

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

ELEMENT CAPITAL COMMERCIAL  
COMPANY PTE. LTD,

Plaintiff,

v.

BOE TECHNOLOGY GROUP CO.,  
LTD; BEIJING BOE DISPLAY  
TECHNOLOGY CO., LTD; AND  
MOTOROLA (WUHAN) MOBILITY  
TECHNOLOGIES COMMUNICATION  
CO., LTD..

Defendant.

Civil Action No.

**JURY TRIAL DEMANDED**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Element Capital Commercial Company PTE. LTD (“Element Capital” or “Plaintiff”) files this Complaint against Defendants BOE Technology Group Co., Ltd, Beijing BOE Display Technology Co., Ltd, and Motorola (Wuhan) Mobility Technologies Communication Co., Ltd. (collectively “Defendants”), based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, alleging as follows:

**INTRODUCTION**

This matter involves Element Capital’s active-matrix display product patents (U.S. Patent No. 7,259,736 B2, U.S. Patent No. 8,164,267 B2, and U.S. Patent No. 8,525,760) infringed by Defendants’ display products (“Defendants’ products” or “Accused Products”). Active-matrix display products are now included in nearly every

mobile phone and device. Technology underlying the manufacture and use of active-matrix display products is, in short, extremely valuable.

**I.**

**THE PARTIES**

1. Plaintiff Element Capital Commercial Company PTE. LTD (“Element Capital”) is a Singaporean company located at 60 Paya Lebar Road #11-04, Paya Lebar Square, Singapore 409051.

2. On information and belief, Defendant BOE Technology Group Co., Ltd is a Chinese company located at 181 No.12 Xihuanzhong Rd, BDA, Beijing, 100176, China.

3. On information and belief, Defendant Beijing BOE Display Technology Co., Ltd is a Chinese company located at 118 Jinghai 1 Road Economic Tech Development Zone Beijing, 100176, China. BOE is a subsidiary of BOE Technology Group Co. Ltd., produces certain Accused Products abroad, including in China, that are then sold for importation into the United States, imported into the United States, and/or sold within the United States after importation.

4. On information and belief, Defendant Motorola (Wuhan) Mobility Technologies Communication Co., Ltd. is a Chinese company located at No.19, Gaoxin 4th Road, Wuhan East Lake High-tech Zone, Wuhan, Wuhan Hubei 430000, China.

**II.**

**NATURE OF THE ACTION**

5. This is an action for patent infringement.

6. Element Capital is informed and believes and alleges that Defendants have been and are currently infringing and/or contributing to and/or actively inducing others to infringe claims of U.S. Patent No. 7,259,736 B2, U.S. Patent No. 8,164,267 B2, and U.S. Patent No. 8,525,760 B2 (“the ‘736 Patent,” “the ‘267 Patent,” and “the ‘760 Patent” or collectively “the Asserted Patents”).

### **III.**

#### **JURISDICTION AND VENUE**

7. This action arises under the patent laws of the United States, Title 35 of the United States Code, 35 U.S.C. § 1 *et seq.*

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. On information and belief, BOE Technology Group Co., Ltd is subject to this Court’s specific and general personal jurisdiction pursuant to due process, the federal long arm statute, and/or the Texas Long Arm Statute, due at least to its substantial business in this State and judicial district, including at least part of its infringing activities alleged herein, and regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents.

10. For example, BOE Technology Group Co., Ltd’s “subsidiaries are located in 19 countries and regions, including USA, Germany, UK, France, Switzerland, Japan,

Korea, Singapore, India, Russia, Brazil, UAE, etc. The service system covers major regions in Europe, USA, Asia, and Africa worldwide.” *See* BOE Technology Group Co., Ltd website (<https://www.boe.com/en/about/index>). BOE Technology Group Co., Ltd asserts that its ultra-high definition, flexible and micro-display solutions have been widely used in famous brands at home and abroad, and global market research agency Omdia data shows that in 2020, BOE Technology Group Co., Ltd in smart phones, tablet PCs, notebook computers, monitors, TV and other five major applications of display shipments are ranked first in the world. *Id.*

11. This Court has personal jurisdiction over BOE Technology Group Co., Ltd, directly or through intermediaries, including its subsidiaries and intermediaries within the United States, because it has established minimum contact within the United States and Texas such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice. BOE Technology Group Co. Ltd. has placed and continues to place infringing display products into the stream of commerce via an established distribution channel with the knowledge and/or intent that those products were sold and continue to be sold in the United States and Texas, including in this District.

12. This Court has personal jurisdiction over Beijing BOE Display Technology Co., Ltd in this action because it has established minimum contact within the United States and Texas such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice. BOE Display Technology Co., Ltd has purposefully directed activities at the United States and Texas, in particular, directing

display products for sale to customers and distributors within Texas, including within this District.

13. This Court has personal jurisdiction over Motorola (Wuhan) Mobility Technologies Communication Co., Ltd. in this action because it has established minimum contact within the United States and Texas such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice. Motorola (Wuhan) Mobility Technologies Communication Co., Ltd. has placed and continues to place infringing display products, including Motorola RAZR, into the stream of commerce via an established distribution channel with the knowledge and/or intent that those products were sold and continue to be sold in the United States and Texas, including in this District.

14. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391(d) and/or 1400(b) because a substantial part of the events giving rise to Element Capital's claims occurred in the Eastern District of Texas and because Defendants are subject to personal jurisdiction in the Eastern District of Texas.

#### **IV.**

#### **FACTUAL BACKGROUND**

15. The Asserted Patents relate to electronic devices including an active-matrix substrate which reduces directional viewing variation between the column and row directions.

16. On August 21, 2007, U.S. Patent No. 7,259,736, titled "Electro-Optical Device, Active-Matrix Substrate, and Electronic Apparatus," was duly and legally issued

by the United States Patent and Trademark Office to Hayato Nakanishi. A true copy of the ‘736 Patent is attached as **Exhibit 1**.

17. Element Capital is the owner of the ‘736 Patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the ‘736 Patent against infringers, and to collect damages for infringement during all relevant times.

18. On April 24, 2012, U.S. Patent No. 8,164,267, titled “Electro-Optical Device, Active-Matrix Substrate, and Electronic Apparatus,” was duly and legally issued by the United States Patent and Trademark Office to Yojiro Matsueda et al. A true copy of the ‘267 Patent is attached as **Exhibit 2**.

19. Element Capital is the owner of the ‘267 Patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the ‘267 Patent against infringers, and to collect damages for infringement during all relevant times.

20. On September 3, 2013, U.S. Patent No. 8,525,760, titled “Active-Matrix Substrate, Electro-Optical Device, and Electronic Device,” was duly and legally issued by the United States Patent and Trademark Office to Yojiro Matsueda. A true copy of the ‘760 Patent is attached as **Exhibit 3**.

21. Element Capital is the owner of the ‘760 Patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and

enforce the '760 Patent against infringers, and to collect damages for infringement during all relevant times.

22. The '736 Patent, the '267 Patent, and the '760 Patent are directed to electro-optical devices that include an active-matrix substrate to be implemented in a display. The active-matrix substrate includes multiple pixels arranged in a matrix form including electro-optical devices driven by receiving electric power from an electric power supply circuit. Based on the configuration of the active-matrix substrate, the electro-optical device has a reduced directional viewing variation between column and row directions.

23. Element Capital manufactures or licenses other companies to manufacture the electronic apparatus claimed in the Asserted Patents. This electronic apparatus is sold to various electronic manufacturers who obtain the right to use the patented inventions in their electronic apparatuses by purchasing from Element Capital or from an authorized manufacturer. Companies who do not obtain a license from Element Capital do not have permission to manufacture or sell the patented electronic apparatus.

24. Element Capital is informed and believes and alleges that Defendants have made, used, provided, supplied, distributed, sold, and/or offered for sale in the United States and in this district, electronic apparatuses that infringe the Asserted Patents, without authorization from Element Capital and continues to do so now.

