

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

MYPORT, INC.,

Plaintiff,

v.

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

Defendants.

Civil Action No. 2:22-cv-114

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff MyPort, Inc. (“MyPort” or “Plaintiff”) brings this action for patent infringement under 35 U.S.C. § 1, *et seq.*, against Defendants Samsung Electronics Co., Ltd. (“Samsung Electronics”), and Samsung Electronics America, Inc. (“Samsung America”), and alleges as follows:

THE PARTIES

1. Plaintiff MyPort is a Texas corporation with an address at 2711 Northview Drive, McKinney, Collin County, Texas 75072. MyPort’s founder and current President is Mr. Michael Malone, a Texas resident since 1994.

2. Defendant Samsung Electronics is a Korean corporation having a principal place of business at 129 Samsung-Ro, Yeongtong-Gu, Suwon-si, Gyeonggi-do 16677, Republic of Korea.

3. Defendant Samsung America is a New York corporation having a principal place of business at 85 Challenger Road, Ridgefield Park, New Jersey 07660.

4. On information and belief, Samsung America is a wholly-owned subsidiary of Samsung Electronics. Samsung Electronics and Samsung America are collectively referred to as “Samsung.”

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, U.S.C., § 1 *et seq.*

6. This Court has subject matter jurisdiction over MyPort’s claims under 28 U.S.C. §§ 1331 and 1338(a).

7. Venue in this District is proper under 28 U.S.C. § 1391 and 28 U.S.C. §1400(b).

8. Samsung America has a regular and established place of business in this District, at 6625 Excellence Way, Plano, Texas, and at 1100 Klein Road, Plano, Texas. On information and belief, Samsung America employs full-time personnel such as sales personnel and engineers in this District. Further, Samsung America is registered to conduct business in the State of Texas and has a Texas Taxpayer Number of 11329511536. Samsung Electronics and Samsung America all have conducted and continue to conduct business in this District, and all have committed and continue to commit acts of patent infringement in this District.

9. Samsung Electronics is not a resident of the United States and may be sued in this District, as suits against foreign entities are proper in any judicial district where they are subject to personal jurisdiction. Further, on information and belief, Samsung Electronics directs and controls the actions of Samsung America such that it too maintains regular and established offices in this District, as set forth herein.

10. This Court has personal jurisdiction over Samsung. Samsung has conducted and continues to conduct business within this District. Samsung, directly or through subsidiaries or

intermediaries (including distributors, retailers, and others), ships, distributes, makes, uses, offers for sale, sells, imports, and/or advertises (including by providing interactive web pages) its products and/or services in the United States and in this District and/or contributes to and actively induces its customers and others to ship, distribute, make, use, offer for sale, sell, import, and/or advertise (including the provision of interactive web pages) infringing products and/or services in the United States and this District.

11. Samsung, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has purposefully and voluntarily placed one or more of its infringing products and/or services, as described below, into the stream of commerce with the expectation that those products will be purchased and used by customers and/or consumers in this District. These infringing products and/or services have been and continue to be made, used, sold, offered for sale, purchased, and/or imported by customers and/or consumers in this District.

12. Upon information and belief, Samsung Electronics and Samsung America, along with other foreign and U.S.-based subsidiaries (which act as part of a global network of overseas sales and manufacturing subsidiaries on behalf of Samsung Electronics) have operated as agents of one another and vicariously as parts of the same business group to work in concert together and enter into agreements closer than arm's length.

THE MALONE PATENTS-IN-SUIT

13. United States Patent No. 9,832,017 ("the '017 Patent"), entitled "Apparatus for personal voice assistant, location services, multi-media capture, transmission, speech to text conversion, photo/video image/object recognition, creation of searchable metatag(s)/ contextual tag(s), storage and search retrieval" issued on November 28, 2017. A true and correct copy of the '017 Patent is attached as Exhibit A.

14. United States Patent No. 10,237,067 (“the ’067 Patent”), entitled “Apparatus for voice assistant, location tagging, multi-media capture, transmission, speech to text conversion, photo/video image/object recognition, creation of searchable metatags/ contextual tags, storage and search retrieval” issued on March 19, 2019. A true and correct copy of the ’067 Patent is attached as Exhibit B.

15. United States Patent No. 10,721,066 (“the ’066 Patent”), entitled “Method for voice assistant, location tagging, multi-media capture, transmission, speech to text conversion, photo/video image/object recognition, creation of searchable metatags/contextual tags, storage and search retrieval” issued on July 21, 2020. A true and correct copy of the ’066 Patent is attached as Exhibit C.

16. MyPort is the owner of the ’017 Patent, the ’067 Patent and the ’066 Patent (collectively, the “Malone Patents-in-Suit”), and has the exclusive right to sue and collect remedies for past, present, and future infringement of the Malone Patents-in-Suit.

BACKGROUND

17. MyPort incorporates the allegations of the foregoing paragraphs as if fully restated herein.

18. The patented innovations described herein originate from work by Mr. Michael Malone, the sole inventor of each of the Malone Patents-in-Suit, during his nearly 40 years in the technology industry. In the early 1990s, he co-founded a company that engineered, manufactured and distributed fax over internet routers for fax machines, and was a pioneer in bridging the gap between faxes, which were limited to being sent over analog telephone lines, and digital internet communications such as email and texts. A few years later, he co-founded another company in the internet shopping and e-commerce space.

19. In or around September 2001, after watching the 911 World Trade Center Twin Towers attack, he realized that many people were taking digital photographs, and it would help the officers and first responders if the captured data also included the geographic coordinates of the location of the photographic image. He also conceived of, among others, the use of speech recognition and image recognition to create metadata tags to allow digital photographs to be easily stored and searched.

20. In or around 2002, Mr. Malone formed MyPort Technologies, Inc. to patent and protect his numerous inventions in this space.

21. At the time of the invention for the Malone Patents-in-Suit, the ability for a digital media device, such as a smartphone, to store a large number of media files presented problems, including making it difficult and time-consuming to manually describe and index every media file (such as a picture). There also existed the problem that when these media files were emailed or sent to another party, the receiving party could not search the media files for the specific key indexes that the owner had intended.

22. The patented inventions solved these and other existing problems by, among other things, conceiving of the use of a microphone to capture audio information; a camera to capture image information; GPS to capture location and time information, and the use of data converters to process, convert, and store the audio and image information into a text based searchable file, such as a metadata tag, using speech recognition and image recognition, such as artificial intelligence and/or machine learning, for storage and search retrieval.

23. MyPort's patented innovations have become essential to modern photo and gallery application development. Its patents have been cited as prior art against later patent applications from industry leaders on more than one hundred occasions.

24. The Malone Patents-in-Suit are directed to a patent-eligible, non-abstract idea. They address, among other things, a specific improvement to the way in which image and audio information can be stored and search on digital media devices. They include the use of speech recognition and image recognition, such as artificial intelligence, to create metadata searchable tags. The claims specify materials (such as a microphone, camera, data converter, transmitter, etc.), structures and systems, together with software, to enhance and improve upon the capturing and storing of image and audio information. The technological improvements described and claimed in the Malone Patents-in-Suit were not conventional, well-known, or routine at the time of their respective inventions but rather involved novel and non-obvious approaches to problems and shortcomings prevalent in the art at the time. For example, the use of speech recognition and image recognition to create searchable tags as associated metadata for images was not routine or conventional at the time of the invention. *See, e.g.*, '017 Patent at col. 5:39-58; '066 Patent at col. 5:62-6:14; and '067 Patent at col. 5:50-6:2. The patent specification further describes how the systems and methods of the claimed technology provide a technical improvement over conventional storage, search, and retrieval methods of digital media files. *See, e.g.*, '017 Patent at col. 2:22-3:30; '066 Patent at col. 2:43-3:18; and '067 Patent at col. 2:31-3:39.

