

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

WHIRLPOOL CORPORATION,

Plaintiff,

v.

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

Defendants.

Civil Action No. 2:25-cv-01042

PATENT CASE

JURY TRIAL DEMANDED

PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

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I. INTRODUCTION

Plaintiff Whirlpool Corporation requests that this court enjoin Defendants Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. (collectively, “Samsung”) from infringing U.S. Patent No. 12,232,681 (“the ’681 patent”) and No. 10,512,385 (’385 patent, and together with the ’681 patent, “Asserted Patents”).

Since 2020, Whirlpool has manufactured and sold a premium line of dishwashers, including through its KitchenAid, Maytag, and JennAir brands, that have featured unique third-rack designs that can hold both drinkware (e.g., cups) and silverware/utensils. Before Whirlpool’s enhanced-top-rack innovations, dishwashers either included a caddy in the bottom rack that held utensils vertically or, for those dishwashers that have three racks, included a shallow top rack that accommodated only silverware/utensils but not drinkware. Whirlpool’s newest technology for the enhanced top rack, as featured in KitchenAid, contains a tray that can hold utensils horizontally while simultaneously featuring cup seats that cradle each loaded drinkware and prevent it from rolling around and slipping down in the rack. It also includes a sprayer with multiple nozzles strategically placed to shoot water into the interior of the drinkware to enhance cleaning. These features are patented in the ’681 and ’385 patents. The patented enhanced top rack has been a major differentiator of Whirlpool’s premium dishwashers from those by competitors.

Samsung, a direct competitor of Whirlpool in the category for major kitchen appliances, including the premium segment, has decided that it too will enjoy the fruits of Whirlpool’s patented technology. Earlier this year, Samsung introduced its own premium dishwashers modeled after the KitchenAid design with infringing enhanced top racks (“Accused Products”). Samsung first introduced its Accused Products online and, upon information and belief, plans to expand the launch into brick-and-mortar stores by the end of this year and as early as this fall.

The Court should enjoin Samsung from infringing Whirlpool’s patents. Whirlpool brings

this motion at a critical juncture when Samsung has begun but not yet fully rolled out its premium dishwashers with the infringing enhanced top racks. Whirlpool thus stands at a unique moment where it may stop Samsung from further copying its patented technology before it does further irreversible damage by introducing the Accused Products on the floors of brick-and-mortar stores.

Whirlpool satisfies the four factors that this Court considers in granting a preliminary injunction. **First**, Whirlpool is likely to succeed on the merits. The Asserted Patents are valid and enforceable. As demonstrated by the accompanying declaration of Whirlpool's technical expert Dr. Emad Tanbour, Samsung's Accused Products practice at least Claim 14 of the '681 patent and Claim 17 of the '385 patent, in addition to other dependent claims. **Second**, Whirlpool will suffer irreparable harm absent an injunction. Whirlpool will lose market share in a crowded market for major kitchen appliances. Samsung's infringement will further erode consumer demand for the enhanced-top-rack technology, the price of dishwashers with these racks, and the reputations of Whirlpool and the KitchenAid brand as being innovative. **Third**, the hardship that Whirlpool suffers vastly outweighs any hardship that Samsung can claim. The timing of this motion also ensures that Samsung will be able to discontinue manufacturing and selling the Accused Products more quickly and at less cost compared to products that are already fully entrenched in the marketplace. **Fourth**, public policy favors an injunction. The enforcement of patent rights guarantees innovation. It incentivizes investment into new technology, which is inherently risky, by ensuring that the patentee will be able to reap the rewards from its risk-taking.

II. STATEMENT OF FACTS

A. Whirlpool Is Known for Its Innovation in the Kitchen Appliances Market

Whirlpool and Samsung are direct competitors in the U.S. market for major household appliances, which includes dishwashers and other appliances like refrigerators and ranges. This market is a crowded one, with not only Whirlpool and Samsung but also other well-known brands

like LG, GE, and Frigidaire vying for consumer spend. The dishwasher category is further divided, with segments for premium dishwashers and more economical ones. Whirlpool competes not only with Samsung, LG, and GE in the premium dishwasher segment but also with brands like Bosch and Miele. Whirlpool owns the KitchenAid, Maytag, and JennAir brand of premium appliances.

