

**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

JURY TRIAL DEMANDED

**SAMSUNG'S REPLY IN SUPPORT OF MOTION FOR  
LEAVE TO AMEND ANSWER TO ADD CLAIM PRECLUSION  
AND KESSLER DOCTRINE AFFIRMATIVE DEFENSES**

**TABLE OF CONTENTS**

	<b>Page</b>
I. THE <i>GOOGLE I</i> DISMISSAL WAS ON THE MERITS FOR THE SAME CLAIM.....	1
II. AGIS’S DISMISSALS HAVE PRECLUSIVE EFFECT .....	3
III. PRECLUSION EXTENDS TO SAMSUNG AS A CUSTOMER OF GOOGLE .....	3

## TABLE OF AUTHORITIES

	Page
<b><u>CASES</u></b>	
<i>Adaptix, Inc. v. AT&amp;T Mobility LLC</i> , 2015 WL 12696204 (E.D. Tex. May 12, 2015).....	5
<i>Aspex Eyewear, Inc. v. Marchon Eyewear, Inc.</i> , 672 F.3d 1335 (Fed. Cir. 2012).....	2
<i>Fresenius USA, Inc. v. Baxter Int’l, Inc.</i> , 721 F.3d 1330 .....	2
In re PersonalWeb Techs. LLC, 961 F.3d 1365 (Fed. Cir. 2020).....	3
<i>Levi Strauss &amp; Co. &amp; Abercrombie &amp; Fitch Trading Co.</i> , 719 F.3d 1367 (Fed. Cir. 2013).....	2
<i>Mars Inc. v. Nippon Conlux Kabushiki-Kaisha</i> , 58 F.3d 616 (Fed. Cir. 1995).....	5
<i>Pactiv Corp. v. Dow Chem. Co.</i> , 449 F.3d 1227 (Fed. Cir. 2006).....	1, 3
<i>Realtime Adaptive Streaming LLC v. Netflix, Inc.</i> , 2020 WL 7889048 (C.D. Cal. Nov. 23, 2020).....	1
<i>Senju Pharm. Co. v. Apotex Inc.</i> , 746 F.3d 1344 (Fed. Cir. 2014).....	2
<i>SpeedTrack, Inc. v. Off. Depot, Inc.</i> , 791 F.3d 1317 (Fed. Cir. 2015).....	4
<i>Stragent, LLC v. BMW of N. Am., LLC</i> , 2021 WL 1147468 (D. Del. Mar. 25, 2021) .....	1
<i>Target Training Int’l v. Extended Disc N. Am.</i> , 645 F. App’x 1018 (Fed. Cir. 2016) .....	2

## TABLE OF EXHIBITS

Ex. Number	Document
Defendants' Exhibits Filed With Defendants' Opening Brief (Dkt. 101)	
A (Dkt. 101-2)	Samsung's Proposed Amended Answer
B (Dkt. 101-3)	Redline of Samsung's Proposed Amended Answer Against Its June 30, 2023 Answer
C (Dkt. 101-4)	Google Webpage Titled "Find, lock or erase a lost Android device"
D (Dkt. 101-5)	AGIS's 2017 Complaint Against ZTE
E (Dkt. 101-6)	AGIS's 2017 Complaint Against LG
F (Dkt. 101-7)	AGIS's 2017 Complaint Against HTC
G (Dkt. 101-8)	AGIS's 2017 Complaint Against Huawei
H (Dkt. 101-9)	AGIS's 2019 Complaint Against Google ( <i>Google I</i> )
I (Dkt. 101-10)	AGIS's 2019 Complaint Against Samsung ( <i>Samsung I</i> )
J (Dkt. 101-11)	May 15, 2020 Request for <i>Ex Parte</i> Reexamination of U.S. Patent No. 8,213,970
K (Dkt. 101-12)	October 19, 2021 Amendment and Reply to a Final Office Action in the <i>Ex Parte</i> Reexamination of U.S. Patent No. 8,213,970
L (Dkt. 101-13)	December 9, 2021 <i>Ex Parte</i> Reexamination Certificate for U.S. Patent No. 8,213,970
M (Dkt. 101-14)	Google's Rule 12(b)(1) Motion to Dismiss U.S. Patent No. 8,213,970 from <i>AGIS Software Development LLC v. Google LLC, Waze Mobile Limited, Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc.</i> in the Eastern District of Texas (Case Nos. 2:19-CV-00359JRG-00362-JRG, Dkt. 249)
N (Dkt. 101-15)	Google's Rule 12(b)(1) Motion to Dismiss U.S. Patent No. 8,213,970 from <i>AGIS Software Development LLC v. Google LLC</i> in the Northern District of California (Case No. 5:22-CV04826-BLF, Dkt. 425)
O (Dkt. 101-16)	Joint Motion and Stipulation for Dismissal of Claims 2 and 10-13 of U.S. Patent No. 8,213,970 from <i>AGIS Software Development LLC v. Google LLC</i> in the Northern District of California (Case No. 5:22CV-04826-BLF, Dkt. 437)
P (Dkt. 101-17)	Joint Motion and Stipulation for Dismissal of Claims 2 and 10-13 of U.S. Patent No. 8,213,970 and Order from <i>AGIS Software Development LLC v. Google LLC</i> in the Northern District of California (Case No. 5:22-CV-04826-BLF, Dkt. 438)
Q (Dkt. 101-18)	AGIS's 2023 Complaint Against Google ( <i>Google II</i> )
R (Dkt. 101-19)	AGIS's Notice of Voluntary Dismissal Without Prejudice of <i>Google II</i> in the Western District of Texas (Case No. 6:23-CV-00160-DC-DTG, Dkt. 12)
S (Dkt. 101-20)	Google's 2023 Complaint for Declaratory Judgment Against AGIS
Plaintiff's Additional Exhibits Filed With Plaintiff's Response Brief (Dkt. 116)	
1 (Dkt. 116-2)	Exhibit C2 to AGIS's Second Amended Disclosure of Asserted Claims and Infringement Contentions, served July 21, 2023
Defendants' Additional Exhibits Filed With Defendants' Reply Brief	
T	Final Judgment entered in <i>Target Training Intern, Ltd. v. Extended Disc N. Am., Inc.</i> , No. 4:10-CV-03350, Dkt. 268 (S.D. Tex. June 1, 2015)

