



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

WHIRLPOOL CORPORATION,

Plaintiff,

v.

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

Defendants.

Civil Action No. 2:25-cv-01042-JRG-RSP

JURY TRIAL DEMANDED



**SAMSUNG’S OPPOSITION TO WHIRLPOOL’S
MOTION FOR PRELIMINARY INJUNCTION (DKT. 4)**



TABLE OF CONTENTS

I. INTRODUCTION 1

II. FACTUAL BACKGROUND..... 2

 A. Whirlpool’s Patents Claim Limited and Incremental Changes To A Dishwasher Rack 2

 B. Samsung’s Accused Dishwashers Have Been On Sale—including In Physical Retail Stores—For Over Six Months 2

 C. “Premium” And Third Rack Dishwashers Have Long Been Available 3

III. LEGAL STANDARD..... 4

IV. ARGUMENT: WHIRLPOOL’S MOTION SHOULD BE DENIED 4

 A. Whirlpool Has Not Shown Irreparable Harm 4

 1. Whirlpool’s Six-Month Delay Defeats Irreparable Harm. 5

 2. Whirlpool’s Claimed Harms Have Not Occurred And Are Speculative Or Unsupported 6

 3. There Is No Nexus Between Any Claimed Harm And Infringement. 9

 B. Whirlpool Has Not Established A Likelihood Of Success On The Merits..... 11

 1. Whirlpool Fails To Show That It Will Likely Prove Infringement 11

 2. There Is A Substantial Question Of Validity 13

 C. Equities Favor Market Competition..... 14

 D. There Is No Critical Public Interest Demanding an Immediate Injunction 15

V. CONCLUSION..... 15

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Apple Inc. v. Samsung Elecs. Co.</i> , 695 F.3d 1370 (Fed. Cir. 2012)	4
<i>Apple Inc. v. Samsung Elecs. Co.</i> , 735 F.3d 1352 (Fed. Cir. 2013)	15
<i>Apple, Inc. v. Samsung Elecs. Co.</i> , 678 F.3d 1314 (Fed. Cir. 2012)	4, 9
<i>Automated Merch. Sys., Inc. v. Crane Co.</i> , 357 F. App'x 297 (Fed. Cir. 2009)	8
<i>Boire v. Pilot Freight Carriers, Inc.</i> , 515 F.2d 1185 (5th Cir. 1975)	5
<i>BoxCast Inc. v. Resi Media LLC</i> , No. 2:21-cv-00217-JRG, 2022 WL 884261 (E.D. Tex. Mar. 24, 2022)	10, 11
<i>Celgard, LLC v. LG Chem, Ltd.</i> , 624 F. App'x 748 (Fed. Cir. 2015)	15
<i>Chrysler Motors Corp. v. Auto Body Panels of Ohio, Inc.</i> , 908 F.2d 951 (Fed. Cir. 1990)	7
<i>Genband US LLC v. Metaswitch Networks Corp.</i> , No. 2:14-cv-00033-JRG, 2018 WL 11357619 (E.D. Tex. Mar. 22, 2018)	10
<i>Gonannies, Inc. v. Goupair.Com, Inc.</i> , 464 F. Supp. 2d 603 (N.D. Tex. 2006)	5
<i>H.D. Vest, Inc. v. H.D. Vest Mgmt. and Servs., LLC</i> , No. 3:09-cv-00390-L, 2009 WL 1766095 (N.D. Tex. June 23, 2009)	5
<i>LifeScan Scotland, Ltd. v. Shasta Techs., LLC</i> , 734 F.3d 1361 (Fed. Cir. 2013)	11
<i>Masimo Corp. v. True Wearables</i> , No. 2021-2146, 2022 WL 205485 (Fed. Cir. Jan. 24, 2022)	9
<i>Multilift Wellbore Tech. Ltd. v. ESP Completion Techs. LLC</i> , No. 2:16-CV-01187-RSP, 2017 WL 10222420 (E.D. Tex. July 25, 2017)	4, 8, 15
<i>Nuclear-Chicago Corp. v. Nuclear Data, Inc.</i> , 465 F.2d 428 (7th Cir. 1972)	9
<i>Nutrition 21 v. U.S.</i> , 930 F.2d 867 (Fed. Cir. 1991)	6
<i>Pfizer, Inc. v. Teva Pharm., USA, Inc.</i> , 429 F.3d 1364 (Fed. Cir. 2005)	5



Polymer Techs., Inc. v. Bridwell,
103 F.3d 970 (Fed. Cir. 1996) 4

Pruvit Ventures, Inc. v. Forevergreen Int’l LLC,
No. 4:15-CV-571-ALM-CAN, 2015 WL 9876952 (E.D. Tex. Dec. 23, 2015), *R&R adopted*,
2016 WL 231160 (E.D. Tex. Jan. 19, 2016)..... 5, 6