Whirlpool has been able to distinguish itself in this crowded market, and specifically in the premium segment, through product innovation. Whirlpool has been named by Fortune as one of “America’s Most Innovative Companies.” KitchenAid’s products, including the dishwasher with the enhanced top rack, have won international design awards like the Red Dot Design Awards and the iF Product Design Awards for creating exceptional consumer experiences. Villarroel Decl. ¶ 19. In 2020, Whirlpool released in the United States a premium dishwasher with a new enhanced top rack that allows users to effectively wash both silverware/utensils and drinkware while maintaining sufficient capacity in both lower racks, thereby increasing overall loading capacity. *See id.* at ¶ 5 & Luckman Decl. ¶¶ 3–4. The rack features a tray into which silverware/utensils can be loaded horizontally. It simultaneously accommodates drinkware and features cup seats that cradle loaded drinkware to prevent it from rolling around in the rack while positioning them for effective washing. To ensure powerful cleaning, Whirlpool’s enhanced top racks also include a dedicated sprayer with multiple spray nozzles that are strategically placed to shoot water into the interior of drinkware. Whirlpool patented these features in the claims of the ’681 and ’385 patents.

Since the enhanced top rack’s release, Whirlpool has sold about 1.6 million dishwashers in the premium segment under the KitchenAid brand alone in the United States. Villarroel Decl. ¶ 5. The top rack is a major differentiator for Whirlpool. *Id.*

B. Samsung’s Infringement

Samsung has recently begun copying Whirlpool’s patented technology and integrating the enhanced top rack into its premium dishwashers. In or around April 2025, Samsung released

certain premium dishwashers, including but not limited to the 38 dBA Bespoke Smart Dishwasher with 3rd Rack Washing System, that include an enhanced top rack capable of holding both drinkware and silverware/utensils. As highlighted in the very names of the products, Samsung has actively marketed the infringing feature to sell its new premium dishwashers. Indeed, Samsung emphasizes how its dishwashers now feature the infringing enhanced top rack with “dedicated area for drinkware, cutlery and utensils,”¹ which practices Claims 14 and 15 of the ’681 patent. Samsung even put an image on its infringing enhanced top racks to show consumers how to orient drinkware on their sides along an inclined angle on the rack.² Samsung also actively advertises that the infringing top rack has “dedicated wash jets with six spinning nozzles thoroughly clean,”³ which practices Claims 17, 18, 19, 20, and 21 of the ’385 patent. Samsung actively markets the enhanced top rack to drive demand to its dishwashers. Villarroel Decl. ¶ 7.

Samsung first released the Accused Products online through its website as well as the websites of certain appliance retailers. *Id.* ¶ 6. Upon information and belief, Samsung plans to expand this launch imminently, releasing the Accused Products in brick-and-mortar stores.

III. LEGAL STANDARD

The Patent Act authorizes courts to grant injunctions to “prevent the violation of any right secured by patent.” 35 U.S.C. § 283. “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Federal Circuit law

¹ Samsung, *Bespoke Smart Dishwasher 3rd Rack Washing System*, <https://www.samsung.com/us/home-appliances/dishwashers/rotary/38-dba-bespoke-auto-open-door-dishwasher-with-3rd-rack-washing-system-in-fingerprint-resistant-stainless-steel-dw90f89p0usraa/> (last visited Oct. 10, 2025).

² *Id.*

³ *Id.*

governs whether a plaintiff is likely to succeed on an infringement claim, *Natera, Inc. v. Neogenomics Labs, Inc.*, 106 F.4th 1369, 1375 (Fed. Cir. 2024), but Fifth Circuit law binds this court to the extent that equitable principles are trans-substantive. *See ABC Corp. v. P'ship & Uninc. Ass'ns*, 52 F.4th 934, 941 (Fed. Cir. 2022).

IV. ARGUMENT

A. Likelihood of Success on the Merits

To prevail on a claim for patent infringement, a plaintiff must demonstrate that it owns a valid patent and that a defendant has infringed the patent. *See Tinnus Enters., LLC v. Telebrands Corp.*, 846 F.3d 1190, 1202 (Fed. Cir. 2017). Whirlpool is more likely than not to succeed at trial in demonstrating Samsung's infringement of the '681 and '385 patents. To show a likelihood of success on the merits, a movant need only present a prima facie case and need not meet the standard for summary judgment. *See Daniels Health Scis., LLC v. Vascular Health Scis., LLC*, 710 F.3d 579, 582, 584–85 (5th Cir. 2013).