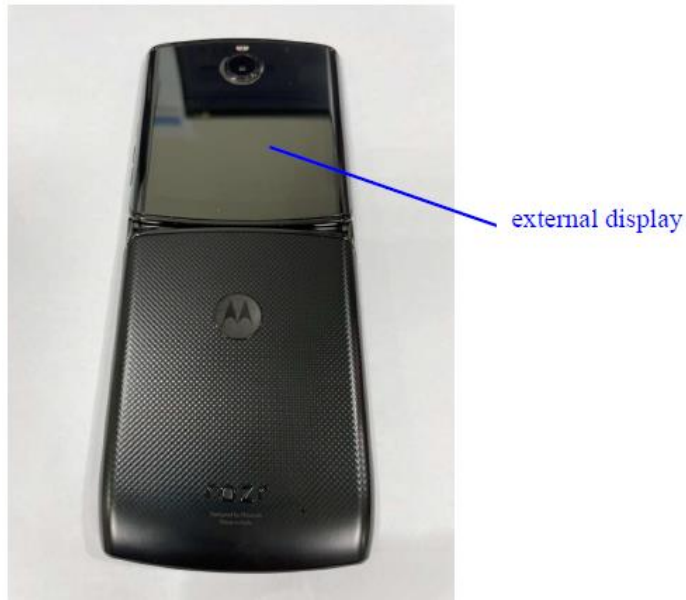
25. Defendants have manufactured and sold Defendants' electronic apparatuses that infringe the Asserted Patents and which include at least Motorola RAZR mobile phones.

26. As shown in more detail below, Defendants electronic apparatuses include each and every limitation of at least claims 3-5, 7, 9, and 13-17 of the '736 Patent, claim 1 of the 267 Patent, and claim 1 of the '760 Patent, and therefore literally infringe these claims. Element Capital reserves the right to assert infringement under the doctrine of equivalents in light of information learned during discovery or in view of this Court's claim construction order.

27. An image of Defendants electronic apparatus found in the Motorola RAZR is shown below. Motorola RAZR features a 2.7 inch external OLED panel made by BOE, which is an electro-optical device.



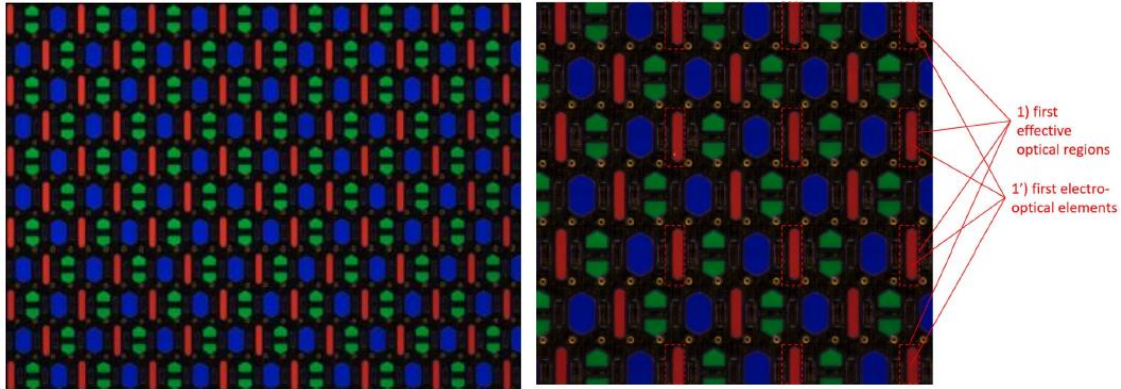




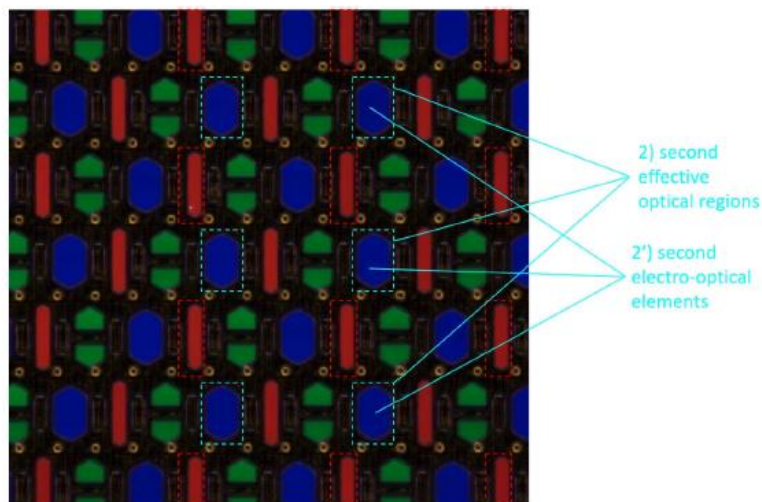
28. As shown below, the external OLED panel of Motorola RAZR has a substrate.



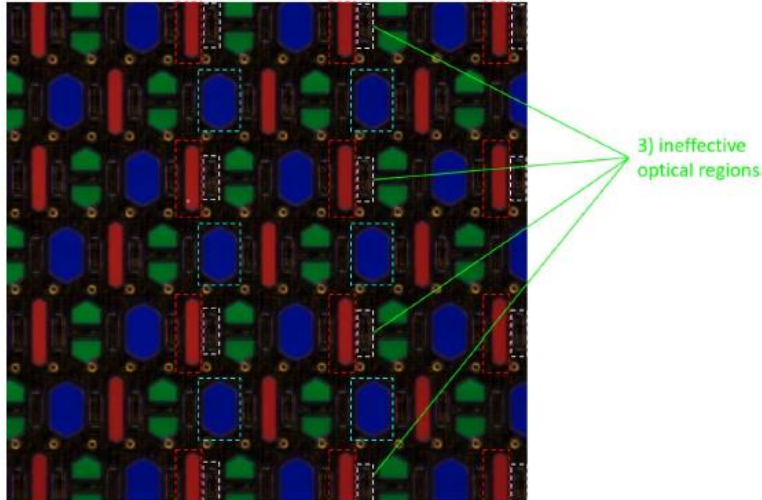
29. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 300 times and 500 times magnifications, the external OLED panel has a plurality of 1) first effective optical regions provided above the substrate, and 1') first electro-optical elements are provided in 1) the first effective optical region.



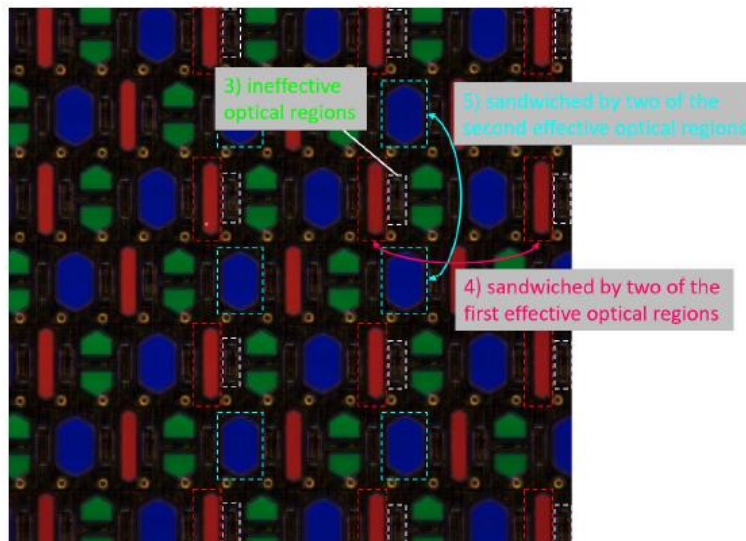
30. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification, the external OLED panel has a plurality of 2) second effective optical regions provided above the substrate, and 2') second electro-optical elements are provided in the 2) second effective optical regions.



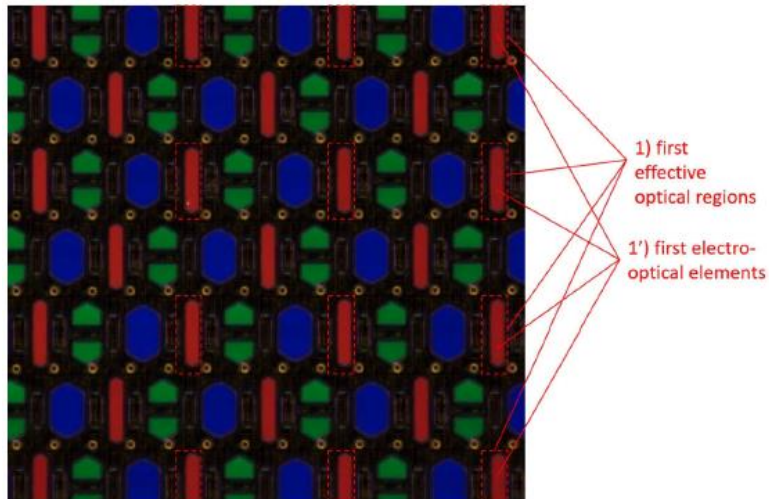
31. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification, the external OLED panel has a plurality of 3) ineffective optical regions provided above the substrate, and no electro-optical elements are provided in the ineffective optical regions.



