[redacted]

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

STATON TECHIYA, LLC AND SYNERGY IP CORPORATION, Plaintiffs, v. SAMSUNG ELECTRONICS CO., LTD. and SAMSUNG ELECTRONICS AMERICA, INC. Defendants.	CIVIL ACTION NO. 2:21-CV-00413-JRG-RSP (LEAD CASE) CIVIL ACTION NO. 2:22-CV-00053-JRG-RSP (MEMBER CASE) [redacted]

SAMSUNG'S MOTION FOR ATTORNEYS' AND OTHER FEES

TABLE OF CONTENTS

I. FACTUAL BACKGROUND 1

II. LEGAL STANDARD 4

III. ARGUMENT 5

A. Samsung Is the Prevailing Party. 5

B. The Misconduct Here Warrants Awarding Fees to Samsung. 5

1. This Case Is Exceptional Under 35 U.S.C. § 285. 5

2. Techiya's Bad Faith Actions Also Justify Awarding Attorney's and Other Fees Under this Court's Inherent Power. 8

C. Samsung Incurred Fees Causally Connected to the Misconduct in this Case. 8

1. Samsung's Fees Related to Patent Infringement, Validity, and Damages Are the Direct Result of Techiya's and Its Agents' Misconduct. 8

2. Samsung's Fees Related to Investigating and Litigating the Misconduct Are Facially Tied to the Exceptional Misconduct in this Case. 10

D. Requested Fees for Kirkland Are Reasonable. 11

1. Rates Sought for Kirkland Time 11

2. Conservative Restraints on Fees Sought 12

3. Kirkland Time for Litigating Patent Infringement, Validity, and Damages. 12

4. Kirkland Time for Investigating and Litigating the Misconduct 13

5. Additional Kirkland Time 14

6. Lodestar Calculation of Kirkland Fees Sought 15

E. Requested Fees for Gillam & Smith Are Reasonable. 15

F. Certain Expert Fees Are Recoverable. 15

IV. CONCLUSION 15

Samsung v. GenghisComm
IPR2025-00793, 11,424,792
GC EX2011

[redacted]

TABLE OF AUTHORITIES

Cases **Page(s)**

Adaptix, Inc. v. Alcatel-lucent USA, Inc.,
2016 WL 6915309 (E.D. Tex. Mar. 18, 2016) 6

Ben E. Keith Co. v. Dining Alliance, Inc.,
80 F.4th 695 (5th Cir. 2023) 4

Blackbird Tech LLC v. Health In Motion LLC,
944 F.3d 910 (Fed. Cir. 2019).....6

Care, Ltd. v. Laurain,
98 F.4th 1081 (Fed. Cir. 2024) 5

Cartner v. Alamo Grp., Inc.,
561 F. App'x 958 (Fed. Cir. 2014) 7

Chamberlain Grp. LLC v. Overhead Door Corp.,
2023 WL 2776854 (E.D. Tex. Apr. 4, 2023).....6

Chambers v. NASCO, Inc.,
501 U.S. 32 (1991).....4

CliniComp Int'l, Inc. v. Cerner Corp.,
2023 WL 2604816 (S.D. Cal. Mar. 22, 2023) 11

Diamond Consortium, Inc. v. Manookian,
2017 WL 3301527 (E.D. Tex. Aug. 3, 2017) 8

Drop Stop LLC v. Jian Qing Zhu,
757 F. App'x 994 (Fed. Cir. 2019) 10

Eon-Net LP v. Flagstar Bancorp.,
653 F.3d 1314 (Fed. Cir. 2011).....7

Gilead Scis., Inc. v. Merck & Co.,
2017 WL 3007071, at *5 (N.D. Cal. July 14, 2017).....9

Gilliam v. Levine,
No. 2022 WL 401462 (C.D. Cal. Jan. 25, 2022) 11

Goodyear Tire & Rubber Co. v. Haeger,
581 U.S. 101 (2017).....9, 10

Lumen View Tech. LLC v. Findthebest.com, Inc.,
811 F.3d 479 (Fed. Cir. 2016).....11