1. Whirlpool's Asserted Patents Are Valid and Enforceable.

Whirlpool holds all necessary ownership, title, and interest in and to the asserted patents:

- **Assignment history for the '861 patent**, see US Patent Office Assignment Database at Reel/Frame Nos. 065829/0088, 072454/0544, available at <https://assignment.uspto.gov/patent/index.html#/patent/search/resultAbstract?id=12232681&type=patNum>.⁴
- **Assignment history for the '385 patent**, see US Patent Office Assignment Database at Reel/Frame Nos. 045398/0532, available at <https://assignment.uspto.gov/patent/index.html#/patent/search/resultAbstract?id=10512385&type=patNum>.

Whirlpool's asserted patents enjoy a presumption of validity. *See* 35 U.S.C. § 282(a); *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1570 (Fed. Cir. 1987). This is true “during

⁴ A certificate of correction on inventorship was granted on the '681 patent on October 9, 2025, and is attached as Exhibit D to the Declaration of Dr. Emad Tambour.

preliminary injunction proceedings as at other stages of litigation.” *Titan Tire Corp. v. Case New Holland, Inc.*, 566 F.3d 1372, 1377 (Fed. Cir. 2009). To defeat an injunction based on invalidity, the challenger must establish a substantial question of invalidity. *Id.* at 1377–78. Whirlpool is thus not required to make any specific demonstration on validity and must only carry the “normal burden of demonstrating that it will likely succeed on all disputed liability issues at trial.” *New England Braiding Co. v. A.W. Chesterton Co.*, 970 F.2d 878, 882 (Fed. Cir. 1992). In the present case, “the very existence of the [Asserted Patents] satisf[y] [Plaintiffs’] burden on validity.” *Purdue Pharma L.P. v. Boehringer Ingelheim GMBH*, 237 F.3d 1359, 1365 (Fed. Cir. 2001).

2. Samsung’s Accused Products Infringe Whirlpool’s Patents.

To establish infringement of a patent, a patent owner must prove either “literal infringement” or infringement under the “doctrine of equivalents.” *Under Sea Indus. Inc. v. Dacor Corp.*, 833 F.2d 1551, 1557 (Fed. Cir. 1987).

As detailed in the declaration of Whirlpool’s technical expert, Dr. Emad Tanbour, Samsung infringes Claims 14 and 15 of the ’681 patent and Claim 17, 18, 19, 20, and 21 of the ’385 patent with its enhanced top-rack dishwashers, both literally and under the doctrine of equivalents. *See* Tambour Decl. ¶¶ 68–79 (’681 patent); *id.* at ¶¶ 44–67. The Accused Products include the 38 dBA Bespoke Smart Dishwasher with 3rd Rack Washing System (model DW90F89), as well as any other Samsung dishwasher with a top rack that holds both drinkware and silverware/utensils.

B. Irreparable Harm

“Irreparable injury encompasses different types of losses that are often difficult to quantify, including lost sales and erosion in reputation and brand distinction.” *Douglas Dynamics, LLC v. Buyers Prods. Co.*, 717 F.3d 1336, 1344 (Fed. Cir. 2013). The Federal Circuit has held that lost market share and lost market opportunities constitute irreparable harm. *See, e.g., Natera, Inc. v.*

NeoGenomics Lab'ys, Inc., 106 F.4th 1369, 1378 (Fed. Cir. 2024) (“Evidence of head-to-head competition and lost market share can support a showing of irreparable harm.”); *Texas Adv. Optoelectronic Sols., Inc. v. Renesas Elecs. Am., Inc.*, 895 F.3d 1304, 1331-32 (Fed. Cir. 2018). In addition to lost market share, Whirlpool will be irreparably harmed due to price erosion, brand erosion, and permanent loss of patent term.