Reebok Int’l Ltd. v. J. Baker, Inc.,
32 F.3d 1552 (Fed. Cir. 1994) 4, 9

SmartSky Networks, LLC v. Gogo Bus. Aviation, LLC,
No. 2023-1058, 2024 WL 358136 (Fed. Cir. Jan. 31, 2024)..... 8

Titan Tire Corp. v. Case New Holland, Inc.,
566 F.3d 1372 (Fed. Cir. 2006) 11

I. INTRODUCTION

Whirlpool's motion fails to meet the standard for a preliminary injunction ("PI") and, instead, rests on speculative and incorrect factual assertions. Specifically, Whirlpool erroneously contends that Samsung plans to "dramatically expand its sale" of the accused dishwashers into brick-and-mortar stores in the near future, which it anticipates will result in "irreversible and cascading harm." Yet Samsung's accused dishwashers *have been available in [REDACTED] brick-and-mortar locations nationwide since April 2025—six months before Whirlpool filed suit.* And despite six months of real world sales of the accused dishwashers online and in stores, Whirlpool provides no evidence of actual harm, instead relying almost exclusively on unsubstantiated (and factually incorrect) speculation. Whirlpool's delay of over *six months* in seeking a preliminary injunction, thus, belies any claim of irreparable harm warranting urgent relief, as this District and other courts in the Fifth Circuit have consistently ruled. In the end, this case is just like the vast majority of patent cases where harm, if any, can be compensated by money damages.

Further, Whirlpool fails to show a likelihood of success on the merits. For both the '385 and '681 Patents, Samsung has identified strong non-infringement defenses and invalidating prior art, including anticipating prior art for the '681 Patent. The equities and public interest likewise weigh against Whirlpool. A preliminary injunction would disrupt Samsung's manufacturing and sales after Samsung has already expended significant resources in a nationwide rollout that occurred over six months ago, during which time Whirlpool has withstood the competition without any significant, let alone existential, threat to its business. And the accused features represent only a minor aspect of both Samsung's and Whirlpool's premium dishwashers, which themselves comprise a small segment of the overall dishwasher market. Removing from the market an entire product line based on a minor, allegedly infringing aspect disserves the public interest.

Because all four factors weigh against a PI, Whirlpool's motion should be denied.

- **April 2025:** The Accused Product launched in brick-and-mortar stores. Best Buy began flooring the product in April 2025, part of Best Buy's regular floor reset, completing placement in approximately [REDACTED] stores within one to four weeks.
- **June 2025:** The Accused Product launched in Lowe's stores, being displayed in about [REDACTED] stores by early July 2025, reflecting approximately [REDACTED] completion.
- **July-August 2025:** Placement into some smaller regional retailers is completed.

Declaration of Joshua Stumacher ("Stumacher Decl.") ¶¶ 5-12; *see also* Declaration of Paige Hardy ("Hardy Decl.") ¶¶ 16-19, Exs. N-Q. Thus, the vast majority of *in-store* placements for the Accused Product occurred between April and June 2025. Stumacher Decl. ¶ 12. The Accused Product replaced a prior Samsung model with a larger retail footprint, so its introduction did not displace competitor floor space. *Id.* ¶ 14. Currently, the Accused Product is on display and sale in more than [REDACTED] brick-and-mortar stores, including Best Buy and Lowe's, which is among the widest current retail floor distributions for a premium Samsung dishwasher. *Id.* ¶ 12; *see also* Hardy Decl. ¶¶ 2-3, 6 (confirming current availability).

C. "Premium" And Third Rack Dishwashers Have Long Been Available

Whirlpool is also incorrect when it asserts that, as of today, the market for third-rack dishwashers with cup space is limited to its KitchenAid brand and Samsung's Accused Product online. *Cf.* Villarroel Decl. (Dkt. 4-8) ¶¶ 5-6. Dishwashers with cup-holding third racks have been available for years from Whirlpool's other brands, as well as competitors such as Bosch, which has offered third racks accommodating drinkware since 2019. Cameron Decl. ¶¶ 50-54, Ex. F. Further, the "3rd rack" designation is not unique to the Accused Product and has appeared in the names of multiple prior, non-accused Samsung models. Stumacher Decl. ¶ 16. Moreover, beyond the third rack, both Samsung and Whirlpool dishwashers include many other, more significant features. For Samsung, some of these other features which drive retail purchase decisions include ultra-quiet operation (38 dBA), premium Bespoke design, SmartThings app integration, AI-assisted wash cycles, energy optimization, and smart dry/auto-release doors. *Id.* ¶ 15.

The Accused Product's price—in the range of \$849.99 to \$999—is either higher than or the same as Whirlpool's KitchenAid third-rack dishwashers, which are priced in the \$799-\$948.99 range. *See Hardy Decl.* ¶¶ 3-11. Market data confirms the Accused Product's introduction had no discernible impact on KitchenAid's market share. *See Stumacher Decl.* ¶ 18, Exs. 5, 6.

