

**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

**DISCOVERY ORDER**

After a review of the pleaded claims and defenses in this action, in furtherance of the management of the Court’s docket under Federal Rule of Civil Procedure 16, and after receiving the input of the parties to this action, it is ORDERED AS FOLLOWS:

1. **Initial Disclosures.** In lieu of the disclosures required by Federal Rule of Civil Procedure 26(a)(1), each party shall disclose to every other party the following information:
  - (a) the correct names of the parties to the lawsuit;
  - (b) the name, address, and telephone number of any potential parties;

- (c) the legal theories and, in general, the factual bases of the disclosing party's claims or defenses (the disclosing party need not marshal all evidence that may be offered at trial);
- (d) the name, address, and telephone number of persons having knowledge of relevant facts, a brief statement of each identified person's connection with the case, and a brief, fair summary of the substance of the information known by any such person;
- (e) any indemnity and insuring agreements under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment entered in this action or to indemnify or reimburse for payments made to satisfy the judgment;
- (f) any settlement agreements relevant to the subject matter of this action; and
- (g) any statement of any party to the litigation.

**2. Disclosure of Expert Testimony.** A party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703 or 705, and:

- (a) if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, provide the disclosures required by Federal Rule of Civil Procedure 26(a)(2)(B) and Local Rule CV-26; and
- (b) for all other such witnesses, provide the disclosure required by Federal Rule of Civil Procedure 26(a)(2)(C).

3. **Additional Disclosures.** Without awaiting a discovery request,<sup>1</sup> each party will make the following disclosures to every other party:

- (a) provide the disclosures required by the Patent Rules for the Eastern District of Texas with the following modifications to P.R. 3-1 and P.R. 3-3:
  - i. If a party claiming patent infringement asserts that a claim element is a software limitation, the party need not comply with P.R. 3-1 for those claim elements until 30 days after source code for each Accused Instrumentality is produced by the opposing party. Thereafter, the party claiming patent infringement shall identify, on an element-by-element basis for each asserted claim, what source code of each Accused Instrumentality allegedly satisfies the software limitations of the asserted claim elements.
  - ii. If a party claiming patent infringement exercises the provisions of Paragraph 3(a)(i) of this Discovery Order, the party opposing a claim of patent infringement may serve, not later than 30 days after receipt of a Paragraph 3(a)(i) disclosure, supplemental “Invalidity Contentions” that amend only those claim elements identified as software limitations by the party claiming patent infringement.
- (b) produce or permit the inspection of all documents, electronically stored information, and tangible things in the possession, custody, or control of the party that are relevant to the pleaded claims or defenses involved in this action, except to

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<sup>1</sup> The Court anticipates that this disclosure requirement will obviate the need for requests for production.

the extent these disclosures are affected by the time limits set forth in the Patent Rules for the Eastern District of Texas; and

- (c) provide a complete computation of any category of damages claimed by any party to the action, and produce or permit the inspection of documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered, except that the disclosure of the computation of damages may be deferred until the time for Expert Disclosures if a party will rely on a damages expert.

**4. Protective Orders.** The Court will enter the parties' Agreed Protective Order.

**5. Discovery Limitations.** The discovery in this cause is limited to the disclosures described in Paragraphs 1-3 together with:

- (a) Definitions. For purpose of this Paragraph, "Plaintiff" refers to Gesture Technology Partners LLC; its officers, directors, owners, managers, and employees. For purposes of this Paragraph, "Defendants" refers to Samsung Electronics Co. Ltd. and Samsung Electronics America, Inc. (collectively the "Samsung Defendants"); Huawei Device Co., Ltd., and Huawei Device USA, Inc. (collectively the "Huawei Defendants"); and their respective officers, directors, owners, managers, and employees. For purposes of this Paragraph, "Side" means a party or group of parties with a common interest with respect to this lawsuit, with one Side consisting of at least Plaintiff and another Side consisting of at least Defendants.
- (b) Interrogatories. Each Side may serve twenty-five (25) interrogatories on the other Side. Of the twenty-five interrogatories, the Samsung Defendants and the Huawei Defendants may each serve up to five (5) individual interrogatories, the remaining interrogatories being

joint interrogatories. Of the twenty-five interrogatories, Plaintiff may serve up to five (5) individual interrogatories to the Samsung Defendants and up to five (5) individual interrogatories to the Huawei Defendants, the remaining interrogatories being joint interrogatories. The parties agree to provide initial answers to interrogatories in good faith and to the extent not objected to within thirty (30) days of receipt.

- (c) Requests for Admission. Each side may each serve forty (40) requests for admission. Requests that a party admit to the authenticity of a document or thing that party produced shall not count against the total requests for admission; such authentication requests for admission must be clearly labelled as relating to authentication and the deadline to respond shall be thirty (30) days; the parties are required to meet and confer in good faith prior to serving any such authentication request for admission, and specifically to consider a stipulation regarding authentication as an alternative to use of such requests for admission.
- (d) Party Depositions. Plaintiff may take up to thirty-five (35) total hours of deposition testimony of the Samsung Defendants and Plaintiff may take up to thirty-five (35) total hours of deposition testimony of the Huawei Defendants (inclusive of both Rule 30(b)(1) and Rule 30(b)(6) depositions). Defendants may take up to thirty-five (35) hours of deposition testimony of Plaintiff (inclusive of both Rule 30(b)(1) and Rule 30(b)(6) depositions), with the time to be divided as Defendants deem appropriate. For party witnesses, no more than seven (7) hours of fact deposition shall be taken of any natural person deposed in his or her personal capacity (i.e., not as a designee of an entity under Fed. R. Civ. P. 30(b)(6)). Each natural person providing deposition testimony in his or her capacity as a designee of an entity under Fed. R. Civ. P. 30(b)(6) shall simultaneously testify as to information within his or her personal knowledge. No more than seven (7)

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