1. Lost Market Share and Market Opportunity: The harm suffered by Whirlpool in this case is especially curable by injunctive relief because it could not be addressed by any amount of damages. As discussed above, Samsung first released its Accused Products earlier this year, around April 2025 through online channels and, upon information and belief, is currently making plans to expand its footprint by selling the Accused Products in brick-and-mortar stores as well. These details of Samsung’s launch are directly relevant to the preliminary-injunction analysis. The timing and sequence of Samsung’s launch mean that Whirlpool has accrued relatively low past damages at this point. At the same time, Whirlpool moves for injunctive relief at a critical juncture when Samsung is expected to dramatically expand its sale of the Accused Products. Allowing this expansion to go forward would result in irreversible and cascading injury to Whirlpool. *See i4i Ltd. P’ship v. Microsoft Corp.*, 598 F.3d 831, 862 (Fed. Cir. 2010) (“injunctions are tools for prospective relief designed to alleviate future harm”).

At brick-and-mortar retailers, floor space is a finite and valuable resource. Villarroel Decl. ¶¶ 6 & 8–10. Whirlpool and Samsung are direct competitors who fiercely vie for this scarce space. When a retailer devotes a certain amount of floor space to Samsung’s dishwashers with the infringing enhanced top racks, it necessarily cannot devote that space to Whirlpool’s products. Similarly, once Whirlpool loses floor space that a retailer used to devote to Whirlpool’s enhanced-top-rack dishwashers to accommodate Samsung’s models, Whirlpool is unlikely to regain that lost

space. Villarroel Decl. ¶ 10. The resulting decrease in dedicated floor space for Whirlpool's dishwashers, in turn, leads to a decrease in sales and revenue from these products, as consumers who would have encountered and purchased Whirlpool's dishwashers in stores will no longer have the same opportunities to learn about Whirlpool's enhanced-top-rack products. This decrease in sales and revenue from the in-store channel is especially harmful for Whirlpool, as purchase through brick-and-mortar stores continues to constitute the lion's share of appliance purchases, including dishwasher purchases. Villarroel Decl. ¶ 6.

The harm to Whirlpool does not end with the loss of sales of discrete dishwashers. Villarroel Decl. ¶ 12. The sale of a dishwasher for a particular brand often leads to additional sales, consisting of both current (or near current) sales of other major kitchen appliances and future sales of both dishwashers and other appliances. *Id.* ¶¶ 12–13. A “kitchen suite” refers to a package of kitchen appliances—like a refrigerator, range, microwave, and dishwasher—that may be sold together. *Id.* ¶ 12. Consumers typically buy kitchen suites to furnish newly built or renovated homes. *Id.* By contrast, an appliance sale is made “under duress” when a consumer buys only one appliance, often as a replacement after an existing one stops functioning. *Id.* While more dishwashers have recently been sold under duress rather than as parts of kitchen suites, KitchenAid has been an exception to this trend. *Id.* ¶ 13. Research indicates that about half of KitchenAid consumers, who tend to be higher-income consumers shopping within the premium segment, replace their dishwashers before they stop functioning. *Id.* Unlike dishwasher purchases made “under duress,” these consumers have the luxury of time to compare brands, features, and price points. *Id.* This increases the risk that KitchenAid would lose consumers to Samsung's infringing dishwasher product that will be sold at a lower price point. *Id.* Once a consumer is lost, that loss is also expected to have a follow-on impact on the future sales of other types of KitchenAid

appliances. *Id.* Consumers, particularly those in the premium segment, are willing to spend more than consumers in the economy and moderate segments to match their kitchen appliances for greater cohesion. *Id.* Accordingly, consumers who purchase Samsung's infringing dishwashers with the enhanced top rack are less likely to replace other appliances with KitchenAid down the line given that the cohesive appearance is already disrupted. *Id.* The Federal Circuit has recognized the irreparable harm absent a preliminary injunction caused by "the loss of a potentially lifelong customer." *Metalcraft of Mayville, Inc. v. The Toro Co.*, 848 F.3d 1358, 1368 (Fed. Cir. 2017) (loss of a customer now "may have far-reaching, long-term impact on [Whirlpool's] future revenues, and the sales lost by [Whirlpool] are difficult to quantify due to "ecosystem" effects, where one company's customers will continue to buy that company's products and recommend them to others"). Whirlpool faces such loss here due to Samsung's infringement.