III. LEGAL STANDARD

Whirlpool must show that: (1) it is likely to succeed on the merits, (2) it will suffer irreparable harm without injunctive relief, (3) the balance of hardships tips in its favor, and (4) an injunction is in the public's interest. *Apple, Inc. v. Samsung Elecs. Co.*, 678 F.3d 1314, 1323 (Fed. Cir. 2012). "A preliminary injunction . . . is 'a drastic and extraordinary remedy that is not to be routinely granted.'" *Multilift Wellbore Tech. Ltd. v. ESP Completion Techs. LLC*, 2017 WL 10222420, at *1 (E.D. Tex. July 25, 2017). "[T]he district court may deny a preliminary injunction based on the movant's failure to establish either of [likelihood of success on the merits or irreparable harm]." *Reebok Int'l Ltd. v. J. Baker, Inc.*, 32 F.3d 1552, 1556 (Fed. Cir. 1994).

IV. ARGUMENT: WHIRLPOOL'S MOTION SHOULD BE DENIED

Whirlpool has not satisfied its burden for a PI on *any* of the four factors. Indeed, Whirlpool's contentions as to irreparable harm rely on incorrect factual assertions and speculation. Nor can Whirlpool show it is likely to succeed on the merits, as the Accused Product lacks multiple claim elements, and all of the claimed features were known and disclosed in the prior art.

A. Whirlpool Has Not Shown Irreparable Harm

To demonstrate irreparable harm, Whirlpool must meet the stringent requirement of "showing a likelihood of substantial and immediate irreparable injury." *Apple Inc. v. Samsung Elecs. Co.*, 695 F.3d 1370, 1374 (Fed. Cir. 2012). Whirlpool cannot do that here, which alone is fatal. *See Polymer Techs., Inc. v. Bridwell*, 103 F.3d 970, 974 (Fed. Cir. 1996). In particular, Whirlpool cannot show irreparable harm given (1) it delayed seeking relief for six months after

the Accused Product went on sale in stores and online (and nine months after its rollout was announced at widely-attended industry trade shows), and (2) the lack of nexus between the alleged harm and infringement. Whirlpool's alleged harms are also speculative, illogical, and refuted by the fact that none have actually transpired since the Accused Product went on sale in April 2025.

1. **Whirlpool's Six-Month Delay Defeats Irreparable Harm.**

Whirlpool admits that Samsung made the accused dishwasher available "in or around April 2025," yet Whirlpool waited *six months* to file its PI motion. Mot. at 3. A plaintiff's undue delay in seeking a preliminary injunction "negates the idea of irreparability." *Pfizer, Inc. v. Teva Pharm., USA, Inc.*, 429 F.3d 1364, 1381-82 (Fed. Cir. 2005). Courts in the Fifth Circuit consistently hold that such a delay weighs strongly against injunctive relief:

- **Three-month** delay too long. *Boire v. Pilot Freight Carriers, Inc.*, 515 F.2d 1185, 1193 (5th Cir. 1975) (affirming denial of temporary injunctive relief).
- **Five-month** delay too long. *Pruvit Ventures, Inc. v. Forevergreen Int'l LLC*, 2015 WL 9876952, at *8 (E.D. Tex. Dec. 23, 2015), *R&R adopted*, 2016 WL 231160 (E.D. Tex. Jan. 19, 2016) (five-month delay "rebutted [] claim of irreparable harm" and "weigh[ed] heavily against granting injunctive relief") (collecting cases).
- **Five-month** delay too long. *Gonannies, Inc. v. Goupair.Com, Inc.*, 464 F. Supp. 2d 603, 609 (N.D. Tex. 2006) (denying PI motion after finding that five-month delay rebutted any presumption of irreparable harm).
- **Five-month** delay too long. *H.D. Vest, Inc. v. H.D. Vest Mgmt. and Servs., LLC*, 2009 WL 1766095, at *4 (N.D. Tex. June 23, 2009) (denying PI motion after finding almost five-month delay in seeking relief sufficient to rebut a presumption of irreparable harm).

Whirlpool tries to excuse its delay by erroneously contending that "Samsung ... plans to expand the launch into brick-and-mortar stores by the end of this year and as early as this fall." See Mot. at 1; see also Villarroel Decl. ¶ 8 ("I believe...that Samsung soon plans to expand its sale of these dishwashers into brick-and-mortar appliance stores.") That is false. The Accused Product launched for sale *both online and in stores* starting in April 2025, following Samsung's earlier previews at public industry trade shows that were attended by Whirlpool in January and February 2025. Stumacher Decl. ¶¶ 5-8; Hardy Decl. ¶¶ 16-18. The Accused Product quickly reached more

than [REDACTED] floors at major retailers like Best Buy and Lowe's between April and June 2025. See Stumacher Decl. ¶ 12, Ex. 3; Hardy Decl. ¶ 2 (confirming current availability). Whirlpool's six-month delay seeking relief defeats any claim of imminent, non-compensable injury.

