

**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 INVALIDITY CONTENTIONS UNDER P.R. 3-6(b)**

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**CASES**

*GREE, Inc. v. Supercell Oy*,  
No. 2:19-CV-00310-JRG-RSP, 2021 WL 1626740 (E.D. Tex. Apr. 26, 2021)..... 3

**TABLE OF EXHIBITS**

<b>Ex. Number</b>	<b>Document</b>
<b>Defendants' Exhibits Filed With Defendants' Opening Brief (Dkt. 122)</b>	
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
<b>Plaintiff's Additional Exhibits Filed With Plaintiff's Response Brief (Dkt. 130)</b>	
1	U.S. Patent Publication No. 2006/0223518
2	U.S. Patent Publication No. 2006/0199612
3	U.S. Patent No. 9,820,123
4	Defendants' Invalidity Contentions in Case No. 2:19-cv-00359-JRG
5	Samsung's Response to Verified Complaint served in ITC Inv. No. 337-TA-1347
6	Respondents' Notice of Prior Art, served in ITC Inv. No. 337-TA-1347
7	Defendants' Initial Invalidity Contentions and Subject Matter Eligibility Contentions in Case No. 2:22-cv-00263-JRG-RSP
<b>Defendants' Additional Exhibits Filed With Defendants' Reply Brief</b>	
Q	Complainants' Claim Construction Brief in ITC Inv. No. 337-TA-1347

## I. INTRODUCTION

AGIS cannot have it both ways by amending its infringement contentions to accuse an entirely different product, Find My Device (“FMD”), while preventing Samsung from responding by raising additional invalidity arguments. In contending otherwise, AGIS does not confront the arguments in Samsung’s Motion, all of which demonstrate that leave should be granted, instead creating a sideshow about Samsung’s awareness of the three supplemental references from prior cases. But AGIS fails to acknowledge the key distinction between those prior cases and this one—FMD was accused in those cases, while it was not accused in this case until August 24. AGIS simply ignores that the three supplemental references are directly responsive to its late addition of FMD, as they contain disclosures mirroring AGIS’s allegations against FMD with respect to generating an emergency response. And AGIS does not dispute that Samsung diligently moved to add these references only two weeks after they became relevant here with the addition of FMD.

AGIS also fails to identify any specific prejudice it would suffer from the amendment, and instead vaguely refers to additional discovery (without identifying any specific discovery needed) and claim construction (without identifying any proposed supplemental terms). AGIS also sidesteps that it already served rebuttal contentions as to these three references in the recent ITC Action involving FMD. And AGIS ignores that the recent four-month continuance allows sufficient time to redress any alleged prejudice from needed discovery or claim construction.

Finally, AGIS’s Opposition is belied by AGIS’s own recent motion to add allegations against FMD one year into the case, when, under the prior case schedule, claim construction was nearly complete and fact discovery was three months from closing. AGIS’s motion came after it repeatedly represented to Samsung and the Court that it would not accuse FMD and after having litigated claims against FMD in other cases since 2017. By contrast, Samsung was diligent in moving to add the supplemental references within two weeks of FMD’s addition to the case. The

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