

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CLEAR IMAGING RESEARCH, LLC

Plaintiff,

v.

SAMSUNG ELECTRONICS CO. LTD. and
SAMSUNG ELECTRONICS AMERICA, INC.

Defendants.

Civil Action No. 2:19-cv-326

JURY TRIAL DEMANDED

DISCOVERY ORDER

After a review of the pleaded claims and defenses in this action, in furtherance of the management of the Court's docket under Federal Rule of Civil Procedure 16, and after receiving the input of the parties to this action, it is ORDERED AS FOLLOWS:

1. **Initial Disclosures.** In lieu of the disclosures required by Federal Rule of Civil Procedure 26(a)(1), each party shall disclose to every other party the following information:
 - (a) the correct names of the parties to the lawsuit;
 - (b) the name, address, and telephone number of any potential parties;
 - (c) the legal theories and, in general, the factual bases of the disclosing party's claims or defenses (the disclosing party need not marshal all evidence that may be offered at trial);
 - (d) the name, address, and telephone number of persons having knowledge of relevant facts, a brief statement of each identified person's connection with the

case, and a brief, fair summary of the substance of the information known by any such person;

- (e) any indemnity and insuring agreements under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment entered in this action or to indemnify or reimburse for payments made to satisfy the judgment;
- (f) any settlement agreements relevant to the subject matter of this action; and
- (g) any statement of any party to the litigation.

2. Disclosure of Expert Testimony. A party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703 or 705, and:

- (a) if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, provide the disclosures required by Federal Rule of Civil Procedure 26(a)(2)(B) and Local Rule CV-26; and
- (b) for all other such witnesses, provide the disclosure required by Federal Rule of Civil Procedure 26(a)(2)(C).

3. Additional Disclosures. Without awaiting a discovery request,¹ each party will make the following disclosures to every other party:

- (a) provide the disclosures required by the Patent Rules for the Eastern District of Texas with the following modifications to P.R. 3-1 and P.R. 3-3:

¹ The Court anticipates that this disclosure requirement will obviate the need for requests for production.

- i. If a party claiming patent infringement asserts that a claim element is a software limitation, the party need not comply with P.R. 3-1 for those claim elements until 30 days after source code for each Accused Instrumentality is produced by the opposing party. Thereafter, the party claiming patent infringement shall identify, on an element-by-element basis for each asserted claim, what source code of each Accused Instrumentality allegedly satisfies the software limitations of the asserted claim elements.
 - ii. If a party claiming patent infringement exercises the provisions of Paragraph 3(a)(i) of this Discovery Order, the party opposing a claim of patent infringement may serve, not later than 30 days after receipt of a Paragraph 3(a)(i) disclosure, supplemental “Invalidity Contentions” that amend only those claim elements identified as software limitations by the party claiming patent infringement.
- (b) produce or permit the inspection of all documents, electronically stored information, and tangible things in the possession, custody, or control of the party that are relevant to the pleaded claims or defenses involved in this action, except to the extent these disclosures are affected by the time limits set forth in the Patent Rules for the Eastern District of Texas; and
- (c) provide a complete computation of any category of damages claimed by any party to the action, and produce or permit the inspection of documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered, except that the disclosure of

the computation of damages may be deferred until the time for Expert Disclosures if a party will rely on a damages expert.

4. **Protective Orders.** The Court will enter the parties' Agreed Protective Order.
5. **Discovery Limitations.** The discovery in this cause is limited to the disclosures described in Paragraphs 1-3 together with:
 - (a) Interrogatories: Twenty-five (25) interrogatories per side.²
 - (b) Requests for Admission: Each side may serve up to twenty-five (25) requests for admission. There is no limit on the number of requests for admission the parties may serve to establish the authenticity of documents. Requests for Admission directed to document authentication shall be clearly denoted as such, and shall be served separately from any requests for admission subject to the numerical limitations above. The parties shall work together in good faith to agree on a stipulation as to the authenticity of their own documents to avoid the service of large numbers of requests for admission relating to authenticity.
 - (c) Testifying Expert Witnesses: Each side is entitled to up to six (6) testifying expert witnesses. Any party can move the court for an additional expert upon a showing of good cause.
 - (d) Depositions (non-expert):
 - a. Each side shall be allowed up to 85 hours of fact discovery deposition time, including a total of 8 depositions of Rule 30(b)(1) party-witnesses (e.g., party employees). These hour limits shall include third party witnesses (Para. 5(f)) and shall not include expert deposition time. Depositions on written questions

² "Side" means a party or a group of parties with a common interest.

do not count toward the above limits. The parties shall act reasonably and in good faith to schedule depositions expeditiously, while accommodating the schedules of counsel and witnesses. The parties further agree to discuss in good faith reasonable expansions of these limits to the extent a party believes additional fact witness deposition time becomes necessary. Except as set forth expressly below, each fact deposition shall be limited to no more than 1 day of 7 hours on the record.

- i. Deposition of named inventor. Notwithstanding the foregoing, to the extent Plaintiff designates Dr. Fatih Ozluturk as a corporate designee witness under Rule 30(b)(6), the Samsung Defendants shall be entitled to take a 2-day deposition of Dr. Ozluturk of up to 7 hours each day: the first day shall be in his individual capacity and the second day in his capacity as a corporate designee witness under Rule 30(b)(6). For avoidance of doubt, the two days of deposition testimony need not be consecutive and may take place at different times during the fact discovery period.
- (e) Expert Depositions: Each expert can be deposed for up to 7 hours for each substantive issue (e.g., infringement, invalidity, or damages) on which the expert has offered an opinion. For example, an expert providing reports regarding infringement and validity may be deposed for 14 hours. Experts, however, shall not be deposed for more than 7 hours in one day as set forth in Rule 30(d)(1) unless otherwise agreed to by the parties.
- (f) Third-Party Discovery:

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.