25. The written description for each of the Malone Patents-in-Suit supports each of the elements of the claims, allowing a person of skill in the art to understand what the elements cover and how the non-conventional and non-routine combination of claim elements differed markedly from and improved upon an isolated element that may have been considered conventional, generic, or routine.

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ALLEGATIONS OF PATENT INFRINGEMENT

26. Samsung makes, uses, sells, offers for sale, and/or imports certain products and systems, that include, but are not limited to, smartphones and tablets (“Accused Products”). Identification of the Accused Products will be provided in Plaintiff’s infringement contentions pursuant to the Court’s scheduling order and local rules. Non-limiting examples of the Accused Products include different versions of the Samsung Galaxy smartphones and tablets, such as the Galaxy S7, Galaxy S7 Edge, Galaxy S8, Galaxy S8+, Galaxy Note8, Galaxy S9, Galaxy S9+, Galaxy Note9, Galaxy S10, Galaxy S10e, Galaxy S10 5G, Galaxy S10 lite, Galaxy S10 5G, Galaxy Book2, Galaxy S21 Ultra 5G, Galaxy S21+ 5G, Galaxy S21 5G, Galaxy S20 5G, Galaxy S20+ 5G, Galaxy S20 FE 5G, Galaxy Book S, Galaxy Tab S7 5G, Galaxy Z Fold2 5G, Galaxy Z Fold3 5G, Galaxy Z Flip 5G, Galaxy Z Flip3 5G, Galaxy A71 5G, Galaxy Note 10, Galaxy Note 10+, and Galaxy Note 10+ 5G. These Accused Products directly infringe, literally and/or under the doctrine of equivalents, one or more claims of each of the Malone Patents-in-Suit.

27. MyPort IP, Inc. filed suit against Samsung in Civil Action No. 6:11-cv-00246 on May 13, 2011, in this District, for patent infringement regarding other MyPort patents. As such, Samsung knew or should have known of MyPort’s patent portfolio and should have known that it infringed the Malone Patents-in-Suit as least as early as the issuance dates of the Malone Patents-in-Suit. MyPort also provided direct notice of Samsung’s infringement of the Malone Patents-in-Suit to Samsung by letter, delivered prior to the filing of the Complaint.

28. MyPort has, to the extent required, complied with the marking statute, 35 U.S.C. § 287.

29. As set forth below, the Accused Products incorporate, without any license or permission from MyPort, technology protected by the Malone Patents-in-Suit.

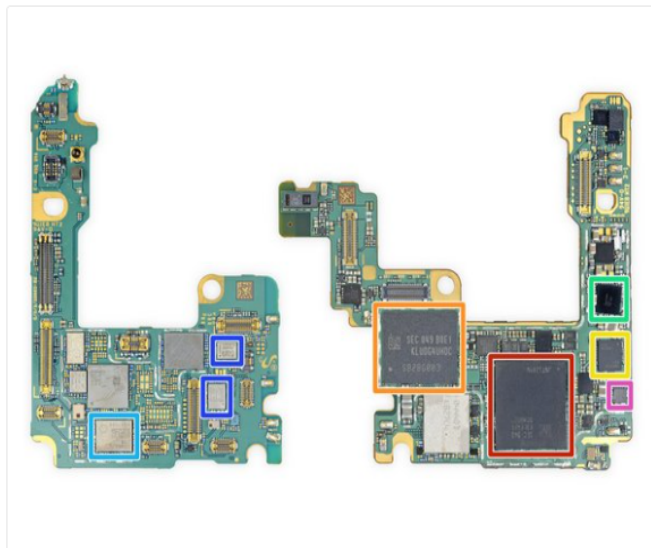
COUNT I: INFRINGEMENT OF U.S. PATENT NO. 9,832,017

30. MyPort reasserts and incorporates herein by reference the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

31. Samsung has infringed and continues to infringe at least claim 13 and one or more of its dependents of the '017 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, the Accused Products.

32. As just one non-limiting example, set forth below with claim language in italics is a description of infringement of exemplary claim 13 of the '017 Patent (MyPort reserves the right to modify this description, including on the basis of information it obtains during discovery): *a system for capturing image and audio information for storage comprising:* To the extent the preamble is limiting, the Accused Products, such as the Samsung Galaxy 21, contains a camera for capturing image information and a microphone capable of capturing audio information, and memory capable of storing this information. *See, e.g.,* <https://www.samsung.com/us/smartphones/galaxy-s21-5g/buy/galaxy-s21-ultra-5g-128gb-att-sm-g998uzsaatt/?hideDevice=galaxy-s21-ultra-5g>.

33. The Accused Products include *internal storage*. The Accused Products, such as the Samsung Galaxy S21, provide flash memory, cache memory, and RAM to store information.



• Do these boards look like howling dogs? Anyways, let's check out what makes this phone tick:

- Qualcomm Snapdragon 888 layered beneath Samsung K3LK4K40CM-BGCP 12 GB LPDDR5 RAM
- Samsung flash storage KLUDG4UHDC-B0E1 128 GB
- Qualcomm SMR526 5G modulator
- Maxim MAX77705C power management IC
- Qualcomm QPM5825 power management IC
- Qualcomm QDM5872 and QDM4820 Front-End Module
- Cirrus Logic CS35L40 audio amplifier IC

Source: <https://www.ifixit.com/Teardown/Samsung+Galaxy+S21+Ultra+Teardown/141188>

34. The Accused Products include *a microphone interfaceable with external audio information source that generates external audio information*. The Accused Products, such as the Samsung Galaxy S21, contain a microphone interfaceable with an external audio information source.

Galaxy S21, S21+ S21 Ultra: Device Layout

Last Update date : Oct 15, 2021

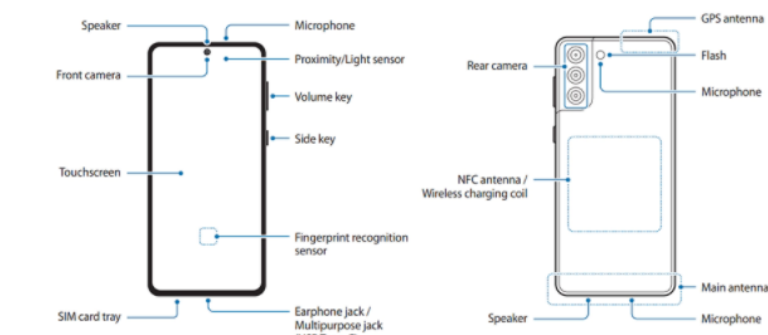
Follow the below guide to learn the device layout of our Galaxy S21 range, insert a nano-SIM card and all the different ways of powering off your device.

Please Note: This guide is designed for Australian variant Galaxy devices, if you have an international device and require further support [click here](#) to get in touch with your Samsung subsidiary.

If you would like to review the Galaxy S21 User Manual please [click here](#).

