

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

**DOUGLAS G. RICHARDSON**

§

**Plaintiff**

§

§

**v.**

§

**CIV. A. NO. 6:17-cv-428**

§

**SAMSUNG ELECTRONICS CO.,  
LTD. and SAMSUNG  
ELECTRONICS AMERICA, INC.,**

§

**JURY TRIAL REQUESTED**

§

§

§

**Defendants**

§

**PLAINTIFF’S ORIGINAL COMPLAINT**

This is a suit for patent infringement. Douglas G. Richardson (“Richardson” or “Plaintiff”) invented technology used to produce images having isolated areas of motion referred to as a “Cinegif.” The Patent Office awarded Richardson U.S. Patents Nos. 8,035,644, 7,629,977, and 7,388,587 covering his inventions. Defendants, Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Samsung”), practice claims of these asserted patents without Richardson’s consent or authorization. By this Complaint, Richardson seeks remedies for Samsung’s infringement.

**THE PARTIES**

1. Douglas G. Richardson is an individual residing in Hays County, Texas. Richardson is the inventor and owner of the asserted patents.

2. Defendant Samsung Electronics Co., Ltd. (“Samsung Ltd.”) is a

corporation organized and existing under the laws of Korea with a principal place of business at Samsung Electronics Bldg., 1320-10, Seocho-2-dong, Seocho-gu, Seoul 137857, Republic of Korea.

3. Samsung Ltd. is one of the world's largest electronics companies and designs, manufactures and provides to the United States and world markets a wide variety of products and services, including consumer electronics, mobile phones, tablets, laptops and other personal computers.

4. Defendant Samsung Electronics America, Inc. ("SEA") is a corporation organized and existing under the laws of New York with a principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660 and offices at 1301 East Lookout Drive, Richardson, Texas 75082. SEA may be served through its registered agent, CT Corporation System, located at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

5. Upon information and belief, SEA is a wholly-owned subsidiary of Samsung Ltd. and oversees domestic sales and distribution of Samsung's consumer electronics products including the products accused of infringement in this case.

6. SEA recently merged with Samsung Telecommunications America, Inc., ("STA") which operated Samsung's North American business with respect to mobile phones and telephony equipment. *See Lexington Luminance LLC v. Samsung Elecs. Co.*, No. 2-16-cv-00169-JRG, Dkt. No. 8 ¶¶ 2(a)-(b) (E.D. Tex.).

7. Following the SEA-STA merger, STA has served as a sales division for Samsung mobile devices in the United States. Richardson is informed and believes that STA imports and sells Samsung mobile devices, tablets, and network infrastructure. *Ziilabs Inc., Ltd. v. Samsung Elecs. Co.*, No. 2:14-CV-203-JRG-RSP, 2015 WL 5278744, at \*1 (E.D. Tex. Sept. 9, 2015).

8. SEA is STA's successor-in-interest for the purpose of the alleged liability, discovery, and damages relating to Richardson's claims. *See Lexington*, No. 2-16-cv-00169-JRG, Dkt. No. 8 ¶ 2(c).

### **JURISDICTION AND VENUE**

9. Richardson brings this action for patent infringement under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

10. This Court has personal jurisdiction over Samsung Ltd. and SEA because they have substantial, systematic and continuous contacts with this judicial district. Samsung has offices and facilities in this judicial district, including facilities in Richardson, Texas.

11. Samsung has committed and continues to commit acts of infringement in violation of 35 U.S.C. § 271 in this district. Samsung places infringing products in the stream of commerce with the knowledge, understanding, and expectation that

such products will be sold in the state of Texas and in this judicial district.

12. Samsung maintains authorized service centers in the district with the expectation that infringing products will be sold and used in this judicial district.

13. Events giving rise to this suit occurred in this district, including acts of infringement by Defendants.

14. Venue is proper in this judicial district in the Eastern District of Texas under 28 U.S.C. § 1400(b) because Samsung has offices and facilities in this judicial district and infringement has occurred here. Further, a substantial part of the events or omissions giving rise to claims alleged herein occurred in this judicial district. Samsung has committed acts of infringement in this judicial district by, among other things, marketing, selling and offering for sale infringing products in this judicial district and through the business operations of Samsung Ltd. and SEA.

15. Samsung Electronics and SEA acknowledge that the Eastern District of Texas is a proper venue for a patent infringement lawsuit against them. *See Ziilabs*, 2015 WL 5278744, at \*3.

### **THE INVENTOR**

16. Doug Richardson lives in Dripping Springs, Texas.

17. Richardson has worked in various capacities as a professional photographer. Starting with his college internship at the Texas Parks and Wildlife Department, Richardson has worked for more than two decades shooting for sports

publications, commercial videos, and online advertising.



18. In the late 1990s, Richardson worked for the University of Texas as a photographer for the UT Cheerleading Team.

19. In 2001, Richardson switched to digital photography and in 2005 invented the Cinegif, an image having an isolated area of motion that draws the viewer's eye to a particular area of the image.

20. Advertisers immediately recognized the value of focusing attention on a specific part of an image and engaged Richardson to create Cinegifs.

