

[REDACTED]

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GESTURE TECHNOLOGY
PARTNERS, LLC,

Plaintiff

v.

HUAWEI DEVICE CO., LTD.,
HUAWEI DEVICE USA, INC.,

Defendants.

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CASE NO. 2:21-cv-00040-JRG
(Lead Case)

JURY TRIAL DEMANDED

GESTURE TECHNOLOGY
PARTNERS, LLC,

Plaintiff

v.

SAMSUNG ELECTRONICS CO., LTD.
AND SAMSUNG ELECTRONICS
AMERICA, INC.,

Defendants.

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CASE NO. 2:21-cv-00041-JRG
(Member Case)

JURY TRIAL DEMANDED

**SAMSUNG DEFENDANTS' *DAUBERT* MOTION TO PRECLUDE
THE OPINIONS AND TESTIMONY OF PLAINTIFF'S SURVEY EXPERT
ANDREAS GROEHN**

[REDACTED]



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I. INTRODUCTION

It is fundamental that in patent litigation, a plaintiff's expert evidence must "carefully tie proof of damages to the claimed invention." *ResQNet.com, Inc. v. Lansa, Inc.*, 594 F.3d 860, 869 (Fed. Cir. 2010). The expert report of Dr. Andreas Groehn ("Groehn Report") fails to do so. For example, Dr. Groehn administered a conjoint survey with questions about [REDACTED] smartphones, but none of them are accused of infringing the Patents-in-Suit and all but one were not yet released during the damages period (*i.e.*, prior to expiration of the last Patent-in-Suit in 2020). The only Samsung device included in the survey was the [REDACTED], which is not accused in this case and which was not released until 2021. Dr. Groehn also included [REDACTED] [REDACTED] "patented features" he tested, but neither relates to GTP's technology because they do not determine or detect *movement* and/or a *gesture*. The result of such flaws is that the Groehn Report is not "sufficiently tied to the facts of the case" and should be excluded. *Summit 6, LLC v. Samsung Elecs. Co.*, 802 F.3d 1283, 1295 (Fed. Cir. 2015).

In addition, the Groehn Report is replete with methodological flaws. For example, Dr. Groehn surveyed respondents on [REDACTED] "patented features" versus only [REDACTED] "decoy," which artificially forced respondents to focus on the "patented features." This design flaw led to Dr. Groehn to conclude that the [REDACTED] "patented features" account for [REDACTED] *of Samsung's profits on sales of accused smartphones*. Such an "irrational result" warrants exclusion of the Groehn Report. *Oracle Am., Inc. v. Google Inc.*, No. 10-cv-02561-WHA, 2012 WL 850705, at *10–11 (N.D. Cal. Mar. 13, 2012).

Pursuant to Federal Rule of Evidence 702, Defendants Samsung Electronics Co. Ltd. and Samsung Electronics America, Inc. (collectively, "Samsung") move to exclude the opinions and testimony of Plaintiff Gesture Technology Partners, LLC's ("GTP") survey expert, Dr. Groehn. The above examples are just two reasons why the Groehn Report is untethered to the facts of this

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