

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

SOLAS OLED LTD.,

Plaintiff,

vs.

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

Defendants.

Case No. 2:21-cv-00105-JRG

DEFENDANTS SAMSUNG ELECTRONICS CO., LTD. AND
SAMSUNG ELECTRONICS AMERICA, INC.'S
INVALIDITY CONTENTIONS PURSUANT TO PATENT LOCAL RULES 3-3 AND 3-4

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I. INTRODUCTION

Pursuant to the Court's Docket Control Order entered August 16, 2021 (D.I. 45) and Patent Local Rules 3-3 and 3-4, Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, "Samsung") provide these preliminary invalidity contentions ("Invalidity Contentions") to Solas OLED Ltd. ("Solas") for the asserted claims of U.S. Patent No. 8,526,797 ("the '797 Patent" or "the Asserted Patent").

Based on Solas's Disclosure of Asserted Claims and Infringement Contentions ("Infringement Contentions") served on July 12, 2021, Solas is asserting claims 1-3, 6, and 11-14 of the '767 Patent (collectively, "the Asserted Claims"). Samsung addresses the invalidity of the Asserted Claims in these Invalidity Contentions, and concludes with a description of its document production and identification of additional reservations and explanations.

These Invalidity Contentions are based on the claim constructions or interpretations likely to be advanced by Solas (as reflected in Solas's complaints and Infringement Contentions), and are not necessarily based on what Samsung contends are the proper constructions. By applying Solas's apparent constructions and/or interpretations, Samsung does not concede in any way that those constructions are correct, and instead expressly reserves the right to oppose those constructions. Samsung expressly reserves the right to amend these Invalidity Contentions after the Court has construed all relevant claim terms under P.R. 3-6. Furthermore, some of Samsung's contentions herein are based on infringement allegations made by Solas. Samsung does not concede in any way that those infringement allegations are correct, but rather asserts the fundamental principle that whatever infringes a claim if later in time must anticipate if earlier in time. These Invalidity Contentions use the acronym "POSITA" to refer to a person of ordinary skill in the art to which the alleged invention pertains around the priority date alleged by Solas.

Samsung hereby incorporates by reference any invalidity contentions against the Asserted

Patent or any related patents from prior litigations. Solas is already in possession of any such invalidity contentions and associated claim charts. Samsung further incorporates by reference all prior art cited during prosecution of the Asserted Patent and any related patents. Samsung also incorporates by reference all *inter partes* review (IPR) petitions filed against the Asserted Patent and any related patents and all prior art cited in these IPR petitions, including, but not limited to, IPR2021-01254.

II. U.S. PATENT NO. 8,526,767

U.S. Patent Application No. 12/254,043—the application leading to the '767 Patent—was filed with the United States Patent and Trademark Office on October 20, 2008. It purports to claim priority to Provisional Application No. 61/049,453, filed on May 1, 2008. During prosecution of the application leading to the '767 Patent, the claims were rejected and amended multiple times.

In a December 5, 2012 interview, the Examiner proposed and Applicant agreed to add language to the pending independent Claims 1 and 12-14 to specify that the “one-touch” state-machines and the “multi-touch” state-machine are distinct from each other (not combined). In a follow-up December 14, 2012 interview, Applicant suggested and the Examiner agreed to adding language “wherein the multi-touch state-machine directly receives each of the outputs from the first one-touch state-machine and the second one-touch state-machine,” in order to further limit the claims in view of the prior art. In allowing the claims, the Examiner made the amendments authorized in the interviews and stated that certain of the prior art of record does not disclose the limitations of the amended pending independent Claims 1 and 12-14.

Accordingly, Applicant obtained allowance over the prior art based on the “distinct” “one-touch” state-machines and “multi-touch” state-machine, which directly receives outputs from the first one-touch state-machine and the second one-touch state-machine. The sole support for “distinct” one-touch state-machines and a multi-touch state-machine that receives output from the

first and second one-touch state machines is found in Figures 4-6 and the accompanying disclosures, which were not included in Applicant's provisional application. Applicant added this new matter to the non-provisional application—U.S. Patent Application No. 12/254,043—which ultimately issued as the '767 Patent.¹ Therefore, the earliest priority date to which the Asserted Claims are entitled is October 20, 2008. However, in its Infringement Contentions, Solas claims a priority date of May 1, 2008. Nonetheless, these Invalidity Contentions render the Asserted Claims invalid even if a May 1, 2008 priority date is used. Should Solas be permitted to amend or modify its claimed priority date, Samsung reserves the right to serve additional or modified invalidity contentions.

A. Identification of Prior Art that Anticipates or Renders Obvious the Asserted Claims

Samsung contends that the prior art references identified in Samsung's contentions, including the attached exhibits, anticipate and/or render obvious the asserted claims.

B. Anticipation and Obviousness

Samsung attaches Exhibits 1 through 18, which provide disclosures showing how the prior art anticipates and/or renders obvious the asserted claims of the '767 Patent. The charts

¹ Indeed, much of the current specification was added in the non-provisional filing. *See* '767 Patent at Figs. 4-13 and corresponding text. Figures 1-3 and the accompanying disclosures do not cover the claimed embodiments. Specifically, Figure 1 “is limited to processing gestures made up of single touches” (*id.* at 8:36-46); Figure 2 expands the first embodiment “to cater for multitouch gestures,” with multitouch capability “provided by one additional state, the Multitouch state” within the same state-machine (*id.* at 10:51-61); and Figure 3 further develops the “Pressed state” of the second embodiment to “allow multiple interpretations of a single touch” based on duration (*id.* at 11:61-12:2). In the “fourth embodiment,” added in the non-provisional application, “[m]ultiple single-touch state machines are [] combined to handle multiple touch gestures.” *Id.* at 14:10-19, Fig. 4. The sixth embodiment discloses how this approach “can be used to give equivalent functionality to the state machine of the second embodiment” with a distinct two-touch state-machine that receives input from “two input state machines,” as recited in Claims 1-14. *Id.* at 14:34-56, Fig. 6.

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