Device Layout

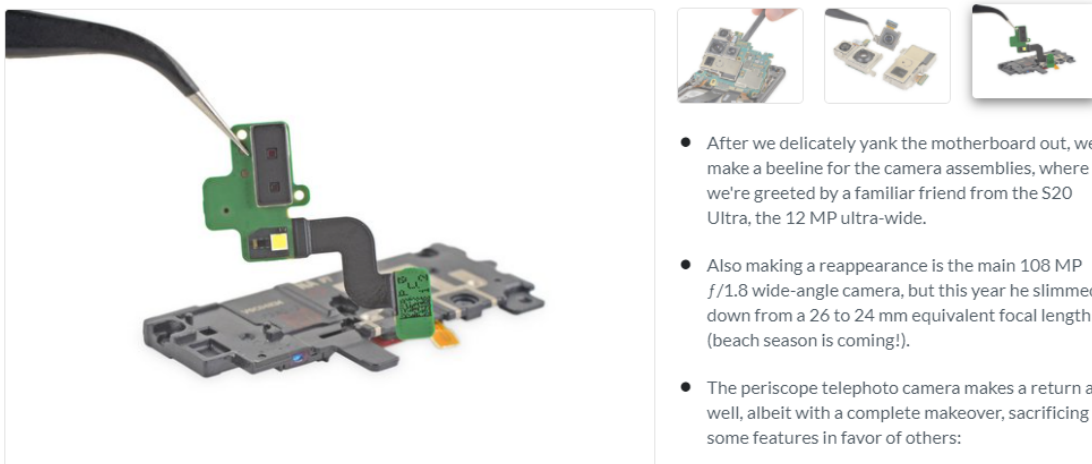
Galaxy S21



Source: <https://www.samsung.com/au/support/mobile-devices/s21-device-layou-and-functions/>

35. The Accused Products include *a first data converter for capturing the first external audio information from the microphone*. The Accused Products, such as the Samsung Galaxy S21, use the device processor and software for capturing the external audio information from the microphone. *See above*.

36. The Accused Products include *a camera interfacing with an image source to capture an image therefrom*. The camera of the Accused Products, such as the Samsung Galaxy S21, interfaces with an image source. It senses the image and converts it to a series of quantized pixels that, in aggregate, make up the image.



Source: <https://www.ifixit.com/Teardown/Samsung+Galaxy+S21+Ultra+Teardown/141188>

37. The Accused Products include *the first data converter processing the captured external audio information and storing it in a first digital audio format as stored digital audio within the capture device, the camera for processing the captured image and storing it as a stored digital image*. The microphone of the Accused Products coupled with the processor and software process the audio information to store as digital information. The Accused Products capture real-time, spoken audio input, and convert it to digital information. The digital audio

information is stored in the device's buffer memory. The camera also captures the image and stores it as a digital image.

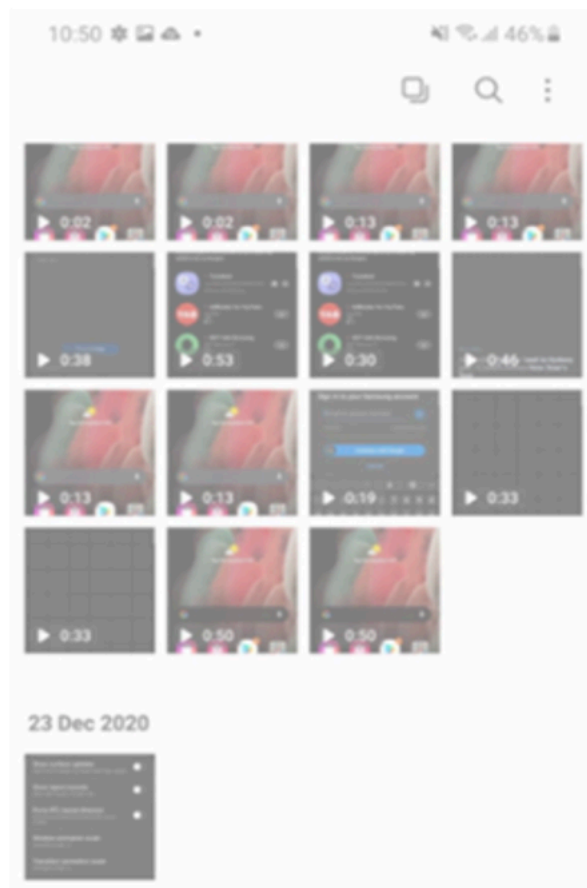
Adding Tags to Photos and Videos on my Galaxy S21

Last Update date : Jan 14, 2021

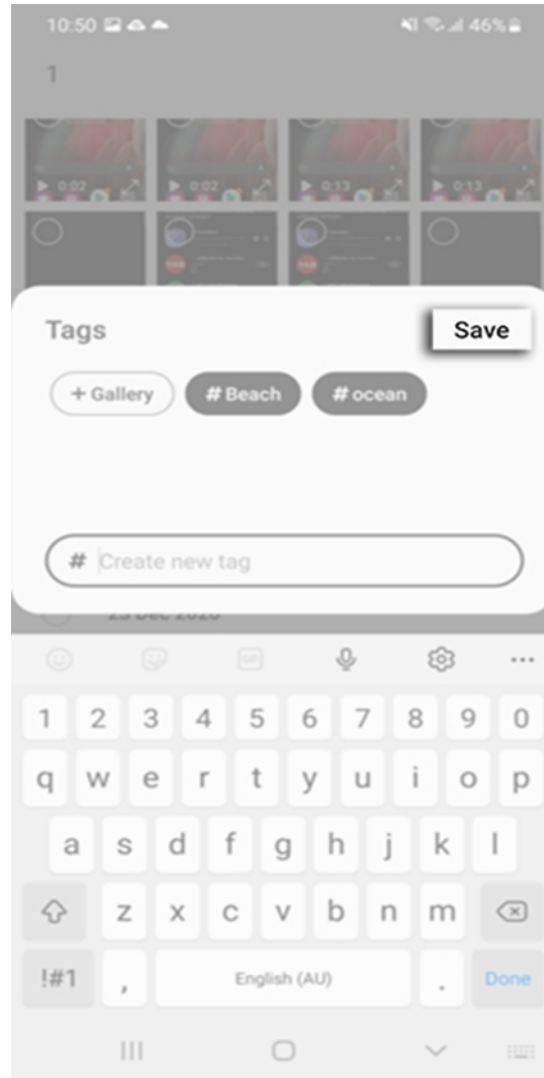
Add Tags to Photos, Videos and even GIFs saved in your Gallery to group similar content together - this could range from a particular beach you've recently visited or your Family Pet. Whatever it is, once you have added the tag to your Photo or Video you will always be able to search for it by typing in the tag. Follow the below guide for step-by-step instructions.

2

Long press a Photo or Video you would like to Tag



Source: <https://www.samsung.com/au/support/mobile-devices/adding-tags-to-photos/>



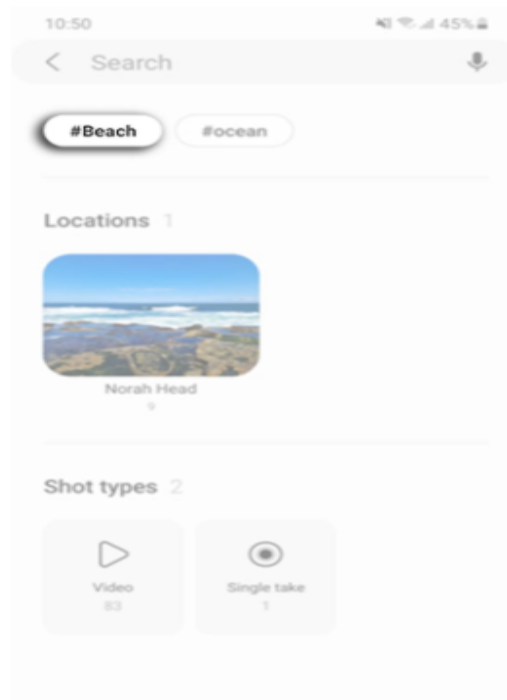
See also Samsung Gallery.

