

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

AGIS SOFTWARE DEVELOPMENT LLC,

Plaintiff,

v.

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

Defendant.

CIVIL ACTION NO. 2:22-cv-263-JRG
(LEAD CASE)

JURY TRIAL DEMANDED

**DECLARATION OF MARK LIANG IN SUPPORT OF SAMSUNG ELECTRONICS CO.
LTD. AND SAMSUNG ELECTRONICS AMERICA, INC.'S MOTION FOR LEAVE TO
AMEND ANSWER TO ADD CLAIM PRECLUSION AND KESSLER DOCTRINE
AFFIRMATIVE DEFENSES**

I, Mark Liang, declare and state as follows:

1. I am a Partner at O'Melveny & Myers LLP, counsel for Defendants Samsung Electronics Co. Ltd. and Samsung Electronics America, Inc. ("Samsung") in the above captioned matter.

2. I submit this declaration in support of Samsung's Motion for Leave to Amend Answer to Add Claim Preclusion and *Kessler* Doctrine Affirmative Defenses, filed concurrently herewith. I have personal knowledge of the statements set forth in this declaration and, if called as a witness, would testify competently.

3. Attached hereto as **Exhibit A** is a true and correct copy of Samsung's Proposed Amended Answer that it seeks leave to file in this case, *AGIS Software Development LLC v. Samsung Electronics Co. Ltd. and Samsung Electronics America, Inc.*, No. 2:22-CV-00263-JRG-RSP.

4. Attached hereto as **Exhibit B** is a true and correct copy of a redline comparison of Samsung's Proposed Amended Answer that it seeks leave to file in this case, *AGIS Software Development LLC v. Samsung Electronics Co. Ltd. and Samsung Electronics America, Inc.*, No. 2:22-CV-00263-JRG-RSP, compared to the Answer that Samsung filed on June 30, 2023 (as Dkt. 80), in this case, showing changes made.

5. Attached hereto as **Exhibit C** is a true and correct copy of a screen capture of a Google webpage titled "Find, lock, or erase a lost Android device," located at <https://support.google.com/accounts/answer/6160491?hl=en#zippy=%2Cfind-yourandroid-devices-imei-number%2Cfind-your-device-with-your-wear-os-watch%2Cusefind-my-device-app>, and captured on August 9, 2023.

6. Attached hereto as **Exhibit D** is a true and correct copy of excerpts from AGIS's 2017 complaint against ZTE filed in the Eastern District of Texas (Case No. 2:17-CV-00517-JRG), with cited sections highlighted.

7. Attached hereto as **Exhibit E** is a true and correct copy of excerpts from AGIS's 2017 complaint against LG filed in the Eastern District of Texas (Case No. 2:17-CV-00515-

JRG), with cited sections highlighted.

8. Attached hereto as **Exhibit F** is a true and correct copy of excerpts from AGIS's 2017 complaint against HTC filed in the Eastern District of Texas (Case No. 2:17-CV-00514-JRG), with cited sections highlighted.

9. Attached hereto as **Exhibit G** is a true and correct copy of excerpts from AGIS's 2017 complaint against Huawei filed in the Eastern District of Texas (Case No. 2:17-CV-00514-JRG), with cited sections highlighted.

10. Attached hereto as **Exhibit H** is a true and correct copy of excerpts from AGIS's 2019 complaint against Google filed in the Eastern District of Texas (Case No. 2:19-CV-00361-JRG), with cited sections highlighted.

11. Attached hereto as **Exhibit I** is a true and correct copy of excerpts from AGIS's 2019 complaint against Samsung filed in the Eastern District of Texas (Case No. 2:19-CV-00362-JRG), with cited sections highlighted.

12. Attached hereto as **Exhibit J** is a true and correct copy of excerpts from a May 15, 2020, Request for *Ex Parte* Reexamination of U.S. Patent No. 8,213,970 under 35 U.S.C. § 302 and 37 C.F.R. § 1.510 filed in the United States Patent and Trademark Office, Central Reexamination Unit (Control No. 90/014,507).

13. Attached hereto as **Exhibit K** is a true and correct copy of the October 19, 2021, Amendment and Reply Under 37 C.F.R. 1.113 to A Final Office Action, in the *Ex Parte* Reexamination of U.S. Patent No. 8,213,970 under 35 U.S.C. § 302 and 37 C.F.R. § 1.510 filed in the United States Patent and Trademark Office, Central Reexamination Unit (Control No. 90/014,507).

14. Attached hereto as **Exhibit L** is a true and correct copy of the December 9, 2021, *Ex Parte* Reexamination Certificate for U.S. Patent No. 8,213,970 (Control No. 90/014,507).

15. Attached hereto as **Exhibit M** is a true and correct copy of Defendant Google LLC's Rule 12(b)(1) Motion to Dismiss U.S. Patent No. 8,213,970 from *AGIS Software Development LLC v. Google LLC, Waze Mobile Limited, Samsung Electronics Co., Ltd., and*

Samsung Electronics America, Inc. in the Eastern District of Texas (Case Nos. 2:19-CV-00359-JRG-00362-JRG, Dkt. 249).

16. Attached hereto as **Exhibit N** is a true and correct copy of Defendant Google LLC's Rule 12(b)(1) Motion to Dismiss U.S. Patent No. 8,213,970 from *AGIS Software Development LLC v. Google LLC* in the Northern District of California (Case No. 5:22-CV-04826-BLF, Dkt. 425).

17. Attached hereto as **Exhibit O** is a true and correct copy of the Joint Motion and Stipulation for Dismissal of Claims 2 and 10-13 of U.S. Patent No. 8,213,970 from *AGIS Software Development LLC v. Google LLC* in the Northern District of California (Case No. 5:22-CV-04826-BLF, Dkt. 437).

18. Attached hereto as **Exhibit P** is a true and correct copy of the Joint Motion and Stipulation for Dismissal of Claims 2 and 10-13 of U.S. Patent No. 8,213,970 and Order from *AGIS Software Development LLC v. Google LLC* in the Northern District of California (Case No. 5:22-CV-04826-BLF, Dkt. 438).

19. Attached hereto as **Exhibit Q** is a true and correct copy of excerpts from AGIS's 2023 complaint against Google filed in the Western District of Texas (Case No. 6:23-CV-00160-DC-DTG), with cited sections highlighted.

20. Attached hereto as **Exhibit R** is a true and correct copy of AGIS's Notice of Voluntary Dismissal Without Prejudice from *AGIS Software Development LLC v. Google LLC* in the Western District of Texas (Case No. 6:23-CV-00160-DC-DTG, Dkt. 12).

21. Attached hereto as **Exhibit S** is a true and correct copy of Google's Complaint for Declaratory Judgment against AGIS filed in the Northern District of California (Case No. 5:23-CV-03624-BLF).

I declare under penalty of perjury that the foregoing is true and correct. Executed in San Francisco, California on August 11, 2023.

Dated: August 11, 2023

/s/ Mark Liang

Mark Liang