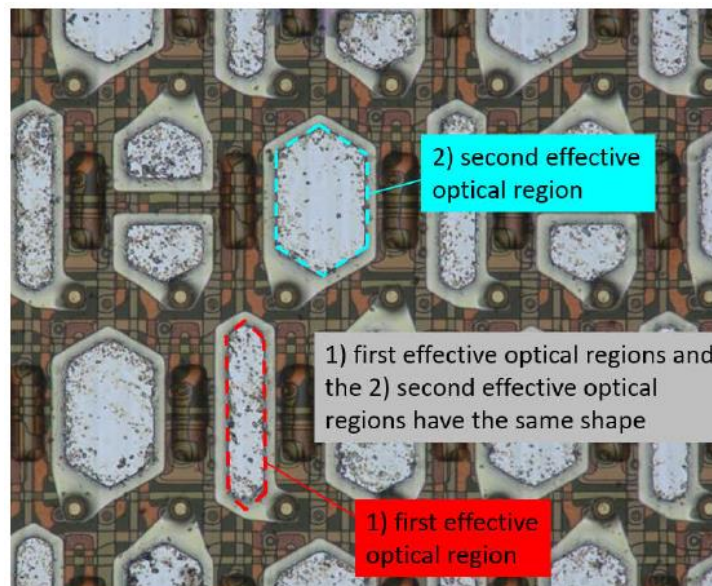
32. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification, the external OLED panel of Motorola RAZR, each of the whole 3) ineffective optical regions is arranged so as to be 4) sandwiched by two of the first effective optical regions and so as to be 5) sandwiched by two of the second effective optical regions.



33. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification, the external OLED panel of Motorola RAZR, the 1) first effective optical regions are not adjacent to each other.

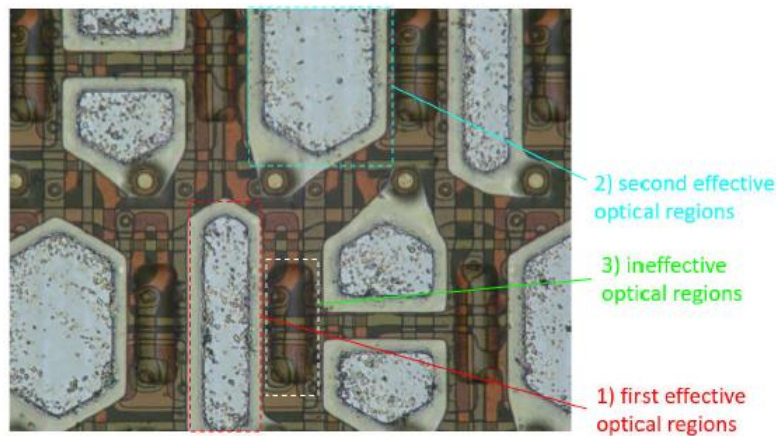
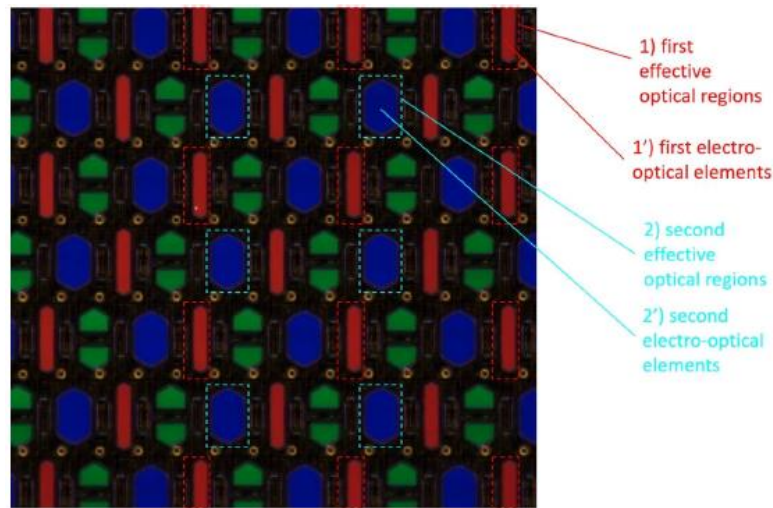


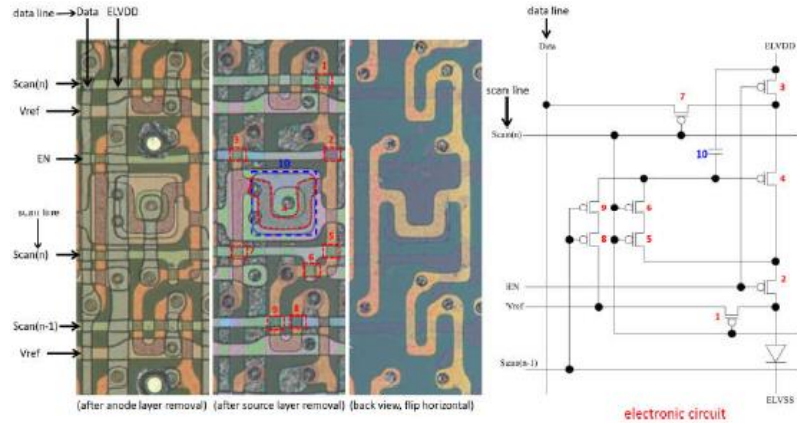
34. As shown below, in the pixels of the external display of the Motorola RAZR displayed the external OLED panel of Motorola RAZR, the 1) first effective optical regions and the 2) second effective optical regions have the same shape.



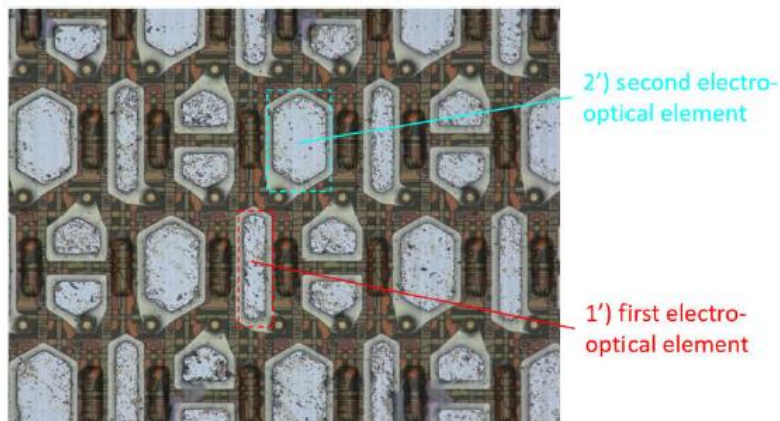


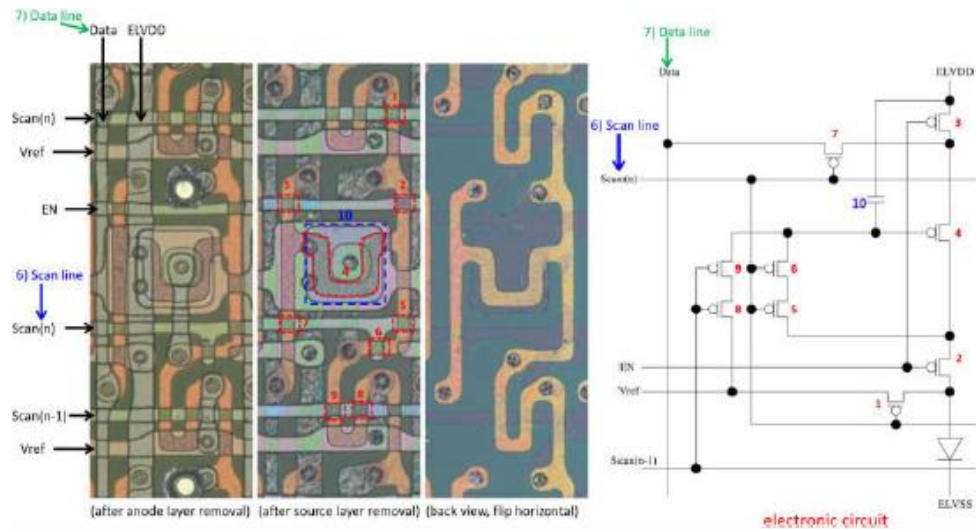
35. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification and the external OLED panel of Motorola RAZR being illuminated, the 1) first and 2) second effective optical regions do have respective electronic circuits to drive the electro-optical elements 1') and 2') provided in the 1) first and 2) second effective optical regions.