38. The Accused Products include *a second data converter for converting the received digital audio to a text based searchable file as a text context tag and creating an image recognition searchable context tag with image recognition of at least a portion of the digital image and associating the text and image recognition context tags with the digital image.* When the Accused Products capture spoken audio, the Accused Products can perform speech recognition. This occurs, for example, using Bixby dictation. The speech recognition converts

the digital audio into text in the image's tag field. The Accused Products also use machine learning to automatically apply image recognition tags to photos stored on the device.

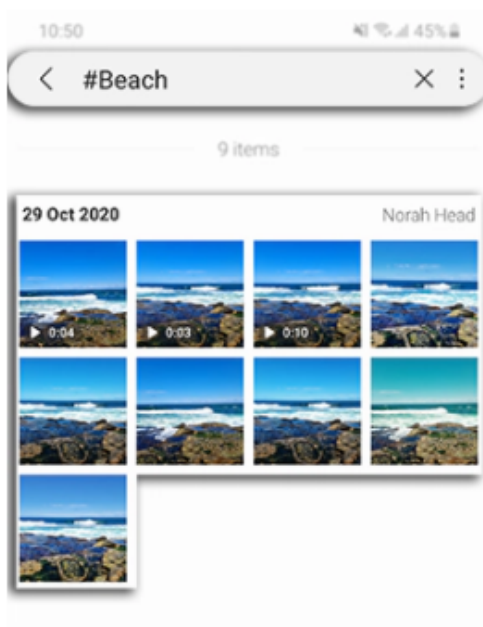
8

Select the Tag you would like to review



9

You will then be able to see any Photo, Video or GIF that has been tagged with "Beach"



Source: <https://www.samsung.com/au/support/mobile-devices/adding-tags-to-photos/>

See also Samsung Gallery.

39. As shown above, the Accused Products include *internal storage storing the digital image in association with the text and image recognition context tags*. The Accused Products, such as the Samsung Galaxy S21, provide flash memory, cache memory, and RAM to store information.

40. Samsung has committed acts of infringement without license or authorization. Samsung knew or should have known that its actions would cause direct and indirect infringement of the '017 Patent. On information and belief, Samsung acted with objective recklessness by proceeding despite an objective high likelihood that its actions constituted infringement of a valid patent, where such action constitutes egregious misconduct.

41. Samsung is also liable under 35 U.S.C. § 271(b) for actively inducing infringement and continuing to actively induce infringement. Samsung actively induces and continues to induce its customers, distributors, end-users, vendors including customer-support and/or manufacturers to infringe the '017 Patent. On information and belief, Samsung possessed a specific intent to induce infringement, and in fact did induce infringement, by engaging in affirmative acts such as by selling and causing the Accused Products to be manufactured, by providing user guides, installation or instruction manuals, and other training materials, by advertising and solicitation and otherwise providing sales-related materials, and by instructing and/or demonstrating to customers, distributors, end-users, vendors including customer-support and/or manufacturers the normal operation of the Accused Products that infringe the '017 Patent. Non-limiting examples of such are found above in the various screenshots that instruct performance of the infringing use of the technology. Samsung is aware and/or willfully blind

that these affirmative acts infringe and/or would induce infringement of the '017 Patent, of which it had knowledge.

42. Samsung is also liable under 35 U.S.C. § 271(c) for contributing to and continuing to contribute to the infringement of the '017 Patent by, among other things, providing a system for capturing image and audio information for storage in its Accused Products and by encouraging, at a minimum, customers, distributors, end-users, vendors including customer-support and/or manufacturers in this District and elsewhere, to infringe the '017 Patent. By importing, exporting, manufacturing, distributing, selling, and/or providing the Accused Products for their intended use to customers, distributors, end-users, vendors including customer-support and/or manufacturers, Samsung has, in the past and continues to contribute to the infringement of one or more claims of the '017 Patent. The infringing functionality in the Accused Products is material to the inventions claimed in the '017 Patent, has no substantial non-infringing uses, and is known to Samsung (on information and belief) to be especially made or adapted for use in infringing the '017 Patent, and which is otherwise not staple articles of commerce suitable for substantial non-infringing use. There are no non-infringing uses for the infringing functionality in the Accused Products other than to create searchable tags as associated metadata for image and/or audio files. Samsung is aware and/or willfully blind that these affirmative acts infringe and/or constitute contributory infringement of the '017 Patent, of which it had knowledge.

43. Samsung is liable for indirect infringement, *i.e.*, both inducement and contributory infringement, based on the direct infringement that is the result of activities performed by customers, distributors, end-users, vendors including customer-support and/or manufacturers who use all elements or perform all steps of one or more claims of the '017 Patent. For example, end users of Samsung's Accused Products infringe, either directly or under the doctrine of

equivalents, one or more claims of the '017 Patent (*e.g.*, claim 13 and one or more of its dependents). At a minimum, Samsung is liable for the indirect infringement of claim 13 and one or more of its dependents of the '017 Patent.

44. Samsung will continue to infringe unless this Court enjoins Samsung and its agents, servants, employees, representatives and all others acting in active concert with it from infringing the '017 Patent.

45. MyPort has been damaged because of Samsung's infringing conduct. Samsung is, thus, liable to MyPort in an amount that adequately compensates MyPort for Samsung's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 10,237,067

46. MyPort reasserts and incorporates herein by reference the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

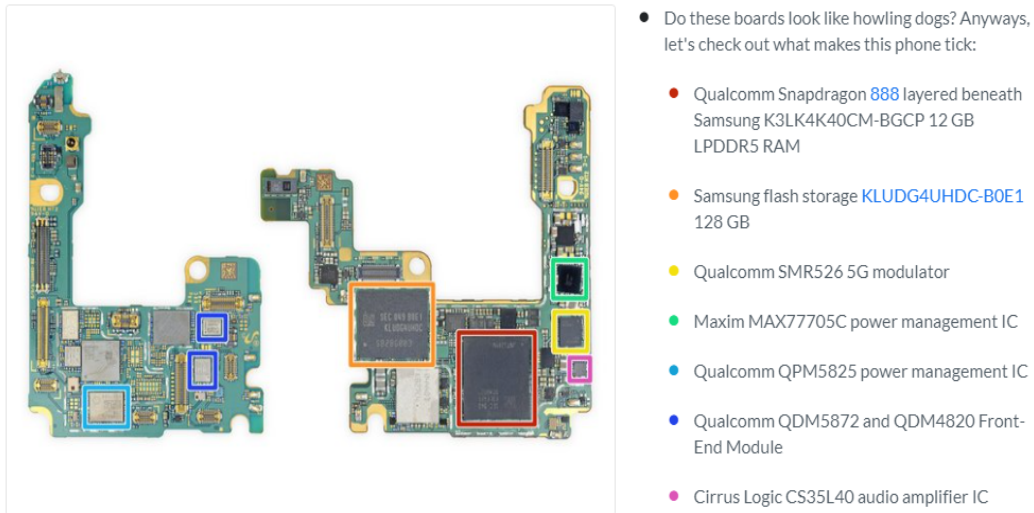
47. Samsung has infringed and continues to infringe at least claim 6 and one or more of its dependents of the '067 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, the Accused Products.

48. As just one non-limiting example, set forth below with claim language in italics is a description of infringement of exemplary claim 6 of the '067 Patent (MyPort reserves the right to modify this description, including on the basis of information it obtains during discovery): *a system for capturing image and audio information for storage comprising:* To the extent the preamble is limiting, the Accused Products, such as the Samsung Galaxy 21, contains a camera for capturing image information and a microphone capable of capturing audio information, and

memory capable of storing this information. *See, e.g.,*

<https://www.samsung.com/us/smartphones/galaxy-s21-5g/buy/galaxy-s21-ultra-5g-128gb-att-sm-g998uzsaatt/?hideDevice=galaxy-s21-ultra-5g>.

