contact information, and driving directions.” Ex. G, at 153-54; *see also* Ex. H, at 180 (same).
- “Use Google Maps to find your current location, get directions, and other location-based information.” Ex. I, at 59-60; *see also* Ex. J, at 58 (same); Ex. K, at 118 (same); Ex. L, at 72-73 (same).

Samsung’s user manuals have also recognized that Google Maps can be used to “view locations on a *vector* or aerial map,” Ex. E, at 180 (emphasis added); and further promoted the use of Google Maps by having the shortcut display by default on the Home screen, *see* Ex. F, at 118; Ex. I, at 31. Samsung also touts, and thereby promotes, as one of the “Features of Your Device,” “Features of Your Phone,” or simply “Features” the “Full Integration of Google Mobile™ Services (Gmail, YouTube, *Google Maps*, Google Voice Search)” or the “[f]ull integration of Google applications (Gmail, YouTube, *Google Maps*, and Voice Search).” *See* Ex. E, at 18-19 (emphasis added); Ex. G, at 20 (emphasis added); Ex. H, at 14 (emphasis added); Ex. I, at 17 (emphasis added); Ex. J, at 17 (emphasis added); Ex. K, at 18 (emphasis added); Ex. L, at 17 (emphasis added). Samsung also knows that users will use Google applications because “Google



has become *more intertwined with other applications*,” and so provides instructions on “a quick and ready access point to configure preferences for Google+, *Maps & Latitude*, Location, etc.” to facilitate the use of these Google products. Ex. E, at 169 (emphasis added); *see also* Ex. H, at 174 (same). Samsung has even instructed users during the initial set up of an accused instrumentality to establish a Google account to utilize Google Maps. *See* Ex. F, at 17 (“Your new phone uses your Google account to fully utilize its Android features, including Gmail, *Google Maps*, Google Talk, and the Google™ Play. When you turn on your phone *for the first time*, you *should* set up a connection with your existing Google account, or create a new Google account.” (emphasis added)). In addition to the user manuals, Samsung provides further instructions for using Google Maps on the Galaxy Tab, thereby promoting the use of Google Maps. *See* Ex. M. Many of Samsung’s user manuals for the accused Galaxy instrumentalities also provide instructions for using Chrome Browser. *See* Ex. F, at 105 (Galaxy S4); Ex. G, at 144 (Galaxy Note II); Ex. H, at 170 (Galaxy Note 3); Ex. J, at 97 (Galaxy Tab 3); Ex. K, at 113 (Galaxy Note 10.1); Ex. L, at 110 (Galaxy Note 8.0).

39. Samsung proceeds in this manner despite actual knowledge of the ’732 patent and with specific intent that the actions it actively induced and continues to induce on the part of its customers, subsidiaries, and resellers, and other third parties constitute infringement of the ’732 patent. Samsung was on notice of the ’732 patent and the accused infringement since Micrografx served its initial complaint, and yet Samsung continues to induce infringement.

40. Upon information and belief, Samsung has contributed to and continues to contribute to the infringement of the ’732 patent pursuant to 35 U.S.C. § 271(c) by selling and offering to sell within the United States and importing into the United States to its customers, subsidiaries, resellers, or other third parties the specific functional components of the accused

