

**IN THE 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

**PLAINTIFF'S POST-HEARING REPLY BRIEF IN SUPPORT OF
MOTION FOR A PRELIMINARY INJUNCTION**



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[REDACTED]

In its opening brief, Whirlpool presented clear evidence of its likelihood of success on the merits. Whirlpool demonstrated infringement of the '681, '385, and '922 patents, further bolstered by admissions from Samsung [REDACTED]

[REDACTED] Samsung raised no substantial questions as to infringement—and can do no better than attempt to insert limitations that do not appear in the claim language. Samsung also creates no substantial question on the issue of validity. Just the opposite: Samsung's internal documents [REDACTED], and Samsung opted against copying the designs of Bosch and others, the very prior artists Samsung now unsuccessfully relies on for its invalidity arguments.

Whirlpool need only establish the likelihood of success as to one claim, and Samsung has not offered a substantial question of success as to any, let alone every, claim. To boot, Samsung devotes a single paragraph [REDACTED]. Left unrebutted, this evidence supports a finding of both irreparable harm and success on the merits. *See* Open. Br. 9–10 (citing *Apple Inc. v. Samsung Elecs. Co., Ltd.*, 809 F.3d 633, 643 (Fed. Cir. 2015); *Windsurfing Intern. Inc. v. AMF, Inc.*, 782 F.2d 995, 1000 (Fed. Cir. 1986)).

I. Whirlpool Will Suffer Irreparable Harm Without Injunctive Relief.

A. Whirlpool Did Not “Delay” in Seeking Relief.

Unable to dispute the evidence of infringement, going so far as to engage in express copying, and the resulting harm to Whirlpool, Samsung devotes much of its brief to arguing that Whirlpool's motion was “delayed.” But the Court should reject this attempt to evade the merits for three reasons. *First*, Samsung recycles the same four cases from its December 2025 brief to contend that filing the PI motion six months after the introduction of the offending product should result in waiver. *Compare* Opp. 3, *with* Dkt. 23 at 5. Each case turns on its own facts, and Samsung fails to rebut that conducting a six-month investigation in the slow-moving kitchen-appliances

[REDACTED]

market constitutes reasonable and responsible due diligence, not “delay.” *See also* Open. Br. at 3–4 (citing Tr. 47:24–48:10, 51:25–52:2).

Second, as to the ’922 Patent, it is undisputed that Whirlpool could not have sought relief any earlier. *Id.* at 10. Samsung quibbles that the ’922 Patent is a continuation of the ’681 Patent, *see* Opp. 5–6, but this is irrelevant to its argument that Whirlpool forfeited preliminary injunctive relief by “delaying.” By definition, Whirlpool did not delay as to the ’922 Patent because it amended its Complaint to add this patent the same day it issued. Samsung belatedly tries to argue that “Whirlpool never amended its PI motion to include” the ’922 Patent. *Id.* at 6. But the parties and the Court agreed during the March 20, 2026 conference that Whirlpool need not “amend the PI papers” prior to the hearing, and “that’s why the parties think the ’922 is in the case but Your Honor may not have received ’922 materials.” Tr. 174:18-175:12; Mar. 20, 2026 Minute Entry.

Third, even accepting Samsung’s singular focus on flooring as the measure of whether Whirlpool timely filed, the evidence on flooring is scattered and inconclusive and does not show that Samsung would not pursue additional flooring. The DW90F is floored in [REDACTED]

[REDACTED]

See Open. Br. 11. Samsung was unwilling to say at the hearing that it would not seek additional floor space in the future as seasons change and competitors vie for opportunity. *Id.* Samsung also implies that Whirlpool should have discovered Samsung’s infringement even earlier than April 2025, for instance because Samsung registered for an Energy Star rating in February 2025. *See* Opp. 4. This turns the law on its head. “The law imposes an affirmative duty of due care to avoid infringement of the known patent rights of others,” *Stryker Corp. v. Intermedics Orthopedics, Inc.*, 96 F.3d 1409, 1414 (Fed. Cir. 1996) (citation omitted), not a duty on patentees to police their competitors for possible infringement, for instance, by scouring Energy Star applications.