2. **Whirlpool's Claimed Harms Have Not Occurred And Are Speculative Or Unsupported**

Whirlpool offers only generalized claims of market share loss, "ecosystem" or "suite" effects, brand harm, and future price erosion. Mot. at 6-13; Luckman Decl. (Dkt. 4-7) ¶ 8. But the law requires concrete evidence such harms are both likely *and* not reasonably compensable. "[N]either the difficulty of calculating losses in market share, nor *speculation that such losses might occur*, amount to proof of special circumstances justifying the extraordinary relief of a [PI]." *Nutrition 21 v. U.S.*, 930 F.2d 867, 871 (Fed. Cir. 1991) (emphasis added). Whirlpool's irreparable-harm narrative rests on conjecture not evidence. The evidence shows a crowded, multi-brand marketplace with no concrete in-store displacement or impact on consumer behavior—including in the six months since Samsung's accused dishwashers went on sale in stores and online. Whirlpool provides no evidence of actual KitchenAid displacement, irreversible cascade, or non-compensable effects, because none exists.

No loss of market share or market opportunity: "Proof of lost market share and lost sales alone are insufficient to establish irreparable harm." *Pruvit*, 2015 WL 9876952, at *6. Whirlpool's speculation about losing retail floor space for KitchenAid products to Samsung's Accused Product is also contradicted by the evidence. Mot. at 7-8. The Accused Product was placed on more than [REDACTED] retail floors in the April-June 2025 period ([REDACTED] now), and it displaced older Samsung models that occupied greater floor space ([REDACTED] floors), causing no net loss of floor space for Whirlpool (or other competitors). Stumacher Decl. ¶¶ 12-14. Whirlpool's claims of urgency and a "unique moment" (Mot. at 2) are further undermined, again, by the Accused

Product's presence in brick-and-mortar stores for six months, without causing any displacement. *Id.* And the market share data shows no significant changes for KitchenAid, Whirlpool, or other brands during the six months the Accused Product has been on the market. *Id.* ¶ 18, Exs. 5, 6.

Whirlpool's assertion that premium KitchenAid dishwasher sales drive follow-on appliance purchases is unsupported; Whirlpool provides no data or analysis showing dishwasher sales drive other appliance sales. *See* Mot. at 8-9; Villarroel Decl. ¶ 13. Moreover, Whirlpool offers the patented third-rack configuration in other, non-KitchenAid dishwashers, undermining its premium brand "kitchen suite" theory and any claim that the third rack uniquely distinguishes KitchenAid models. *See* Hardy Decl. ¶¶ 5, 8, 12-15, Exs. C, F, J-M; *cf.* Villarroel Decl. ¶ 5.

No alleged "erosion of demand" for third-rack dishwashers: Whirlpool's theory that Samsung's implementation of a top, third rack in its accused dishwashers devalues "enhanced top racks" and harms Whirlpool's brand and feature demand is factually unsupported and legally irrelevant. Mot. at 9-11. Courts routinely reject "market erosion" and reputational harm claims that lack "objective, empirical" support, such as "surveys, interviews, or other material" and instead rest on speculation. *Chrysler Motors Corp. v. Auto Body Panels of Ohio, Inc.*, 908 F.2d 951, 954 (Fed. Cir. 1990). Here, Whirlpool's PI motion and supporting declarations rest entirely on speculative assertions; they do not cite surveys, tests, retailer returns data, service metrics, or third-party reviews to show degraded performance or cross-brand feature aversion. And despite six months of widespread online and in-store availability of Samsung's Accused Product, there is no evidence of any actual "erosion." Further, Bosch's comparable third-rack design has been on the market since 2019 (*see* Cameron Decl. ¶¶ 50-54, Ex. F), without any claim by Whirlpool that this has caused any erosion or market-wide aversion to Whirlpool's three-rack dishwashers.

Whirlpool's argument is also illogical and self-defeating. Whirlpool contends that it has

implemented four *non-patented* improvements to its three-rack dishwashers, and because Samsung’s accused dishwashers lack those improvements, Samsung will erode the reputation and market for *all* such dishwashers. Mot. at 9-10 (listing increased tub capacity, water deployment into drinkware, spray tube interaction with water types, and top rack loading). But if, as Whirlpool claims, Samsung’s products are inferior, it would be *Samsung’s* reputation that suffers, as consumers would choose Whirlpool’s products instead. Indeed, this Court rejected similar arguments in *Multilift*, denying a PI because the plaintiff’s “inference that...customers...would attribute a difficulty with [patentee’s product] to [defendant’s product] – and decide not to purchase either product – is simply not supported, nor logical.” 2017 WL 10222420, at *2.