49. The Accused Products include *internal storage*. The Accused Products, such as the Samsung Galaxy S21, provide flash memory, cache memory, and RAM to store information.



Source: <https://www.ifixit.com/Teardown/Samsung+Galaxy+S21+Ultra+Teardown/141188>

50. The Accused Products include *a microphone interfaceable with an external audio information source that generates external audio information*. The Accused Products, such as the Samsung Galaxy S21, contain a microphone interfaceable with an external audio information source.

Galaxy S21, S21+ S21 Ultra: Device Layout

Last Update date : Oct 15, 2021

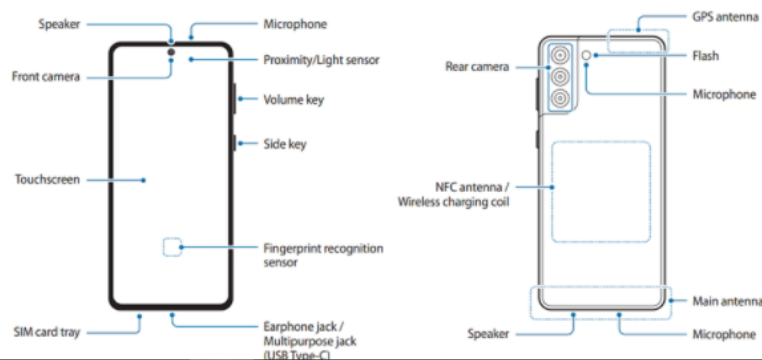
Follow the below guide to learn the device layout of our Galaxy S21 range, insert a nano-SIM card and all the different ways of powering off your device.

Please Note: This guide is designed for Australian variant Galaxy devices, if you have an international device and require further support [click here](#) to get in touch with your Samsung subsidiary.

If you would like to review the Galaxy S21 User Manual please [click here](#).

Device Layout

Galaxy S21



Source: <https://www.samsung.com/au/support/mobile-devices/s21-device-layout-and-functions/>

51. The Accused Products include *a first data converter for capturing the first external audio information from the microphone*. The Accused Products, such as the Samsung Galaxy S21, uses the device processor and software for capturing the external audio information from the microphone. *See above.*

52. The Accused Products include *a camera interfacing with an external image source to capture an image therefrom*. The camera of the Accused Products, such as the Samsung Galaxy S21, interfaces with an image source. It senses the image and converts it to a series of quantized pixels that, in aggregate, make up the image.



- After we delicately yank the motherboard out, we make a beeline for the camera assemblies, where we're greeted by a familiar friend from the S20 Ultra, the 12 MP ultra-wide.
- Also making a reappearance is the main 108 MP $f/1.8$ wide-angle camera, but this year he slimmed down from a 26 to 24 mm equivalent focal length (beach season is coming!).
- The periscope telephoto camera makes a return as well, albeit with a complete makeover, sacrificing some features in favor of others:

Source: <https://www.ifixit.com/Teardown/Samsung+Galaxy+S21+Ultra+Teardown/141188>

53. The Accused Products include *the first data converter processing the captured external audio information and storing it in a first digital audio format as stored digital audio within the capture device, the camera for processing the captured image and storing it as a stored digital image in internal storage.* The microphone of the Accused Products coupled with the processor and software process the audio information to store as digital information. The Accused Products capture real-time, spoken audio input, and convert it to digital information. The digital audio information is stored in the device's buffer memory. The camera also captures the image and stores it as a digital image.

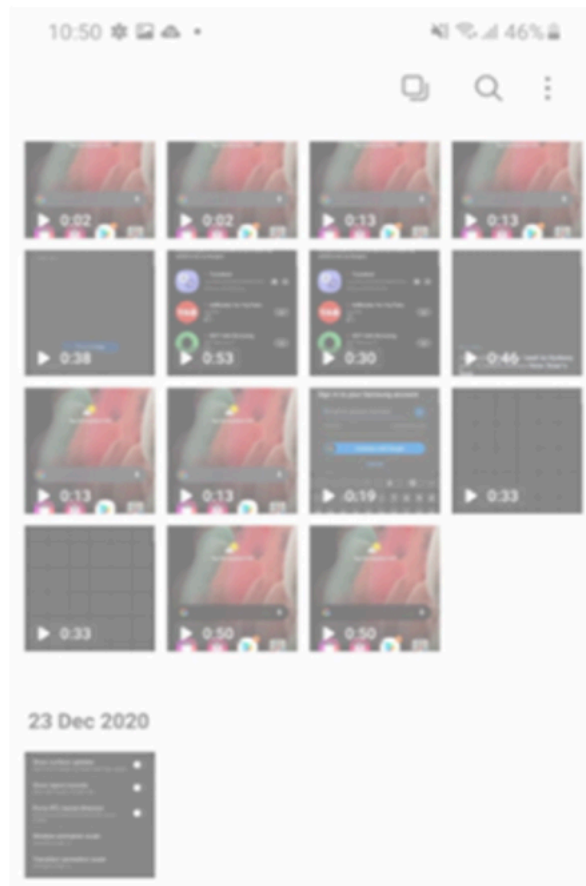
Adding Tags to Photos and Videos on my Galaxy S21

Last Update date : Jan 14, 2021

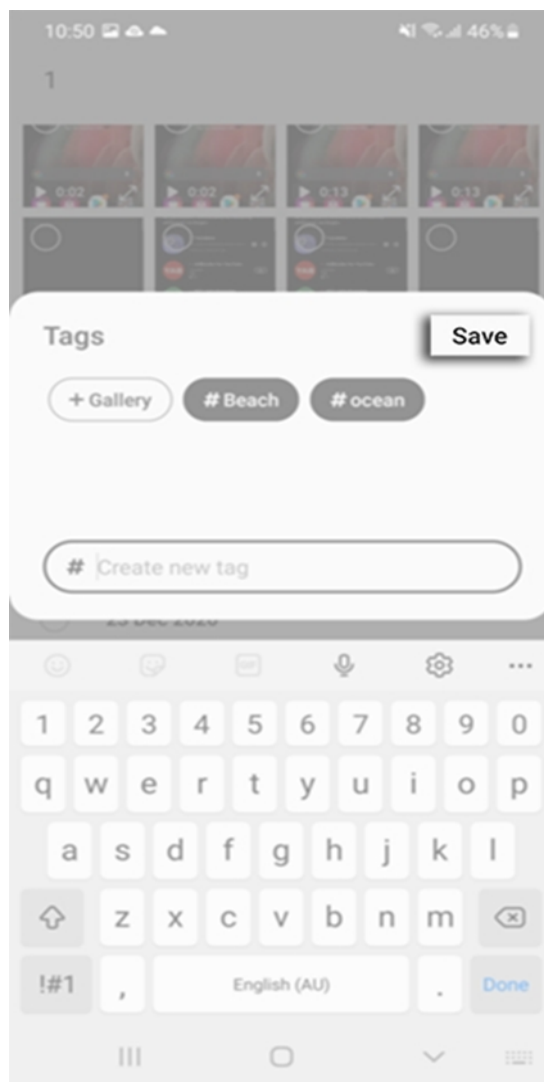
Add Tags to Photos, Videos and even iFs saved in your Gallery to group similar content together - this could range from a particular beach you've recently visited or your Family Pet. Whatever it is, once you have added the tag to your Photo or Video you will always be able to search for it by typing in the tag. Follow the below guide for step-by-step instructions.