instrumentalities in paragraph 35 above. For example, upon information and belief, Samsung contributed to and continues to contribute to the infringement of the accused instrumentalities in paragraph 35 above by selling, offering to sell, and importing the accused instrumentalities with the Google Maps and Chrome Browser applications and thereby selling, offering to sell, and importing the functionality to provide and/or operable to provide interactive vector graphics over a network as claimed in the '732 patent. As indicated by the discussion of Google Maps in Samsung's user manuals, as described in paragraph 38 above, Google Maps is included on the accused instrumentalities. Nearly every manual refers to Google Maps in its list of features. *See* Ex. E, at 18-19; Ex. G, at 20; Ex. H, at 14; Ex. I, at 17; Ex. J, at 17; Ex. K, at 18; Ex. L, at 17. Also, other websites indicate that accused instrumentalities of paragraph 35 are sold with Google Maps and in many cases Chrome Browser. *See* Ex. N (showing the Galaxy S4 Google Play edition and stating "Google Maps, Chrome, YouTube, Gmail -- it's all just there" and "The Galaxy S 4 Google Play edition comes with the best Google apps pre-installed, so it's ready to use right out of the box"); Ex. O (showing the Chromebook with both Google Maps and Chrome Browser); *see also* Ex. P (indicating in the "specs" that Google Maps and Chrome Browser are included on the Galaxy S4); Ex. Q (same for the Galaxy Note 3); Ex. R (same for the Galaxy Note 10.1); Ex. S (indicating in the "Specifications" that Google Maps and Chrome Browser are included on the Galaxy Note 8.0); Ex. T (indicating in the "Specifications" that Google Maps is included on the Galaxy SIII); Ex. U (indicating in the "specs" that Google Maps is included on the Galaxy Tab 2).

41. Upon information and belief, the Google Maps and Chrome Browser applications contain a component of the machine, manufacture, combination or composition patented in the '732 patent, or a material or apparatus for use in practicing the process patented in the '732

patent. This component, material, or apparatus is a material part of the invention patented in the '732 patent and is especially made or especially adapted for use in infringement of the '732 patent. This component, material, or apparatus is not a staple article of commerce suitable for substantial non-infringing use at least because the component, material, or apparatus has no use apart from or that does not include providing and/or being operable to provide interactive vector graphics over a network as claimed in the '732 patent. Upon information and belief, Google Maps and Chrome Browser each contain a software tool especially made or especially adapted to provide and/or to be operable to provide interactive vector graphics over a network as claimed in the '732 patent, the only use of this software tool is to infringe the '732 patent, and this software tool is not suitable for any substantial non-infringing use. Therefore, by offering for sale, selling, or importing the accused instrumentalities identified in paragraph 35 above with Google Maps and Chrome Browser containing these components, Samsung contributes to the infringement of the '732 patent pursuant to 35 U.S.C. § 271(c).

42. Upon information and belief, Samsung has proceeded despite knowledge that the combination for which the component, material, or apparatus is especially designed was patented and infringing. When the accused instrumentalities of paragraph 35 above are used by Samsung's customers, subsidiaries, resellers, or other third parties, those customers, subsidiaries, resellers, or other third parties are thereby infringing, literally or under the doctrine of equivalents, one or more claims of the '732 patent. Samsung was on notice of the '732 patent and the accused infringement since Micrografx served its initial complaint, and yet Samsung continues its contributory infringement. Samsung has known since Micrografx served its complaint, for the reasons described above, that the component, material, or apparatus supplied by Samsung in the accused instrumentalities of paragraph 35 above is especially made and/or

especially adapted for use in infringing the '732 patent.

43. Samsung was on notice of the '732 patent since Micrografx served its initial complaint. Upon information and belief, Samsung has continued to infringe the '732 patent despite knowledge of the '732 patent by, for example, continuing to make, use, sell, offer for sale, or import the accused instrumentalities in paragraph 35 above. Upon information and belief, Samsung acted and continues to act despite an objectively high likelihood that its actions constitute infringement of the '732 patent. The '732 patent is presumed valid. *See* 35 U.S.C. § 282. Samsung's accused instrumentalities in paragraph 35 above infringe, as described above. Further, upon information and belief, Samsung's objectively high risk of infringement was known or so obvious that it should have been known since Micrografx served its initial complaint. Thus, upon information and belief, Samsung's infringement of the '732 patent has been and continues to be willful after Micrografx served its initial complaint, entitling Micrografx to enhanced damages pursuant to 35 U.S.C. § 284.

**COUNT III: INFRINGEMENT OF U.S. PATENT NO. 5,959,633**

44. Paragraphs 1 through 43 are incorporated as if fully set forth herein.

45. United States Patent No. 5,959,633, entitled "Method And System For Producing Graphical Images," issued on Sept. 28, 1999, to inventors Kevin E. McFarland and Rodney T. Whisnant. A true and correct copy of the '633 patent is provided as Exhibit W. The '633 patent is owned by Micrografx.