No price erosion: Courts “required concrete evidence of reduced price to find price erosion.” *SmartSky Networks, LLC v. Gogo Bus. Aviation, LLC*, No. 2023-1058, 2024 WL 358136, at *5 (Fed. Cir. Jan. 31, 2024). Whirlpool provides no pricing analysis, data, or any other evidence of any price decline—only speculation. See Mot. at 11-12; Villarroel Decl. ¶ 17. Since Samsung’s Accused Product went on sale six months before Whirlpool’s motion, there is no evidence or claim Whirlpool has reduced its prices. See *id.* Even if a price decrease had occurred, Whirlpool fails to demonstrate damages would be incalculable, let alone that “failing to grant a [PI] would permit [Samsung] to drop its prices in order to drive [Whirlpool] out of the market entirely.” *Automated Merch. Sys., Inc. v. Crane Co.*, 357 F. App’x 297, 301 (Fed. Cir. 2009).

No brand erosion: Whirlpool’s “brand erosion” argument relies on speculation that Samsung’s sales of three-rack dishwashers will encourage third party competitors to flood the market with new, similar three-rack dishwashers in the near future. Mot. at 12-13. Whirlpool cites no legal support for its theory, and its cited authorities are inapposite. Neither *TEK Global v. Sealant Sys.* nor *Douglas Dynamics* addressed potential third-party infringement. See *id.* In fact,

courts have held that irreparable harm cannot be shown “by positing potential competition from third parties,” as Whirlpool does here. *Nuclear-Chicago Corp. v. Nuclear Data, Inc.*, 465 F.2d 428, 429 (7th Cir. 1972). Moreover, contrary to Whirlpool’s speculation, other manufacturers, such as Bosch, have been selling dishwashers with third racks for holding cups and utensils for years, since 2019. *See* Cameron Decl. ¶¶ 50-54, Ex. F. Thus, the advent of three-rack dishwashers from competitors is not an imminent, future harm. Rather, it is a longstanding market reality that Whirlpool has not shown resulted in any of the alleged “brand erosion.”

“Loss of exclusivity” and “right to exclude” are not irreparable harm: Whirlpool finally argues loss of exclusivity, but courts have repeatedly held that the right to exclude alone is not a cognizable irreparable harm. Mot. at 13. In the *Reebok* case, on which Whirlpool relies, the Federal Circuit rejected the patentee’s argument that its “right to exclude establishes irreparable harm because it will forever lose that right ... if [defendant] is not excluded from the marketplace through a preliminary injunction.” 32 F.3d at 1558-59. Whirlpool’s reliance on *Masimo Corp. v. True Wearables* is equally misplaced. Mot. at 13 (citing 2022 WL 205485, at *1 (Fed. Cir. Jan. 24, 2022)). That case involved an effort to prevent trade secret misappropriation, by stopping defendant’s patent application from becoming public. On appeal, the defendant argued the court erred *in balancing the equities* because it failed to consider the loss of its patent term, an argument the Federal Circuit held was waived. *Id.* at *6 n.4. Nothing in *Masimo* supports Whirlpool’s claim of irreparable harm due to “loss of patent-supported exclusivity.” *Cf.* Mot. at 13.

3. **There Is No Nexus Between Any Claimed Harm And Infringement.**

Because irreparable harm “cannot be shown if sales would be lost regardless of the infringing conduct,” Whirlpool must “show that the infringement caused [the] harm in the first place.” *Apple*, 678 F.3d at 1324. Establishing causal nexus requires evidence that the patented feature “is *one of several features that cause consumers to make their purchasing decisions*” or

its “inclusion or absence . . . makes a product *significantly* more or less desirable.” *Genband US LLC v. Metaswitch Networks Corp.*, 2018 WL 11357619, at *2 (E.D. Tex. Mar. 22, 2018) (emphasis added). This often requires “survey evidence showing that the infringer’s customers would be willing to pay a ‘price premium’ for a product with the claimed features.” *Id.*

Whirlpool has not provided, and cannot provide, such evidence as the asserted claims cover only incremental improvements to the geometry and spray system of a dishwasher’s smallest of three racks, used to hold cups and utensils. *See* Mot. at 3; Villarroel Decl. at 2-3; Cameron Decl. ¶¶ 12-21, 27-36. Whirlpool offers no proof that these incremental features drive consumer choice. To the contrary, Whirlpool’s motion and declaration emphasize features not claimed in the asserted patents, such as increased tub capacity, water deployment into drinkware, spray tube interaction with water types, and optimal placement of items in the top rack, as innovative and distinctive aspects of KitchenAid dishwashers. Mot. at 9-10; Luckman Decl. ¶¶ 4-7. Marketing for the KitchenAid 360 Max Jets dishwasher highlights additional non-patented features, including 50+ wash jets, low noise, drying system, increased capacity, a self-cleaning filter, and specialized cycles. *See* Hardy Decl. Ex. I. Samsung similarly markets and differentiates its Accused Product based on non-patented features, such as IoT and AI features, including AI Wash Cycle, AI Energy mode, SmartThings App connectivity (absent in KitchenAid), better energy efficiency, quieter operation (38 dBA vs. 44 dBA for KitchenAid), StormWash washing system, auto-release door, and Ready2Fit guarantee. Stumacher Decl. ¶ 15; Hardy Decl. Ex. G.