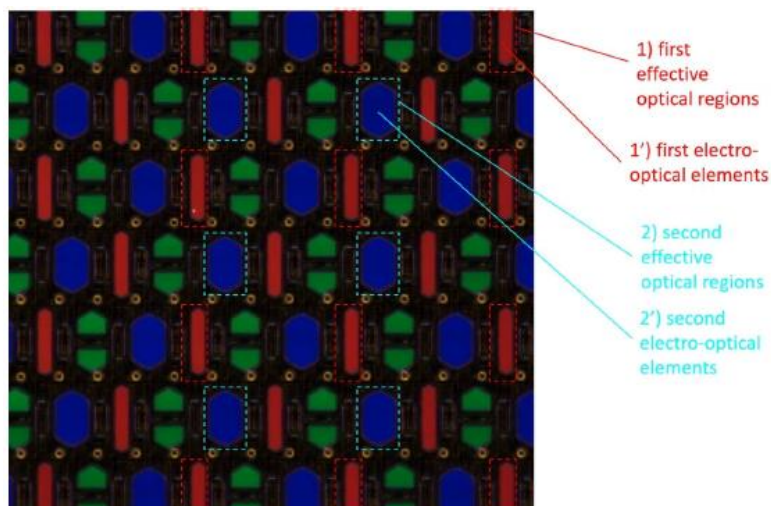


36. As shown below, in a pixel circuit of the external display of the Motorola RAZR, the external OLED panel of Motorola RAZR, there are pixels provided so as to correspond to respective intersections of a plurality of 6) scan lines and a plurality of 7) data lines, the electronic circuits drive the electro-optical elements 1') and 2') in accordance with scan signals from the 6) scan lines and data signals from the 7) data lines.

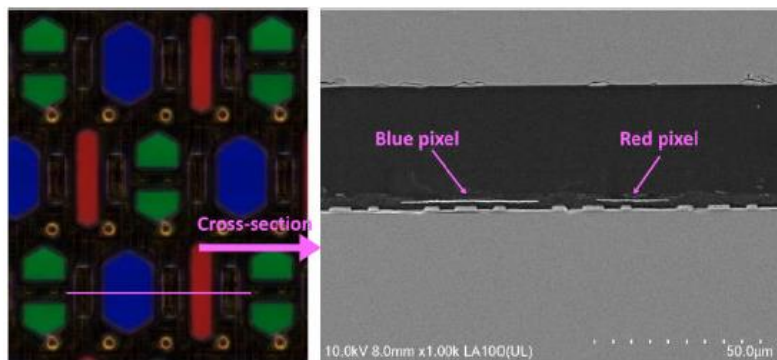
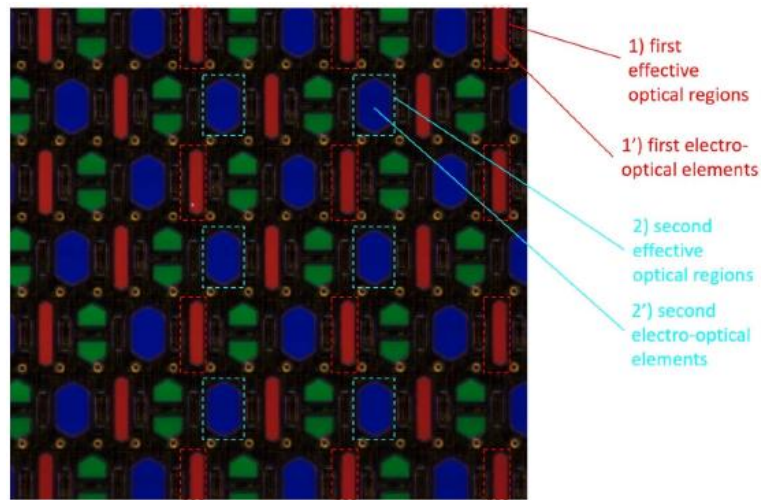




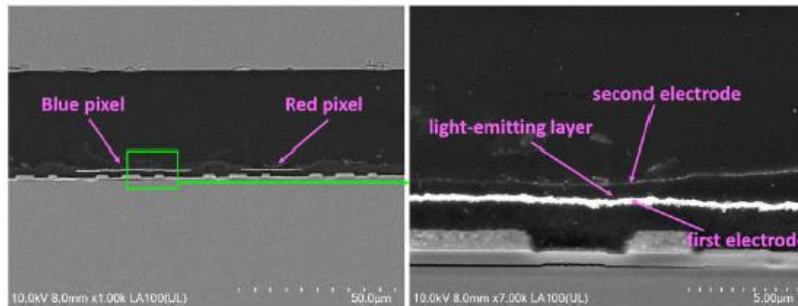
37. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification and the external OLED panel of Motorola RAZR being illuminated, the 1') first electro-optical element (red) and 2') the second electro-optical element (blue) include two electro-optical elements selected from an electro-optical element that emits green, an electro-optical element that emits blue, and an electro-optical element that emits red.



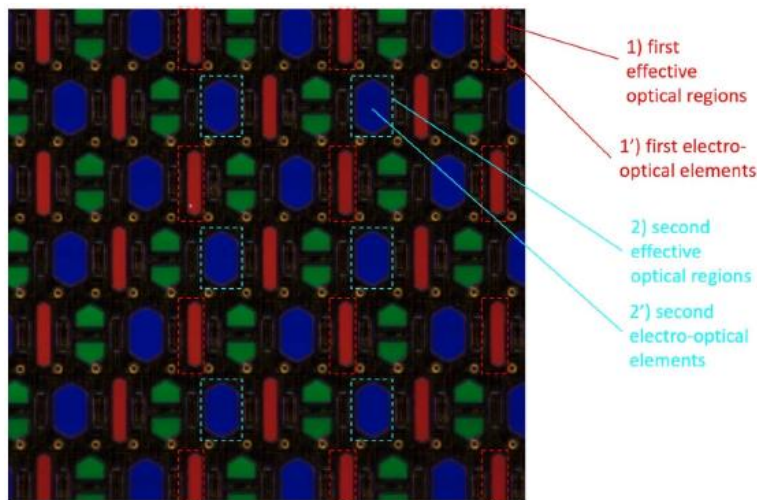
38. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification and the external OLED panel of Motorola RAZR being illuminated, each of the 1') first electro-optical elements and the 2') second electro-optical elements is an electroluminescent element. The external OLED panel has a first electrode, a second electrode, and a light emission layer that is disposed between the first electrode and the second electrode.

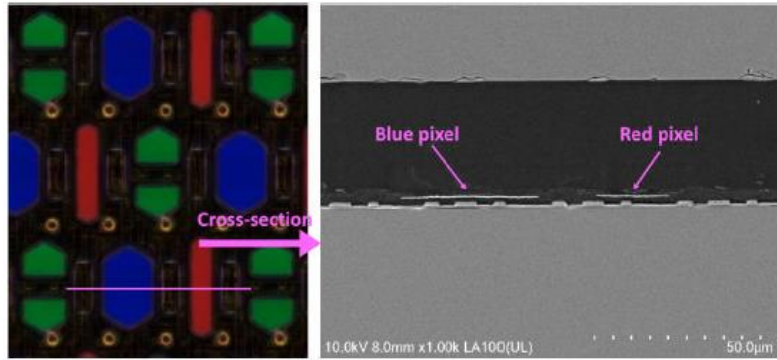




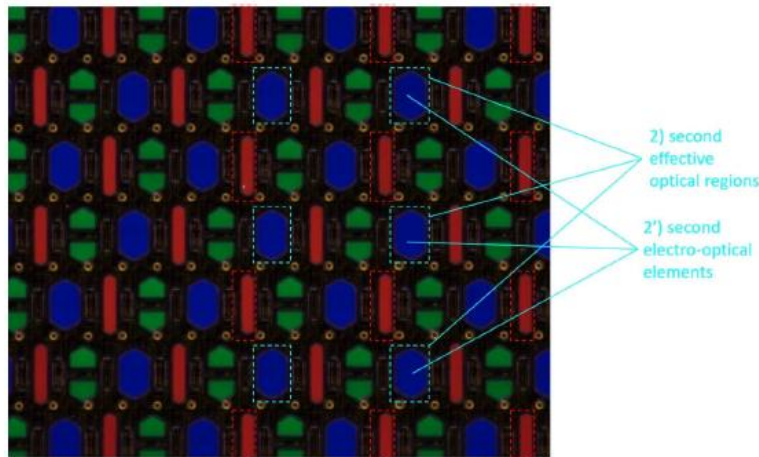


39. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification and the external OLED panel of Motorola RAZR being illuminated, the 1') first electro-optical element has a light-emitting layer that includes organic material so as to emit red light, and the 2') second electro-optical element has a light-emitting layer that includes organic material so as to emit blue light.