21. In 2005, Richardson created a Cinegif for Jaguar Land Rover of Austin that appeared in online media advertising. His Cinegifs garnered immediate and extensive attention. Advertisers across industries from automotive marketing to real estate to health care have used Richardson's Cinegifs to attract customers and

increase click-through rates.

22. More recently, Richardson created Cinegifts for Maserati of Austin and has produced Cinegifts for Keller Williams Realty, Century 21 Realty, John Deere, Kraft, Starwood Resorts, Chick-fil-A and Deep Eddy Vodka.

### **THE PATENTS IN SUIT**

23. Richardson asserts U.S. Patent Nos. 7,388,587 (the “’587 Patent”), 7,629,977 (the “’977 Patent”); and 8,035,644 (the “’644 Patent”).

24. On June 17, 2008, the Patent Office duly and legally issued the ’587 Patent titled “Method for Embedding Animation in Electronic Mail and Websites,” to Douglas G. Richardson.

25. On December 8, 2009, the Patent Office duly and legally issued the ’977 Patent titled “Embedding Animation in Electronic Mail and Websites” to Douglas G. Richardson.

26. On October 11, 2011, the Patent Office duly and legally issued the ’644 Patent, titled “Method for Embedding Animation in Electronic Mail and Websites,” to Douglas G. Richardson.

27. Douglas G. Richardson is the owner of all right, title and interest in and to the ’587, ’977, and ’644 Patents.

28. The asserted patents generally describe methods and computing products for creating animations for efficient electronic communications.

29. The claimed subject matter describes creating an image/video by capturing multiple photographic stills or static images with a camera or video camera typically fixed in one position.

30. In general terms, and without limiting the scope of any asserted claim, the invention may be described as follows. The initial image is called the “naked photo.” Additional images capture object motion and a selected element common to all images is cut from them. These sequential images capture motion in portions that differ from the corresponding portions of the naked image. Sequential image portions are selectively identified and superimposed on the naked image as layers. The modified naked photo(s), including the layers, is stored as a web-enabled graphics file (e.g., a .gif as claimed in ’977 claim 6), which is then transmitted in conjunction with electronic communication. When the electronic communication is received, the naked photo is displayed and each of the layers is displayed and removed from the naked photo in the order that each was taken with a short delay between photos to generate an isolated area of animation.

31. Figure 4 from the specification illustrates the process:

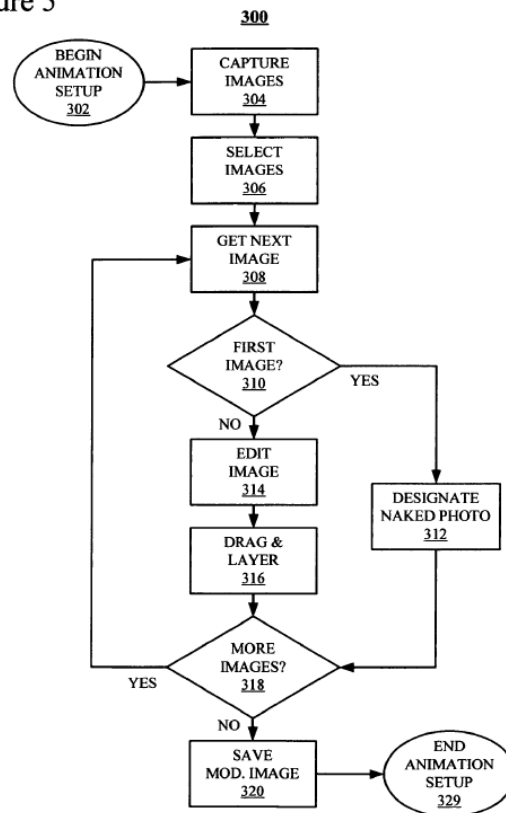




may be stored as a web-enabled graphics file and then transmitted in conjunction with electronic communication. When such a communication is received, the naked photo is displayed and each of the layers is displayed and removed in the order that each was taken with a short delay between photos. The invention allows a movie to be generated and transmitted in much smaller files.

36. Figure 5 of the specification describes a method of creating and designating the naked photo:

Figure 5



37. Sensitivity adjustments control the extent and size of pixels that are recognized to be in motion during processing of the image. For example, a low

sensitivity setting will detect only large blocks of pixels changing from frame to frame. The patents provide an automobile as an example that would be picked up with a low sensitivity setting. On the other hand, a high sensitivity setting would detect leaves rustling on tree branches. Sensitivity can be used to define the animated portion that will be selected to display in motion to draw the viewer's attention.

