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,	§	**JURY TRIAL DEMANDED**
v.	§	
SAMSUNG ELECTRONICS CO., LTD. and SAMSUNG ELECTRONICS, AMERICA, INC.,	§	
Defendants.	§	

PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC'S
SUPPLEMENTAL OPENING CLAIM CONSTRUCTION BRIEF

TABLE OF CONTENTS

Page(s)

TABLE OF AUTHORITIES

Page(s)

Cases

I. INTRODUCTION

Pursuant to P.R. 4-5(a) and the Court's Second Amended Docket Control Order (Dkt. 121), Plaintiff AGIS Software Development, LLC ("AGIS") hereby submits its Supplemental Opening Claim Construction Brief regarding certain terms of U.S. Patent Nos. 8,213,970 (the "'970 Patent," Ex. A), 9,467,838 (the "'838 Patent," Ex. B), 9,749,829 (the "'829 Patent," Ex. C), and 9,820,123 (the "'123 Patent," Ex. D) (together, the "Asserted Patents").

This supplemental opening brief is limited to addressing two additional disputes arising from Google's and Samsung's non-infringement arguments concerning two terms: (1) the term "participant" in the '970 Patent; and (2) the construction term "participants" within the agreed construction of the term "group" to mean "more than two participants associated together."

Consistent with prior claim construction findings, the Court should construe the term "participant" in the '970 Patent to have its plain meaning with a clarification that the plain meaning does not exclude devices. Similarly, the Court should construe the construction term "participants" within the agreed construction for "group" to mean "more than two participants associated together" to have its plain meaning with a clarification that the plain meaning does not exclude devices.

II. GOVERNING LAW

"Absent lexicography or disavowal, [the court does] not depart from the plain meaning of the claims." *Luminara Worldwide, LLC v. Liown Elecs. Co.*, 814 F.3d 1343, 1353 (Fed. Cir. 2016).

Claim terms should be interpreted based on how they are used in the claims. "[T]he claims themselves provide substantial guidance as to the meaning of particular claims terms." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005); *Interactive Gift Express, Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1331 (Fed. Cir. 2001) ("In construing claims, the analytical focus must begin and remain centered on the language of the claims themselves, for it is that language that the

patentee chose to use to 'particularly point . . . out and distinctly claim . . . the subject matter which the patentee regards as his invention.'"). The context surrounding a claim term, including other claims in the same patent, asserted or un-asserted, is "highly instructive." *Phillips*, 415 F.3d at 1314.

The standards for finding lexicography and disavowal are "exacting." *GE Lighting Sols., LLC v. AgiLight, Inc.*, 750 F.3d 1304, 1309 (Fed. Cir. 2014). Lexicography requires that a patentee must "clearly set forth a definition of the disputed claim term" and "clearly express an intent 'to redefine the term.'" *Thorner v. Sony Comput. Ent. Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012) (internal quotation marks omitted). Disavowal requires that "the specification [or prosecution history] make[] clear that the invention does not include a particular feature." *Luminara Worldwide, LLC*, 814 F.3d at 1353 (*quoting SciMed Life Sys. Inc. v. Advanced Cardiovascular Sys., Inc.*, 242 F.3d 1337, 1341 (Fed. Cir. 2001).). Such disavowal must be clear and unmistakable. *Id.* The Federal Circuit has thus warned courts "not to import" extraneous limitations from the specification into the claims. *See, e.g., Playtex Prods., Inc. v. Procter & Gamble Co.*, 400 F.3d 901, 906 (Fed. Cir. 2005).

III. DISPUTED CLAIM TERMS

1. Term 7: "group" (Claims 1, 19, and 54 of the '838 Patent; claims 1, 34, and 35 of the '829 Patent; and claims 1, 14, 17, 23, and 36 of the '123 Patent)

AGIS's Proposed Construction	Defendants' Proposed Construction
"more than two participants associated together" with "participants" construed as "users" or "devices"	"more than two participants associated together"

DOCKET ALARM

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.