B. Whirlpool Has Shown Likelihood of Irreparable Harm.

Loss of Market Share: Samsung asserts that Whirlpool's market share grew, but that is not the right inquiry: The issue is whether, in the but-for world and in the absence of Samsung's conduct, Whirlpool's market share would have been greater. Open. Br. 6–7.¹ Samsung does not dispute the slow-moving market and multi-year product lifecycle for dishwashers, but says that this characteristic “confirms that immediate injunctive relief is unwarranted here.” Opp. 11. That misses the mark: The slow-moving nature of the market underscores that a six-month period between discovering infringement and seeking relief does not constitute “delay”; it does not convert into a requirement that movants in slow-moving markets must wait until trial for relief. Trial is not scheduled until December 2027. Waiting until then to grant injunctive relief would allow Samsung to entrench its competitor position over the next 18 months and exacerbate Whirlpool's market share decline and related harms discussed below and in its opening brief.

Loss of brand equity and product leadership: Samsung does not dispute that the premium third rack was KitchenAid's “hero” feature but insists that the patented technology was “never” unique to Whirlpool because Bosch sold third racks that can hold cups and utensils since 2019. Opp. 6–7. Yet Samsung elected to copy KitchenAid's premium third rack, not Bosch's. Samsung [REDACTED]. Open. Slides

(Dkt. 54), at 14–15; Ex. 27 at -2024–25. [REDACTED]

[REDACTED]. E.g., Ex. 3 at -1970.

¹ Samsung's citation to *SmartSky Net, LLC v. Gogo Bus. Aviation, LLC*, 2024 WL 358136, at *5 (Fed. Cir. 2024) (cited in Opp. 10), falls short. There, the court **reaffirmed** *Douglas*'s teaching that “[b]eing able to secure customers and investors while facing a competing, allegedly infringing product ‘does not automatically rebut a case for irreparable injury,’” *id.*, but noted that the movant could not overcome its own expert's “conce[ssion]” that “any lost ... revenue through the date of trial is quantifiable,” *id.* at *3.

Erosion of Consumer Demand: Samsung takes issue with Whirlpool’s citation to consumer reviews, but this Court has issued a preliminary injunction based on “evidence of consumer confusion, harm to Plaintiffs’ reputation, and loss of goodwill” shown through online customer reviews and a recording of a customer call. *Tinnus Enters., LLC v. Telebrands Corp.*, 2015 WL 11089479, at *8 (E.D. Tex. Sept. 11, 2015). Samsung’s assertion that Whirlpool relies on “cherry-picked negative reviews,” Opp. 8, misses the point. The negative reviews focus on Samsung’s poor implementation of the premium third rack, which Samsung lifted from Whirlpool and raises the prospect of negative association with Whirlpool’s invention. *See* Open. Br. 5.

Samsung’s cases are distinguishable. The products at issue in *Multilift Wellbore Tech. Ltd. v. ESP Completion Techs. LLC*, 2017 WL 10222420 (E.D. Tex. July 25, 2017), were specialized equipment used in the petroleum industry. Although Samsung omits this salient context via ellipses, *see* Opp. 8, the Court found that the movant likely would not suffer reputational harm based on “[t]he inference that *sophisticated* customers *in the petroleum industry* would attribute a difficulty with the Sand Eliminator™ to the SandGuard™.” *Multilift*, 2017 WL 10222420, at *2 (emphasis added). This is not the same customer base at issue here. *Pruvit Ventures, Inc. v. Forevergreen Int’l LLC*, 2015 WL 9876952 (E.D. Tex. Dec. 23, 2015), does not help Samsung for the reasons discussed in Whirlpool’s opening brief. *See* Open. Br. 12.

Price Erosion: Samsung repeats that Whirlpool compares apples to oranges but does not challenge the underlying comparability of the KitchenAid 7 series with the DW90F. *See* Open. Br. 8 n.5. Samsung’s appeal to Ms. Villarroel’s testimony that the 4 series is comparably priced to the DW90F does not disprove price erosion. As Ms. Villarroel testified, “Samsung is very well known ... in undercutting on price,” and KitchenAid would not typically price lower than Samsung but “essentially [was] forced by Samsung to be more aggressive in price.” Tr. 59:9–14, 60:11–21.