2. Erosion of Consumer Demand for the Enhanced Top Rack: Samsung's infringement of the enhanced top rack without also employing other technologies perfected by Whirlpool will likely result in an overall decrease in consumer demand for the enhanced top rack regardless of the dishwasher brand in which it is featured, thus also hurting sales of Whirlpool's dishwashers with the enhanced top rack. As described in the accompanying declarations of Michelle Villarroel, the Vice President and General Manager of Whirlpool's Dishwasher and Kitchen Suites Business Unit for North America, and Joel Luckman, Whirlpool's top ranking engineer for dishwashers through early October 2025, before Whirlpool first released the enhanced top rack in KitchenAid's dishwashers, Whirlpool's engineers did extensive work not only on the enhanced top rack itself but also on the overall dishwasher that incorporates the rack. Specifically, they worked on (1) increasing the overall capacity of the dishwasher tub, (2) deploying water into and out of the drinkware loaded on the enhanced top rack, (3) the interaction between the enhanced top rack's

dedicated spray tube and different types of “hard” and “soft” water, and (4) the placement of the drinkware and utensils in the top rack in relation to how dishes are typically loaded in the dishwasher overall—in order to ensure that the enhanced top rack does not detract from the overall quality of the dishwasher.

First, while working within the confines of the pre-determined width, depth, and height for household dishwashers, Whirlpool engineers worked to allow for maximum capacity on each of the dishwashers’ three racks so that the ability to add drinkware to the top rack did not come at the expense of decreased capacity of the bottom two racks and the dishwasher tub overall. Whirlpool developed the tallest and largest dishwasher tubs available given the pre-defined height and width limits. *See* Luckman Decl. ¶ 4. **Second**, Whirlpool’s engineers worked to ensure that an enhanced top rack that can accommodate drinkware of assorted sizes can thoroughly clean this drinkware without detracting from the cleaning that other dishes receive in the lower two racks. Accordingly, the engineers examined how to have water enter and exit the drinkware for thorough cleaning, including by considering the optimal placement of the enhanced top rack’s dedicated sprayers and the precise angle of the bottom wall where the drinkware is placed. *See id.* at ¶ 5. **Third**, Whirlpool’s engineers also examined how the sprayer with multiple nozzles dedicated to the enhanced top rack may interact with different water conditions, again to ensure thorough cleaning of its contents. Specifically, they considered the size of the nozzles and the water passageways within the enhanced top rack’s dedicated sprayers to ensure that they do not become clogged or otherwise compromised in different water conditions. *See id.* at ¶ 6. **Finally**, Whirlpool’s engineers considered the optimal placement of the cup seats for drinkware versus the utensils within the enhanced top rack in relation to how consumers typically load dishes in the overall dishwasher. Keeping in mind that most consumers load their utensil caddies on the bottom right of the

dishwasher, Whirlpool strategically placed the cup seats on the left of the enhanced top rack, to ensure that dishes are evenly distributed throughout the tub of the dishwasher and that water adequately reaches all corners of the tub. *See id.* at ¶ 7.

Whirlpool's research indicates that Samsung has infringed the enhanced-top-rack technology without also implementing necessary changes to the overall capacity and cleaning quality of the dishwasher. Villarroel Decl. ¶ 16. The likely result is that while Samsung's dishwashers feature the enhanced top rack, it may compromise the overall performance of the dishwasher. This decreased performance will, in turn, falsely leave the impression on consumers that the enhanced top rack detracts from the ultimate capacity and cleaning quality of the dishwasher when, in fact, it does not do so provided that the rack is properly and thoughtfully integrated into the dishwasher. By decreasing demand for the enhanced top rack generally, Samsung's infringement will hurt Whirlpool's sales of dishwashers with enhanced top racks.

3. Price Erosion: Samsung's infringement will likely erode prices of dishwashers with enhanced top racks. Samsung copied the enhanced-top-rack technology without putting in the extensive research and work that Whirlpool did to develop not only that technology but also how the dishwasher can accommodate that technology without compromising overall quality. Unlike Whirlpool, which must price the KitchenAid dishwashers with the patented enhanced top rack to recoup its research and development costs, Samsung does not have to recoup such costs and can price its dishwashers with the infringing technology more cheaply. Because consumers may not recognize this dynamic and will choose the lower-priced unit when selecting between KitchenAid and Samsung dishwashers that superficially appear the same, Whirlpool will be forced to decrease prices to compete with Samsung. This harm arising from price erosion is not new to Whirlpool:

Samsung typically offers superficially similar features in its dishwashers at a lower price point to undercut Whirlpool's prices and gain market share. Villarroel Decl. ¶ 17.