On similar facts, in *BoxCast Inc. v. Resi Media LLC*, this Court denied a PI because the plaintiff failed to make “a clear showing” of nexus. 2022 WL 884261, at *3 (E.D. Tex. Mar. 24, 2022). The Court held that the plaintiff had “not adequately shown that the alleged harm is tied to the alleged acts of infringement” because it “ignore[d] the evidence in the record that shows that

[defendant]’s product provides additional features and ... costs significantly more than [plaintiff]’s product.” Id. As in *BoxCast*, Samsung’s Accused Product has unique features and costs more than Whirlpool’s product, defeating any claim of nexus or irreparable harm.

Whirlpool’s argument that irreparable harm exists “[e]ven if a consumer did not purchase a Samsung Accused Product specifically for its enhanced top rack” misstates the law. Mot. at 12. *Douglas Dynamics v. Buyers Prods.*, cited by Whirlpool, does not support finding irreparable harm without a causal link between the patented feature and the alleged harm. 717 F.3d 1336, 1344 (Fed. Cir. 2013). The *Douglas Dynamics* court merely observed that irreparable injury can take various forms, not that it exists without a causal connection to the alleged infringement. *See id.* Whirlpool’s motion should thus be denied based on the irreparable harm factor alone.

B. Whirlpool Has Not Established A Likelihood Of Success On The Merits

“[L]ikelihood of success” means that Whirlpool “must show that it will likely prove infringement, and that it will likely withstand challenges, if any, to the validity of the patent.” *Titan Tire Corp. v. Case New Holland, Inc.*, 566 F.3d 1372, 1376 (Fed. Cir. 2006). Samsung need only “rais[e] a substantial question concerning either infringement or validity” to defeat a PI motion. *LifeScan Scotland, Ltd. v. Shasta Techs., LLC*, 734 F.3d 1361, 1366 (Fed. Cir. 2013). Whirlpool cannot carry its burden. As detailed in the declaration of Samsung’s expert, Dr. Kimberly Cameron, and summarized below, not only does the Accused Product lack multiple claim elements, all the claimed features were known and disclosed by multiple prior art references.

1. Whirlpool Fails To Show That It Will Likely Prove Infringement

Accused Samsung dish racks do not include a key requirement of all asserted claims:

All asserted claims of both patents require the bottom wall of the dish rack include an “inclined” or “angled” portion extending to the peripheral side wall. Specifically, independent Claim 17 of the ’385 Patent recites “a plurality of spaced apart *inclined portions ... terminating at the side*

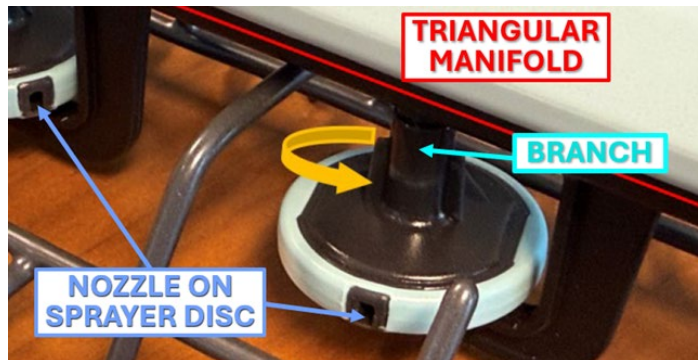
wall.” Independent Claim 14 of the ’681 Patent requires the same geometry, reciting that “at the second end” of the rack—i.e., where the bottom wall meets the side wall—a “second portion” of the bottom wall must be “angled.” As illustrated below, in the accused Samsung racks, the upwardly angled section of the bottom wall stops well short of the side wall, and an intervening horizontal segment extends to the side wall.

Because the Accused Product does not include this common requirement of all



asserted claims, Whirlpool cannot show likely infringement. Cameron Decl. ¶¶ 79-82, 98-99.

Samsung dish racks do not meet additional limitations of the ’385 Patent: The Accused Product does not infringe the ’385 Patent asserted Claims 17-21 for at least two additional reasons. *First*, the product lacks “a spray tube having nozzles.” Cameron Decl. ¶¶ 83-89. As shown in the image below, Samsung’s spray system comprises a series of disc sprayers, each connected to a branch extending from a triangular manifold. *Id.* This is a fundamentally different design from a spray tube that has nozzles for emitting liquid. *See* ’385 Patent at Fig. 8 (depicting spray tubes 90d and 104d). Indeed, the ’385 Patent distinguishes the claimed spray tube from other sprayer configurations, including “spray discs.” *Id.*, 10:45-53.