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At bottom, “the simple fact that one could, if pressed, compute a money damages award does not always preclude a finding of irreparable harm.” *Celsis In Vitro, Inc. v. CellzDirect Inc.*, 664 F.3d 922, 930 (Fed. Cir. 2012).

C. Samsung’s Documents Confirm the Nexus Between Harm and Infringement

Samsung’s own documents [REDACTED]

[REDACTED]” Opp. 12. According to Samsung:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Samsung’s internal documents are irrefutable admissions as to this nexus.

II. Whirlpool is Likely to Succeed on the Merits.

Once Whirlpool meets the threshold for a prima facie case of infringement, as it has here, the burden flips to Samsung. *See* Open. Br. 13 (laying out burden-shifting framework). Samsung disregards the scope of its burden, which requires it to raise a substantial question of infringement or validity on *every asserted claim of every asserted patent. Id.*

A. Samsung Raises No Substantial Questions Relating to the ’681 Patent.

’681 Patent is Infringed: Samsung predictably argues that the Accused Product appears to be flat near the side wall, but this argument is incompatible with both the Accused Product and the ’681 Patent. Open. Br. 17–18. Samsung’s assertion that the “upwardly angled portion in the Accused Product *stops well short of the end of the rack*, with an intervening horizontal portion extending to the side wall,” Opp. 16 (emphasis added), does not describe the Accused Product, but rather Samsung’s CAD file drawing of it. Indeed, comparison of the *actual* Accused Product to

’681 Figure 3 shows the same configuration. Open. Br. 18 (image). Samsung’s only response is that the depiction in Figure 3 is not “anywhere described as a horizontal portion ... and instead appears to be a bend transitioning to the peripheral wall.” Opp. 16. That is correct: A slight horizontal bend as depicted on the face of the Patent *still practices it*. That Samsung labels its product’s own *identical* “bend transitioning to the peripheral wall” as a “horizontal portion” does not change the fact that the product practices the patent claims in the same way depicted by the preferred embodiment in Figure 3. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583 (Fed. Cir. 1996) (an interpretation excluding a preferred embodiment is “rarely, if ever, correct”).

Samsung next places unusual emphasis on the word “at” without noting the surrounding context of that word in the language of Claim 14, which requires only that “at the second end of the dishrack, a second portion [of the bottom wall] is angled with respect to the first portion and defining a depression.” The claim language does not specifically denote that the second end’s angled portion must terminate directly into the side wall (let alone without any slight horizontal bend). Tanbour 1-16-26 Decl. ¶¶ 67–72 & 99. Nor could it, since that possibility is foreclosed by the preferred embodiment in Figure 3. Finally, Samsung’s assertion that Whirlpool agrees that the Accused Product’s so-called “horizontal” piece ending in the side wall appears flat ignores Whirlpool’s measurement of the Accused Products to confirm that it is *not, in fact, flat*. See Open. Br. 18; Tanbour 1-16-26 Decl. ¶¶ 73–77. If Samsung disagrees, why didn’t Samsung measure it?

’681 Patent is Valid: Samsung says that the combination of Carr and Bosch discloses a “cup seat.” Opp. 15–16. This argument fails for myriad reasons. *First*, Samsung’s definition of “cup seat” as “simply a surface on which a cup can sit or rest,” see Opp. 16, proves too much, as it would render all flat surfaces, even tables, “cup seats.” Samsung’s expert has conceded that Carr is “configured to hold bowls,” Cameron 12-12-25 Decl. ¶ 113, and that Bosch 800 is configured

to hold “cereal bowls, whisks, tongs, and large *measuring* cups,” *see id.* at ¶ 132. These prior art references therefore have dish-holding surfaces that are not cup-specific as taught by the Asserted Patents. Second, contrary to Samsung’s assertion, the patent and specification support Whirlpool’s interpretation of “cup seat.” Claim 14 describes the functionality of a “cup seat” as something used “for supporting one or more cups,” Tanbour 1-16-26 Decl. ¶¶ 154–57, and the patent specification clearly shows wires that are intended to cradle a “cup” rather than a bowl or anything else, ’681 Patent, 6:3–8. Third, all three patents maintain the presumption of validity, which applies even at the preliminary injunction stage. *See, e.g.*, 35 U.S.C. § 282; *Titan Tire Corp. v. Case New Holland, Inc.*, 566 F.3d 1372, 1377 (Fed. Cir. 2009).