### **NOTICE**

38. Plaintiff has complied with the requirements of 35 U.S.C. § 287 (a).

### **SAMSUNG**

39. Samsung has been and continues to infringe at least the claims of the asserted patents identified in this Complaint.

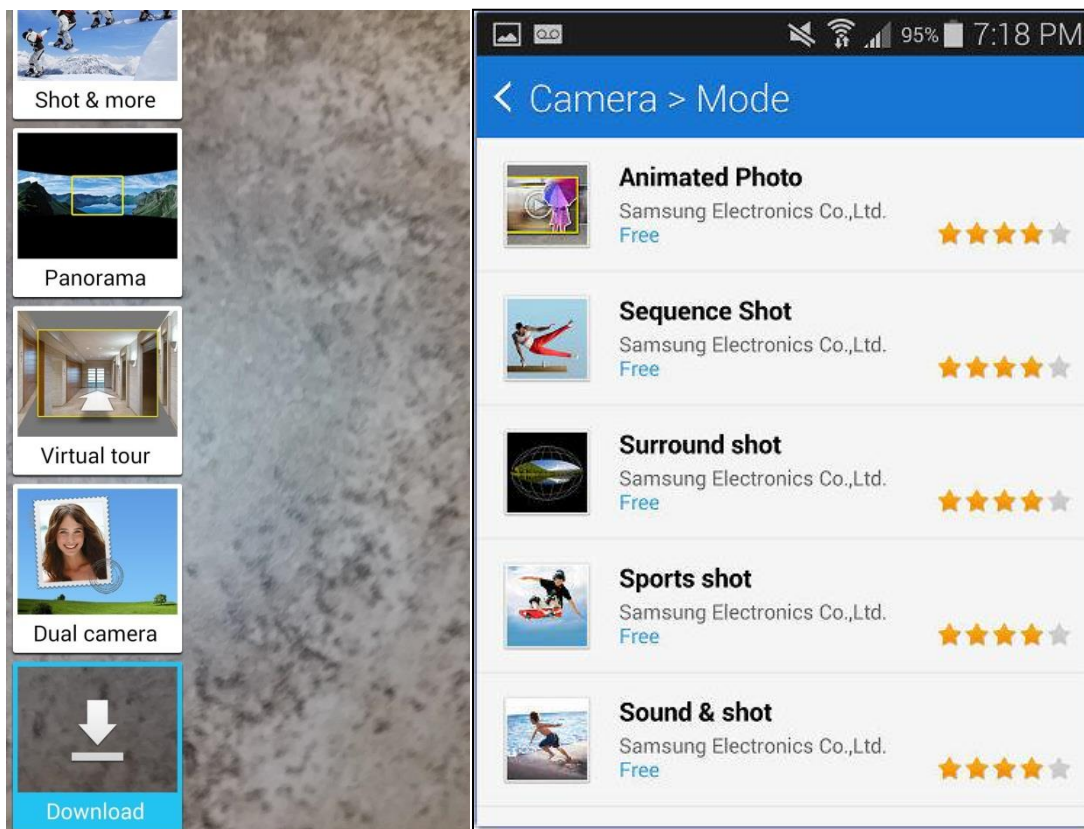


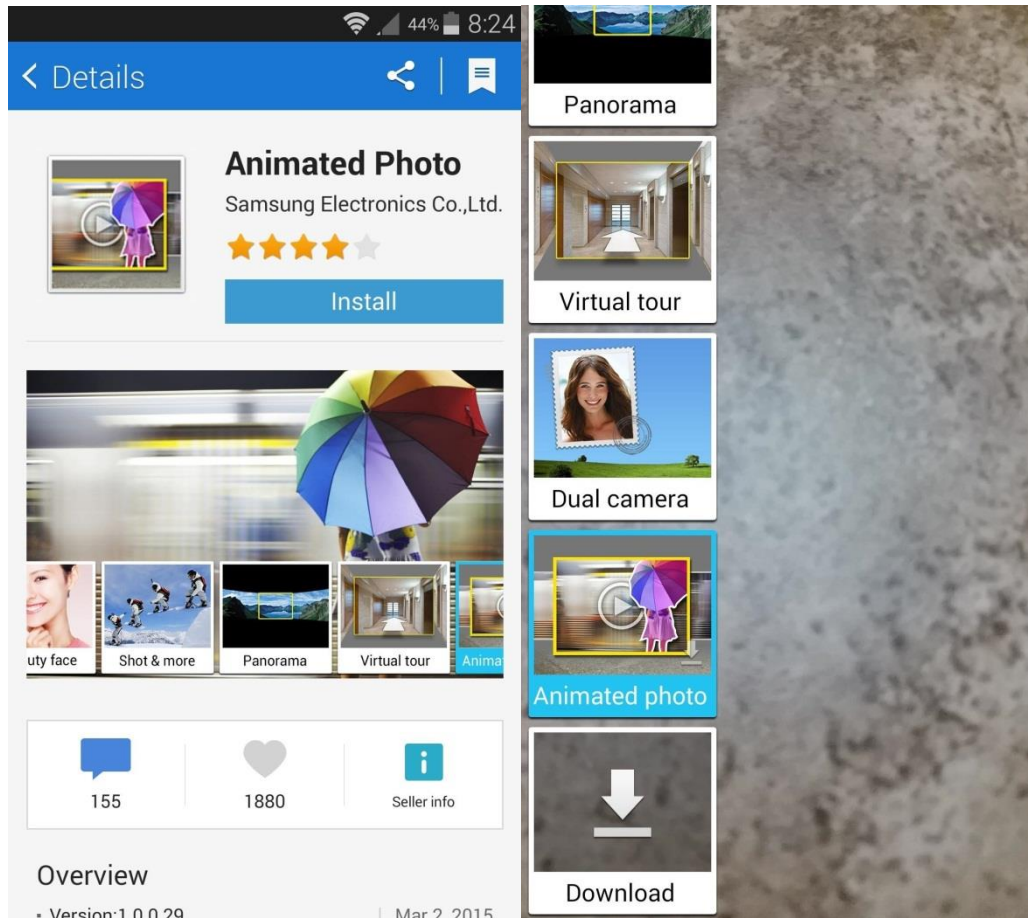
40. Samsung infringes the asserted patents by offering for sale, selling, distributing, licensing, making, and/or importing the Accused Products: mobile devices and cameras including, but not limited to, the Galaxy S5, Galaxy S5 mini, Note 3, Note 4, Note 4 Edge, Galaxy A7, NX Mini, Galaxy S4, Galaxy Camera 2, Samsung GC200, Samsung WB35F, Samsung ST72, Samsung WB800F, Samsung WB200F, Samsung WB280F, Samsung WB30F, Samsung DV150F, and Animated Photo application software.

