

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

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

**Investigation No. 337-TA-_____
Docket No. 3655**

PUBLIC INTEREST SUBMISSION OF PROPOSED RESPONDENT GOOGLE LLC

Proposed Respondent Google LLC (“Google”) respectfully submits these comments relating to the public interest in response to the Commission’s notice of the receipt of the complaint filed by Complainants AGIS Software Development LLC and Advanced Ground Information Systems, Inc. (collectively, “AGIS”). 87 Fed. Reg. 72,509 (Nov. 25, 2022). AGIS is a non-practicing entity whose requested relief would harm public health and welfare, competitive conditions, and U.S. consumers—particularly in view of the well-publicized worldwide global semiconductor shortage, broader global supply chain problems, and the lingering effects of the COVID-19 pandemic. Accordingly, Google respectfully requests that the Commission delegate public interest to the Administrative Law Judge (“ALJ”) and submits that the Commission and ALJ would both benefit from assigning the Office of Unfair Import Investigations to participate in the investigation, if instituted, to represent the public.¹

Google, headquartered in Mountain View, California, employs tens of thousands of people in the U.S. and expends billions of dollars annually on research and development.² Google develops and sells a number of award-winning consumer electronics, such as the Google Pixel smartphones, Nest Hub, Google Pixelbook, and Google Chromecast, among others.³ Google is committed to bettering the communities it serves and partners with charitable organizations to provide resources and technologies to those in need—including a pledge to lessen education and

¹ AGIS originally brought suit against Google in the Eastern District of Texas in November 2019 in a case styled, *AGIS Software Development LLC v. Google LLC*, 2:19-cv-00361-JRG. In that case, AGIS asserted the same five patents it is asserting in its recently-filed complaint and sought damages for Google’s alleged patent infringement. Google sought transfer of that case to the Northern District of California, which the district court denied. Six months ago, the Federal Circuit ordered the case transferred. AGIS’s blatant forum shopping and clear attempt to use the ITC and the threat of an exclusion order as leverage to extract money from Google should not be rewarded, and Google respectfully submits that the Commission should deny institution.

² See <https://www.sec.gov/ix?doc=/Archives/edgar/data/0001652044/000165204422000019/goog-20211231.htm>.

³ <https://store.google.com/>.

income inequality in the U.S.⁴

I. Use of the Subject Google Articles in the United States

The accused products are location-sharing systems, related software, and products containing the same.⁵ AGIS specifically identifies and charts the Google Pixel 6 as an allegedly “representative” accused product, but also identifies the “Nexus S, Galaxy Nexus, Nexus 4, Nexus 5, Nexus 6, Nexus 5X, Nexus 6P, Nexus 7 1st Gen., Nexus 7 2nd Gen., Nexus 10, Pixel 2, Pixel 2 XL, Pixel 3, Pixel 3 XL, Pixel 3a XL, Pixel 4, Pixel 4 XL, Pixel 4a, Pixel 4a (5G), Pixel 5, Pixel 5a, Pixel 6, Pixel 6 Pro, Pixel 6a, Pixel 7, Pixel 7 Pro, Pixel C, Chromebook Pixel, Google Pixelbook, Google Pixelbook Go, and Pixel Slate” as accused products.⁶ AGIS’s allegations are based on Google Find My Device, as well as Google Play Protect, Google Maps, Google Play Services, Google Mobile Services, and Google Chrome.”⁷ Google largely designs and develops its products in the United States; the mobile devices are largely purchased by consumers in the United States for personal communication and connectivity; and the Pixel receives recognition annually for its quality, design, and features.⁸ Google invests heavily in domestic research and development, including in machine learning and artificial intelligence (AI), which are increasingly important to many of Google’s latest innovations and integral to US interests in maintaining its

⁴ See, e.g., https://www.google.org/intl/en_us/billion-commitment-to-create-more-opportunity/; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiyvs_c-MT7AhVxAjQIHcqNC4gQFnoECA0QAQ&url=https%3A%2F%2Fwww.cnet.com%2Ftech%2Fmobile%2Fpixel-6s-tensor-chip-inside-the-brains-of-googles-newest-flagship%2F&usg=AOvVaw3-jqDoDOc41bPV1pMZ9rUo.

⁵ Complaint ¶ 1, *Complainant AGIS Software Development LLC’s Statement Regarding the Public Interest* at 3.

⁶ Complaint ¶ 144; see also *id.* ¶¶ 143, 145-148; *id.* Exs. 6-10.

⁷ *Id.* Exs 6-10.

