

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

FLASH3D LLC,

Plaintiff,

v.

**SAMSUNG ELECTRONICS AMERICA,
INC.,**

Defendant.

CASE NO. 2:17-cv-521

PATENT CASE

JURY TRIAL DEMANDED

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT
AGAINST SAMSUNG ELECTRONICS AMERICA, INC.**

Plaintiff Flash3D LLC files this Original Complaint for Patent Infringement against Samsung Electronics America, Inc., pursuant to Rule 15(a)(1)(B), Fed.R.Civ.P., and would respectfully show the Court as follows:

I. THE PARTIES

1. Plaintiff Flash3D LLC (“Flash3D” or “Plaintiff”) is a Texas limited liability company with its principal place of business in the Eastern District of Texas at 5068 W. Plano Pkwy, Suite 300, Plano, Texas 75093.

2. On information and belief, Defendant Samsung Electronics America, Inc. (“Defendant”), is a New York corporation, with a place of business at 1301 East Lookout Drive, Richardson, Texas 75082, which is within the Eastern District of Texas. Defendant is registered for the right to transact business in Texas and has a registered agent in Texas, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201.

II. JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction of such action under 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction, pursuant to due process and the Texas Long Arm Statute, due at least to its substantial business in this forum, including at least a portion of the infringement alleged herein.

5. On information and belief, within this state, Defendant has used the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, on information and belief, Defendant has derived substantial revenues from its infringing acts occurring within the State of Texas and this District, including due at least to its sale of products and/or services within the State of Texas and from this District. Further, on information and belief, Defendant is subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities in the State of Texas and in this District. Further, on information and belief, Defendant is subject to the Court's personal jurisdiction at least due to its sale of products and/or services within the State of Texas and within this District. Defendant has committed such purposeful acts and/or transactions in the State of Texas and in this District, such that it reasonably should know and expect that it could be haled into this Court because of such activity.

6. Venue is proper in this district under 28 U.S.C. § 1400(b). On information and belief, Defendant has a regular and established places of business in this District and has

committed acts of infringement in this district such that this Court is a fair and reasonable venue for the litigation of this action. Defendant has a place of business at 1301 East Lookout Drive, Richardson, Texas 75082, which is within the Eastern District of Texas. Defendant is registered to do business in Texas and has a registered agent in Dallas, Texas. On information and belief, from and within this District Defendant has committed at least a portion of the infringements at issue in this case by making, using, selling, and/or offering for sale the Accused Instrumentalities that perform the infringing methods, and/or performing the infringing methods within this District.

7. For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. § 1400(b).

III. COUNT I
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 7,546,538)

8. Plaintiff incorporates the above paragraphs herein by reference.

9. On June 9, 2009, United States Patent No. 7,546,538 (“the ‘538 patent”) was duly and legally issued by the United States Patent and Trademark Office. The ‘538 Patent is titled “System and Method for Web Browsing.” The application leading to the ‘538 patent was filed on November 10, 2001. The application leading to the ‘538 patent is continuation-in-part of application No. 09/985,415, filed on November 2, 2001, which is a continuation of application No. 09/498,079, filed on February 4, 2000, which issued as United States Patent No. 6,313,855. A true and correct copy of the ‘538 Patent is attached hereto as Exhibit A and incorporated herein by reference.

10. Flash3D is the assignee of all right, title and interest in the ‘538 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ‘538 Patent. Accordingly, Flash3D possesses the

exclusive right and standing to prosecute the present action for infringement of the '538 Patent by Defendant.

11. The invention of the '538 patent relates to the field of web browsers. (Ex. A at col. 1:23-27). The invention of the '538 patent is directed to systems and methods for “web browsing that displays multiple web pages thereby allowing a user to contemporaneously view more than a single web page in a window.” (Ex. A at col. 5:49-52).

12. Prior to the priority date of the '538 patent, conventional browsers in the art had the problem of only allowing one web page to be rendered at any given time for display to the user. (*Id.* at col. 1:53-55). Methods for overcoming this problem included “the user opening a second instance of the web browser and manually switching back and forth between the instances, or alternately, the user manually moving and/or resizing a window in which each instance operates so that the respective instances can be contemporaneously viewed.” (*Id.* at col. 1:55-61). The inventors overcame the disadvantages of the prior art web browser systems by inventing methods and systems for contemporaneously displaying multiple web pages for users to view. (*Id.* at col. 2:41-51).

13. The '538 patent was cited during the prosecution history of over thirty patent and patent applications owned by companies including Apple Inc., Google Inc., Canon, Yahoo! Inc., Samsung Electronics Co., Ltd., and Microsoft Corporation.

