

**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-263-JRG-RSP

JURY TRIAL DEMANDED

**SAMSUNG'S RESPONSE TO PLAINTIFF AGIS SOFTWARE DEVELOPMENT  
LLC'S OPPOSED MOTION FOR EXPEDITED BRIEFING FOR PLAINTIFF'S  
MOTION TO AMEND P.R. 4-3 DISCLOSURES**

AGIS's Motion for Expedited Briefing (Dkt. 83) should be denied. AGIS argues that expedited briefing is needed to resolve whether to add another claim construction dispute over the meaning of "participants"—a word that is not a claim term and that instead appears within the parties' *agreed* construction of the claim term "group"—to its P.R. 4-3 Disclosures. But AGIS omits to mention that any dispute over the word "participants" could only be relevant to infringement issues for Google's Find My Device ("FMD") application—a product that is not at issue in this case or part of AGIS's current infringement contentions. Rather, just last week and one year into the case, AGIS filed an opposed motion for leave to add FMD to its infringement contentions (Dkt. 72), which is pending. Unless and until the Court grants AGIS's opposed motion for leave to add FMD, FMD is not part of this case and construing "participants" is an unnecessary waste of the parties' and Court's resources.

Moreover, as explained further in Samsung's forthcoming opposition to AGIS's motion for leave to add FMD, AGIS's purported need for expedited briefing and to construe "participants" is a problem of its own making, caused by AGIS's belated and improper effort to insert FMD into the case one year after it filed this lawsuit. AGIS has been far from diligent in seeking to add its FMD allegations and will not be able to meet its burden to show good cause to amend its contentions because: (1) AGIS has known about its FMD allegations for at least six years since 2017, during which time AGIS has been continuously litigating FMD across dozens of other cases, including in two cases against Samsung; (2) AGIS intentionally omitted FMD from this case to avert a stay or dismissal in view of parallel litigations that AGIS filed, which also accused FMD; and (3) AGIS repeatedly represented to the Court just a few months ago that FMD is *not* accused in this case. *E.g.*, Dkt. 41 at 2. In short, AGIS strategically delayed a year before moving for leave to add allegations against FMD and now, ten days before its claim construction brief is due,

demands expedited treatment of a claim interpretation issue that could only be relevant to FMD and is irrelevant to any issues that are presently part of this case.

Because FMD is not part of the case and AGIS's purported need for expedited briefing stems from its deliberate delay of a year in seeking leave to add FMD to this case, AGIS's motion should be denied.

Dated: July 12, 2023

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic services are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 12<sup>th</sup> day of July, 2023.

Dated: July 12, 2023

/s/ Melissa R. Smith  
Melissa R. Smith