⁸ CNET says “[t]he Pixel 6 is Google’s most significant phone upgrade yet, and we can’t think of a better phone to recommend.” <https://www.cnet.com/tech/mobile/google-pixel-6-review/>.

CNET award the Pixel Pro 7 its Editor’s Choice Award.

<https://www.cnet.com/tech/mobile/pixel-7-pro-review-googles-best-flagship-phone-gets-better/>.

lead in the worldwide technology race. Google is also a leader in the deployment of voice-assisted technologies, which are available to US consumers on numerous Google products as well as third-party devices.⁹ The smartphones, tablets, and computers AGIS accuses are ubiquitous and have become essential to modern life in this country.

II. There Would Be a Significant Negative Impact on Public Health and Welfare and Significant Harm to U.S. Consumers

AGIS's requested relief targets downstream products incorporating the location-sharing software, including mobile devices, tablets, and laptop computers, all of which have uses far in excess of the asserted patents. Excluding the Google mobile devices would exacerbate the well-known current shortage of computer products used for medical and health research, education, and innumerable other important purposes that serve the public interest.¹⁰ Compounding this impact is the scope of AGIS's requested relief would eliminate a large portion of the Android-based smartphone and tablet market.

Google's products are used extensively in public health, safety, and welfare, and their exclusion would frustrate a number of government programs and myriad industries. For example, in addition to supply-chain disruptions arising from the chip shortage, the lingering effects of pandemic has caused other severe consumer product shortages arising from lack of other component parts, employee illnesses, workforce reductions, and transit route disruptions.¹¹ The pandemic has demonstrated the significant effect that even a small disruption in supply of one component or product can have on the U.S. economy. With no end to the supply chain disruption

⁹ <https://blog.google/products/pixel/introducing-google-tensor/>.

¹⁰ *See, e.g.*, <https://www.cnet.com/tech/computing/global-chip-shortage-gives-us-manufacturing-a-boost/>

¹¹ *See, e.g.*, Global smartphone shipments to contract in 2022 as China's Covid-19 lockdowns disrupt manufacturing, logistics (yahoo.com); <https://www.cnet.com/tech/mobile/smartphone-market-hurt-by-supply-chain-issues-in-thirdquarter/>.

in sight, the Legislative branch recently took action in an attempt to deal with the problem and its effects.¹² AGIS's requested relief would complicate and potentially frustrate these initiatives.

The effects of AGIS's requested relief, including exclusion of the Google accused products, would also be detrimental to health and education initiatives that make use of these products. For example, Google has worked with hospital systems to outfit Pixel devices for use in healthcare settings,¹³ and it has provided numerous donations of products and money to serve educators and students.¹⁴ Google also jointly created the Exposure Notification System for Android devices, including the Google accused products, to aid in the fight against the COVID-19 pandemic and help save lives. Many U.S. city health departments and public health officials rely on that system for their contact tracing efforts.¹⁵ Google has also worked with U.S. governmental agencies to push potentially lifesaving alerts to its devices in real-time, including alerts for catastrophic weather events, AMBER alerts, and presidential alerts.¹⁶ Many other U.S. consumers rely on the Pixel's accessibility features to function in daily life.¹⁷ AGIS's requested relief would thwart all these public health, safety, and welfare efforts.

III. There Are Insufficient Like or Directly Competitive Articles Made in the United States That Could Replace the Subject Articles

AGIS asserts that its "licensees, including AGIS Inc. and others, adequately supply the market and will continue to do so."¹⁸ AGIS's assertion lacks credibility. For example, AGIS's

¹² See, e.g., <https://science.house.gov/chipsandscienceact>. Additional measures from both the Executive and Legislative branches are expected.

¹³ See, e.g., <https://blog.google/products/android-enterprise/healthcare-response-community/>.

¹⁴ See, e.g., https://edu.google.com/intl/ALL_us/why-google/for-your-institution/k-12-solutions/; https://edu.google.com/intl/ALL_us/why-google/our-commitment/.

¹⁵ See, e.g., <https://www.google.com/covid19/exposurenofications/>.

¹⁶ See, e.g., <https://www.androidcentral.com/amber-alerts-and-android-what-you-need-know>.

¹⁷ See, e.g., <https://blog.google/outreach-initiatives/accessibility/first-time-i-was-able-call-my-23-year-old-son/>; <https://gizmodo.com/the-pixel-6s-accessibility-features-make-me-hopeful-for-1847997736>; <https://support.google.com/pixelphone/answer/6006564?hl=en>.

¹⁸ AGIS Public Interest Statement at 4.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.