41. Samsung’s “Animated Photo” products are delivered pre-installed on Samsung Accused Products including at least the Galaxy S4, Note, Galaxy Camera 2, Samsung GC200, Samsung WB35F, Samsung ST72, Samsung WB800F, Samsung WB200F, Samsung WB280F, Samsung WB30F and Samsung DV150.

42. Samsung also distributes “Animated Photos” applications and software by download in its application store.

43. In the Samsung application store, Animated Photos is available on the following Accused Devices: Galaxy S5, Galaxy S5 mini, Note 4, Note 4 Edge, Galaxy A7 and the NX Mini.





44. The combination of the Accused Devices and the Animated Photo application and software (whether pre-installed or downloaded) infringe the asserted patents.

45. The Samsung Animated Photo application has no substantial use but to infringe the asserted patents.


46. Samsung describes the utility of the app as: “The Animated photo option lets you capture a scene and create a photo containing moving and static objects. These photos are sometimes referred to as cinemagraphs.”

47. The following support and instructions are provided on Samsung’s

website:

[CLICK THE IMAGE BELOW TO VIEW THIS TOPIC IN THE SIMULATOR.](#)



 **note:** The Animated photo shooting mode lets you capture a scene and create a photo containing moving and static objects. These photos are sometimes called cinemagraphs.

48. Samsung provides step-by-step instructions, encouragement, and direction inducing end users to operate the Accused Products to infringe the asserted patents.



Camera & Video

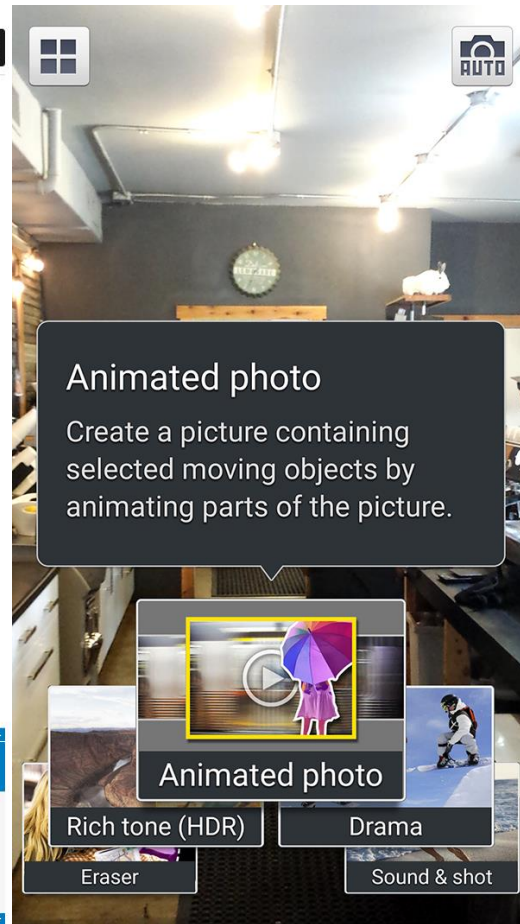
### Animated Photo Mode



**Note:** The Animated photo shooting mode lets you capture a scene and create a photo containing moving and static objects. These photos are sometimes called cinemagraphs.

#### Step 1 of 6

- 1 From the Home screen, touch **Camera**.
- 2 Touch **Mode**.
- 3 In carousel view, scroll to and touch **Animated photo**.
- 4 Aim your device at the scene, and touch the **Camera shutter** button.
- 5 The device will take a snapshot and record up to five seconds of video. You can touch the



49. In normal operation of the Samsung Animated Photo application, the device's camera captures a series of photographs (usually about 5 seconds of image recording) to create the "naked photo."



