

**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 LEAVE TO AMEND P.R. 4-3 DISCLOSURES**

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<b>Ex. Number</b>	<b>Document</b>
<b>Plaintiff's Exhibits Filed With Plaintiff's Opening Brief (Dkt. 82)</b>	
A (Dkt. 82-2)	June 19, 2023 Email From Enrique Iturralde to Samsung Regarding "Group" Term Claim Construction Issue
B (Dkt. 82-3)	June 22, 2023 Email From Neil Sirota to AGIS Regarding "Group" Term Claim Construction Issue
C (Dkt. 82-4)	June 28, 2023 Email From Enrique Iturralde to Samsung Regarding "Group" Term Claim Construction Issue
D (Dkt. 82-5)	July 6, 2023 Email From Enrique Iturralde to Samsung Regarding "Group" Term Claim Construction Issue
E (Dkt. 82-6)	June 29, 2023 Email From Neil Sirota to AGIS Regarding "Group" Term Claim Construction Issue
<b>Defendants' Additional Exhibits Filed With This Brief</b>	
1	AGIS's December 2022 Infringement Contentions
2	June 16, 2023 Declaration of Michael C. Brogioli, Ph.D. Regarding Claim Construction
3	June 16, 2023 Declaration of Tim A. Williams, Ph.D. Regarding Claim Construction
4	Initial Determination on AGIS's June 15, 2023 Motion to Terminate ITC Investigation
5	AGIS Email Chain Noticing Samsung of its Intention to File the Pending Motion for Leave
6	AGIS Email Chain Raising "Group" Claim Construction Issue
7	Exhibit D1 to AGIS's June 2022 Proposed Amended Infringement Contentions
8	Exhibit A to AGIS's June 2022 Proposed Amended Infringement Contentions
9	Exhibit B to AGIS's June 2022 Proposed Amended Infringement Contentions
10	AGIS's Opening Claim Construction Brief in <i>AGIS Software Development LLC v. Huawei Device USA Inc.</i> , No. 2:17-CV-513-JRG, Dkt. 165

## I. INTRODUCTION

AGIS's belated attempt to add a claim construction dispute over the meaning of the word "participants" in the parties' *stipulated construction* of the term "group"—which follows this Court's construction from prior litigation—should be denied because the dispute is not relevant to any issue in this case. AGIS's new proposed meaning of "participants" could only be relevant to infringement issues for Google's Find My Device ("FMD") application. But FMD is not accused in AGIS's current, operative infringement contentions. Instead, over a year into this case and after the relevant deadlines have passed, AGIS is trying to inject FMD as a new accused product into this case, along with this new dispute over the meaning of "participants" within the established, agreed construction of "group." AGIS's tactics do not constitute good cause.

Only three weeks ago and a year into this case, AGIS moved for leave to amend its infringement contentions to add allegations against FMD. Dkt. 72 (hereinafter, "Contentions Motion"). But as Samsung's opposition to that motion explains, AGIS lacks good cause to add FMD to this action. Dkt. 85. AGIS has known about and has been continuously litigating allegations against Google's FMD for the past six years across dozens of cases, including two cases against Samsung. Indeed, in AGIS's first set of cases filed in 2017, AGIS accused FMD and disputed the construction of "group," resulting in this Court's construction that the parties agreed to follow just a month ago. Notably, in briefing "group" as a disputed term in that earlier case, AGIS expressly defined "participants" as "users . . . of mobile devices," contradicting its proposal now to construe "participants" as the "devices" themselves.

Despite this, AGIS deliberately omitted FMD from this case in an effort to avert a stay or dismissal based on parallel litigations that AGIS filed accusing FMD. In fact, in opposing Samsung's motions to stay or dismiss this case in view of AGIS's other parallel cases involving FMD, AGIS unequivocally represented to this Court that it was *not* accusing FMD in this case.

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