4. Brand Erosion: Infringement by a dominant brand like Samsung will likely encourage other manufacturers to release dishwashers with their own infringing top racks that will result in Whirlpool competing against its own patented technology with both Samsung and others. *TEK Glob., S.R.L. v. Sealant Sys. Int'l, Inc.*, 920 F.3d 777, 792 (Fed. Cir. 2019) (affirming injunction where “without the injunction, TEK would be forced to compete with its own patented invention”); *Douglas Dynamics*, 717 F.3d at 1345 (“Where two companies are in competition against one another, the patentee suffers the harm—often irreparable—of being forced to compete against products that incorporate and infringe its own patented inventions.”).

As discussed above, the U.S. market for major appliances is highly competitive, with household names like LG, GE, and Bosch all vying for consumer spend. In this crowded market, Whirlpool has maintained market share by distinguishing itself as an innovator. Now, with Samsung dishwashers featuring the same innovation (from infringement of Whirlpool's patents), and the likelihood of other follow-on infringement, Whirlpool's once innovative enhanced top rack may become a common feature of dishwashers—before the expiration of Whirlpool's patent term and without fair compensation (in the form of licensing fees or otherwise) to Whirlpool for the innovation. Such a market that tramples upon patent rights reduces incentives to innovate.

To the extent that Samsung points to Whirlpool's maintenance of its market share in favor of denying a preliminary injunction, that fact is “immaterial.” *Douglas Dynamics*, 717 F.3d at 1344. “Simply because a patentee manages to maintain a profit in the face of infringing competition does not automatically rebut a case for irreparable injury.” *Id.* So too here. Even if a consumer did not purchase a Samsung Accused Product specifically for its enhanced top rack,

Samsung's infringement still results in the loss of Whirlpool's distinctiveness and market lure because Samsung could contend—or consumers may perceive—that Samsung had an innovative enhanced top rack without noting that it was invented by Whirlpool and infringes patents.

5. Permanent Loss of Exclusivity: Finally, “[t]he right to exclude competitors from using one’s property rights is important. And the right to maintain exclusivity—a hallmark and crucial guarantee of patent rights deriving from the Constitution itself—is likewise important.” *Apple Inc. v. Samsung Elecs. Co.*, 809 F.3d 633, 642 (Fed. Cir. 2015). “[T]he need to protect this exclusivity would certainly be at its highest when the infringer is one’s fiercest competitor.” *Id.* Here, Whirlpool has not licensed the Asserted Patents to any competitors. Instead, Whirlpool has focused on growing its share in the dishwasher category with its innovative patented designs. *Celsis In Vitro, Inc. v. CellzDirect, Inc.*, 664 F.3d 922, 931 (Fed. Cir. 2012) (“During the growth stage of a product, it is particularly crucial to be able to distinguish oneself from competitors. This includes building the brand, expanding the customer base, and establishing one’s reputation and leadership in the market.”); *Reebok Int’l Ltd. v. J. Baker, Inc.*, 32 F.3d 1552, 1557 (Fed. Cir. 1994) (“Because the principal value of a patent is its statutory right to exclude, the nature of the patent grant weighs against holding that monetary damages will always suffice to make the patentee whole.”).

Whirlpool is entitled to exclude infringers and protect its market share to avoid irreparable harm. Samsung’s continued infringement of the Asserted Patents, if left unabated, will continue to irreversibly destroy Whirlpool’s exclusivity and erode its concomitant (and legitimate) business strategy of growing market share through exclusivity. Loss of Whirlpool’s patent term is permanent, and monetary damages cannot restore a loss of patent-supported exclusivity. *See Masimo Corp. v. True Wearables, Inc.*, No. 2021-2146, 2022 WL 205485, at *6 n.4 (Fed. Cir. Jan. 24, 2022). An injunction would protect Whirlpool’s patent term and right to exclusivity.

C. Balance of Hardships

The balance of hardships also decidedly favors Whirlpool. As detailed above, absent an injunction, Whirlpool will endure significant hardships from irreparable harm to its market position and opportunities, price erosion, brand erosion, erosion of consumer demand for enhanced top racks, and loss of patent term. Whirlpool will also be deprived of its patent rights to determine whether and, if so, with whom to enter licenses and on what terms. This, in turn, depletes Whirlpool's flexibility and motivation to develop more innovations.