Samsung v. GenghisComm
IPR2025-00793, 11,424,792
GC EX2011

MarcTec, LLC v. Johnson & Johnson,
664 F.3d 907 (Fed. Cir. 2012).....6, 8, 15

Monolithic Power Sys., Inc. v. O2 Micro Int'l Ltd.,
726 F.3d 1359 (Fed. Cir. 2013).....5, 9

Octane Fitness, LLC v. ICON Health & Fitness, Inc.,
572 U.S. 545 (2014).....4, 5, 7

Peterson for Prestonwood Tr. v. Bank of Am., N.A.,
2017 WL 4532637 (E.D. Tex. Sept. 11, 2017), *R&R adopted*, 2017 WL 4517972 (E.D. Tex. Oct. 10, 2017).....8

Raniere v. Microsoft Corp.,
887 F.3d 1298 (Fed. Cir. 2018).....5

Regeneron Pharms., Inc. v. Merus N.V.,
2018 WL 3425013 (S.D.N.Y. June 25, 2018).....8

In re Rembrandt Techs. LP Pat. Litig.,
899 F.3d 1254 (Fed. Cir. 2018).....6, 9

SAP Am., Inc. v. Investpic,
LLC, 2018 WL 6329690 (N.D. Tex. Dec. 4, 2018), *aff'd*, 779 F. App'x 744 (Fed. Cir. 2019).....9

Sorkin v. Universal Bldg. Prod. Inc.,
2010 WL 519742 (E.D. Tex. Feb. 9, 2010).....12

Takeda Chem. Indus., Ltd. v. Mylan Lab'ys, Inc.,
549 F.3d 1381 (Fed. Cir. 2008).....15

View Eng'g, Inc. v. Robotic Vision Sys., Inc.,
208 F.3d 981 (Fed. Cir. 2000).....11

Xyngular Corp. v. Schenkel,
200 F. Supp. 3d 1273 (D. Utah 2016), *aff'd*, 890 F.3d 868 (10th Cir. 2018).....8

Statutes

35 U.S.C. § 285.....4

Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. respectfully move for attorney's and other fees pursuant to 35 U.S.C. § 285 and this Court's inherent power.

I. FACTUAL BACKGROUND

After years of failed attempts to extract a patent license from Samsung using various agents, Techiya settled on a plan to hire a Samsung insider as its licensing and litigation agent. Dkt. 923 at 43, 47. Specifically, Techiya selected Synergy IP for this task, a company controlled by Samsung's former in-house attorneys Seungho Ahn and Sungil Cho. *Id.* at 5, 18, 43.

In November 2021, Techiya and Synergy filed their initial complaint asserting ten patents. Dkt. 1. The Court consolidated that case with a follow-on case asserting four more patents. Dkt. 47 (consolidation order); Dkt. 1 in No. 2:22-CV-00053-JRG-RSP. Techiya asserted 176 different claims relating to many different technologies, including voice recording, voice detection, earbud seal/fit test, and noise reduction. Ex. J at 2; Ex. P at 2. Techiya accused six models of Samsung earbuds and 224 models of Samsung phones and tablets. Ex. J at 3-6; Ex. P at 2-4; Ex. K. Techiya sought [redacted] in past damages and a hefty running royalty thereafter through 2033. Ex. O.

Techiya litigated all fourteen of its asserted patents through fact discovery, thus forcing Samsung to prepare thousands of pages of invalidity and non-infringement contentions and take or defend 27 fact depositions on patent infringement, validity, and damages. Techiya then proceeded with 47 claims from nine patents through the end of the case, accompanied by expert reports from six different experts, despite repeated requests from Samsung to narrow the case. Dkt. 642 at 4-5. Preparing for trial on 47 claims required thousands of pages of expert reports and an unwieldy pretrial order and trial preparation. Techiya's strategy from the outset was to overwhelm Samsung with its patent assertions. Techiya developed this case strategy with Ahn and Cho. With the goal of "get[ting] as much payment as possible from Samsung," Dkt. 923 at 47, Techiya used Samsung's former in-house counsel to assist with drafting and revising Techiya's

Samsung v. GenghisComm
IPR2025-00793, 11,424,792
GC EX2011

[redacted]

complaints, picking the patents to assert against Samsung, selecting the accused products to target, managing this litigation, and overseeing the litigation strategy. *Id.* at 49-51.