**TABLE OF AUTHORITIES**  
(continued)

**Page**

U	AGIS’s Infringement Contention Chart Against Google for U.S. Patent No. 8,213,970, filed as Exhibit 6 to AGIS’s November 2022 ITC complaint against Google, Samsung, OnePlus, TCL, Lenovo, Motorola, HMD, Sony, ASUS, Caterpillar, BLU, Panasonic, Kyocera, and Xiaomi (Inv. No. 337-TA-1347)
V	AGIS’s Infringement Contention Chart Against Samsung for U.S. Patent No. 8,213,970, filed as Exhibit 11 to AGIS’s November 2022 ITC complaint against Google, Samsung, OnePlus, TCL, Lenovo, Motorola, HMD, Sony, ASUS, Caterpillar, BLU, Panasonic, Kyocera, and Xiaomi (Inv. No. 337-TA-1347)
W	AGIS’s Infringement Contention Chart Against OnePlus for U.S. Patent No. 8,213,970, filed as Exhibit 16 to AGIS’s November 2022 ITC complaint against Google, Samsung, OnePlus, TCL, Lenovo, Motorola, HMD, Sony, ASUS, Caterpillar, BLU, Panasonic, Kyocera, and Xiaomi (Inv. No. 337-TA-1347)
X	AGIS’s Infringement Contention Chart Against TCL for U.S. Patent No. 8,213,970, filed as Exhibit 21 to AGIS’s November 2022 ITC complaint against Google, Samsung, OnePlus, TCL, Lenovo, Motorola, HMD, Sony, ASUS, Caterpillar, BLU, Panasonic, Kyocera, and Xiaomi (Inv. No. 337-TA-1347)
Y	AGIS’s Infringement Contention Chart Against Lenovo for U.S. Patent No. 8,213,970, filed as Exhibit 26 to AGIS’s November 2022 ITC complaint against Google, Samsung, OnePlus, TCL, Lenovo, Motorola, HMD, Sony, ASUS, Caterpillar, BLU, Panasonic, Kyocera, and Xiaomi (Inv. No. 337-TA-1347)
Z	AGIS’s Infringement Contention Chart Against HMD for U.S. Patent No. 8,213,970, filed as Exhibit 31 to AGIS’s November 2022 ITC complaint against Google, Samsung, OnePlus, TCL, Lenovo, Motorola, HMD, Sony, ASUS, Caterpillar, BLU, Panasonic, Kyocera, and Xiaomi (Inv. No. 337-TA-1347)
AA	AGIS’s Infringement Contention Chart Against Sony for U.S. Patent No. 8,213,970, filed as Exhibit 36 to AGIS’s November 2022 ITC complaint against Google, Samsung, OnePlus, TCL, Lenovo, Motorola, HMD, Sony, ASUS, Caterpillar, BLU, Panasonic, Kyocera, and Xiaomi (Inv. No. 337-TA-1347)
BB	AGIS’s Infringement Contention Chart Against ASUS for U.S. Patent No. 8,213,970, filed as Exhibit 41 to AGIS’s November 2022 ITC complaint against Google, Samsung, OnePlus, TCL, Lenovo, Motorola, HMD, Sony, ASUS, Caterpillar, BLU, Panasonic, Kyocera, and Xiaomi (Inv. No. 337-TA-1347)
CC	AGIS’s Infringement Contention Chart Against Caterpillar for U.S. Patent No. 8,213,970, filed as Exhibit 46 to AGIS’s November 2022 ITC complaint against Google, Samsung, OnePlus, TCL, Lenovo, Motorola,

# 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.