2

Long press a Photo or Video you would like to Tag



Source: <https://www.samsung.com/au/support/mobile-devices/adding-tags-to-photos/>



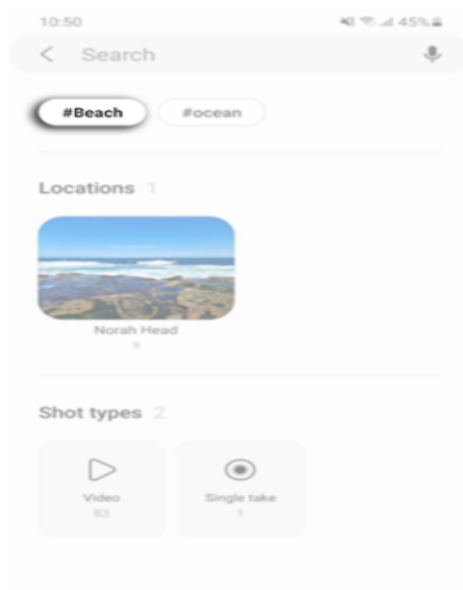
See also Samsung Gallery.

54. The Accused Products include *capturing, as captured data, location information and time information associated with at least the capture of the image and storing the captured data as stored captured data.* The Accused Products include location settings that allow the mobile device to determine location and time information of a captured image. See <https://www.samsung.com/za/support/mobile-devices/galaxy-camera-which-location-settings-gps-are-available/>.

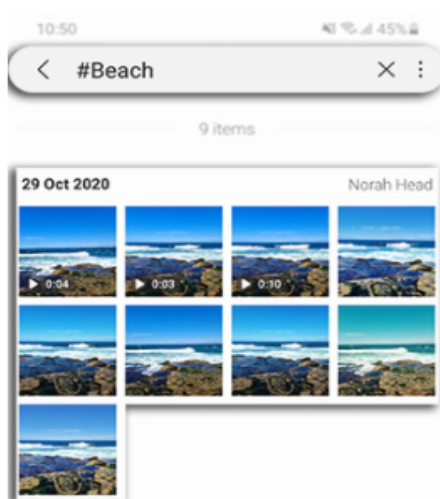
55. The Accused Products include *a media data converter for converting the received digital audio to a text based searchable file as a text context tag and creating an image*

recognition searchable context tag with image recognition of at least a portion of the digital image and associating the text and image recognition context tags with the digital image and captured data. When the Accused Products capture spoken audio, the Accused Products can perform speech recognition. This occurs, for example, using Bixby dictation. The speech recognition converts the digital audio into text in the image's tag field. The Accused Products also use machine learning to automatically apply image recognition tags to photos on the device.

8 Select the Tag you would like to review



9 You will then be able to see any Photo, Video or GIF that has been tagged with "Beach"



Source: <https://www.samsung.com/au/support/mobile-devices/adding-tags-to-photos/>

See also Samsung Gallery.

56. As shown above, the Accused Products include *internal storage storing the digital image in association with the text and image recognition context tags*. The Accused Products, such as the Samsung Galaxy S21, provide flash memory, cache memory, and RAM to store information.

57. Samsung has committed acts of infringement without license or authorization. Samsung knew or should have known that its actions would cause direct and indirect infringement of the '067 Patent. On information and belief, Samsung acted with objective recklessness by proceeding despite an objective high likelihood that its actions constituted infringement of a valid patent, where such action constitutes egregious misconduct.

58. Samsung is also liable under 35 U.S.C. § 271(b) for actively inducing infringement and continuing to actively induce infringement. Samsung actively induces and continues to induce its customers, distributors, end-users, vendors including customer-support and/or manufacturers to infringe the '067 Patent. On information and belief, Samsung possessed a specific intent to induce infringement, and in fact did induce infringement, by engaging in affirmative acts such as by selling and causing the Accused Products to be manufactured, by providing user guides, installation or instruction manuals, and other training materials, by advertising and solicitation and otherwise providing sales-related materials, and by instructing and/or demonstrating to customers, distributors, end-users, vendors including customer-support and/or manufacturers the normal operation of the Accused Products that infringe the '067 Patent. Non-limiting examples of such are found above in the various screenshots that instruct performance of the infringing use of the technology. Samsung is aware and/or willfully blind

that these affirmative acts infringe and/or would induce infringement of the '067 Patent, of which it had knowledge.

59. Samsung is also liable under 35 U.S.C. § 271(c) for contributing to and continuing to contribute to the infringement of the '067 Patent by, among other things, providing a system for capturing image and audio information for storage in its Accused Products and by encouraging, at a minimum, customers, distributors, end-users, vendors including customer-support and/or manufacturers in this District and elsewhere, to infringe the '067 Patent. By importing, exporting, manufacturing, distributing, selling, and/or providing the Accused Products for their intended use to customers, distributors, end-users, vendors including customer-support and/or manufacturers, Samsung has, in the past and continues to contribute to the infringement of one or more claims of the '067 Patent. The infringing functionality in the Accused Products is material to the inventions claimed in the '067 Patent, has no substantial non-infringing uses, and is known to Samsung (on information and belief) to be especially made or adapted for use in infringing the '067 Patent, and which is otherwise not staple articles of commerce suitable for substantial non-infringing use. There are no non-infringing uses for the infringing functionality in the Accused Products other than to create searchable tags as associated metadata for image and/or audio files. Samsung is aware and/or willfully blind that these affirmative acts infringe and/or constitute contributory infringement of the '067 Patent, of which it had knowledge.

60. Samsung is liable for indirect infringement, *i.e.*, both inducement and contributory infringement, based on the direct infringement that is the result of activities performed by customers, distributors, end-users, vendors including customer-support and/or manufacturers who use all elements or perform all steps of one or more claims of the '067 Patent. For example, end users of Samsung's Accused Products infringe, either directly or under the doctrine of

equivalents, one or more claims of the '067 Patent (*e.g.*, claim 6 and one or more of its dependents). At a minimum, Samsung is liable for the indirect infringement of claim 13 and one or more of its dependents of the '067 Patent.

61. Samsung will continue to infringe unless this Court enjoins Samsung and its agents, servants, employees, representatives and all others acting in active concert with it from infringing the '067 Patent.

62. MyPort has been damaged because of Samsung's infringing conduct. Samsung is, thus, liable to MyPort in an amount that adequately compensates MyPort for Samsung's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 10,721,066

63. MyPort reasserts and incorporates herein by reference the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

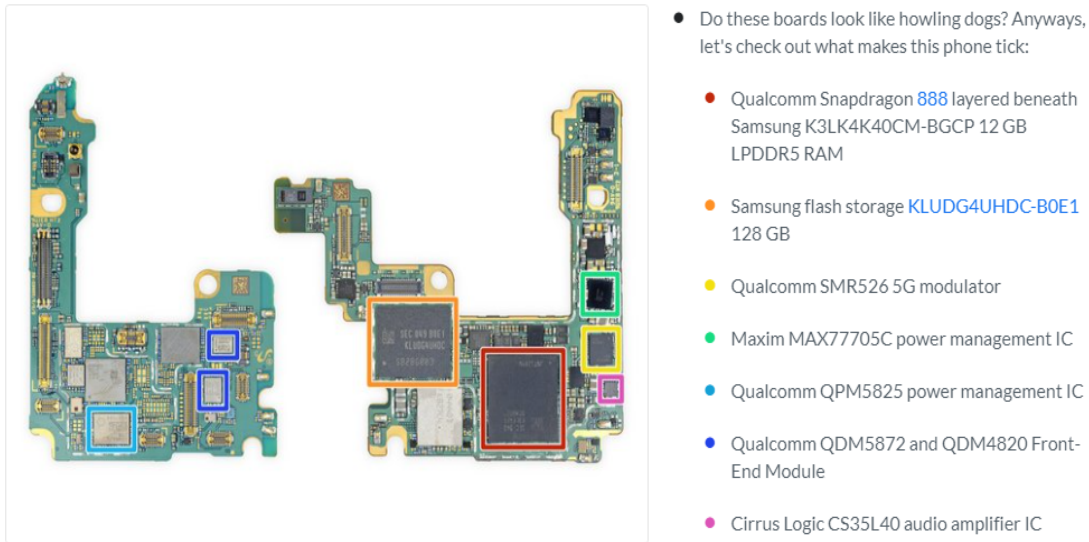
64. Samsung has infringed and continues to infringe at least claim 13 and one or more of its dependents of the '066 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, the Accused Products.