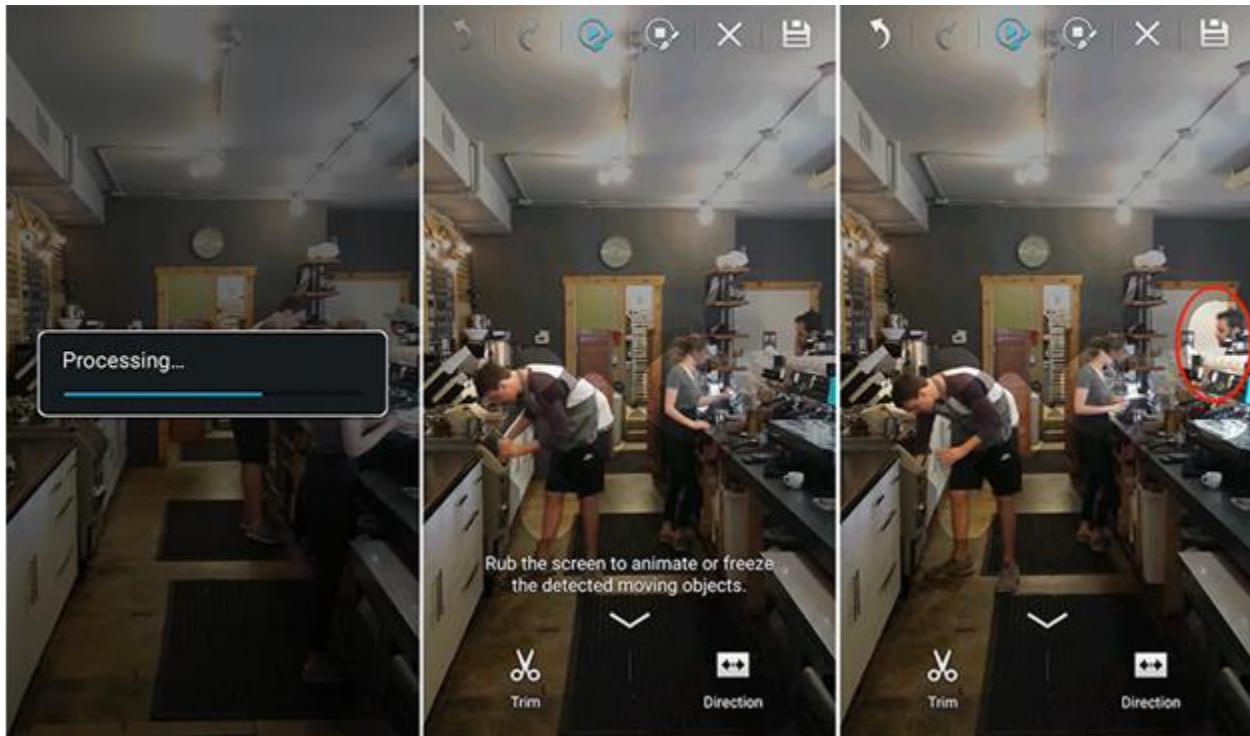
50. The screenshot above shows the Samsung Animated Photo application operating on a Samsung Galaxy S4.

51. After capturing the series of images, the Animated Photo application software selects the image area having substantial motion, which may be modified by the user.

52. In normal operation, a user manually selects an image area that may be different from the image portion automatically detected by the Animated Photo application.

53. In normal operation, the animated photo can be previewed and portions of the image edited by following Samsung's instructions provided on the device interface.

54. The screenshots below show the Accused Product during normal operation:



55. Samsung provides detailed instructions encouraging and instructing users how to use the Accused Products to practice the asserted patents.

56. Pictured below is an excerpt from Samsung's instructional website providing product support for the Accused Products.



Camera & Video

## Animated Photo Mode

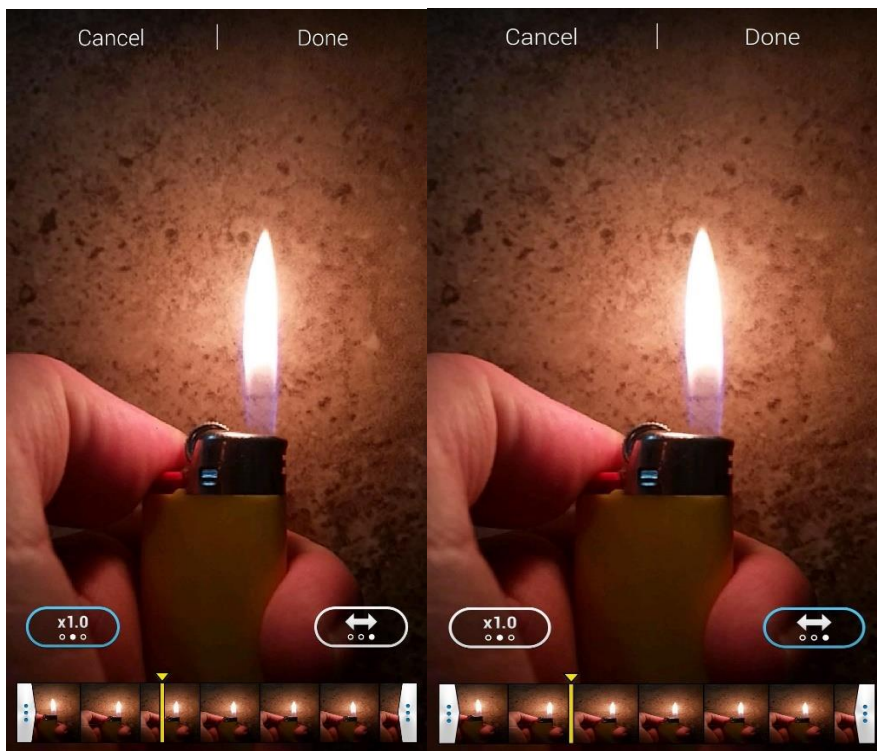


**Note:** The Animated photo shooting mode lets you capture a scene and create a photo containing moving and static objects. These photos are sometimes called cinemagraphs.