In February 2022, Samsung alleged that Techiya's agent, Ahn, was "using Samsung's confidential and privileged information against it" in this case. Dkt. 27 at 48. Based on that allegation, Samsung pled unclean hands and counterclaims against Techiya. Dkt. 923 at 51. Incredibly, Techiya claims it never investigated the misconduct allegations in any way whatsoever, but nevertheless told the Court in filings that these allegations should be stricken because they were "a sensational tale" dreamed up by Samsung without support. *Id.* at 10. Even as late as October 2023 Techiya was still calling Samsung's assertions "a fantastical story" and "a tale" with "no support." Dkt. 671 at 1. In August 2022, Samsung moved to disqualify Ahn and Cho from participating in the patent case against their former client, Samsung. Dkt. 923 at 7. Techiya laughed at the motion: its majority shareholder Daniel Staton called the issue an "absolute joke." *Id.* at 7, 52, 55. Thus, relying on bluster rather than facts, Techiya fought these allegations and their necessary implications at every turn in this case.

In September 2023, Samsung filed a motion for sanctions due to spoliation of relevant evidence by Techiya's agents. Dkt. 650. A forensic investigation unveiled evidence that showed, among other things, that Ahn and Cho had used thumb drives and external storage devices with their work computers to download files relevant to this case that had all "disappeared" during discovery, and that Cho had searched on his work computer for ways to permanently delete files. *Id.*; Dkt. 741; Dkt. 923 at 86. We now know that Ahn intentionally destroyed highly relevant evidence and that Cho withheld highly relevant evidence from a Court-ordered forensic collection and installed forensic destruction software on his phone hours after the Court ordered the forensic collection. Dkt. 923 at 33-34, 39, 10. Instead of trying to discover that truth, Techiya opposed

Samsung's motion, filed a motion attempting to strike the findings of Samsung's forensic expert, and even hired its own expert to attempt to exculpate its agents Ahn and Cho. Dkts. 671, 659, 740.

As the Court heard at trial, the truth is that Techiya's patent infringement case was guided all along by Samsung's privileged analyses that Ahn illicitly obtained. Dkt. 923 at 51. Samsung was thus playing an unfair game against a team that designed its gameplan using Samsung's privileged playbook. On November 29, 2023, Samsung discovered for the first time—not from Techiya or its agents, but from the Korean Prosecutor's Office as part of a criminal investigation—a trove of evidence previously concealed by Techiya's agents, Ahn and Cho. *Id.* at 10-11. That evidence, which included audio recordings of calls between Ahn and Cho, demonstrated what Samsung had feared: Techiya's agents had stolen Samsung's privileged analysis of the Techiya patents just a few months before filing the complaint. *Id.* at 9-13, 30-36. They did this while they were Techiya's agents and for the benefit of Techiya. Samsung immediately filed motions to obtain further discovery based on this evidence. *Id.* at 12. Techiya opposed.

The entire time that Techiya was pressing its tainted claims while simultaneously fighting Samsung's allegations of misconduct, Techiya was withholding a key piece of evidence showing that Techiya intended to leverage Ahn's insider information all along. That evidence was an email that Techiya's counsel sent to Ahn a few weeks before filing the complaint in this case, stating "with your intimate knowledge of Samsung I hope that we can stay one step ahead of it on this case." Dkt. 923 at 15-16. Despite Techiya's intention to conceal this evidence, its existence accidentally came to light on the eve of trial. When it did, Techiya still tried to hide it under the guise of privilege and refused to turn it over to Samsung until it was ordered to do so the day before trial began. Dkt. 882 at 2. Even then, at trial, Techiya tried to flip its own discovery misconduct onto Samsung, incredulously arguing that it was somehow "prejudiced by its own withholding of

Samsung v. GenghisComm
IPR2025-00793, 11,424,792
GC EX2011

highly relevant evidence" that was in its lead counsel's possession all along. Dkt. 923 at 17.