14. **Direct Infringement.** Upon information and belief, Defendant has been and now is directly infringing at least claim 8 of the '538 patent in the State of Texas, in this District, and elsewhere in the United States, by actions comprising performing the claimed method for browsing web pages through use of the Samsung Internet application in combination with Samsung Gear VR (“Accused Instrumentality”). (*See, e.g.,*

<https://www.oculus.com/experiences/gear-vr/849609821813454/>;

<https://play.google.com/store/apps/details?id=com.sec.android.app.sbrowser&hl=en>).

15. Upon information and belief, Defendant performs the method step of rendering a first web page in a first panel using first web page data. For example, Defendant uses the Accused Instrumentality to visit a web page to select any selectable link to fetch data related to that link and displays the web page in the center of the virtual screen using the Samsung Internet application on the Samsung Gear VR. (*See, e.g., https://www.youtube.com/watch?v=Q9aRgMOxI7o at 2:37 et seq.*). The web page visited by the Defendant using the Accused Instrumentality has a plurality of selectable references to additional web pages. For example, the web page visited has multiple selectable links containing URLs that can be selected to visit various web pages. (*See, e.g., id.*). Upon information and belief, Defendant's use of the Accused Instrumentality performs the step of rendering the first web page using a first instance of a web browsing engine. For example, the Accused Instrumentality obtains information related to the selected link from the link source. (*See, e.g., id.*). The information is then used by the Accused Instrumentality to display the selected link contents using the Samsung Internet application on a virtual screen in the Samsung Gear VR. (*See, e.g., id.*).

16. Upon information and belief, Defendant's use of the Accused Instrumentality performs the step of requesting web page data associated with each of a plurality of selected references designated by a user from among a plurality of user selectable references. For example, the Accused Instrumentality allows a user visiting a particular web page displayed using a Samsung Gear VR to select one or more selectable links, which are links to other web pages. (*See, e.g., id. at 2:54 et seq., 3:01 et seq.*). Upon information and belief, Defendant's use

of the Accused Instrumentality performs the step of rendering a web page for each requested web page data. For example, a user's selection of a link within a web page using the Accused Instrumentality displays the selected link in another web page using the Samsung Internet application in the center of the virtual screen of the Samsung Gear VR. (*See, e.g., id.* at 2:54).

17. Upon information and belief, Defendant's use of the Accused Instrumentality renders a web page for each selected web page using a separate instance of the web browser engine for each of the requested web page data. For example, for each of the links on a web page displayed using Samsung Gear VR that are selected using the Accused Instrumentality, the Accused Instrumentality opens a different Samsung Internet application instance to display the selected web page data as a different virtual screen in the Samsung Gear VR. (*See, e.g., id.* at 3:01 *et seq.*).

18. **Indirect Infringement.** Upon information and belief, Defendant has been and now is indirectly infringing by way of inducing infringement and contributing to the infringement of least claim 8 of the '538 patent in the State of Texas, in this District, and elsewhere in the United States, by actions comprising providing the Accused Instrumentality to Defendant's customers for performing the claimed method for browsing web pages. (*See, e.g.,* <https://www.oculus.com/experiences/gear-vr/849609821813454/>; <https://play.google.com/store/apps/details?id=com.sec.android.app.sbrowser&hl=en>). Defendant is a direct and indirect infringer, and its customers using the Accused Instrumentality are direct infringers.

19. Upon information and belief, Defendant had actual knowledge of the '538 patent since at least March 29, 2013, when the publication of the application leading to the '538 patent was cited (after the '538 patent had issued) during the prosecution history of patent applications

owned by the parent company of Defendant, Samsung Electronics Co., Ltd., on ten different occasions during a four-year period, and has known of its infringement since at least the sale and offer for sale of the Accused Instrumentality began. During the prosecution history of United States Patent publication number US20110022957, the publication of the application leading to the '538 patent was cited to support a rejection of pending claims in an Office Action dated March 29, 2013, a Final Rejection dated October 24, 2013, an Office Action dated March 13, 2014, a Final Rejection dated October 7, 2014, an Office Action dated April 24, 2015, a Final Rejection dated November 23, 2015, an Office Action dated March 11, 2016, a Final Rejection dated September 9, 2016, and an Office Action dated March 10, 2017. The '538 patent was also cited to support a rejection of pending claims during the prosecution history of United States Patent publication number US20110066931 in a Final Rejection dated February 25, 2016.