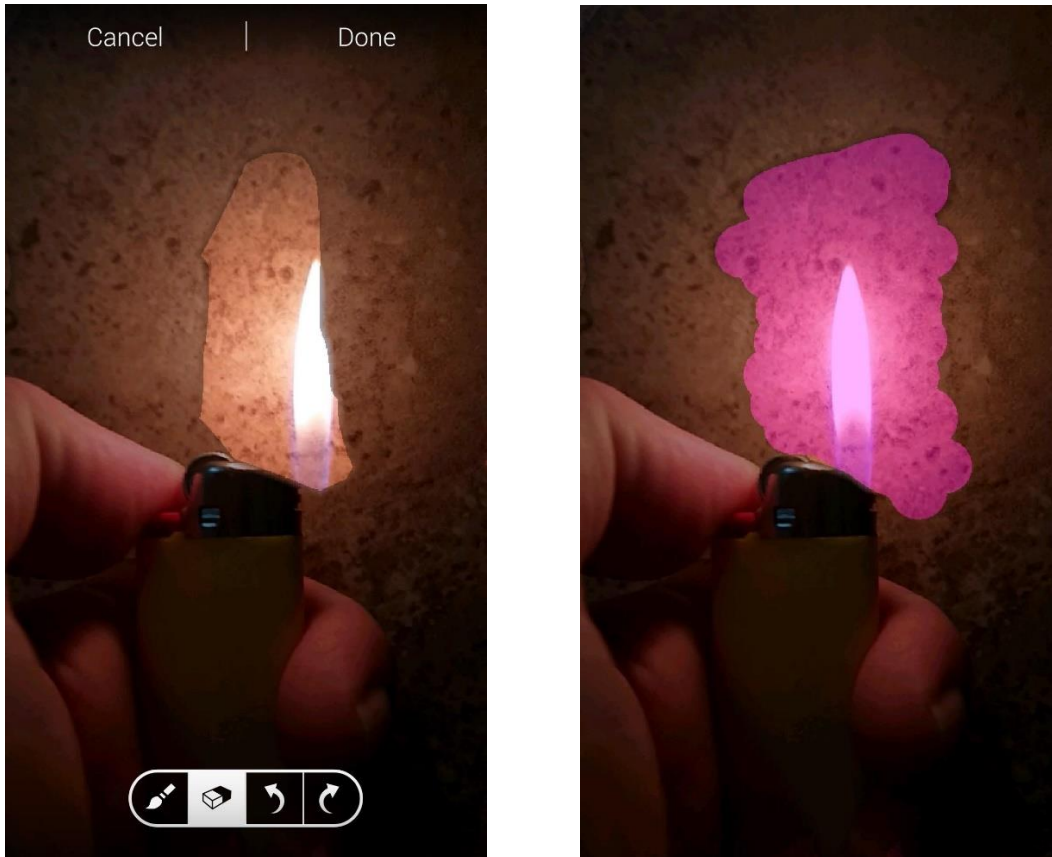
### Step 4 of 6

- 3 In carousel view, scroll to and touch **Animated photo**.
- 4 Aim your device at the scene, and touch the **Camera shutter** button.
- 5 The device will take a snapshot and record up to five seconds of video. You can touch the **Stop** button at any time, or you can capture the full five seconds.
- 6 When the capture is complete, you can edit the new animated photo by selecting which areas to animate or freeze, the length of the animation, and which direction it plays.

57. The Accused Products provide a user interface for varying playback speed and looping methods.



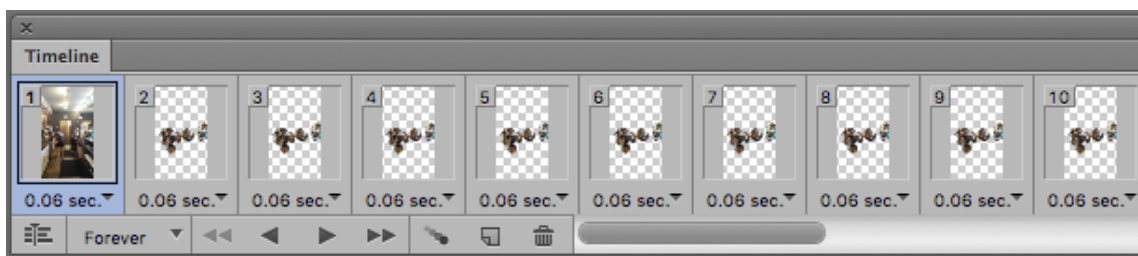
58. In normal operation, users may select manually static image areas to highlight different areas of the Cinegif.