At every turn, despite the evidence in its possession and the blinking red lights, Techiya knowingly chose to forge on with its patent case. Techiya tried to sever its patent claims from the misconduct allegations to proceed quickly to a patent trial despite the newfound evidence of serious misconduct, repeatedly attempted to prevent further discovery into the truth, asked the Court to limit the bench trial to the record that existed before late-breaking evidence was obtained out of Korea, and tried to prevent the Court from hearing evidence and testimony from key Samsung witnesses at trial through repeated motions and objections. *Id.* at 12-18. From start to finish, Techiya intentionally forced Samsung to spend tens of millions of dollars fighting claims that were infected from their inception with Samsung's own stolen privileged analyses. *Id.* at 81. To this day, Techiya "'takes no responsibility whatsoever' for the theft and misuse of Samsung's confidential and privileged information" here. *Id.* at 56. Fee shifting is necessary to hold Techiya accountable and deter future subversion of the judicial process.

II. LEGAL STANDARD

Under 35 U.S.C. § 285, this Court "in exceptional cases may award reasonable attorney fees to the prevailing party." This Court has discretion to determine on a case-by-case basis, "considering the totality of the circumstances," whether a case is "exceptional." *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545, 554 (2014). Samsung need only establish its entitlement to attorney's fees under § 285 by a preponderance of the evidence. *Id.* at 557-58.

The Court may also "resort to its inherent power to impose attorney's fees as a sanction for bad-faith conduct," including in some cases "the entire amount of [a party's] attorney's fees." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 50, 55 (1991). Under this approach, the Fifth Circuit's precedents are divided as to whether bad faith should be shown "by a preponderance of the evidence or by clear and convincing evidence." *Ben E. Keith Co. v. Dining Alliance, Inc.*, 80 F.4th

695, 702 n.8 (5th Cir. 2023). Either standard is satisfied here.

III. ARGUMENT

The Court should award Samsung its attorney's and other fees. *First*, Samsung is the prevailing party. *Second*, this case is plainly exceptional under § 285; it is also deserving of sanctions under the Court's inherent authority based on bad-faith conduct. *Third*, Samsung seeks only reasonable fees supported by detailed documentation.

A. Samsung Is the Prevailing Party.

This Court correctly determined that, having dismissed all the patent claims against it with prejudice, "Samsung is the prevailing party in this case." Dkt. 950 at 2; *see also* Dkts. 923, 934; *Luv n' Care, Ltd. v. Laurain*, 98 F.4th 1081, 1105 (Fed. Cir. 2024) (holding dismissal with prejudice of plaintiff's patent claims due to unclean hands made the defendant the prevailing party); *Raniere v. Microsoft Corp.*, 887 F.3d 1298, 1308 (Fed. Cir. 2018) (analogous).

B. The Misconduct Here Warrants Awarding Fees to Samsung.

1. *This Case Is Exceptional Under 35 U.S.C. § 285.*

This case clearly is exceptional. For purposes of awarding attorney's fees under § 285, an exceptional case "is simply one that stands out from others with respect to the substantive strength of a party's litigating position (considering both the governing law and the facts of the case) or the unreasonable manner in which the case was litigated." *Octane Fitness*, 572 U.S. at 554. There can be no question that a case such as this one—in which all the plaintiff's claims were dismissed because of egregious misconduct that undermined the integrity of the judicial proceedings—is one that stands out from others and is exceptional.

First, the litigation misconduct in and of itself supports finding this case is exceptional. The Federal Circuit has repeatedly recognized that "litigation misconduct alone may suffice to make a case exceptional." *Monolithic Power Sys., Inc. v. O2 Micro Int'l Ltd.*, 726 F.3d 1359, 1366

Samsung v. GenghisComm
IPR2025-00793, 11,424,792
GC EX2011

[redacted]

(Fed. Cir. 2013). Here, the Court found Techiya's agent stole and used Samsung's privileged information about the Techiya patents to select the patents, construct the pleadings, and develop the plaintiffs' patent case strategy. Dkt 923 at 81. It also found that Techiya's agent lied in pleadings, lied under oath in depositions, and destroyed and concealed evidence. *Id.* at 86-88. Not only did the Court conclude it was appropriate to impute this misconduct to Techiya as its agent,[1] but it also found Techiya was complicit in its agent's scheme by intentionally relying on former Samsung in-house counsel to leverage their insider knowledge for Techiya's own financial gain. *Id.* at 89-99. The Court further determined that, far from being a blameless or innocent actor, "Techiya supercharged" Synergy, Ahn, and Cho's incentive to succeed and predictably facilitated the misconduct in this case. *Id.* at 93-96. That misconduct alone renders this case exceptional.