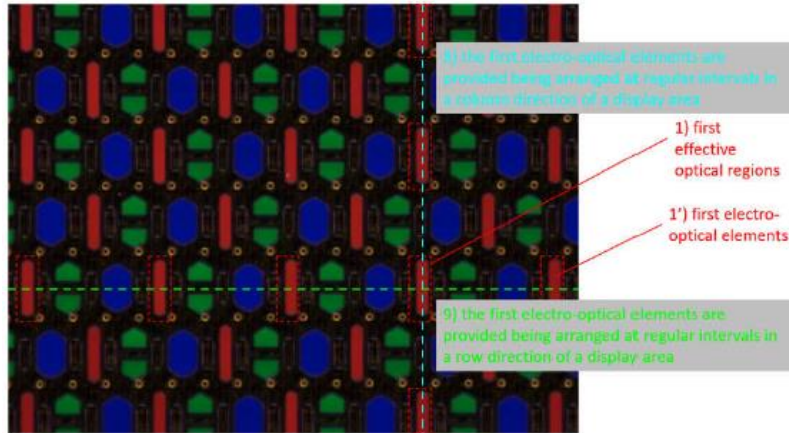




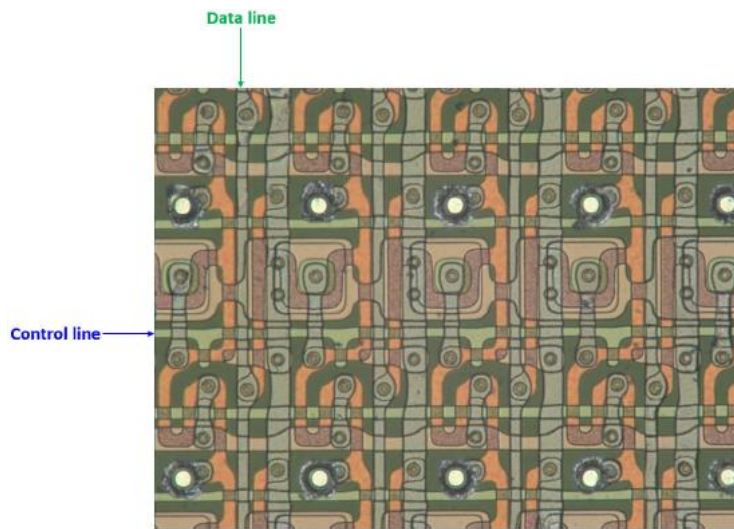
40. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification, in the external OLED panel of Motorola RAZR, 2) the second effective optical regions are not arranged so as to be adjacent to each other.



41. As shown below, in the pixels of the external display of the Motorola RAZR displayed at 500 times magnification, in the external OLED panel of Motorola RAZR, each of the 1) first effective optical regions in which the 1') first electro-optical elements are provided being arranged at regular intervals in a 8) column and 9) row directions of a display area.

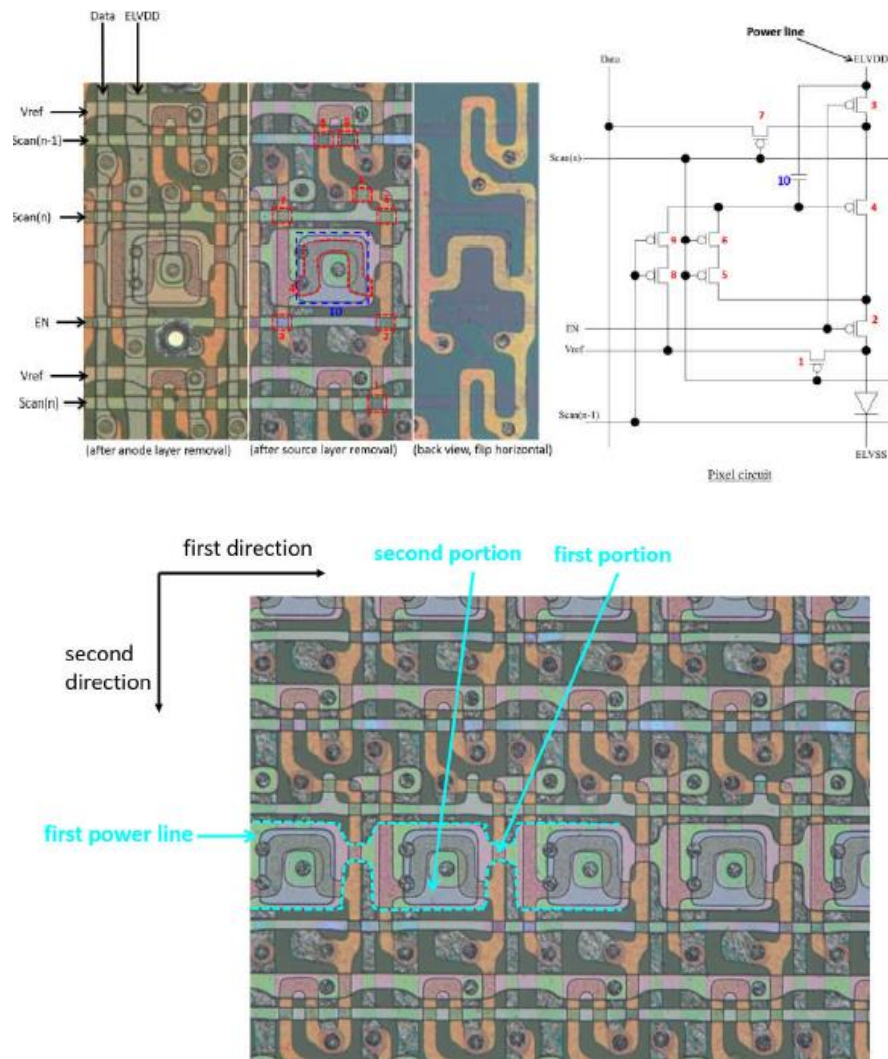


42. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer removed and displayed at 1500x magnification, the external OLED panel of Motorola RAZR has a data line and a control line.



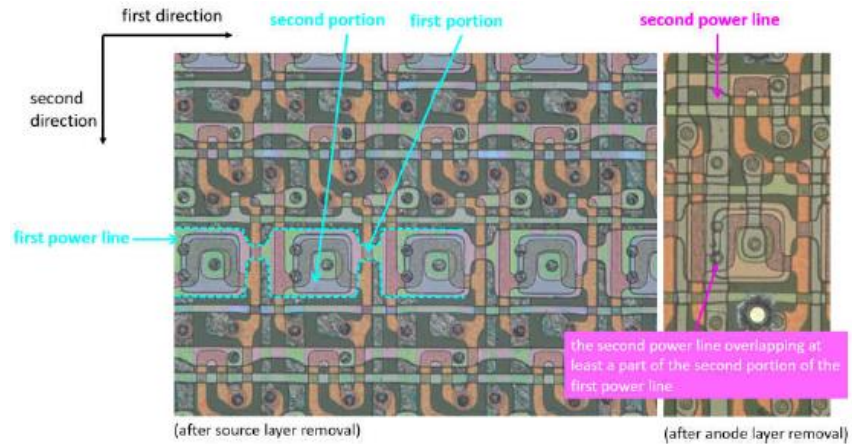
43. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer and source layer are removed and displayed at 1500x magnification, the external OLED panel has a first power line that has a first portion

extending in a first direction and a second portion extending in a second direction that intersects the first direction.