Second, the accused racks lack “a *curved* mounting portion adjacent which the spray tube is mounted.” Cameron Decl. ¶¶ 90-96. The ’385 Patent distinguishes its curved spray-tube mounting portions from a “flat central portion.” *Id.* Samsung’s accused third rack cannot meet this limitation, because, as illustrated below, the triangular member that Whirlpool accuses as the

claimed “spray tube” is mounted over a flat section of the rack’s bottom wall equivalent to the ’385 Patent’s “flat central portion”—not to any “curved” mounting portion. *Id.*

’385 Patent:

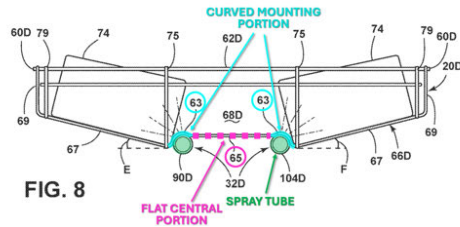
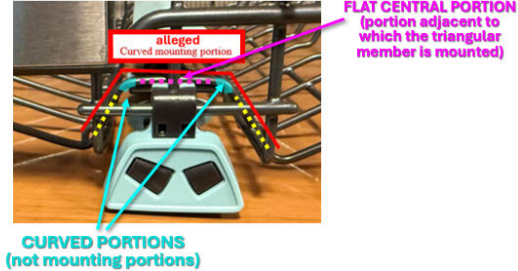


FIG. 8

Whirlpool’s allegation (annotated):



2. There Is A Substantial Question Of Validity

The ’681 Patent is invalid on three grounds, including two anticipating references.

Both technical experts agree the ’681 Patent asserted claims correspond to the embodiment of Figure 3 of the ’681 Patent, annotated to the right to illustrate the claimed features. Tanbour Decl. ¶ 32; Cameron Decl. ¶ 30.

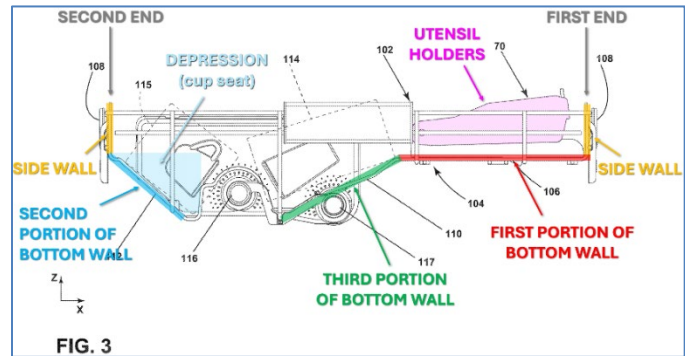
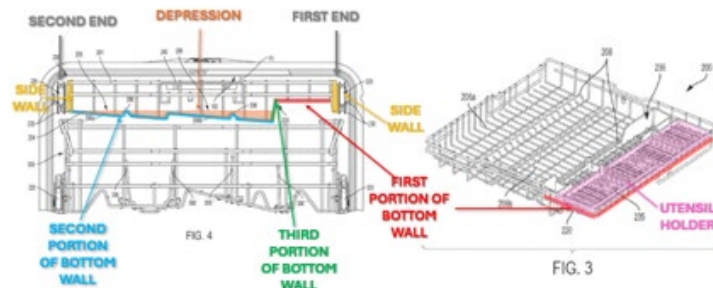


FIG. 3

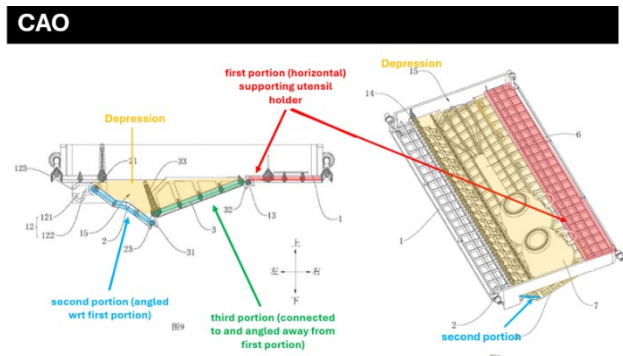
Each of these features was known in the prior art. Cameron Decl. ¶¶ 101-165. Specifically: the Bosch 800 Series Dishwasher (released by 2019), U.S. Pat. Pub. No. 2018/0220867 to Carr, and U.S. Pat. Pub. No. 2008/0169009 to Mailander each disclose a dishwasher rack with (1) a flat utensil-supporting first portion; (2) an angled second portion for cups in a lower “depression” area; and (3) a third angled portion extending from the first, as shown below. *Id.*

CARR





Bosch 800 and Carr both anticipate all asserted Claims 14-15 of the '681 Patent. *Id.* ¶¶101-138. Mailander renders them obvious when combined with Cao (CN 106343937) which further discloses a dish rack with virtually the same geometry as the '681 Patent's Figure 3, as illustrated below. A POSITA would have been motivated to combine Cao and Mailander, to arrive at a dish rack that renders obvious the '681 Patent's asserted claims. *Id.* ¶¶ 139-145.



'385 Patent is obvious: For the '385 Patent, Dr. Cameron explains that asserted Claims 17 and 21 are obvious over a combination of German Patent No. DE6810173 to Bosch, in view of U.S. Patent No. 6,869,029 to Ochoa. Cameron Decl. ¶¶ 166-187. And the addition of U.S. Patent No. 10,045,681 to Schessl renders obvious dependent Claims 18-20. *Id.* ¶¶ 188-198.