Second, Techiya itself withheld key evidence for years during the litigation. A case may be deemed exceptional when a party "delayed in producing documents," "withheld" documents, or "completely failed to produce" responsive documents. *Blackbird Tech LLC v. Health In Motion LLC*, 944 F.3d 910, 917 (Fed. Cir. 2019); *Chamberlain Grp. LLC v. Overhead Door Corp.*, 2023 WL 2776854, at *10 (E.D. Tex. Apr. 4, 2023) (finding case was exceptional in part because a party failed to timely produce relevant documents); *Adaptix, Inc. v. Alcatel-lucent USA, Inc.*, 2016 WL 6915309, at *4 (E.D. Tex. Mar. 18, 2016) (finding case exceptional where plaintiff failed to produce critical evidence until five days before trial). Here, Techiya did just that. It was only after Magistrate Judge Payne reviewed evidence *in camera* and rejected Techiya's privilege claim that

[1] The improper acts of Techiya's agents are attributable to Techiya for purposes of awarding fees. *See In re Rembrandt Techs. LP Pat. Litig.*, 899 F.3d 1254, 1277 (Fed. Cir. 2018) (affirming a district court's exceptional case finding that was predicated on a third party's "conduct that was attributable" to the plaintiff); *MarcTec, LLC v. Johnson & Johnson*, 664 F.3d 907, 919 (Fed. Cir. 2012) (noting that litigation misconduct for an exceptional case finding "typically 'involves unethical or unprofessional conduct by a party or his attorneys'").

Samsung v. GenghisComm
IPR2025-00793, 11,424,792
GC EX2011

Techiya finally turned over highly incriminating evidence, the day before trial. Dkt. 882 at 2; Dkt. 923 at 16. Techiya fought tooth and nail to block Samsung and the Court from learning the truth in this case. *See* Dkt. 923 at 13-18; Dkt. 898 at 27:23-28:1, 31:1-3. This conduct typifies "the unreasonable manner in which the case was litigated." *Octane Fitness*, 572 U.S. at 554.

Third, many of Techiya's litigation positions were objectively frivolous, which further supports finding this case is exceptional. "One way to show a case is exceptional" is to show a party "advanc[ed] frivolous arguments during the course of the litigation." *Cartner v. Alamo Grp., Inc.*, 561 F. App'x 958, 963 (Fed. Cir. 2014); *see also Octane Fitness*, 572 U.S. at 555. For example, after Samsung obtained new evidence in November 2023 that Techiya's agents had wrongly withheld, Techiya repeatedly argued the Court should ignore the new evidence and hold a bench trial on a counterfactual pre-November 2023 record. *See, e.g.*, Dkt. 815 at 11; Dkt. 822 at 2-4; Dkt. 830 at 2-4. Not only were Techiya's arguments wrong, Dkt. 828 at 5, but they were objectively unreasonable: Techiya sought to vindicate its litigation conduct on a record sanitized of the misconduct. As another example, Techiya argued at trial that Samsung's stolen privileged information was inconsequential to the patent case, which the Court rejected as "highly implausible" and "difficult to reconcile" with Techiya's purported goal of using Ahn's "intimate knowledge of Samsung" to stay "one step ahead of it on this case." Dkt. 923 at 4. At nearly every turn, Techiya pushed unreasonable arguments to whitewash its subversion of the judicial process and get its tainted claims to a jury trial. *See, e.g.*, *id.* at 16 n. 4.

Fourth, Techiya challenged the integrity of these proceedings, which further supports finding this case is exceptional. A case is exceptional when the plaintiff displays a "lack of regard for the judicial system" and a "cavalier attitude" towards the litigation process. *Eon-Net LP v. Flagstar Bancorp.*, 653 F.3d 1314, 1325 (Fed. Cir. 2011). Here, Techiya threw all jurisprudential

[redacted]

norms to the side in its bid for profit by knowingly leveraging Samsung insiders against Samsung. Dkt. 923 at 93. This misconduct not only happened on Techiya's watch, but it occurred with its facilitation, at its instigation, and at the hands of agents under its control. *Id.* at 92-96.

