

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT 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' MOTION TO STAY

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I. INTRODUCTION

Plaintiff AGIS Software Development LLC (“AGIS”) first sued Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Samsung”) in 2019 (“*AGIS I*”), alleging infringement of two AGIS patents by Samsung’s “manufacture, use, [sale], offer for sale, and/or import[ation] into the United States [of] electronic devices, such as Android-based smartphones, tablets, and smart watches”—essentially Samsung’s Galaxy devices. *See* Case No. 2:19-cv-00362 (E.D. Tex.), ECF 1 (the “*AGIS I* Complaint”), ¶ 15. Not achieving the results it wanted from the *AGIS I* lawsuit (which is still pending in the Northern District of California as Case No. 5-22-cv-04825), AGIS is now attempting two more bites at the apple with (1) this lawsuit (“*AGIS II*”) alleging infringement of four AGIS patents (the same two patents asserted in *AGIS I* plus two more from the same patent family) against the same Defendants (Samsung) accusing the same products (Samsung’s Galaxy devices) and (2) another action filed in the International Trade Commission on November 16, 2022 against Samsung and others alleging infringement of *the same four AGIS patents* at issue here against *the same Galaxy devices*. *Certain Location-Sharing Systems, Related Software, Components Thereof, and Products Containing the Same*, Inv. No. 337-TA-3655 (Nov. 16, 2022) (the “AGIS ITC Action”).

As explained in a concurrently filed partial motion to dismiss this case, the majority of AGIS’s allegations in its Amended Complaint should be dismissed.¹ Samsung brings this motion seeking a stay of the remaining allegations in the Amended Complaint after ruling on the motion to dismiss, or a stay of the case in its entirety, pursuant to 28 U.S.C. § 1659(a) which provides that

¹ In that motion, Samsung is seeking partial dismissal because (1) pursuant to 28 U.S.C. § 1498(a), AGIS’s exclusive remedy for the purported acts of infringement relating to the Team Awareness Kit, or “TAK,” suite of apps is an action against the U.S. Government in the United States Court of Federal Claims; and (2) the allegations of infringement in Counts III and IV of the Amended Complaint are barred by the doctrine of claim splitting.

a “district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission.” Alternatively, a discretionary stay of all non-dismissed allegations, or the entire case, is warranted based on the significant overlap of issues among AGIS’s multiple suits. To proceed on all three cases would be manifestly inefficient and would reward AGIS for its abuse of judicial resources and calculated campaign of harassment against Samsung. AGIS could have, and should have, brought all of its infringement allegations against Samsung in one suit.

II. STATEMENT OF FACTS

A. Allegations in the Amended Complaint

In its Amended Complaint, AGIS alleges Samsung infringes U.S. Patent Nos. 8,213,970 (“’970 Patent”); 9,467,838 (“’838 Patent”); 9,749,829 (“’829 Patent”); and 9,820,123 (“’123 Patent”). Am. Compl., ECF 22, ¶¶ 21, 31, 46, 61. The four patents are all in the same family (stemming from the same parent application through a long line of continuations and continuations-in-part). Each of the four asserted patents is directed, generally, to coordinating or managing two or more people through the use of a communications network. *See* ’970 Patent, ECF 22-1, 1:15-23; ’838 Patent, ECF 22-2, 1:30-43; ’829 Patent, ECF 22-3, 1:33-46; ’123 Patent, ECF 22-4, 1:33-46. The Amended Complaint alleges infringement by a list of 264 Samsung Galaxy devices that are purportedly “configured and/or adapted with certain map-based communication applications, product, and solutions” and identifies several examples of such applications, products and solutions, including a U.S. Government-developed and owned suite of apps, known as TAK, and a Samsung Knox feature. Am. Compl., ¶ 16.

B. Previous Allegations in *AGIS I*

AGIS’s allegations of infringement of the ’829 and ’123 Patents in *AGIS II* are not new; AGIS also asserted, and continues to assert, the same two patents in *AGIS I* against the very same

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