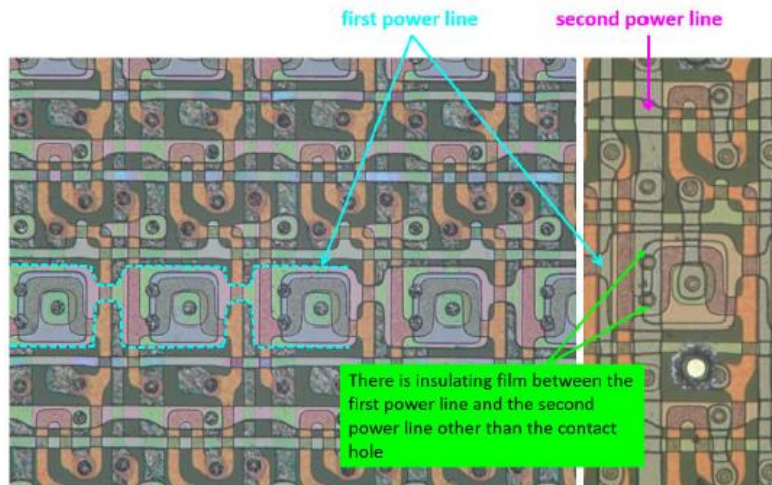


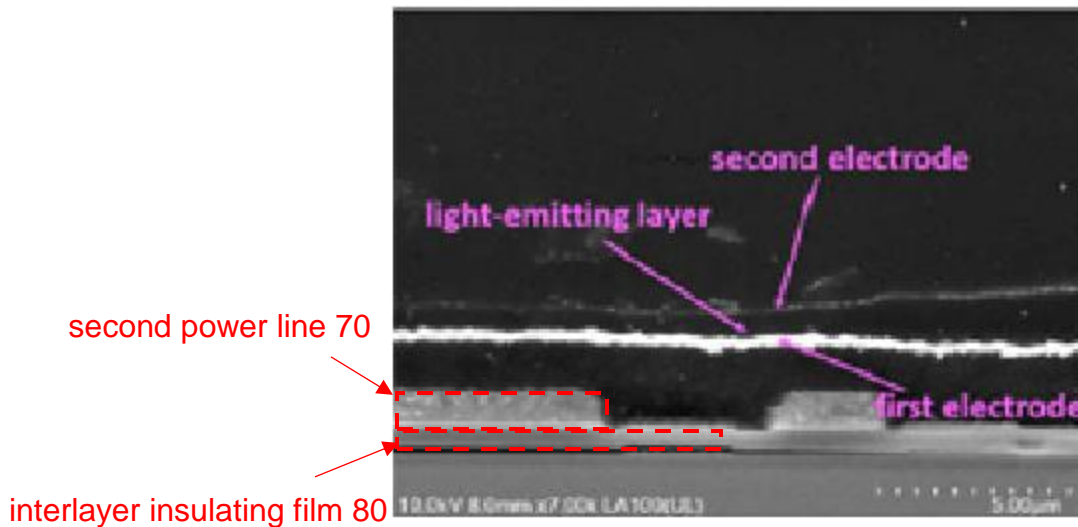
44. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer is removed and displayed at 1500x magnification, the external OLED panel has a second power line that extends in the second direction, the second power line overlapping at least a part of the second portion of the first power line.





45. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer and source layer are removed and displayed at 1500x magnification, the external OLED panel has an inter-layer insulating film that is disposed between the first power line and the second power line.



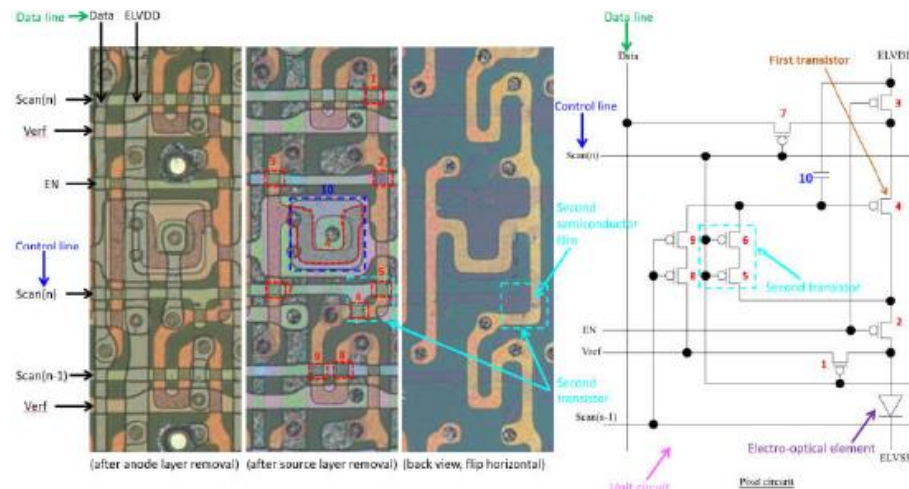


46. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer and source layer are removed and displayed at 1500x magnification, in the external OLED panel, the second portion of the first power line is electrically connected to the second power line through plurality of contact holes.

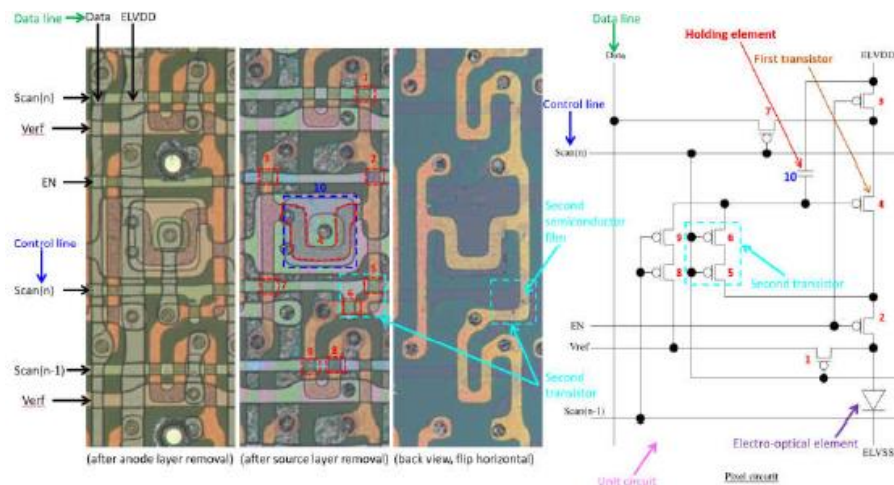


47. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer are removed and in a pixel circuit of the external display of the Motorola RAZR after source layer are removed and displayed at 1500x magnification, the unit circuit of the external OLED panel has a second transistor that includes a second

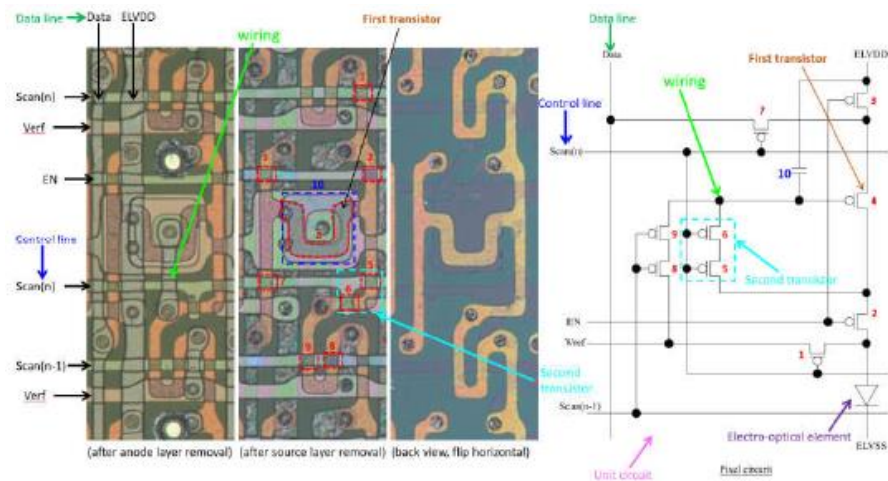
semiconductor film, and the second transistor is connected between the one of the source or the drain and a gate of the first transistor.



48. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer are removed and in a pixel circuit of the external display of the Motorola RAZR after source layer are removed and displayed at 1500x magnification, the unit circuit of the external OLED panel has a holding element that is connected to the gate of the first transistor and holds a gate voltage of the first transistor according to a data signal.

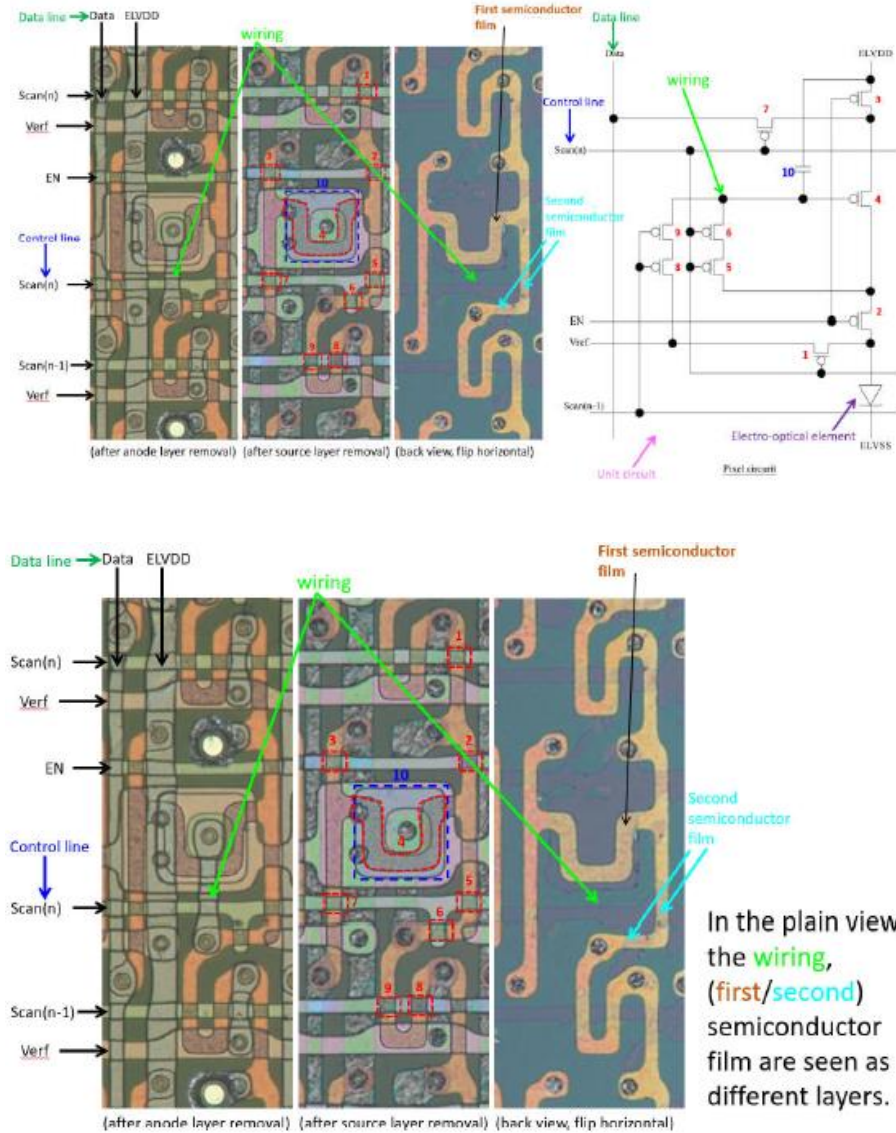


49. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer is removed and displayed at 1500x magnification, the unit circuit of the external OLED panel has a wiring connected between the second transistor and the gate of the first transistor, and the first transistor supplying a current based on the gate voltage to the electro-optical element.



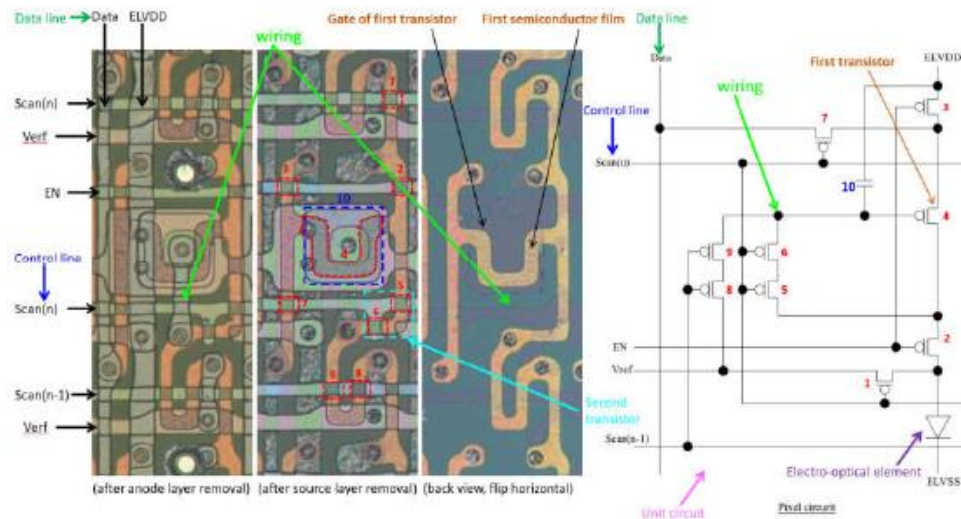
50. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer are removed and in a back view of a pixel circuit of the external display of the Motorola RAZR both displayed at 1500x magnification, in the unit circuit of the external OLED panel, the wiring is formed in a layer which is different from a layer in which the first semiconductor film and the second semiconductor film are formed.





51. As shown below, in a pixel circuit of the external display of the Motorola RAZR after anode layer are removed, in a pixel circuit of the external display of the Motorola RAZR after source layer are removed, and in a back view of a pixel circuit of the external display of the Motorola RAZR all displayed at 1500x magnification, in the unit circuit of the external OLED panel, the wiring having a portion formed in the layer

different from a gate layer in which the gate of the first transistor is formed, the portion crossing the control line.



52. Defendant BOE Technology Group Co., Ltd and its subsidiaries were previously licensed to practice '736 Patent, the '267 Patent, and the '760 Patent. BOE was fully aware of the patents in suit when entering into the license agreement in 2014. However, BOE chose not to take a license to these patents in 2019 when the previous license expired. BOE has been practicing these patents since 2014 on a knowing basis. The BOE Defendants continued to actively and knowingly contribute to, encourage, aid, and abet others to import, sell, offer to sell, and use the infringing active-matrix display products in the United States and Texas. Accordingly, the BOE Defendants have engaged in direct and/or indirect infringement with full knowledge of their infringement and the infringement of their customers, and has willfully infringed the Asserted patents, since at least 2019. Defendant Motorola has expressly been made aware of its infringement since at least the time it received the original Complaint in this action, yet

has continued its infringement with this knowledge, including making, using, selling, offering to sell, and/or importing the accused products, as well as encouraging and aiding and abetting others to infringe, and contributing to the infringement by others by supplying at least a material part of the asserted claims that is not a staple article of commerce and that has no substantial non-infringing uses. Accordingly, Defendant Motorola has indirectly infringed and willfully infringed the Asserted patents at least since it received the original Complaint in this action.

**V.**

**CLAIMS FOR RELIEF**

**COUNT 1: INFRINGEMENT OF THE ‘736 PATENT**

53. The allegations of Paragraphs 1-52 are repeated and realleged as if fully set forth in this Count I of the Complaint.

54. Defendants continued, after notice of infringement and without authority, to make, use, sell, offer to sell, and/or import into the United States Defendants’ products as shown above.

55. Defendants thus have infringed and continue to infringe at least one of claims 3-5, 7, 9, and 13-17 of the ‘736 Patent literally and/or under the doctrine of equivalents.

56. Defendants have also actively induced and will continue to actively induce the infringement of at least one of claims 3-5, 7, 9, and 13-17 of the ‘736 Patent, in violation of 35 U.S.C. § 271(b), by, among other things, actively and knowingly aiding

and abetting infringement of others through activities such as creating and/or distributing data sheets, requirements documents, assembly instructions and/or similar materials with instructions on creating, manufacturing, designing, assembling and/or implementing infringing products, with the specific intent to induce others to directly make, use, offer for sale, sell, and/or import into the United States products that fall within the scope of the '736 Patent without license or authority from Plaintiff. On information and belief, Defendants know that the induced acts constitute infringement of the '736 Patent.