2. *Techiya's Bad Faith Actions Also Justify Awarding Attorney's and Other Fees Under this Court's Inherent Power.*

The Court should find attorney's and other fees are appropriate here for the separate and independent reason that Techiya and its agents acted in bad faith in litigating this case. Courts have inherent power to impose attorney's and other fees as a sanction when a party's bad-faith conduct "defile[s]" the "very temple of justice." *MarcTec*, 664 F.3d at 921 (affirming award of attorney's fees and expert witness fees based on district court's exercise of its inherent authority); *see also Regeneron Pharms., Inc. v. Merus N.V.*, 2018 WL 3425013, at *3, 6 (S.D.N.Y. June 25, 2018) (awarding fees not covered by § 285 based on the court's inherent authority to sanction a party after finding troubling litigation misconduct); *Peterson for Prestonwood Tr. v. Bank of Am., N.A.*, 2017 WL 4532637, at *6 (E.D. Tex. Sept. 11, 2017), *R&R adopted*, 2017 WL 4517972 (E.D. Tex. Oct. 10, 2017) (similar); *Diamond Consortium, Inc. v. Manookian*, 2017 WL 3301527, at *14 (E.D. Tex. Aug. 3, 2017) (similar). That is exactly what Techiya and its agents did here. Indeed, several courts have recognized that surreptitiously acquiring an opposing party's privileged or confidential information outside the discovery process constitutes bad-faith conduct warranting an award of attorney's fees. *See, e.g.*, *Xyngular Corp. v. Schenkel*, 200 F. Supp. 3d 1273, 1317, 1326-27 (D. Utah 2016), *aff'd*, 890 F.3d 868, 873 (10th Cir. 2018). The same result should apply here.

C. Samsung Incurred Fees Causally Connected to the Misconduct in this Case.

1. *Samsung's Fees Related to Patent Infringement, Validity, and Damages Are the Direct Result of Techiya's and Its Agents' Misconduct.*

Techiya never should have engaged Ahn to use his inside information against Samsung and never should have encouraged and allowed him to use that information to construct and litigate

[redacted]

in tandem with Techiya before this Court. None of Samsung's fees related to Techiya's patent infringement claims would have been incurred but for that misconduct. Techiya and its agents' "entire course of conduct" throughout the patent case was "part of a sordid scheme" and all of Samsung's fees associated with defending against Techiya's patent claims "were caused … solely by [Techiya's and its agent's] fraudulent and brazenly unethical efforts." *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 110 (2017). Techiya's misconduct "so severely affected every stage of the litigation that a full award of attorney fees" incurred in connection with Samsung's defense against Techiya's infected patent claims is proper. *In re Rembrandt*, 899 F.3d at 1279 (quoting *Monolithic Power*, 726 F.3d at 1369); *SAP Am., Inc. v. Investpic*, LLC, 2018 WL 6329690, at *3 (N.D. Tex. Dec. 4, 2018) (awarding all litigation fees because no litigation would have been necessary had patent owner sufficiently and reasonably analyzed its positions), *aff'd*, 779 F. App'x 744 (Fed. Cir. 2019). In a case like this one, which was initiated in bad faith such "that every cost of defense is attributable only to sanctioned behavior," an award of all fees for defending against the plaintiff's infected claims is appropriate. *Goodyear*, 581 U.S. at 110; *see also Monolithic*, 726 F.3d at 1369 (affirming an award of fees for the entire case based on misconduct that "infect[ed] the entire litigation") *Gilead Scis., Inc. v. Merck & Co.*, 2017 WL 3007071, at *5 (N.D. Cal. July 14, 2017) (awarding full fees where all the plaintiff's claims were dismissed for unclean hands due to misconduct that "infected [the] entire case"). The facts of this case fall squarely within the Supreme Court's endorsement of a full fee award.

Samsung seeks approximately $16M in fees for Kirkland's work on patent infringement, validity, and damages. The sum is substantial, but so was the threat represented by Techiya's tainted claims. Moreover, to minimize disputes, the sum represents far less than what Samsung incurred for litigating patent infringement, validity, and damages in this case. Ex. 1 ¶ 9.