65. As just one non-limiting example, set forth below with claim language in italics is a description of infringement of exemplary claim 13 of the '066 Patent (MyPort reserves the right to modify this description, including on the basis of information it obtains during discovery): *a method for capturing image and audio information for storage, comprising:* To the extent the preamble is limiting, the Accused Products, such as the Samsung Galaxy 21, performs a method for capturing image information via a camera and a microphone capable of capturing

audio information, and memory capable of storing this information. *See, e.g.,*

<https://www.samsung.com/us/smartphones/galaxy-s21-5g/buy/galaxy-s21-ultra-5g-128gb-att-sm-g998uzsaatt/?hideDevice=galaxy-s21-ultra-5g>.

66. The Accused Products include *internal storage*. The Accused Products, such as the Samsung Galaxy S21, provide flash memory, cache memory, and RAM to store information.



Source: <https://www.ifixit.com/Teardown/Samsung+Galaxy+S21+Ultra+Teardown/141188>

67. The Accused Products include *interfacing a microphone with an external audio information source that generates external audio information*. The Accused Products, such as the Samsung Galaxy S21, contain a microphone interfaceable with an external audio information source.

Galaxy S21, S21+ S21 Ultra: Device Layout

Last Update date : Oct 15, 2021

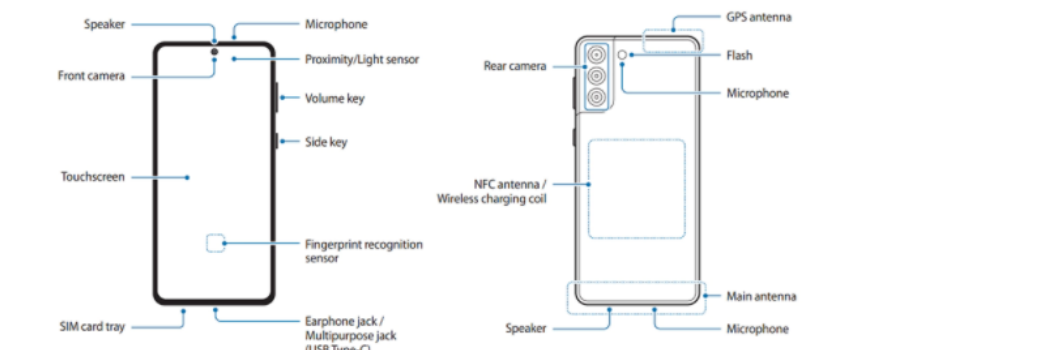
Follow the below guide to learn the device layout of our Galaxy S21 range, insert a nano-SIM card and all the different ways of powering off your device.

Please Note: This guide is designed for Australian variant Galaxy devices, if you have an international device and require further support [click here](#) to get in touch with your Samsung subsidiary.

If you would like to review the Galaxy S21 User Manual please [click here](#).

Device Layout

Galaxy S21



Source: <https://www.samsung.com/au/support/mobile-devices/s21-device-layout-and-functions/>

68. The Accused Products include *converting with a first data converter the external audio information from the microphone*. The Accused Products, such as the Samsung Galaxy S21, uses the device processor and software to capture the external audio information from the microphone. *See above*.

69. The Accused Products include *interfacing a camera with an image source to capture an image therefrom*. The camera of the Accused Products, such as the Samsung Galaxy S21, interfaces with an image source. It senses the image and converts it to a series of quantized pixels that, in aggregate, make up the image.



- After we delicately yank the motherboard out, we make a beeline for the camera assemblies, where we're greeted by a familiar friend from the S20 Ultra, the 12 MP ultra-wide.
- Also making a reappearance is the main 108 MP $f/1.8$ wide-angle camera, but this year he slimmed down from a 26 to 24 mm equivalent focal length (beach season is coming!).
- The periscope telephoto camera makes a return as well, albeit with a complete makeover, sacrificing some features in favor of others:

Source: <https://www.ifixit.com/Teardown/Samsung+Galaxy+S21+Ultra+Teardown/141188>

70. The Accused Products include *capturing within a capture device, as captured data, location information and time information associated with at least the capture of the image and storing the captured data as stored captured data*. The Accused Products include location settings that allow the mobile device to determine location and time information of a captured image. See <https://www.samsung.com/za/support/mobile-devices/galaxy-camera-which-location-settings-gps-are-available/>.

71. The Accused Products include *the first data converter processing the captured external audio information and storing it in a first digital audio format as stored digital audio within the capture device, the camera for processing the captured image and storing it as a stored digital image*. The microphone of the Accused Products coupled with the processor and software process the audio information to store as digital information. The Accused Products capture real-time, spoken audio input, and convert it to digital information. The digital audio information is stored in the device's buffer memory. The camera also captures the image and stores it as a digital image.

Adding Tags to Photos and Videos on my Galaxy S21

Last Update date : Jan 14, 2021

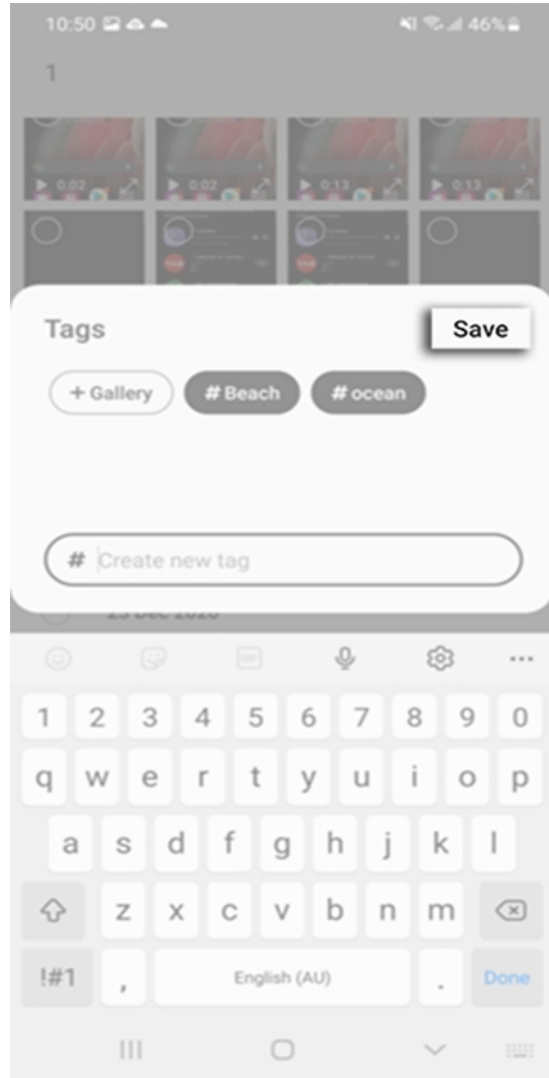
Add Tags to Photos, Videos and even GIFs saved in your Gallery to group similar content together - this could range from a particular beach you've recently visited or your Family Pet. Whatever it is, once you have added the tag to your Photo or Video you will always be able to search for it by typing in the tag. Follow the below guide for step-by-step instructions.

