

# Exhibit D

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**From:** Citroen, Phillip W. <[phillipcitroen@paulhastings.com](mailto:phillipcitroen@paulhastings.com)>  
**Sent:** Thursday, January 24, 2019 8:05 PM  
**To:** Matthew Ford  
**Cc:** Kappos, John; Ford, Katie; Cragg, Tyler E.; Oh, Hana; Zhou, Vincent; Ewing, Alexandra M.; [farnan@farnanlaw.com](mailto:farnan@farnanlaw.com); [bfarnan@farnanlaw.com](mailto:bfarnan@farnanlaw.com); [MFarnan@farnanlaw.com](mailto:MFarnan@farnanlaw.com); Adam Mortara; John Hughes; OPPOSING COUNSEL; Cottrell, Fred; Hunter, Travis S.; Silver, Daniel; Smyth, Benjamin; Poff, Adam; Pilar Kraman; ServicePH Samsung-ELM 3DS; [howard.chen@klgates.com](mailto:howard.chen@klgates.com); [harold.davis@klgates.com](mailto:harold.davis@klgates.com); Soobert, Allan M.; Modi, Naveen; Skhynix-Elm; OPPOSING COUNSEL; Mailing List - Leedy  
**Subject:** RE: Elm v. Defendants: Indefiniteness Position

Matt,

I believe that is correct, but note that Defendants' position has appeared in all iterations of Defendants' invalidity contentions.

Regards,  
Phillip

**From:** Matthew Ford [<mailto:matthew.ford@bartlitbeck.com>]  
**Sent:** Thursday, January 24, 2019 8:08 PM  
**To:** Citroen, Phillip W.  
**Cc:** Matthew Ford; Kappos, John; Ford, Katie; Cragg, Tyler E.; Oh, Hana; Zhou, Vincent; Ewing, Alexandra M.; [farnan@farnanlaw.com](mailto:farnan@farnanlaw.com); [bfarnan@farnanlaw.com](mailto:bfarnan@farnanlaw.com); [MFarnan@farnanlaw.com](mailto:MFarnan@farnanlaw.com); Adam Mortara; John Hughes; OPPOSING COUNSEL; Cottrell, Fred; Hunter, Travis S.; Silver, Daniel; Smyth, Benjamin; Poff, Adam; Pilar Kraman; ServicePH Samsung-ELM 3DS; [howard.chen@klgates.com](mailto:howard.chen@klgates.com); [harold.davis@klgates.com](mailto:harold.davis@klgates.com); Soobert, Allan M.; Modi, Naveen; Skhynix-Elm; OPPOSING COUNSEL; Mailing List - Leedy  
**Subject:** [EXT] Re: Elm v. Defendants: Indefiniteness Position

Thanks Phillip.

Sorry for the confusion, but please confirm that the below excerpt is what you're referencing in the January 9th invalidity contentions as the basis for your indefiniteness argument. If I'm missing something, please let me know what else you are referencing.

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Claim limitations including relative terms or terms of degree such as “substantially planar,” “majority of the surface area,” “other than at the edges,” “monolithic substrates,” “thin,” “major portion,” and “low stress” and related or dependent terms are indefinite, not enabled, and lack an adequate written description because the Asserted Patents do not disclose and a person of ordinary skill in the art could not determine the bounds of these terms with reasonable certainty. A person of ordinary skill in the art would not understand the alleged inventor to be in possession of the purported invention and would not be reasonably apprised of the scope of the invention.

On Jan 24, 2019, at 5:26 PM, Citroen, Phillip W. <[phillipcitroen@paulhastings.com](mailto:phillipcitroen@paulhastings.com)> wrote:

Matt,

Defendants are still planning to address indefiniteness of the “thin” term in their initial brief. The basis for Defendants’ contentions can be found in Defendants’ invalidity contentions.

Regards,  
Phillip

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**From:** Matthew Ford [<mailto:matthew.ford@bartlitbeck.com>]  
**Sent:** Monday, January 21, 2019 1:44 PM  
**To:** Kappos, John; Matthew Ford; Ford, Katie; Cragg, Tyler E.; Citroen, Phillip W.; Oh, Hana; Zhou, Vincent; Ewing, Alexandra M.; [farnan@farnanlaw.com](mailto:farnan@farnanlaw.com); [bfarnan@farnanlaw.com](mailto:bfarnan@farnanlaw.com); [MFarnan@farnanlaw.com](mailto:MFarnan@farnanlaw.com); Adam Mortara; John Hughes; OPPOSING COUNSEL; Cottrell, Fred; Hunter, Travis S.; Silver, Daniel; Smyth, Benjamin; Poff, Adam; Pilar Kraman; ServicePH Samsung-ELM 3DS; [howard.chen@klgates.com](mailto:howard.chen@klgates.com); [harold.davis@klgates.com](mailto:harold.davis@klgates.com); Soobert, Allan M.; Modi, Naveen; Skhynix-Elm; OPPOSING COUNSEL; Mailing List - Leedy  
**Subject:** [EXT] Elm v. Defendants: Indefiniteness Position

Counsel,

Neither expert report addresses the Defendants’ position that the term “thin” is indefinite.

There is also no description of the argument in the Defendants’ invalidity contentions.

Are the Defendants still arguing that the term is indefinite? If so, please let us know the basis for your contentions as soon as possible so that Elm can meaningfully address the dispute in its opening brief.

Thanks,

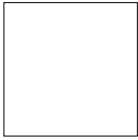
Matt

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