57. Defendants individually, collectively, or through others or intermediaries, have contributorily infringed, and/or is contributorily infringing, at least one claim of the '736 Patent by making, using, offering for sale, selling, and/or importing, material parts of the inventions claimed in the '736 Patent, which are not a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing the accused parts to be especially made or especially adapted for use in an infringement of the '736 Patent.

58. The BOE Defendants had knowledge of the '736 Patent and of their infringement before the filing of this action, and Motorola had such knowledge as of at least receipt of the Complaint in this action.

59. Defendants' direct and indirect infringement of the '736 Patent have thus been committed with full knowledge of the '736 Patent, making Defendants liable for direct, indirect, and willful infringement.

60. Defendants' infringement of the '736 Patent will continue to damage Element Capital, causing irreparable harm for which there is no adequate remedy at law, unless it is enjoined by this Court.

61. Element Capital has been damaged as a result of the infringing conduct by Defendants alleged above. Thus, Defendants are liable to Element Capital in an amount that adequately compensates it for such infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

62. Element Capital and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law.

## **COUNT 2: INFRINGEMENT OF THE '267 PATENT**

63. The allegations of Paragraphs 1-62 are repeated and realleged as if fully set forth in this Count II of the Complaint.

64. Defendants continued, after notice of infringement and without authority, to make, use, sell, offer to sell, and/or import into the United States Defendants' products as shown above.

65. Defendants thus have infringed and continue to infringe at least claim 1 of the '267 Patent literally and/or under the doctrine of equivalents.

66. Defendants have also actively induced and will continue to actively induce the infringement of at least claim 1 of the '267 Patent, in violation of 35 U.S.C. § 271(b),

by, among other things, actively and knowingly aiding and abetting infringement of others through activities such as creating and/or distributing data sheets, requirements documents, assembly instructions and/or similar materials with instructions on creating, manufacturing, designing, assembling and/or implementing infringing products, with the specific intent to induce others to directly make, use, offer for sale, sell, and/or import into the United States products that fall within the scope of the '267 Patent without license or authority from Plaintiff. On information and belief, Defendants know that the induced acts constitute infringement of the '267 Patent.

67. Defendants individually, collectively, or through others or intermediaries, have contributorily infringed, and/or is contributorily infringing, at least one claim of the '267 Patent by making, using, offering for sale, selling, and/or importing, material parts of the inventions claimed in the '267 Patent, which are not a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing the accused parts to be especially made or especially adapted for use in an infringement of the '267 Patent.

68. The BOE Defendants had full knowledge of the '267 Patent and of their infringement before the filing of this action, and Defendant Motorola had such knowledge at least as of the time it received the Complaint in this action.

69. Defendants' direct and indirect infringement of the '267 Patent have thus been committed with knowledge of the '267 Patent, making Defendants liable for direct, indirect, and willful infringement.

70. Defendants' infringement of the '267 Patent will continue to damage Element Capital, causing irreparable harm for which there is no adequate remedy at law, unless it is enjoined by this Court.

71. Element Capital has been damaged as a result of the infringing conduct by Defendants alleged above. Thus, Defendants are liable to Element Capital in an amount that adequately compensates it for such infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

72. Element Capital and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law.

### **COUNT 3: INFRINGEMENT OF THE '760 PATENT**

73. The allegations of Paragraphs 1-72 are repeated and realleged as if fully set forth in this Count III of the Complaint.

74. Defendants continued, after notice of infringement and without authority, to make, use, sell, offer to sell, and/or import into the United States Defendants' products as shown above.

75. Defendants thus have infringed and continue to infringe at least claim 1 of the '760 Patent literally and/or under the doctrine of equivalents.

76. Defendants have also actively induced and will continue to actively induce the infringement of at least claim 1 of the '760 Patent, in violation of 35 U.S.C. § 271(b),

by, among other things, actively and knowingly aiding and abetting infringement of others through activities such as creating and/or distributing data sheets, requirements documents, assembly instructions and/or similar materials with instructions on creating, manufacturing, designing, assembling and/or implementing infringing products, with the specific intent to induce others to directly make, use, offer for sale, sell, and/or import into the United States products that fall within the scope of the ‘760 Patent without license or authority from Plaintiff. On information and belief, Defendants know that the induced acts constitute infringement of the ‘760 Patent.

77. Defendants individually, collectively, or through others or intermediaries, have contributorily infringed, and/or are contributorily infringing, at least one claim of the ‘760 Patent by making, using, offering for sale, selling, and/or importing, material parts of the inventions claimed in the ‘760 Patent, which are not a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing the accused parts to be especially made or especially adapted for use in an infringement of the ‘760 Patent.

78. The BOE Defendants had full knowledge of the ‘760 Patent and of their infringement before the filing of this action, and Defendant Motorola had such knowledge at least as of the time it received the Complaint in this action.

79. Defendants’ direct and indirect infringement of the ‘760 Patent have thus been committed with knowledge of the ‘760 Patent, making Defendants liable for direct, indirect, and willful infringement.



80. Defendants' infringement of the '760 Patent will continue to damage Element Capital, causing irreparable harm for which there is no adequate remedy at law, unless it is enjoined by this Court.

81. Element Capital has been damaged as a result of the infringing conduct by Defendants alleged above. Thus, Defendants are liable to Element Capital in an amount that adequately compensates it for such infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

82. Element Capital and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law.

## VI.

### **PRAYER FOR RELIEF**

83. **WHEREFORE**, Plaintiff Element Capital asks this Court to enter judgment in its favor against Defendants and grant the following relief:

84. An adjudication that Defendants have infringed and continue to infringe the '736 Patent, the '267 Patent, and the '760 Patent;

85. An accounting of all damages sustained by Element Capital as a result of Defendants' acts of infringement of the '736 Patent, the '267 Patent, and the '760 Patent;

86. An award to Element Capital of actual damages adequate to compensate Element Capital for Defendants' acts of patent infringement, together with prejudgment and post-judgment interest;

87. An award to Element Capital of enhanced damages, up to and including trebling of Element Capital's damages pursuant to 35 U.S.C. § 284 for Defendants' willful infringement of the '736 Patent, the '267 Patent, and the '760 Patent;

88. An award of Element Capital's costs of suit and reasonable attorneys' fees pursuant to 35 U.S.C. § 285 due to the exceptional nature of the case, or otherwise permitted by law;

89. A grant of a permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendants, and each of its agents, servants, employees, principals, officers, attorneys, successors, assignees, and all those in active concert or participation with Defendants, including related individuals and entities, customers, representatives, OEMs, dealers, and distributors from further acts of (1) direct infringement, (2) contributory infringement, and (3) active inducement to infringe with respect to the claims of the '736 Patent, the '267 Patent, and the '760 Patent; and

90. Any further relief that this Court deems just and proper.

## **VII.**

### **JURY DEMAND**

Plaintiff Element Capital requests a jury trial on all issues triable to a jury in this matter.

DATE January 11, 2023	<p><u>/s/ J. Thad Heartfield</u> J. Thad Heartfield The Heartfield Law Firm 2195 Dowlen Rd Beaumont, TX 77706 State Bar No. 09346800 Telephone: 409-866-3318 Facsimile: 409-866-5789 Email: thad@heartfieldlawfirm.com</p> <p>John F. Rabena Email: <a href="mailto:jrabena@sughrue.com">jrabena@sughrue.com</a> William H. Mandir Email: <a href="mailto:wmandir@sughrue.com">wmandir@sughrue.com</a> Fadi N. Kiblawi Email: <a href="mailto:fkiblawi@sughrue.com">fkiblawi@sughrue.com</a> Young Sun Kwon Email: <a href="mailto:ykwon@sughrue.com">ykwon@sughrue.com</a> SUGHRUE MION PLLC 2000 Pennsylvania Avenue, NW Washington, DC 20006 Telephone: (202) 293-7060 Facsimile: (202) 293-7860</p>
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic service are being served with a copy of this PLAINTIFF'S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT, via the Court's CM/ECF system per Local Rule CV-5(a)(3).

Dated: January 11, 2023

/s/ J. Thad Heartfield\_\_\_\_\_