B. Samsung Raises No Substantial Questions Relating to the ’385 Patent.

’385 Patent is Infringed: None of Samsung’s three arguments are availing. First, Samsung contends that the Accused Products lack a “spray tube having nozzles,” *see* Opp. 17, but this argument requires a hyper-technical distinction between spray tubes and spray discs. Indeed, all parties agree that the Accused Products contain spray discs. Dr. Cameron nonetheless opines that the “limitation contemplates a specific structural element—a tubular conduit that itself contains or defines the nozzles through which liquid is emitted,” *id.*, but this limitation is not found in Claim 17. Samsung also suggests that the “Court noted” that Whirlpool’s interpretation “would effectively cover any dishwasher” and result in infringement by all dishwashers. Opp. 18 (citing Tr. 237:22–238:14). But Whirlpool explained it is not claiming to have invented the concept of spray tubes; rather, it has claimed such spray tubes in the context of an enhanced third rack of a dishwasher. Tr. 238:15–239:3. Second, Samsung’s argument that the spray discs do not emit spray along the angled portion because the angle of the water emitted from the nozzle of its spray tube does not match the angle of the angled portion of the rack, Opp. 18, is a limitation *not found in the claim*. Third, Samsung relies on what is essentially a restatement of its infringement argument

for the '681 Patent—namely that the “upwardly angled portion formed in the bottom wall” does not “terminat[e] at the side wall” due to what it claims is a “horizontal” piece just before the turn into the side wall. Opp. 18. This argument fails for the same reasons stated in Section II.A. And even the case Samsung cites supports Whirlpool. *Mylan Institutional LLC v. Aurobindo Pharma Ltd.*, 857 F.3d 858, 866 (Fed. Cir. 2017) (**affirming** grant of PI). The prosecution history also does not result in forfeiture of the Doctrine of Equivalents (“DOE”) argument. Tanbour 1-16-26 Decl. ¶ 72. And Samsung’s assertion that the “horizontal portion” is not subject to the DOE because it “creates a support point for a glass on the rack,” *see* Opp. 18–19, has no relationship to the prior art that was distinguished in the prosecution history.

'385 Patent is Valid: Samsung first argues that the combination of German Patent No. DE6810173U (“Bosch”) and Ochoa invalidates the Patent. Opp. 19–20. For the first time in its opposition brief, Samsung characterizes both references as “address[ing] the same problem of improving rack spray coverage.” Opp. 19. But that description of the references is wholly unsupported and was **never raised** either in the litany of declarations offered by its expert or at the hearing. Indeed, the primary testimony on motivation (or lack thereof) to combine these references came from Dr. Tanbour who testified that, while Bosch teaches a rack, Ochoa teaches a spray system: two fundamentally different functionalities that would thwart any motivation to combine. *See* Tanbour 1-16-26 Decl. ¶¶ 110, 133. Samsung’s reliance on this combination also fails because it depends on those references containing elements that are not there. First, Samsung contends that Ochoa teaches the “curved mounting portion” required by Claim 17, Opp. 20, when it does not. *See* Open. Br. 23 (showing Fig. 4 of the '385). And Samsung’s combination illustration of Ochoa and Bosch, which Dr. Cameron admits is “modified,” *see* Opp. 20, not only is hypothetical but improperly adds a “contoured portion forming curved mounting portion” not taught by either

reference. Samsung's explanation that its preferred depiction of a Bosch/Ochoa hybrid is justified because "mounting Bosch's spray tubes to the underside of the rack ... would have involved lowering Bosch's curved peaks and mounting the tubes adjacent to them" defies multiple alternate explanations, such as keeping the angular joint and lowering the peaks by widening the base distance or mounting the spray tube underneath a flat bottom wall. Second, Samsung mislabels the clear bottom wall of Bosch, again distorting the figure (Figure 3). Opp. 20. But this is unsupported by Bosch, which labels the clearly flat bottom wall in Figure 3 as the "dish rack" frame rather than the "front side wall" (as Samsung prefers) and label what Samsung wishes to call **both** the "bottom wall" and the "upwardly angled portion" as the "dish holder." DTX 38 (Ex. K to Cameron Decl.) at -007-09; *see also* Tanbour 1-16-26 Decl. ¶ 106.