20. On information and belief, since becoming aware of the '538 patent, Defendant is and has been committing the act of inducing infringement by specifically intending to induce infringement by providing the Accused Instrumentality to its customers and by aiding and abetting their use in a manner known to infringe by Defendant, as described above. Upon information and belief, Defendant encourages customers to use the Accused Instrumentality for conducting the directly infringing use and advertises the directly infringing use to customers despite knowing of the infringing use. On information and belief, Defendant knew or should have known that through its acts it was and is inducing infringement of the '538 patent since it was aware of the '538 patent and began infringing at least as early as of the date of the launch of the Accused Instrumentalities.

21. On information and belief, Defendant is and has been committing the act of contributory infringement by intending to provide the identified Accused Instrumentality to its

customers knowing that it is a material part of the invention, knowing that its use was made and adapted for infringement of the '538 patent, and further knowing that the system is not a staple article or commodity of commerce suitable for substantially noninfringing use.

IV. COUNT II
(WILLFUL INFRINGEMENT OF UNITED STATES PATENT NO. 7,546,538)

22. Plaintiff incorporates the above paragraphs herein by reference.

23. On information and belief, prior to the filing of the complaint, Defendant's infringement was willful and continues to be willful. On information and belief, prior to the filing of this Complaint, Defendant was aware of the '538 patent during the prosecution of United States Patent publication numbers US20110022957 and US20110066931 during which the publication of the application leading to the '538 patent was extensively used as the source of a rejection by the Examiner, and Defendant knew or should have known that it was infringing at least claim 8 of the '538 patent. On information and belief, Defendant's willful infringing activities of a valid patent constitutes egregious misconduct.

V. COUNT III
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 7,624,348)

24. Plaintiff incorporates the above paragraphs herein by reference.

25. On November 24, 2009, United States Patent No. 7,624,348 ("the '348 patent") was duly and legally issued by the United States Patent and Trademark Office. The '348 Patent is titled "System and Method for Web Browsing." The application leading to the '348 patent was filed on November 2, 2001. The application leading to the '348 patent is a continuation of application No. 09/498,079, filed on February 4, 2000, which issued as United States Patent No. 6,313,855. A true and correct copy of the '348 Patent is attached hereto as Exhibit B and incorporated herein by reference.

26. Flash3D is the assignee of all right, title and interest in the '348 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '348 Patent. Accordingly, Flash3D possesses the exclusive right and standing to prosecute the present action for infringement of the '348 Patent by Defendant.

27. The invention of the '348 patent relates to the field of web browsers. (Ex. B at col. 1:15-18). The invention of the '348 patent is directed to a "system and method for web browsing that displays multiple web pages thereby allowing a user to contemporaneously view more than a single web page in a single window." (Ex. B at col. 4:19-29).

28. Prior to the priority date of the '348 patent, conventional browsers in the art had the problem of only allowing one web page to be rendered at any given time for display to the user. (*Id.* at col. 1:45-47). Methods for overcoming this problem included "the user opening a second instance of the web browser and manually switching back and forth between the instances, or alternately, the user manually moving and/or resizing a window in which each instance operates so that the respective instances can be contemporaneously viewed." (*Id.* at col. 1:47-53). The inventors overcame the disadvantages of the prior art web browser systems by inventing methods and systems for contemporaneously displaying multiple web pages. (*Id.* at col. 2:47-53).

29. The '348 patent was cited during the prosecution history of patent applications owned by Samsung Electronics Co., Ltd. and Microsoft Corporation.

30. **Direct Infringement.** Upon information and belief, Defendant has been and now is directly infringing at least claim 51 of the '348 patent in the State of Texas, in this District, and elsewhere in the United States, by actions comprising performing the claimed method for

browsing web pages through use of the Accused Instrumentality. (*See, e.g.*, <https://www.oculus.com/experiences/gear-vr/849609821813454/>; <https://play.google.com/store/apps/details?id=com.sec.android.app.sbrowser&hl=en>).

31. Upon information and belief, Defendant performs the step of requesting first web page data from a source of web page data. For example, Defendant uses the Accused Instrumentality to request web page data for display on the virtual screen of the Samsung Internet application in the Samsung Gear VR. (*See, e.g.*, <https://www.youtube.com/watch?v=Q9aRgMOxI7o> at 2:37 *et seq.*). Upon information and belief, Defendant performs the step of rendering a first web page in a first panel using the first web page data and a first instance of a web browsing engine. For example, Defendant uses the Accused Instrumentality to display a web page using the Samsung Internet application in the center of the virtual screen of the Samsung Gear VR. (*Id.*). If a prior web page was displayed in the center of the virtual screen, the prior web page is displayed on to the left of center on the virtual screen. (*Id.*).