46. Upon information and belief, Samsung has infringed and continues to infringe one or more claims of the '633 patent in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, offering for sale, and selling in the United States and by importing into the United States mobile phones and tablets that infringe one or more claims of

the '633 patent. Upon information and belief, the mobile phones and tablets include applications, such as Google Maps, that access and/or are operable to access an external shape stored outside the application and delegate the production of a graphical image of the external shape. For example, at least the following systems directly infringe the '633 patent:

- Galaxy SIII
- Galaxy S4
- Galaxy Note II
- Galaxy Note 3
- Galaxy Tab 2
- Galaxy Tab 3
- Galaxy Note 10.1
- Galaxy Note 8.0

47. Upon information and belief, Samsung has induced and continues to induce infringement of the '633 patent in violation of 35 U.S.C. § 271(b) by encouraging customers, subsidiaries, resellers, or other third parties to make, use, offer for sale, sell, or import the accused instrumentalities identified in paragraph 46 above. Such making, using, offering for sale, selling, or importing of the accused instrumentalities of paragraph 46 above constitutes infringement, literally or under the doctrine of equivalents, of one or more claims of the '633 patent by such customers, subsidiaries, resellers, or third parties. Samsung intends its customers, subsidiaries, resellers, or other third parties to make, use, sell, offer to sell, or import the accused instrumentalities of paragraph 46 above and encourages infringement by: providing the accused instrumentalities in paragraph 46 above that access and/or are operable to access an external shape stored outside the application and delegate the production of a graphical image of the external shape and thus infringe one or more claims of the '633 patent literally or under the doctrine of equivalents; providing other components of and accessories for the accused instrumentalities identified in paragraph 46 above; providing maintenance for the accused instrumentalities of paragraph 46 above; advertising the accused instrumentalities of paragraph

46 above through their own and third party websites; and providing user manuals and other information for the accused instrumentalities of paragraph 46 above that promote the use of the accused instrumentalities of paragraph 46 above in a manner that infringes one or more claims of the '633 patent literally or under the doctrine of equivalents.

48. Samsung Telecom, Samsung Electronics, and Samsung Electronics Co. individually or collectively encourage infringement through the provision of user manuals. The user manuals for the accused instrumentalities are accessible through <http://www.samsung.com/us/>. The "Legal" link indicates that "All information, documents, products and services, trademarks, logos, graphics, and images ('Materials') provided on this site are copyrighted or trademarked and are the property of Samsung Group, Samsung Electronics and it's listed subsidiaries" and "SAMSUNG controls and operates this site from it's headquarters in the United States of America and Seoul, Korea." Ex. B. The "Corporate & Affiliates" contact information first lists "Samsung Electronics America" with its address at "85 Challenger Road," and second lists "SAMSUNG Telecommunication America" with its address at "1301 East Lookout Drive." Ex. C (showing contact information for "Samsung Electronics America"); Ex. D (showing contact information for "SAMSUNG Telecommunication America"). Samsung Electronics holds the copyright for some user manuals and Samsung Telecom holds the copyright for others. Ex. E (Samsung Telecom); Ex. F (Samsung Telecom); Ex. G (Samsung Telecom); Ex. H (Samsung Telecom); Ex. I (Samsung Electronics); Ex. J (Samsung Electronics); Ex. K (Samsung Electronics); Ex. L (Samsung Electronics).

49. Samsung promotes the use of Google Maps. Samsung user manuals for the accused instrumentalities provide instructions for using Google Maps and instruct users on the purposes of Google Maps:

- “Google Maps allow you to track your current location, view real-time traffic issues, and view detailed destination directions.” Ex. E, at 180-81.
- “Use Google Maps to find your current location, get directions, and other location-based information.” Ex. F, at 118.
- “[Y]ou can view basic, custom, and satellite maps and local business information, including locations, contact information, and driving directions.” Ex. G, at 153-54; *see also* Ex. H, at 180 (same).
- “Use Google Maps to find your current location, get directions, and other location-based information.” Ex. I, at 59-60; *see also* Ex. J, at 58 (same); Ex. K, at 118 (same); Ex. L, at 72-73 (same).