C. Samsung Raises No Substantial Questions Relating to the '922 Patent.

'922 Patent is Infringed: Samsung's first argument, that the planar portion of the third rack bottom wall does not "include" a plurality of utensil holders, Opp. 20–21, relies entirely on its unduly narrow interpretation of "includes" as "integrally formed within." This is contrary to both caselaw interpreting the specific term "includes," *Lucent Techs., Inc. v. Gateway, Inc.*, 525 F.3d 1200, 1214 (Fed. Cir. 2008), and caselaw requiring broader, not narrower, interpretations of claim terms in general, *SuperGuide Corp. v. DirecTV Enters., Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004). Samsung also overlooks that its interpretation would render the patent's dependent claims unpracticable, as they require a product to have a utensil basket that is operably and removably coupled with a bottom wall of the planar portion. Tanbour 3-10-26 Decl. ¶ 67.

'922 Patent is Valid: Samsung unsuccessfully argues that the combination of Carr and Bosch 800 invalidates the '922. Opp. 22–23. As Samsung concedes, the examiner considered both references prior to issuing the '922 Patent, applied the capacious Broadest Reasonable

[REDACTED]

Interpretation standard to the claim language, and *still* found that those references were not invalidating prior art. *Accord* Tanbour 3-10-26 Decl. ¶ 23.

Samsung's additional contention that Andrew in view of Carr renders obvious Claims 1-4 and 7-25 of the '922, *see* Opp. 23–24, also fails. No POSITA would be motivated to combine these references. *See* Tanbour 3-10-26 Decl. ¶ 137. Indeed, Samsung acknowledges that Andrew is outdated. Opp. 23. Samsung also has no meaningful rebuttal to the proposition that Andrew (1) is too large to form a third rack with usable space below, and (2) does not teach a space large enough to accommodate utensil holders and that its front-to-back wire configuration does not teach a cup seat capable of cradling cups in the manner disclosed in the '922. *See* Open. Br. 22.

III. The Equities and Public Interest Favor Issuance of a Preliminary Injunction.

Samsung's position on these factors is internally inconsistent and contradicted by its own documents. Samsung says the DW90F is its only premium dishwasher, and a preliminary injunction would result in “devastating” loss of flooring. *See* Opp. 24–25. But Samsung simultaneously argued that [REDACTED]

[REDACTED]

[REDACTED] Both things cannot be true: Either the 9950 is a flooring alternative for DW90F or it isn't. In truth, Mr. Stumacher's own testimony reveals that Samsung could floor the 9950 in DW90F's place.

Samsung also touts the AI-powered features of the DW90F and asserts that the “third rack's geometry” “is less important to consumers than many other features.” Opp. 25. Samsung's own documents [REDACTED]. *See supra* at Sec. I.C.

Finally, Samsung addresses no argument in Whirlpool's opening brief about its excessive bond demand. Open. Br. 25. Samsung is not entitled to a bond calculated based on revenue (not profit) or a five-year multiplier when trial has now been scheduled for December 2027.

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Respectfully submitted,

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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 June 3, 2026.

/s/ Gloria Park
Gloria Park

**CERTIFICATE OF AUTHORIZATION TO FILE
UNDER SEAL PURSUANT TO LOCAL RULE CV-5(A)(7)**

I hereby certify that Plaintiff is authorized to file the foregoing document under seal by the Court pursuant to paragraph 18 of the Protective Order entered by the Court on February 13, 2026, as they contain DESIGNATED MATERIAL.

/s/ Gloria Park
Gloria Park