

**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-00263-JRG-RSP

JURY TRIAL DEMANDED

DEFENDANTS' RESPONSIVE SUPPLEMENTAL CLAIM CONSTRUCTION BRIEF

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Cases

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CyWee Grp. Ltd. v. Samsung Elecs. Co.,
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Thorner v. Sony Computer Ent’t Am. LLC,
669 F.3d 1362 (Fed. Cir. 2012) 5

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TABLE OF EXHIBITS

Exhibit No.	Document Description
Exhibits To Defendants' Claim Construction Briefs (Dkt. 97 and this brief)	
1 (Dkt. 97-1)	U.S. Patent No. 8,213,970 – Excerpts from '970 Reexam File History
2 (Dkt. 97-2)	AGIS's Rebuttal Claim Construction Brief, <i>AGIS v. Life360, Inc.</i> , 9:14-cv-80651, Dkt. No. 58 (Oct. 2, 2014)
3 (Dkt. 97-3)	U.S. Patent No. 7,031,728
4 (Dkt. 97-4)	Decl. of Dr. Benjamin Goldberg in Support of AGIS's Claim Construction, <i>AGIS v. Life360, Inc.</i> , 9:14-cv-80651, Dkt. No. 48-5 (Sept. 17, 2014)
5 (Dkt. 97-5)	Transcript of Markman Hearing, <i>AGIS v. Life360</i> , 14-cv-80651, Dkt. No. 71 (Nov. 8, 2014)
6 (Dkt. 97-6)	U.S. Federal Circuit, Reply Brief for Plaintiff-Appellant, AGIS, Case No. 15-1732, Dkt. No. 39
7 (Dkt. 97-7)	Decl. of Tim Williams, Ph.D. Regarding Claim Construction for Samsung (June 16, 2023)
8 (Dkt. 97-8)	U.S. Patent No. 8,213,970 – Ex Parte Reexamination Certificate
9	Excerpt from New Oxford American Dictionary (3rd ed. 2010)
10	Excerpt from Cambridge Dictionary of American English (2nd ed. 2008)
11	Excerpt from Random House Webster's College Dictionary (Updated ed. 2005)
12	Excerpt from Cambridge Advanced Learner's Dictionary (2003)
13	Excerpt from AGIS's Claim Construction Brief, <i>AGIS v. Huawei Device USA Inc., et al.</i> , 2:17-cv-513-JRG, Dkt. No. 165 (E.D. Tex. July 26, 2018)
14	Excerpt from December 22, 2020 Deposition Transcript of Joseph McAlexander III in <i>AGIS v. Samsung et al.</i> , 2:19-cv-361-JRG (E.D. Tex.)
Exhibits To Plaintiff's Claim Construction Briefs (Dkts. 87, 103, 129)	
A (Dkt. 87-2)	U.S. Patent No. 8,213,970
B (Dkt. 87-3)	U.S. Patent No. 9,467,838
C (Dkt. 87-4)	U.S. Patent No. 9,749,829
D (Dkt. 87-5)	U.S. Patent No. 9,820,123
E (Dkt. 87-6)	Decl. of Michael Brogioli, Ph.D. Regarding Claim Construction for AGIS (June 16, 2023)
F (Dkt. 87-7)	Claim Construction Order, <i>AGIS v. Huawei Device USA Inc., et al.</i> , 2:17-cv-00513-JRG, Dkt. 205 (E.D. Tex. Oct. 10, 2018)
G (Dkt. 87-8)	Claim Construction Order, <i>AGIS v. Google LLC, et al.</i> , 2:19-cv-00361-JRG, Dkt. 147 (E.D. Tex. Dec. 8, 2020)
H (Dkt. 87-9)	Claim Construction Order, <i>AGIS v. T-Mobile USA, Inc., et al.</i> , 2:21-cv-00072-JRG, Dkt. 213 (E.D. Tex. Nov. 10, 2021)
I (Dkt. 129-2)	Document entitled "Sign in on a device that's not your device" taken from https://support.google.com/accounts/answer/2917834/hl=em&ref_topic
J (Dkt. 129-3)	Document entitled "Delete, switch, or add users" taken from https://support.google.com/android/answer/2865483#zippy==%2Cdelete

Defendants hereby submit their *Markman* brief addressing two related disputes over whether the word “participants” (1) means “users” as Defendants propose or (2) means “users” and/or “devices” as AGIS proposes. “Participants” appears in Claim 2 of the ’970 Patent and within the agreed construction of the term “group” in all claims of the ’838, ’829, and ’123 Patents. All four patents are related, and the ’838, ’829, and ’123 Patents have a common specification, which overlaps substantially with the ’970 Patent’s specification. The specifications, claims, dictionaries, as well as AGIS’s past admissions, all support that “participants” means “users.”

I. ARGUMENT FOR DISPUTED TERMS

A. “participants” (’970 Patent - Claim 2)

Plaintiff’s Proposal	Defendants’ Proposal
Plain meaning (which Plaintiff contends is “devices” or “users”)	“users”

In the context of the ’970 Patent, “participants” means “users,” and does not also include “devices” as AGIS proposes, because: (1) the claim language distinguishes between a “participant” and devices such as a “PDA/cell phone”; (2) the specification equates “participants” with “users”; and (3) dictionaries define a “participant” as a “person.” AGIS offers no contrary evidence and relies instead on the false assumption that the plain meaning of “participant” could include a “device” (i.e., a physical object). AGIS also raises irrelevant arguments about this Court’s prior construction of unrelated terms and the impact that the construction could have on infringement.

1. The Claim Language Distinguishes “participants” From Devices

“[T]he context in which a term is used in the asserted claim can be highly instructive” as to the meaning of a term. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (*en banc*). Here, the context in which “participants” is used in Claim 2 shows that AGIS’s proposal that the term could refer to “devices” is incorrect. “Participants” appears in the limitation: “a predetermined network of *participants*, wherein *each participant has a similarly equipped*

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