59. The Accused Products superimpose cut images onto the first image as layers such that each cut image is displayed in the first image in a position corresponding to the position of the cut image in the corresponding sequential image and displayed in a time sequence corresponding to the timing between images as shown below:



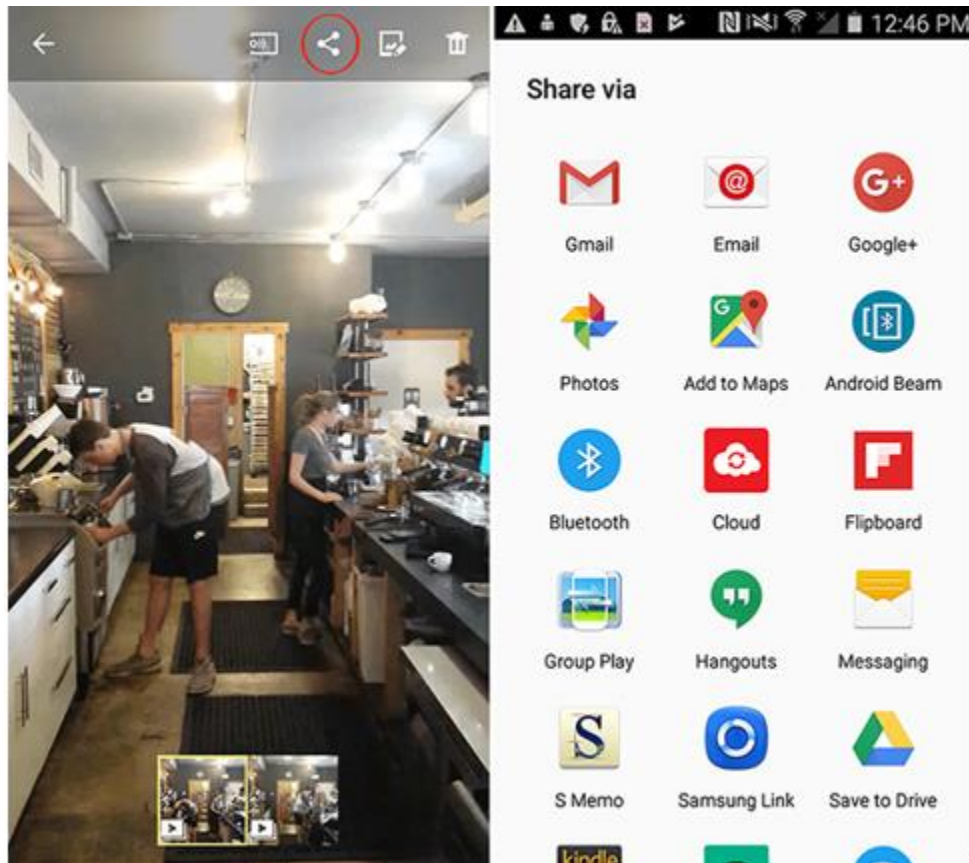
60. Analyzing the Cinegif created by the accused products reveals the portions of sequential images as recited in the claims:





61. Upon finishing creation of the Cinegif, the user can save the Cinegif on the Accused Product device and transmit the image via email or other sharing method.

62. For example, users have the option to post on a web page (Google+) or send via messaging application. When a user chooses email the Accused Products save the Cinegif as a .gif animation and transmits the file by email to the identified recipient.



**COUNT I  
(INFRINGEMENT OF U.S. PATENT NO. 7,388,587)**

63. Richardson incorporates paragraphs 1 through 61 herein by reference.

64. A true and correct copy of the '587 Patent is attached as Exhibit A.

65. As the owner of the '587 Patent, Richardson holds all substantial rights in and under the '587 Patent, including the right to grant sublicenses, exclude others, and to enforce, sue, and recover damages for past and future infringement.

66. The '587 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

67. Defendants have no consent or authorization to practice the '587 Patent.

68. Defendants have infringed, and are still infringing, literally and/or under the doctrine of equivalents, one or more claims of the '587 Patent in at least this State and District by making, using, offering to sell, selling, and/or importing the Accused Products that practice at least claims 1, 3, 4, 5, 6, 8, 10, 11, and 12 of the '587 Patent.

69. By this Complaint at least, Defendants are on notice of the asserted patents and how they and their customers and end users practice the asserted claims during normal use of the Accused Products as instructed and encouraged by Samsung.

70. Samsung's instructions to customers and end users induce infringement of the asserted patents for which Samsung is liable for continuing such acts.

71. Samsung's provision of the Accused Products constitutes contributory infringement because the Animated Photo application software has no substantial

non-infringing use, is material to practicing the asserted patents, and at least as of this Complaint, is carried out by Samsung with knowledge and specific intent to infringe the asserted patents.

72. Samsung's continued infringement, carried out with knowledge of the asserted patents, and inducing and contributing to the direct infringement by customers and end users constitutes willful patent infringement.

73. Defendants' infringement of one or more claims of the '587 Patent has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate him for Defendants' infringement, which in no event can be less than a reasonable royalty.

**COUNT II**  
**(INFRINGEMENT OF U.S. PATENT NO. 7,629,977)**

74. Richardson incorporates paragraphs 1 through 73 herein by reference.

75. A true and correct copy of the '977 Patent is attached as Exhibit B.

76. As the owner of the '587 Patent, Richardson holds all substantial rights in and under the '977 Patent, including the right to grant sublicenses, exclude others, and to enforce, sue, and recover damages for past and future infringement.

77. The '977 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

78. Defendants have no consent or authorization to practice the '977 Patent.

79. Defendants have infringed, and are still infringing, literally and/or

under the doctrine of equivalents, one or more claims of the '977 Patent in at least this State and District by making, using, offering to sell, selling, and/or importing the Accused Products that practice at least claims 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the '977 Patent.