2

Long press a Photo or Video you would like to Tag



Source: <https://www.samsung.com/au/support/mobile-devices/adding-tags-to-photos/>



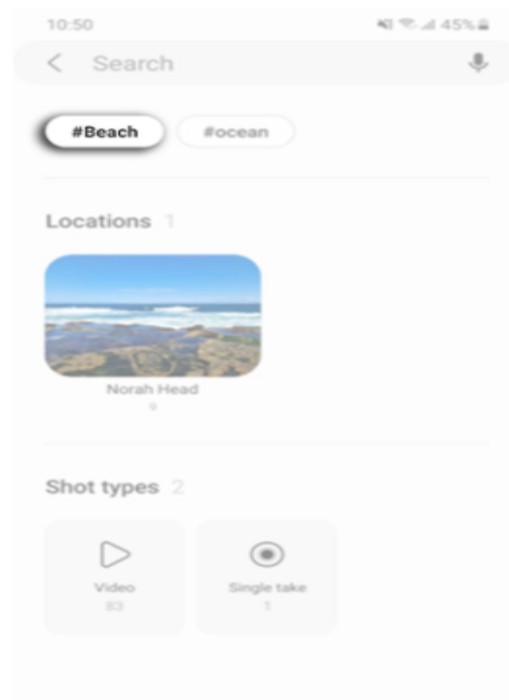
See also Samsung Gallery.

72. The Accused Products include *converting with a second data converter the received digital audio to a text based searchable file as a text context tag and creating an image recognition searchable context tag with image recognition of at least a portion of the digital image and associating the text and image recognition context tags with the digital image and with the stored captured data.* When the Accused Products capture spoken audio, the Accused Products can perform speech recognition. This occurs, for example, using Bixby dictation. The speech recognition converts the digital audio into text in the image's tag field. The Accused

Products also use machine learning to automatically apply image recognition tags to photos stored on the device.

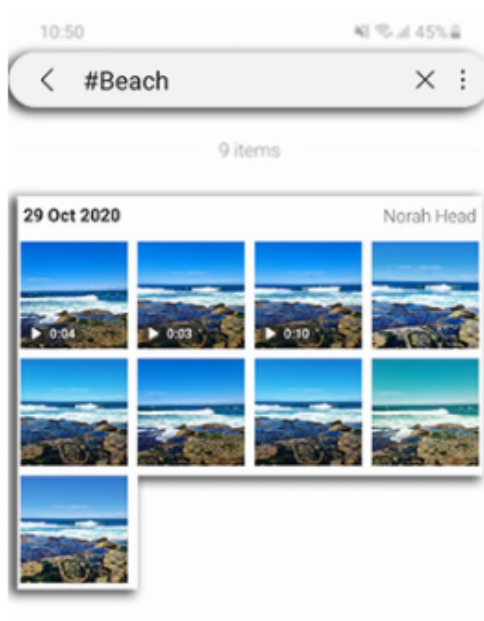
8

Select the Tag you would like to review



9

You will then be able to see any Photo, Video or GIF that has been tagged with "Beach"



Source: <https://www.samsung.com/au/support/mobile-devices/adding-tags-to-photos/>

See also Samsung Gallery.

73. As shown above, the Accused Products include *internal storage storing the digital image in association with the text and image recognition context tags*. The Accused Products, such as the Samsung Galaxy S21, provide flash memory, cache memory, and RAM to store information.

74. Samsung has committed acts of infringement without license or authorization. Samsung knew or should have known that its actions would cause direct and indirect infringement of the '066 Patent. On information and belief, Samsung acted with objective recklessness by proceeding despite an objective high likelihood that its actions constituted infringement of a valid patent, where such action constitutes egregious misconduct.

75. Samsung is also liable under 35 U.S.C. § 271(b) for actively inducing infringement and continuing to actively induce infringement. Samsung actively induces and continues to induce its customers, distributors, end-users, vendors including customer-support and/or manufacturers to infringe the '066 Patent. On information and belief, Samsung possessed a specific intent to induce infringement, and in fact did induce infringement, by engaging in affirmative acts such as by selling and causing the Accused Products to be manufactured, by providing user guides, installation or instruction manuals, and other training materials, by advertising and solicitation and otherwise providing sales-related materials, and by instructing and/or demonstrating to customers, distributors, end-users, vendors including customer-support and/or manufacturers the normal operation of the Accused Products that infringe the '066 Patent. Non-limiting examples of such are found above in the various screenshots that instruct performance of the infringing use of the technology. Samsung is aware and/or willfully blind

that these affirmative acts infringe and/or would induce infringement of the '066 Patent, of which it had knowledge.

76. Samsung is also liable under 35 U.S.C. § 271(c) for contributing to and continuing to contribute to the infringement of the '066 Patent by, among other things, providing a system for capturing image and audio information for storage in its Accused Products and by encouraging, at a minimum, customers, distributors, end-users, vendors including customer-support and/or manufacturers in this District and elsewhere, to infringe the '066 Patent. By importing, exporting, manufacturing, distributing, selling, and/or providing the Accused Products for their intended use to customers, distributors, end-users, vendors including customer-support and/or manufacturers, Samsung has, in the past and continues to contribute to the infringement of one or more claims of the '066 Patent. The infringing functionality in the Accused Products is material to the inventions claimed in the '066 Patent, has no substantial non-infringing uses, and is known to Samsung (on information and belief) to be especially made or adapted for use in infringing the '066 Patent, and which is otherwise not staple articles of commerce suitable for substantial non-infringing use. There are no non-infringing uses for the infringing functionality in the Accused Products other than to create searchable tags as associated metadata for image and/or audio files. Samsung is aware and/or willfully blind that these affirmative acts infringe and/or constitute contributory infringement of the '066 Patent, of which it had knowledge.

77. Samsung is liable for indirect infringement, *i.e.*, both inducement and contributory infringement, based on the direct infringement that is the result of activities performed by customers, distributors, end-users, vendors including customer-support and/or manufacturers who use all elements or perform all steps of one or more claims of the '066 Patent. For example, end users of Samsung's Accused Products infringe, either directly or under the doctrine of

equivalents, one or more claims of the '066 Patent (*e.g.*, claim 13 and one or more of its dependents). At a minimum, Samsung is liable for the indirect infringement of claim 13 and one or more of its dependents of the '066 Patent.

78. Samsung will continue to infringe unless this Court enjoins Samsung and its agents, servants, employees, representatives and all others acting in active concert with it from infringing the '066 Patent.

79. MyPort has been damaged because of Samsung's infringing conduct. Samsung is, thus, liable to MyPort in an amount that adequately compensates MyPort for Samsung's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

DEMAND FOR JURY TRIAL

80. MyPort demands a trial by jury on all claims and issues triable of right by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- a) A judgment that Samsung has infringed the Malone Patents-in-Suit;
- b) An injunction barring Samsung and its officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns, from further acts of infringement of the Malone Patents-in-Suit; alternatively, a judicial decree that Samsung pay an ongoing royalty in an amount to be determined for continued infringement after the date of judgment;
- c) An award of damages adequate to compensate for Samsung's infringement of the Malone Patents-in-Suit, and in no event less than a reasonable royalty for Samsung's acts of

infringement, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;

- d) An award of trebled damages under 35 U.S.C. § 284;
- e) A declaration that this case is exceptional under 35 U.S.C. § 285;
- f) An award of Plaintiff's costs and attorneys' fees under 35 U.S.C. § 285 and other applicable law; and

Any other remedy to which Plaintiff may be entitled.

Dated: April 15, 2022

ONE LLP

By: /s/ John E. Lord

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