

**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 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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<b>Defendants' Exhibits Filed With Defendants' Opening Brief (Dkt. 124)</b>	
A	Cover Pleading to AGIS's December 1, 2022 Disclosure of Asserted Claims and Infringement Contentions Served in This Case (Eastern District of Texas Case No. 2:22-CV-00263-JRG-RSP)
B	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)
C	Transcript for the August 22, 2023 Hearing in This Case (Eastern District of Texas Case No. 2:22-CV-00263-JRG-RSP)
<b>Plaintiff's Additional Exhibits Filed With Plaintiff's Response Brief (Dkt. 131)</b>	
1	Email from Mark Liang to Counsel for AGIS Regarding Filing the Pending Motion to Sever and Transfer in This Case (Eastern District of Texas Case No. 2:22-CV-00263-JRG-RSP)
<b>Defendants' Additional Exhibits Filed With Defendants' Reply Brief</b>	
D	March 1, 2023 Hearing Transcript in <i>AGIS Software Development LLC v. Google LLC</i> in the Northern District of California (Case No. 5:22-CV-04826-BLF)
E	Order Terminating Pending Motions Without Prejudice in <i>AGIS Software Development LLC v. Samsung Elecs. Co. Ltd., et al.</i> in the Northern District of California (Case No. 5:22-CV-04825-BLF, Dkt. 162)

AGIS does not dispute that Federal Circuit precedents require resolution of transfer motions before *Markman* hearings or other substantive proceedings. Instead, in an attempt to avoid this clear requirement, AGIS argues that (1) it is limited only to “long-pending” transfer motions, and that (2) it should not apply here because Samsung delayed by not filing its motion immediately after AGIS filed its amended complaint. Both arguments fail. First, Federal Circuit precedent requires resolution of venue issues before district courts address other substantive issues, such as claim construction, for the basic reason that a court should not be deciding substantive issues if it is not the appropriate venue for the case. AGIS cites no case, because it cannot, where the Federal Circuit conditions that requirement on the length of time the transfer motion has been pending. Second, Samsung did not delay filing its Motion to Sever and Transfer—indeed, it filed the motion only one week after the Court granted AGIS’s motion for leave to amend its infringement contentions to add FMD to the case and Samsung’s motion, thus, became ripe. Moving any sooner, before FMD was added to the case on August 24, would have been illogical and a waste of the Court’s time.

As to prejudice, AGIS does not dispute it is a non-practicing entity seeking only monetary relief. Thus, there is no urgency to resolving AGIS’s claims. And any schedule delay in this case is attributed solely to AGIS’s late addition of “a new basis for infringement.” Dkt. 115 at 1. Finally, AGIS’s observation that this case is in its later stages, with *Markman* and other key deadlines approaching, only heightens the need for, and urgency of, a stay before the parties and the Court move forward with substantive issues in the costliest phases of the case.

#### **I. SAMSUNG’S DILIGENTLY FILED MOTION SHOULD BE PRIORITIZED**

As the Motion to Stay explained, the Federal Circuit has repeatedly held that venue and transfer issues must be decided before the *Markman* or other substantive proceedings. Dkt. 124 at 1, 4-6. AGIS does not dispute these holdings but instead attempts to distinguish them based on

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