C. Equities Favor Market Competition

Samsung's hardship from an injunction is concrete and weighty, whereas Whirlpool's claimed hardship from competition is manageable and compensable. Whirlpool's claim that Samsung would be unharmed because it "has not yet fully rolled out its infringing dishwashers in [] stores" (Mot. at 14), is incorrect, *see supra* § II.B. Contrary to Whirlpool's claim, the Accused Product is, in fact, "already fully entrenched in the marketplace." Mot. at 2. An injunction—six months after a nationwide rollout to over [REDACTED] stores—would harm Samsung by spoiling the many

resources it invested, disrupting its manufacturing and sales contracts, and jeopardizing its market presence. *See* Stumacher Decl. ¶ 20. This factor weighs against an injunction as “stop[ping] production or sales . . . affect[s defendant’s] relationships with its customers.” *Celgard, LLC v. LG Chem, Ltd.*, 624 F. App’x 748, 754 (Fed. Cir. 2015). An injunction would also harm Samsung’s brand reputation, by labeling it an infringer before a full trial. Stumacher Decl. ¶ 21.

Conversely, Whirlpool’s dominance and past success—in a market with similar third-rack dishwashers from Bosch—show it can withstand competition and seek damages if Samsung is found to infringe. As Whirlpool admits, its patents cover only one of its three premium dishwasher lines (KitchenAid) and none of its non-premium lines. Mot. at 1. Whirlpool is also “a massive multinational corporation with numerous constituent business lines” that also sells refrigerators, washers, dryers, ranges, microwaves, and more. *See id.* at 14. There is no existential threat warranting the “drastic and extraordinary remedy” of a PI. *Multilift*, 2017 WL 10222420, at *1.

D. There Is No Critical Public Interest Demanding an Immediate Injunction

This factor “does not support removing [products] from the market when the infringing components constitute such limited parts of complex, multi-featured products.” *Apple Inc. v. Samsung Elecs. Co.*, 735 F.3d 1352, 1372 (Fed. Cir. 2013). Yet, here, Whirlpool proposes to do exactly that in a mature consumer market like home appliances: it seeks to remove from the market an entire line of advanced AI- and IoT-powered Samsung dishwashers because of their third rack’s geometry, which is less important to consumers than the dishwashers’ many other features. *See supra* § IV.A.3. An “injunction would disserve the public interest” because it would “depriv[e] the public of access to a large number of non-infringing features.” *Apple*, 735 F.3d at 1372.

V. CONCLUSION

For the foregoing reasons, the Court should deny Whirlpool’s motion.

Dated: December 12, 2025

Respectfully submitted,

*/s/ Shaun W. Hassett, with permission for
Marc J. Pensabene*

Marc J. Pensabene (*Pro Hac Vice*)
New York State Bar No. 2656361
mpensabene@omm.com
O'MELVENY & MYERS LLP
1301 Avenue of the Americas, Suite 1700
New York, New York 10019
Telephone: 212-326-2000
Facsimile: 212-326-2061

Ryan K. Yagura (Tex. Bar No. 24075933)
ryagura@omm.com
Paige Hardy (*Pro Hac Vice*)
California State Bar No. 348841
phardy@omm.com
O'MELVENY & MYERS LLP
400 S. Hope Street
Los Angeles, CA 90071
Telephone: 213-430-6000
Facsimile: 213-430-6407

Mark Liang (*Pro Hac Vice*)
California State Bar No. 278487
mliang@omm.com
Sorin G. Zaharia (*Pro Hac Vice*)
California State Bar No. 312655
szaharia@omm.com
O'MELVENY & MYERS LLP
Two Embarcadero Ctr. 28th Floor
San Francisco, CA 94111
Telephone: 415-984-8700
Facsimile: 415-984-8701

Timothy S. Durst (Tex. Bar No. 00786924)
tdurst@omm.com
O'MELVENY & MYERS LLP
2801 North Harwood Street Suite 1600
Dallas, TX 75201
Telephone: 972-360-1900
Facsimile: 972-360-1901

Michael E. Jones (Tex. Bar No. 24001351)
mikejones@potterminton.com
Shaun W. Hassett (Tex. Bar No. 24074372)
shaunhassett@potterminton.com
POTTER MINTON
102 North College Suite 900
Tyler, TX 75702

[REDACTED]

Telephone: 903-597-8311
Facsimile: 903-593-0846

*Attorneys for Defendants Samsung Electronics
Co., Ltd. and Samsung Electronics America,
Inc.*

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via electronic mail on December 12, 2025.

I also hereby certify that all counsel of record who have consented to electronic service are being served with a notice of filing of this document, under seal, pursuant to L.R. CV-5(a)(7) on December 12, 2025.

/s/ Shaun W. Hassett

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]