[redacted]

2. *Samsung's Fees Related to Investigating and Litigating the Misconduct Are Facially Tied to the Exceptional Misconduct in this Case.*

Samsung also incurred substantial fees specifically to investigate and litigate the very misconduct that rendered this case exceptional. All of the fees for this work should be recoverable because all of that work is tied directly to the misbehavior that led to the dismissal with prejudice of the patent case. That is particularly true in light of Techiya withholding key evidence fatal to its defense—the email from its counsel to Ahn—from before this case was filed until the day before trial. *See Goodyear*, 581 U.S. at 110-11 (noting "the court may grant all fees incurred" from the moment "a party was legally required to disclose evidence fatal to its position" but failed to do so); *see also Drop Stop LLC v. Jian Qing Zhu*, 757 F. App'x 994, 1000 (Fed. Cir. 2019) (affirming conclusion that "it would be inappropriate to apportion fees issue-by-issue" where all the fees were "largely due" to misconduct). But for Techiya's bad-faith actions, none of Samsung's fees and expenses for investigating the misconduct would have been incurred.

Although Samsung believes it should recover all fees tied to litigating this misconduct, Samsung has conservatively excluded several categories of fees that Techiya will inevitably argue were tied only to litigating Samsung's counterclaims that the Court did not need to reach. As a few examples, Samsung has excluded nearly all fees for opposing Techiya and Synergy's motions to dismiss and motions for summary judgment challenging the legal bases for Samsung's counterclaims; fees for litigating Samsung's damages case on its counterclaims; and fees for various other tasks. What remains are fees directly tied to investigating, litigating, and trying the very misconduct that led to the Court's unclean hands finding. That figure—substantially lower than all of Samsung's fees expended on these issue—is less than $7M.

[redacted]

D. Requested Fees for Kirkland Are Reasonable.

For Kirkland's work on this case, Samsung seeks fees based on the lodestar method. *Lumen View Tech. LLC v. Findthebest.com, Inc.*, 811 F.3d 479, 483 (Fed. Cir. 2016).

1. *Rates Sought for Kirkland Time*

Samsung requests the following hourly rates for Kirkland's time:

Attorney Description	Hourly Rate
Associates with less than 3 years of experience	$696
Associates with between 3 and 6 years of experience	$785
Associates with 7 or more years of experience	$857
Partners with less than 21 years of experience	$985
Partners with 21 or more years of experience	$1,215

These rates are the third quartile rates for patent litigation listed in the 2023 Real Rates Report. Ex. L at 148-149.[2] The rates sought are less than the effective rates agreed to and paid by Samsung for each attorney during the relevant periods. Ex. 1 ¶¶ 3-4. These rates are also lower than other published rates for complex legal services. For instance, the 2023 Real Rates Report lists the third quartile for partner and associate rates in large firms practicing patent litigation as ranging from $1,189 to $1,203 and $836 to $858, respectively. Ex. L at 150. As one other example, the 2023 AIPLA Report of the Economic Survey lists the third quartile rate for partners in firms having more than 150 IP attorneys as $1,313. Ex. M.[3] These rates are also below rates that other courts have found reasonable in complex patent litigations. *See, e.g.*, *CliniComp Int'l, Inc. v. Cerner*

[2] The "Real Rate Report" provides hourly rates based on "$160B+ in anonymized legal data" "sourced from corporations' and law firms' e-billing and time management solutions." Ex. L at 4. The reported rates "derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment." *Id*. at 5. Courts regularly rely on these reports as a guidepost for reasonable rates in a lodestar analysis. *See, e.g., Gilliam v. Levine*, No. 2022 WL 401462, at *5 (C.D. Cal. Jan. 25, 2022) (collecting cases).

[3] Courts frequently use this publication as a guidepost in determining reasonable rates. *See, e.g., View Eng'g, Inc. v. Robotic Vision Sys., Inc.*, 208 F.3d 981, 987 (Fed. Cir. 2000).

[redacted]

Corp., 2023 WL 2604816, at *3 (S.D. Cal. Mar. 22, 2023) (collecting cases finding rates at or above these ranges to be reasonable).