Even if enjoined, Samsung, a massive multinational corporation with numerous constituent business lines, would not generally go out of business, lose its consumer appliance business, or even lose its dishwasher business more specifically. Indeed, Whirlpool's proposed injunction is reasonably tailored to address Samsung's infringement. *See* Tambour Decl. ¶¶ 80–86. Samsung could continue selling dishwashers that do not infringe Whirlpool's patents. *Id.* Additionally, because Samsung has only recently begun introducing the infringing dishwashers into brick-and-mortar stores, it will incur less cost to comply with the injunction at this juncture than having to reverse a full launch of the dishwashers in stores. The fact that Samsung has not yet fully rolled out its infringing dishwashers in brick-and-mortar stores does not prevent issuance of a preliminary injunction. If anything, this timing supports issuance. “A plaintiff need not wait until the threatened injury is a reality before obtaining relief. Indeed, it aids the defendant to have an injunction issue at an early stage, before it has devoted time, energy, and resources to a marketing effort that may later be enjoined permanently.” *Kraft Gen. Foods, Inc. v. BC-USA, Inc.*, 840 F. Supp. 344, 352 (E.D. Pa. 1993) (citation omitted); *cf. Veracode, Inc. v. Appthority, Inc.*, 137 F. Supp. 3d 17, 98 (D. Mass. 2015) (issuing injunction with 30-day durational stay, and rejecting longer stay, where infringer “has not demonstrated that the work required to achieve full compliance would result in

irreparable injury.”). Finally, even in the unlikely event that this factor did not weigh in Whirlpool’s favor, a neutral finding on the balance of hardships would not change the ultimate analysis supporting the issuance of a preliminary injunction. *See Hybritech Inc. v. Abbott Laboratories*, 849 F.2d 1446, 1457–58 (Fed. Cir. 1988) (affirming injunction despite finding that “neither party has a clear advantage” on the balance of hardships factor).

D. Public Interest

The final factor considers the impact on the public interest. *See Winter*, 555 U.S. at 24; *Roche Prod., Inc. v. Bolar Pharm. Co.*, 733 F.2d 858, 866–67 (Fed. Cir. 1984). The public interest favors the enforcement of patent rights. *PPG Indus., Inc. v. Guardian Indus. Corp.*, 75 F.3d 1558, 1567 (Fed. Cir. 1996). In the present case, the public has no “critical” interest in having Samsung continue to sell its dishwashers with the infringing technology. Conversely, the public does have an interest in enjoining copies of patented inventions, “which have the effect of inhibiting innovation and incentive.” *Douglas Dynamics*, 717 F.3d at 1346. “This detrimental effect, coupled with the public’s general public interest in the judicial protection of property rights in inventive technology, outweighs any interest the public has in purchasing cheaper infringing products.” *Id.*

If sophisticated defendants like Samsung likewise assume they will face no risk of being enjoined preliminarily or permanently, they will have no incentive to mediate or settle. *See* Kristen Jakobsen Osenga, “Efficient” Infringement and Other Lies, 52 SETON HALL L. REV. 1085, 1090–91 (2022) (systems with “regularly-granted injunctions” encourage pre-infringement negotiations and provide a place from which post-lawsuit negotiations could begin). Applying the traditional practice of enjoining patent infringement would encourage parties in lawsuits to negotiate resolutions directly instead of using the courts as a negotiation forum. This would advance the public interest.

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Respectfully submitted,

By: /s/ Joseph S. Grinstein

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CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(h), I certify that counsel for Whirlpool will meet and confer with counsel for Samsung to discuss the substantive relief sought in this Motion as soon as Samsung makes an appearance in the case. Counsel for Whirlpool is filing this Motion now so that the Motion is timely but is unable to confer with counsel for Samsung until they appear.

/s/ Joseph S. Grinstein
Joseph S. Grinstein

CERTIFICATE OF SERVICE

I certify that on October 10, 2025, a true and correct copy of the foregoing document was served upon all counsel of record via the Court's ECF system.

/s/ Joseph S. Grinstein
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