80. By this Complaint at least, Defendants are on notice of the asserted patents and how they and their customers and end users practice the asserted claims during normal use of the Accused Products as instructed and encouraged by Samsung.

81. Samsung's instructions to customers and end users induce infringement of the asserted claims for which Samsung is liable for continuing such acts.

82. Samsung's provision of the Accused Products constitutes contributory infringement because the Animated Photo application software has no substantial non-infringing use, is material to practicing the asserted patents, and at least as of this Complaint, is carried out by Samsung with knowledge and specific intent to infringe the asserted claims.

83. Samsung's continued infringement, carried out with knowledge of the asserted patents, and inducing and contributing to the direct infringement by customers and end users constitutes willful patent infringement.

84. Defendants' infringement of one or more claims of the '977 Patent has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate



him for Defendants' infringement, which in no event can be less than a reasonable royalty.

**COUNT III  
(INFRINGEMENT OF U.S. PATENT NO. 8,035,644)**

85. Richardson incorporates paragraphs 1 through 84 herein by reference.

86. A true and correct copy of the '644 Patent is attached as Exhibit C.

87. As the owner of the '644 Patent, Richardson holds all substantial rights in and under the '644 Patent, including the right to grant sublicenses, exclude others, and to enforce, sue, and recover damages for past and future infringement.

88. The '644 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

89. Defendants have no consent or authorization to practice the '644 Patent.

90. Defendants have infringed, and are still infringing, literally and/or under the doctrine of equivalents, one or more claims of the '644 Patent in at least this State and District by making, using, offering to sell, selling, and/or importing the Accused Products that practice at least claims 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 15, 16, 18, 19 and 20 of the '644 Patent.

91. By this Complaint at least, Defendants are on notice of the asserted patents and how they and their customers and end users practice the asserted claims during normal use of the Accused Products as instructed and encouraged by Samsung.

92. Samsung's instructions to customers and end users induce infringement of the asserted claims for which Samsung is liable for continuing such acts.

93. Samsung's provision of the Accused Products constitutes contributory infringement because the Animated Photo application software has no substantial non-infringing use, is material to practicing the asserted patents, and at least as of this Complaint, is carried out by Samsung with knowledge and specific intent to infringe the asserted claims.

94. Samsung's continued infringement, carried out with knowledge of the asserted patents, and inducing and contributing to the direct infringement by customers and end users constitutes willful patent infringement.

95. Defendants' infringement of one or more claims of the '644 Patent has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate him for Defendants' infringement, which in no event can be less than a reasonable royalty.

#### **NOTICE OF REQUIREMENT OF LITIGATION HOLD**

96. Defendants are hereby notified they are legally obligated to locate, preserve, and maintain all records, notes, drawings, documents, data, communications, materials, electronic recordings, audio/video/photographic recordings, and digital files, including edited and unedited or "raw" source material, and other information and tangible things that Defendants know, or reasonably

should know, may be relevant to actual or potential claims, counterclaims, defenses, and/or damages by any party or potential party in this lawsuit, whether created or residing in hard copy form or in the form of electronically stored information (hereafter collectively referred to as “Potential Evidence”).

97. As used above, the phrase “electronically stored information” includes without limitation: computer files (and file fragments), e-mail (both sent and received, whether internally or externally), information concerning e-mail (including but not limited to logs of e-mail history and usage, header information, and deleted but recoverable e-mails), text files (including drafts, revisions, and active or deleted word processing documents), instant messages, audio recordings and files, video footage and files, audio files, photographic footage and files, spreadsheets, databases, calendars, telephone logs, contact manager information, internet usage files, and all other information created, received, or maintained on any and all electronic and/or digital forms, sources and media, including, without limitation, any and all hard disks, removable media, peripheral computer or electronic storage devices, laptop computers, mobile phones, personal data assistant devices, Blackberry devices, iPhones, video cameras and still cameras, and any and all other locations where electronic data is stored. These sources may also include any personal electronic, digital, and storage devices of any and all of Defendants’ agents, resellers, or employees if Defendants’ electronically stored information resides

there.

98. Defendants are hereby further notified and forewarned that any alteration, destruction, negligent loss, or unavailability, by act or omission, of any Potential Evidence may result in damages or a legal presumption by the Court and/or jury that the Potential Evidence is not favorable to Defendants' claims and/or defenses. To avoid such a result, Defendants' preservation duties include, but are not limited to, the requirement that Defendants immediately notify their agents and employees to halt and/or supervise the auto-delete functions of Defendants' electronic systems and refrain from deleting Potential Evidence, either manually or through a policy of periodic deletion.

### **JURY DEMAND**

Richardson requests a trial by jury on all claims, issues and damages so triable.

### **PRAYER FOR RELIEF**

Richardson prays for the following relief:

- a. That Defendants be summoned to appear and answer;
- b. That the Court enter judgment in favor of Richardson on all counts declaring that Defendants have infringed the '587, '977 and '644 Patents;
- c. That this is an exceptional case under 35 U.S.C. §285;
- d. That the Court award Richardson damages and order Defendants to provide an accounting and pay to Richardson all damages allowed by law including pre- and post-judgment interest and reasonable attorney's fees, costs, and expenses incurred in this action; and

- e. That Richardson be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: July 24, 2017

Respectfully submitted,

By: 

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