

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

AGIS SOFTWARE DEVELOPMENT LLC,	§	Case No. 2:22-cv-00263-JRG-RSP
	§	
Plaintiff,	§	<u>JURY TRIAL DEMANDED</u>
	§	
v.	§	
	§	
SAMSUNG ELECTRONICS CO., LTD. and	§	
SAMSUNG ELECTRONICS, AMERICA,	§	
INC.,	§	
	§	
Defendants.	§	
	§	

SAMSUNG'S MOTION FOR LEAVE TO AMEND INVALIDITY CONTENTIONS
UNDER P.R. 3-6(b)

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A	AGIS's 2022 ITC Complaint against Google, Samsung, and 11 Other Respondents
B	Initial Determination on AGIS's June 15, 2023 Motion to Terminate ITC Investigation
C	Samsung's Invalidity Contention claim chart for U.S. Patent No. 9,467,838 ("838 Patent") asserting U.S. Patent No. 7,353,034
D	Samsung's Invalidity Contention claim chart for the '838 Patent asserting U.S. Patent No. 7,630,724
E	U.S. Patent Publication No. 2006/0223518 ("Haney")
F	U.S. Patent Publication No. 2006/0199612 ("Beyer '612")
G	U.S. Patent No. 7,031,728 ("Beyer '728")
H	Respondents' Invalidity Contentions claim chart for Haney, served in ITC Inv. No. 337-TA-1347 on May 18, 2023
I	Respondents' Invalidity Contentions claim chart for Beyer '612 served in ITC Inv. No. 337-TA-1347 on May 18, 2023
J	Respondents' Invalidity Contentions claim chart for the Beyer '728 prior art reference, served in ITC Inv. No. 337-TA-1347 on May 18, 2023
K	February 2, 2023 procedural schedule in ITC Inv. No. 337-TA-1347
L	Samsung's proposed supplemental invalidity contentions claim chart for Haney with respect to U.S. Patent No. 8,213,970 (the "'970 Patent")
M	Samsung's proposed supplemental invalidity contentions claim chart for Beyer '612 with respect to the '970 Patent
N	Samsung's proposed supplemental invalidity contentions claim chart for Beyer '728 with respect to the '970 Patent
O	Samsung's proposed supplement to the Invalidity Contentions Cover Pleading, originally served on February 23, 2023
P	Redline comparison of Samsung's proposed supplement to the Invalidity Contentions Cover Pleading against the Cover Pleading originally served on February 23, 2023

I. INTRODUCTION

Samsung moves for leave to amend its invalidity contentions in response to the recent addition of Google's Find My Device ("FMD") application into the case. Less than two weeks ago, the Court granted AGIS's motion for leave to amend its contentions to add infringement allegations against FMD, based on U.S. Patent Nos. 8,213,970 ("970 Patent") and 9,467,838 ("838 Patent"). Dkt. 115. AGIS moved for leave to add FMD, even though the case had been pending for a year and AGIS had repeatedly insisted that this case was not about any Google software, such as FMD. With FMD now being allowed into the case, basic fairness and the four good cause factors warrant permitting Samsung to respond to AGIS's new allegations with supplemental invalidity contentions comprising three additional prior art references asserted against the '970 Patent.

First, the proposed supplement is timely, as it responds to AGIS's addition of FMD to the case just two weeks ago. Second, the supplement is important because it could render invalid the asserted claims of the '970 Patent. Third, the supplement will not cause any prejudice to AGIS, particularly given that (1) Samsung has already asserted the disclosures in two of these references against other asserted patents in this case and (2) the respondents in AGIS's recently dismissed International Trade Commission action asserted these same three references against the '970 Patent in that action, and in response, AGIS served detailed rebuttal invalidity analysis for those very references and related obviousness combinations. AGIS is represented by the same counsel here as it was in the ITC action, and thus has been on notice for months of these references and invalidity theories. And because the three references are all patents, their addition will not require extensive discovery—indeed, two of the patents name the same inventor as the asserted '970 and '838 Patents, Mr. Beyer, who will be deposed in this action even without the supplement and the third reference has the same inventor, Mr. Haney, as another prior art reference in Samsung's

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