Samsung’s user manuals have also recognized that Samsung further promoted the use of Google Maps by having the shortcut display by default on the Home screen. *See* Ex. F, at 118; Ex. I, at 31. Samsung also touts, and thereby promotes, as one of the “Features of Your Device,” “Features of Your Phone,” or simply “Features” the “Full Integration of Google Mobile™ Services (Gmail, YouTube, **Google Maps**, Google Voice Search)” or the “[f]ull integration of Google applications (Gmail, YouTube, **Google Maps**, and Voice Search).” *See* Ex. E, at 18-19 (emphasis added); Ex. G, at 20 (emphasis added); Ex. H, at 14 (emphasis added); Ex. I, at 17 (emphasis added); Ex. J, at 17 (emphasis added); Ex. K, at 18 (emphasis added); Ex. L, at 17 (emphasis added). Samsung also knows that users will use Google applications because “Google has become *more intertwined with other applications*,” and so provides instructions on “a quick and ready access point to configure preferences for Google+, **Maps & Latitude**, Location, etc.” to facilitate the use of these Google products. Ex. E, at 169 (emphasis added); *see also* Ex. H, at 174 (same). Samsung has even instructed users during the initial set up of an accused instrumentality to establish a Google account to utilize Google Maps. *See* Ex. F, at 17 (“Your new phone uses your Google account to fully utilize its Android features, including Gmail, **Google Maps**, Google Talk, and the Google™ Play. When you turn on your phone *for the first*

*time*, you *should* set up a connection with your existing Google account, or create a new Google account.” (emphasis added)). In addition to the user manuals, Samsung provides further instructions for using Google Maps on the Galaxy Tab, thereby promoting the use of Google Maps. *See* Ex. M.

50. Samsung proceeds in this manner despite actual knowledge of the ’633 patent and with specific intent that the actions it actively induced and continues to induce on the part of its customers, subsidiaries, and resellers, and other third parties constitute infringement of the ’633 patent. Samsung was on notice of the ’633 patent and the accused infringement since Micrografx served its initial complaint, and yet Samsung continues to induce infringement.

51. Upon information and belief, Samsung has contributed to and continues to contribute to the infringement of the ’633 patent pursuant to 35 U.S.C. § 271(c) by selling and offering to sell within the United States and importing into the United States to its customers, subsidiaries, resellers, or other third parties the specific functional components of the accused instrumentalities in paragraph 46 above. For example, upon information and belief, Samsung contributed to and continues to contribute to the infringement of the accused instrumentalities in paragraph 46 above by selling, offering to sell, and importing the accused instrumentalities with the Google Maps application and thereby selling, offering to sell, and importing the functionality to access and/or operable to access an external shape stored outside the application and delegate the production of a graphical image of the external shape as claimed in the ’633 patent. As indicated by the discussion of Google Maps in Samsung’s user manuals, as described in paragraph 49 above, Google Maps is included on the accused instrumentalities. Nearly every manual refers to Google Maps in its list of features. *See* Ex. E, at 18-19; Ex. G, at 20; Ex. H, at 14; Ex. I, at 17; Ex. J, at 17; Ex. K, at 18; Ex. L, at 17. Also, other websites indicate that accused



instrumentalities of paragraph 46 are sold with Google Maps. *See* Ex. N (showing the Galaxy S4 Google Play edition and stating “Google Maps, Chrome, YouTube, Gmail -- it’s all just there” and “The Galaxy S 4 Google Play edition comes with the best Google apps pre-installed, so it’s ready to use right out of the box”); *see also* Ex. T (indicating in the “Specifications” that Google Maps is included on the Galaxy SIII); Ex. P (indicating in the “specs” that Google Maps is included on the Galaxy S4); Ex. Q (same for the Galaxy Note 3); Ex. U (same for the Galaxy Tab 2); Ex. R (same for the Galaxy Note 10.1); Ex. S (indicating in the “Specifications” that Google Maps is included on the Galaxy Note 8.0).

