

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

**MOTION FOR ISSUANCE OF LETTER OF REQUEST  
FOR INTERNATIONAL JUDICIAL ASSISTANCE—LETTER ROGATORY**

Plaintiff AGIS Software Development LLC (“AGIS”) hereby requests that this Court, pursuant to Rules 38(b), 30(b)(6) and 45 of the Federal Rules of Civil Procedure and 28 U.S.C. § 1781, issue a Letter of Request/Letter Rogatory for International Judicial Assistance to the National Court Administration requesting that Samsung SDS Co., Ltd. produce documents and things for inspection and copying described herein. The proposed Letter of Request/Letter Rogatory is attached hereto as Ex. 1.

On May 12, 2023, Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Samsung”) objected to the production of source code for the Samsung Knox Manage application on the basis that it did not have possession, custody, and control over the source code and related technical documentation. Samsung represents that the source code and related technical documentation for Samsung Knox Manage application is in the possession, custody, and control of Samsung SDS Co., Ltd. (“Samsung SDS”). Samsung represents that there is no agreement that provides Samsung the right to receive Samsung SDS’s source code for Knox Manage. Samsung SDS is based in Korea.

The United States and Korea are both parties to the Hague Convention on Taking Evidence Abroad in Civil or Commercial Matters (the “Hague Convention”).<sup>1</sup> The Hague Convention provides three different means for taking evidence in contracting states: (1) using a local judicial authority by means of letters rogatory (also known as letters of request); (2) depositions before a diplomatic or consular officer; and (3) depositions before a person commissioned by a court. (*See* Ex. 3, Hague Convention on Taking Evidence Abroad in Civil or Commercial Matters, Arts. 1 and 15-17). In Korea, oral depositions or depositions on written questions may be taken by U.S. consular officers or by private attorneys at the U.S. Embassy or at another location such as a hotel

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<sup>1</sup> The United States ratified the Hague Convention on August 8, 1972, and Korea ratified the Hague Convention on July 16, 1976. (*See* Ex. 2).

or office, either on notice or pursuant to a commission. (*See* Ex. 4). Although the Hague Convention offers a Model Letter of Request, there is no particular form that must be followed, except that the commission must refer to the Hague Convention with precise information on:

- The name of the court;
- The name of the judge or issuing authority;
- The names of the parties to the case and their representatives;
- The names, addresses, and telephone number of all witnesses to be summoned;
- The questions to be put to the witnesses, or a statement of the subject matter on which they are to be examined;
- The names of any of the parties, or their representatives, who plan to attend the deposition;
- Whether the parties to the case have consented to the deposition and, if not, the reasons for any objection (*See* Ex. 5).

The proposed Letter of Request/Letter Rogatory attached hereto as Ex. 1 includes the foregoing requisite information. Accordingly, AGIS respectfully requests that the Court approve and sign the proposed Letter of Request. AGIS further respectfully requests that, after this Court signs the Letter of Request, the Clerk of this Court authenticate the Court's signature on the Letter under the seal of this Court, and thereafter directly transmit the Letter of Request to the National Court Administration for execution in conformity with Article 2 of the Hague Convention.

Dated: July 27, 2023

Respectfully submitted,

*/s/ Alfred R. Fabricant*

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***ATTORNEYS FOR PLAINTIFF AGIS  
SOFTWARE DEVELOPMENT LLC***

**CERTIFICATE OF SERVICE**

The undersigned certifies that all counsel of record who have consented to electronic service 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 27th day of July, 2023.

/s/ Alfred R. Fabricant  
Alfred R. Fabricant