32. Upon information and belief, Defendant performs the step of requesting second web page data in response to a user action. For example, Defendant uses the Accused Instrumentality to select a link to a second web page in order to obtain web page data to render the second web page in the Samsung Internet application. (*Id.* at 2:54 *et seq.*). Upon information and belief, Defendant performs the step of rendering a second web page in the first panel using the second web page data and a second instance of the web browsing engine. For example, Defendant uses the Accused Instrumentality to select a second web page link that results in the second web page being displayed in the center of the virtual screen. (*Id.*). Upon information and belief, Defendant performs the step of contemporaneously displaying the first

web page in a second panel. (*Id.*). For example, Defendant uses the Accused Instrumentality to display the first page (which was initially displayed in the center of the virtual screen) to be displayed to the left part of the virtual screen while the second web page is displayed in the center of the virtual screen where the first page was previously displayed. (*Id.* at 3:01 *et seq.*).

33. **Indirect Infringement.** Upon information and belief, Defendant has been and now is indirectly infringing by way of inducing infringement and contributing to the infringement of least claim 51 of the '348 patent in the State of Texas, in this District, and elsewhere in the United States, by actions comprising providing the Accused Instrumentality to Defendant's customers for performing the claimed method for browsing web pages. (*See, e.g.*, <https://www.oculus.com/experiences/gear-vr/849609821813454/>; <https://play.google.com/store/apps/details?id=com.sec.android.app.sbrowser&hl=en>). Defendant is a direct and indirect infringer, and its customers using the Accused Instrumentality are direct infringers.

34. Upon information and belief, Defendant had actual knowledge of the '348 patent since at least June 10, 2010, when the published application leading to the '348 patent was cited (after the '348 patent was issued) during the prosecution history of patent applications owned by the parent company of Defendant, Samsung Electronics Co., Ltd., and has known of its infringement since at least the sale and offer for sale of the Accused Instrumentality began. During the prosecution history of United States Patent 8,230,334, the published application leading to the '348 patent was cited to support a rejection of pending claims under 35 U.S.C. §102 and §103 in an Office Action dated June 10, 2010, a Final Rejection dated November 23, 2010, and an Office Action dated October 6, 2011.

35. On information and belief, since becoming aware of the '348 patent, Defendant is and has been committing the act of inducing infringement by specifically intending to induce infringement by providing the Accused Instrumentality to its customers and by aiding and abetting its use in a manner known to infringe by Defendant, as described above. Upon information and belief, Defendant encourages customers to use the Accused Instrumentality for conducting the directly infringing use and advertises the directly infringing use to customers despite knowing of the infringing use. On information and belief, Defendant knew or should have known that through its acts it was and is inducing infringement of the '348 patent since it was aware of the '348 patent and began infringing at least as early as of the date of the launch of the Accused Instrumentalities.

36. On information and belief, Defendant is and has been committing the act of contributory infringement by intending to provide the identified Accused Instrumentality to its customers knowing that it is a material part of the invention, knowing that its use was made and adapted for infringement of the '348 patent, and further knowing that the system is not a staple article or commodity of commerce suitable for substantially noninfringing use.

VI. COUNT IV
(WILLFUL INFRINGEMENT OF UNITED STATES PATENT NO. 7,624,348)

37. Plaintiff incorporates the above paragraphs herein by reference.

38. On information and belief, prior to the filing of the complaint, Defendant's infringement was willful and continues to be willful. On information and belief, prior to the filing of this Complaint, Defendant was aware of the '348 patent at least through the prosecution of United States Patent 8,230,334 during which the published application leading to the '348 patent was cited by the Examiner, and Defendant knew or should have known that it was

infringing at least claim 51 of the '348 patent. On information and belief, Defendant's willful infringing activities of a valid patent constitutes egregious misconduct.

39. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '538 patent and '348 patent, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

40. On information and belief, Defendant will continue its infringement of one or more claims of the '538 patent and '348 patent unless enjoined by the Court. Defendant's infringing conduct thus causes Plaintiff irreparable harm and will continue to cause such harm without the issuance of an injunction.

41. On information and belief, Defendant has had notice of the '538 patent and '348 patent by operation of law and as described above, and there are no marking requirements that have not been complied with.

VII. JURY DEMAND

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of United States Patent Nos. 7,624,348 and 7,546,538 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;

- b. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein;
- c. Judgment that Defendant's infringement is willful and egregious and Plaintiff is entitled to enhanced damages;
- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- d. That Defendant be permanently enjoined from any further activity or conduct that infringes one or more claims of United States Patent Nos. 7,624,348 and 7,546,538; and
- e. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: June 29, 2017

Respectfully submitted,

/s/ David R. Bennett

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FLASH3D LLC**