

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MICROGRAFX, LLC,

Plaintiff,

v.

GOOGLE INC. and MOTOROLA
MOBILITY LLC,

Defendants.

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Civil Action No. 3:13-3595-N

JURY TRIAL DEMANDED

**DEFENDANTS GOOGLE INC.'S AND MOTOROLA MOBILITY LLC'S MOTION TO
DISMISS PLAINTIFF'S CLAIMS OF WILLFUL, INDUCED, AND CONTRIBUTORY
PATENT INFRINGEMENT AND MEMORANDUM OF LAW IN SUPPORT**

Jon B. Hyland (State Bar No. 24046131)
Em: jhyland@munsch.com
MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 3800
Dallas, Texas 75201-6659
Ph: (214) 855-7544; Fx: (214) 978-5360

Darin W. Snyder (admitted *pro hac vice*)
(CA. S.B. #136003)
Em: dsnyder@omm.com
Luann L. Simmons (admitted *pro hac vice*)
(CA. S.B. #203526)
Em : lsimmons@omm.com
David S. Almeling (admitted *pro hac vice*)
(CA. S.B. #235449)
Em: dalmeling@omm.com
Hana K. Andersen (admitted *pro hac vice*)
(CA. S.B #289517)
Em: handersen@omm.com

O'MELVENY & MYERS LLP
Two Embarcadero Center, 28th Floor
San Francisco, CA 94111
Ph: (415) 984-8700; Fx: (415) 984-8701

Mishima Alam (admitted *pro hac vice*)
(CA. S.B # 271621) (*admitted only in CA;
supervised by principals of the Firm)
Em: malam@omm.com

O'MELVENY & MYERS LLP
1625 Eye Street, NW
Washington, DC 20003
Ph: (202) 383-5300; Fx: (202) 383-5414

**COUNSEL FOR DEFENDANTS GOOGLE, INC. and
MOTOROLA MOBILITY LLC**

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For the reasons stated in the following memorandum of law, Defendants Google Inc. and Motorola Mobility LLC respectfully request under Federal Rule of Civil Procedure 12(b)(6) that this Court dismiss Plaintiff Micrografx, LLC's claims that Google and Motorola are liable for willful infringement and induced infringement under 35 U.S.C. § 271(b), and contributory infringement under 35 U.S.C. § 271(c).

I. INTRODUCTION

Plaintiff Micrografx, LLC ("Micrografx") amended its original complaint against Defendants Google Inc. ("Google") and Motorola Mobility LLC ("Motorola," together with Google, "Defendants") to add new claims of willful infringement, induced infringement, and contributory infringement. (Dkt. No. 39.) The Court should dismiss these added claims under Federal Rule of Civil Procedure 12(b)(6) because Micrografx does not allege sufficient facts to state claims that are plausible on their face:

- Micrografx's willful infringement claim fails to allege any facts to support the requirement that Defendants had pre-filing notice of the asserted patents. Instead, Micrografx only asserts — with zero supporting factual allegations — that "upon information and belief," Google and Motorola were on notice of the asserted patents before the service of the original complaint. (*Id.* ¶¶ 30, 39, 48.)
- Similarly, Micrografx's contributory infringement claims contain insufficient factual allegations to support Micrografx's assertion that the accused products have "no substantial non-infringing uses," an essential element of a contributory infringement claim. (*Id.* ¶¶ 28, 37, 46.) It is simply not plausible that the accused products — mapping software and browser software on phones, tablets, and notebooks — have no function other than to satisfy the asserted patent claims regarding providing "interactive vector graphics" over a network or "delegat[ing] the production" of shapes.
- Finally, a claim for induced infringement requires that the defendant knew that its customers' acts constituted infringement and that it specifically intended its customers to infringe. But Micrografx's induced infringement claims contain insufficient facts to support Micrografx's assertion that Google or Motorola knew that their customers' acts constituted infringement or that they specifically intended their customers to infringe.

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