

**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
	§	
Plaintiff,	§	<u>JURY TRIAL DEMANDED</u>
	§	
v.	§	
	§	
SAMSUNG ELECTRONICS CO., LTD. and	§	
SAMSUNG ELECTRONICS AMERICA,	§	
INC.,	§	
	§	
Defendants.	§	
	§	

**PARTIES' JOINT MOTION FOR ENTRY OF
CLAIM CONSTRUCTION WITH REGARD TO CERTAIN SPECIFIED TERMS
BASED ON ESTABLISHED PRIOR RECORD**

Plaintiff AGIS Software Development LLC (“AGIS” or “Plaintiff”) and Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Samsung” or “Defendants”) (collectively, the “Parties”) have agreed that given the available record in previous cases involving the patents-at-issue in this case, no additional claim construction briefing or claim construction hearing addressing certain of the disputed terms would be helpful to the Court or necessary. The Parties have agreed to rely upon applicable portions of the briefing, evidence, and hearing transcripts (“Materials”) of the previous claim construction hearings involving these patents for resolving their dispute concerning the certain terms.

The Parties thus request that applicable portions of the claim construction proceedings be entered into the record of this case so that each Party may preserve its appellate rights with respect to the disputed claim terms. The disputed terms and applicable proceeding for each are identified in **Appendix A**.

The disputed claim terms and proposed constructions identified in **Appendix A** in the above-captioned case were presented to the Court in *AGIS Software Development LLC v. Huawei Device USA Inc., et al.*, Case No. 2:17-cv-513-JRG-RSP (E.D. Tex.) (Lead Case) (the “*Huawei Case*”); *AGIS Software Development LLC v. Google LLC*, Case No. 2:19-cv-361-JRG (E.D. Tex.) (Lead Case) (the “*Google Case*”); and/or *AGIS Software Development LLC v. T-Mobile USA, Inc.*, Case No. 2:21-cv-72-JRG-RSP (E.D. Tex.) (Lead Case) (the “*T-Mobile Case*”). The Court considered the parties’ briefing and oral argument in the *Huawei Case*, *Google Case*, and *T-Mobile Case* and issued claim construction rulings in all three cases (Case No. 2:17-cv-513-JRG-RSP, Dkt. No. 205, the “*Huawei Claim Construction Order*”; Case No. 2:19-cv-361-JRG, RSP, Dkt. No. 147, the “*Google Claim Construction Order*”; Case No. 2:21-cv-72-JRG-RSP, Dkt. No. 213, the “*T-Mobile Claim Construction Order*”). For avoidance of any doubt, the Parties maintain their disputes as to the terms and constructions listed in **Appendix A**, but rest upon the previous claim construction record as to those terms, with Samsung presenting and relying on the earlier defendants’ proposed constructions, briefing and oral argument, and AGIS relying on its positions, briefing and oral argument in the applicable case for each term. The Parties each agree not to contend that this joint motion and/or entry of relevant portions of the previous claim construction record constitutes a waiver or forfeiture of any right to appeal, or of the relevant prior arguments regarding, the claim construction order ultimately entered in this case.

The Parties thus request that the Court (1) incorporate into the record of this case the portions of the claim construction record in the *Huawei Case*, *Google Case*, and the *T-Mobile Case* (including briefing, related exhibits and attachments, and hearing transcripts) insofar as each relates to the terms as identified in Appendix A and (2) issue its claim constructions for these identified terms based thereon. Each Party retains the right to appeal any otherwise-appealable

construction entered by the Court in this action. Specifically, the Parties request that at least the following documents on file with the Court, as identified by PACER Docket Report dated June 5, 2023 (attached as **Exhibits A, B, and C**), and their accompanying exhibits and attachments, be incorporated into the record in the present case as to the terms identified in **Appendix A**:

- *AGIS Software Development LLC v. Huawei Device USA Inc., et al.*, Case No. 2:17-cv-00513-JRG-RSP (Lead Case), Dkt Nos. 165, 175, 186, 205, Exhibits D-1 – D-4;
- *AGIS Software Development LLC v. Huawei Device USA Inc., et al.*, Case No. 2:17-cv-00513-JRG-RSP, Transcript of September 13, 2018 Claim Construction Hearing, Exhibit D-5;
- *AGIS Software Development LLC v. Google LLC*, Case No. 2:19-cv-00361- JRG-RSP (Lead Case), Dkt Nos. 116, 120, 123, 147, Exhibits D-6 – D-9;
- *AGIS Software Development LLC v. Google LLC*, Case No. 2:19-cv-00361- JRG-RSP (Lead Case), Transcript of October 30, 2020 Claim Construction Hearing, Exhibit D-10;
- *AGIS Software Development LLC v. T-Mobile USA, Inc., et al.*, Case No. 2:21-cv-00072-JRG-RSP (Lead Case), Dkt. Nos. 145, 156, 166, 213 Exhibits D-11 – D-14;
- *AGIS Software Development LLC v. T-Mobile USA, Inc., et al.*, Case No. 2:21-cv-00072-JRG-RSP (Lead Case), Transcript of October 21, 2021 Claim Construction Hearing, Exhibit D-15.

The above documents are compiled in Exhibits D-1 through D-15.

The Parties request that the Court deem the above-listed documents and any accompanying exhibits, attachments, and arguments to be part of the claim construction record of the present

action as to the terms and proposed constructions identified in **Appendix A**. The Parties hereby respectfully request that the Court rule that the Parties can rely on the claim construction record in **Exhibit D** for the terms and proposed constructions as identified in **Appendix A** and decide constructions for these terms based on that record.

In the event of any appeal, the Parties stipulate to include relevant copies of the above-listed documents and any accompanying exhibits, attachments, and arguments in the appellate record as if litigated in the present case. The Parties have agreed to forego the September 1, 2023 Claim Construction Hearing as to the terms identified in **Appendix A** without waiving their substantive positions or the right to appeal any otherwise-appealable construction entered by the Court in this action.

Accordingly, the Parties believe that there is good cause for the Court to grant the Parties' Joint Motion.

Dated: June 16, 2023

Respectfully submitted

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