52. Upon information and belief, the Google Maps application contains a component of the machine, manufacture, combination or composition patented in the ’633 patent, or a material or apparatus for use in practicing the process patented in the ’633 patent. This component, material, or apparatus is a material part of the invention patented in the ’633 patent and is especially made or especially adapted for use in infringement of the ’633 patent. This component, material, or apparatus is not a staple article of commerce suitable for substantial non-infringing use at least because the component, material, or apparatus has no use apart from or that does not include the functionality to access and/or operable to access an external shape stored outside the application and delegate the production of a graphical image of the external shape as claimed in the ’633 patent. Upon information and belief, Google Maps contains a software tool especially made or especially adapted to access and/or to be operable to access an external shape stored outside the application and delegate the production of a graphical image of the external shape as claimed in the ’633 patent, the only use of this software tool is to infringe the ’633 patent, and this software tool is not suitable for any substantial non-infringing use. Therefore, by offering for sale, selling, or importing the accused instrumentalities identified in

paragraph 46 above with Google Maps containing these components, Samsung contributes to the infringement of the '633 patent pursuant to 35 U.S.C. § 271(c).

53. Upon information and belief, Samsung has proceeded despite knowledge that the combination for which the component, material, or apparatus is especially designed was patented and infringing. When the accused instrumentalities of paragraph 46 above are used by Samsung's customers, subsidiaries, resellers, or other third parties, those customers, subsidiaries, resellers, or other third parties are thereby infringing, literally or under the doctrine of equivalents, one or more claims of the '633 patent. Samsung was on notice of the '633 patent and the accused infringement since Micrografx served its initial complaint, and yet Samsung continues its contributory infringement. Samsung has known since Micrografx served its complaint, for the reasons described above, that the component, material, or apparatus supplied by Samsung in the accused instrumentalities of paragraph 46 above is especially made and/or especially adapted for use in infringing the '633 patent.

54. Samsung was on notice of the '633 patent since Micrografx served its initial complaint. Upon information and belief, Samsung has continued to infringe the '633 patent despite knowledge of the '633 patent by, for example, continuing to make, use, sell, offer for sale, or import the accused instrumentalities in paragraph 46 above. Upon information and belief, Samsung acted and continues to act despite an objectively high likelihood that its actions constitute infringement of the '633 patent. The '633 patent is presumed valid. *See* 35 U.S.C. § 282. Samsung's accused instrumentalities in paragraph 46 above infringe, as described above. Further, upon information and belief, Samsung's objectively high risk of infringement was known or so obvious that it should have been known since Micrografx served its initial complaint. Thus, upon information and belief, Samsung's infringement of the '633 patent has

been and continues to be willful after Micrografx served its initial complaint, entitling Micrografx to enhanced damages pursuant to 35 U.S.C. § 284.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rules and Civil Procedure 38(b), Micrografx demands a trial by jury.

**PRAYER FOR RELIEF**

WHEREFORE, Micrografx respectfully prays that this Court enter judgment in its favor as follows:

- a) declaring that Samsung has infringed and continues to infringe one or more claims of the Patents-in-Suit;
- b) declaring that Samsung has willfully infringed one or more claims of the Patents-in-Suit;
- c) awarding Micrografx all damages adequate to compensate for infringement by Samsung, and in no event less than a reasonable royalty for Defendants' acts of infringement, including all pre-judgment interest at the maximum rate allowed by law;
- d) awarding Micrografx treble damages pursuant to 35 U.S.C. § 284;
- e) awarding Micrografx attorney fees, costs, and expenses that it incurs in prosecuting this action;
- f) awarding Micrografx any further and additional relief as the Court may deem just and equitable.

Date: January 27, 2013

Respectfully Submitted:

*/s/ Matthew D. Powers*

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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system pursuant to Local Rule 5.1(d) and Fed. R. Civ. P. 5(b)(2)(E).

/s/ Matthew D. Powers