

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN LOCATION-SHARING  
SYSTEMS, RELATED SOFTWARE,  
COMPONENTS THEREOF, AND  
PRODUCTS CONTAINING SAME**

**Inv. No. 337-TA-1347**

**ORDER NO. 23: GRANTING MOTION FOR LEAVE TO AMEND MOVING  
RESPONDENTS' RESPONSES TO THE COMPLAINT OF AGIS  
SOFTWARE DEVELOPMENT LLC AND ADVANCED GROUND  
INFORMATION SYSTEMS, INC. AND NOTICE OF  
INVESTIGATION**

(June 14, 2023)

On May 30, 2023, Respondents ASUSTeK Computer Inc. ASUS Computer International, BLU Product, Inc., HMD America, Inc., HMD Global, HMD Global Oy, Kyocera Corporation, Lenovo Group Ltd., Lenovo (United States), Inc., Motorola Mobility LLC, OnePlus Technology (Shenzen) Co., Ltd., Panasonic Holdings Corporation, Panasonic Corporation of North America, Samsung Electronics America, Inc., Samsung Electronics Co., Ltd., Sony Corporation, TCL Communication Technology Holdings Limited, TCL Electronics Holdings Limited, TCL Technology Group Corporation, TCT Mobile (US) Inc., Xiaomi Corporation, Xiaomi H.K. Ltd., Xiaomi Communications Co., Ltd., and Xiaomi Inc. (collectively, "Moving Respondents") moved (1347-011) for leave to amend their responses to the complaint and notice of investigation to add a defense of inequitable conduct. Pursuant to Ground Rule 5.1, Moving Respondents certified that Complainants AGIS Software Development LLC and Advanced Ground Information Systems, Inc. (collectively, "AGIS") "oppose the motion, but to not intend to file a response." Mot. at cover. Moving Respondents certified that the Commission Investigative Staff and Respondent Google LLC do not oppose this motion.

Moving Respondents' proposed amended responses to the Complaint and Notice of Investigation add a defense of inequitable conduct that is essentially identical to the defense Google moved to amend, alleging inequitable conduct of U.S. Patent No. 8,213,970 ("the '970 patent"). Mot. at 1. I granted Google's motion to amend its response to the complaint and notice of investigation on April 27, 2023. Order No. 11 (Apr. 27, 2023). Exhibits 1a–1j to the motion contain the proposed amended responses, and Exhibits 2a–2j the motion contain redlines showing a comparison of the initial responses and the proposed amended responses. Although AGIS informed Moving Respondents that it opposed this motion, it did not file any response to this motion during its time to respond to the motion.

For the reasons set forth in Order No. 11, Moving Respondents' motion is granted. By electing not to file a response to Moving Respondents' motion, AGIS has waived any opposition to this motion. As I explained in Order No. 11, disposition of the issues in this investigation on the merits will be facilitated, and therefore good cause exists to allow this amendment. *See* 19 C.F.R. § 210.42(b)(2). Given that Google has raised the same defense and AGIS has been on notice of the defense since then, there can be no prejudice to AGIS from the belated motion to amend from Moving Respondents. The defense is also not futile, for the reasons explained in Order No. 11. Further, I note that although claim 2 of the '970 patent is no longer being asserted against Google or Moving Respondents, "inequitable conduct regarding any single claim renders the entire patent unenforceable." *Therasense, Inc. v. Becton, Dickinson & Co.*, 649 F.3d 1276, 1288 (Fed. Cir. 2011) (*en banc*). There has been no prejudice to either the public interest or the parties identified for the same reasons I explained in Order No. 11.

Moving Respondents are ordered to file their amended response to the Complaint and Notice of Investigation on EDIS after receiving this order.

**SO ORDERED.**



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Bryan F. Moore

Administrative Law Judge