

**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.,

Defendants.

CIVIL ACTION NO. 2:22-cv-263-JRG

JURY TRIAL DEMANDED

**SAMSUNG'S MOTION TO STAY PENDING RESOLUTION OF SAMSUNG'S
MOTION TO SEVER AND TRANSFER TO THE NORTHERN DISTRICT OF
CALIFORNIA CLAIMS AGAINST GOOGLE FIND MY DEVICE**

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Samsung respectfully moves for a stay of this case pending resolution of its Motion to Sever Claims and Transfer to the Northern District of California (“NDCA”) Claims Against Google Find My Device (Dkt. 117, “Motion to Sever and Transfer”), in view of the impending *Markman* hearing that is scheduled for November 3, 2023, less than two months away.

Despite filing this case in July 2022, AGIS waited nearly a year, with the close of fact discovery just weeks away, to move for leave to add allegations against Google’s Find My Device (“FMD”) software. Dkt. 72. Two weeks ago, on August 24, the Court granted AGIS leave to accuse FMD—but recognizing the prejudice of adding such allegations late in discovery, the Court continued the *Markman* hearing to November 3 and the trial date to July 8, 2024. Dkt. 115. Just a week after the Court’s order granting leave to add allegations against FMD, Samsung promptly filed its Motion to Sever and Transfer those allegations to the NDCA.

A stay is required here because the rescheduled *Markman* hearing date is just two months away and Samsung’s Motion to Sever and Transfer has not been decided. The Federal Circuit has repeatedly held that venue and transfer motions *must* be decided before any substantive proceedings, including specifically before the *Markman* hearing. *See In re TracFone Wireless, Inc.*, 848 F. App’x 899, 900 (Fed. Cir. 2021); *In re SK hynix Inc.*, 835 Fed. Appx. 600, 601 (Fed. Cir. 2021); *In re Apple Inc.*, 979 F.3d 1332, 1338 (Fed. Cir. 2020); *In re Google Inc.*, No. 2015-138, 2015 WL 5294800, at *2 (Fed. Cir. July 16, 2015). A stay is also required because immediately after the *Markman* hearing, this case will proceed through its most costly and time-consuming phases, with depositions, expert discovery, dispositive and *Daubert* motions, and pretrial disclosures all occurring during the ensuing six-month period. Absent a stay, Samsung and the Court will need to expend substantial resources on the most costly stages of the case—

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