



October 6, 2020

VIA E-FILING

The Honorable Leonard P. Stark
J. Caleb Boggs Federal Building
844 N. King Street
Room 6124, Unit 26
Wilmington, DE 19801-3556

**RE: *Elm 3DS Innovations, LLC v. Samsung Electronics Co., Ltd. et al.*,
(C.A. No. 14-cv-1430-LPS)**

Dear Chief Judge Stark,

Plaintiff writes in conjunction with the Stipulation to Amend Scheduling Order to explain its position regarding the circumstances that required this proposed amendment.

Samsung has failed to meet the substantial completion deadline in two significant ways.

First, Samsung has refused to produce critical technical data responsive to numerous Elm requests until after the parties finalize a representative-products agreement. *See* D.I. 280 at 1. At the same time, Samsung has prevented the parties from finalizing a representative-products agreement by failing to produce data necessary for Elm to negotiate such an agreement. Samsung's delays ultimately forced Elm to file a motion to compel. *See id.* The Court largely granted that motion, ordering Samsung to complete a chart providing information about the accused products that the parties could then use to negotiate a representative-products agreement. *See* D.I. 293. The Court ordered to Samsung to complete that chart by June 19. *See id.*

But, much like Samsung ignored this Court's substantial completion deadline, Samsung disregarded the Court's June 19 deadline. Instead of providing a completed chart in accordance with the Court's order, the chart Samsung provided was incomplete and erroneous. For example, the chart failed to include entire categories of data ordered by the Court, and omitted billions of dollars in relevant sales information. It was not until September 4th—more than 2 months after the Court's July 19th deadline and a week after the substantial completion deadline—that Samsung provided a chart that appears to have corrected those errors (though the chart is still missing a significant amount of technical data Samsung was ordered to produce, but now claims it has been unable to locate).

Samsung also failed to complete its production of custodial and other documents by the substantial completion deadline. Since the deadline passed, Samsung has produced 29,038 documents / 67,647 pages. Samsung has indicated that it has a significant number of additional custodial documents left to produce, and that it will be unable to complete that production until October 16th, a full month and a half after the Court's substantial completion deadline.

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We are available at the Court's convenience to discuss this matter further.

Respectfully submitted,

/s/ Brian E. Farnan

Brian E. Farnan

cc: Counsel of Record (via E-File)