2. *Conservative Restraints on Fees Sought*

To minimize disputes on the amount of fees, Samsung has applied several restrictions on the Kirkland hours sought in this request:[4]

- All billers were capped at 8 hours per day except during the week of trial, where they were capped at 10 hours per day. Given that nearly all depositions lasted that long, and the intensity of discovery, hearings, and trial, this is a very restrictive cap.
- Billers were limited to the core team during each phase of the case. During busy periods, supplemental attorneys and paralegals made significant contributions to the case. Samsung has nevertheless excluded non-core team members.
- Samsung incurred substantial expenses in the preparation and performance of legal services in this case, including expenses for travel, graphics vendors, and discovery vendors, which are recoverable under § 285. *See, e.g., Sorkin v. Universal Bldg. Prod. Inc.*, 2010 WL 519742, at *6 (E.D. Tex. Feb. 9, 2010). Samsung is nevertheless not seeking these expenses.

3. *Kirkland Time for Litigating Patent Infringement, Validity, and Damages.*

This was a complex patent infringement case with high stakes, and Techiya's strategy was to overwhelm Samsung with the scope of asserted patent claims and accused products. *See supra* pp. 1-2. Indeed, leading up to a consolidated trial that was scheduled for October 30, 2023, Techiya disclosed 27 potential trial witnesses relating to its patent infringement case. Dkt. 642 at Ex. A. The hours sought for litigating patent infringement, validity, and damages are summarized below and detailed in Exhibits A and B. *See also* Ex. 1 ¶ 5.

Phase	**Period**	**Attorney Hours**	**FTE Hours**
Complaint through filing answer	[redacted]	[redacted]	[redacted]
Answer through claim construction discovery	[redacted]	[redacted]	[redacted]

[4] Additionally, Samsung is not seeking fees incurred by its Korean law firm (Kim & Chang), who played a substantial role in document productions and investigating the misconduct in this case.

Samsung v. GenghisComm
IPR2025-00793, 11,424,792
GC EX2011

[redacted]

Fact and expert discovery and Markman	[redacted]	[redacted]	[redacted]
Remaining discovery and Daubert and summary judgment	[redacted]	[redacted]	[redacted]
Consolidated pretrial	[redacted]	[redacted]	[redacted]

4. *Kirkland Time for Investigating and Litigating the Misconduct*

A substantial amount of time was expended in uncovering the misconduct in this case through discovery from Techiya and Synergy, who aggressively opposed Samsung's efforts and even actively concealed key evidence throughout this case. Samsung repeatedly had to move to compel improperly withheld evidence. Dkts. 102, 155, 212, 214, 254, 256, 721, 767, 768. Samsung also had to oppose wide-ranging discovery and procedural motions from Techiya aimed at blocking Samsung from learning or presenting evidence on the truth of the misconduct. Dkts. 104, 187, 220, 221, 250, 276, 310, 336, 365, 415, 796, 805. Those efforts escalated leading up to the bench trial, with Techiya filing every conceivable objection and motion aimed at limiting the evidence and blocking the truth from coming to light. Dkts. 603, 659, 747, 822, 849, 858, 859, 872, 874, 875, 876. Both parties also litigated substantive motions pertaining to the misconduct issues throughout the litigation. Dkts. 128, 422, 427, 650, 779. In all, these issues required 14 hearings in front of Magistrate Judge Payne to resolve. Dkts. 123, 179, 290, 357, 690, 691, 710, 739, 752, 789, 835, 846, 865, 888. Despite that, Techiya continued re-raising these issues throughout trial and even in its proposed findings of fact and conclusions of law, thus forcing re-litigation of the same issues over and over.

The parties also took and defended 25 depositions pertaining to Techiya and Synergy's misconduct, roughly evenly split between Techiya and Samsung (14 depositions of Techiya and Synergy witnesses; 10 depositions of Samsung witnesses; and one deposition of a third party). Leading up to a consolidated trial that was scheduled for October 30, 2023, Techiya disclosed 16

Samsung v. GenghisComm
IPR2025-00793, 11,424,792
GC EX2011

potential trial witnesses relating to the misconduct issues, Dkt. 642 at Ex. E, and then disclosed 17 potential trial witnesses leading up to the bench trial, Dkt. 853. Simply put, Techiya itself litigated these issues vigorously, and Samsung had to match that vigor to discover the truth.

The hours sought for investigating and litigating the misconduct that led to the unclean hands finding are summarized below and detailed in Exhibits C and D. *See also* Ex. 1 ¶ 6.

Phase	**Period**	**Attorney Hours**	**FTE Hours**
Complaint through filing answer			
Early discovery through disqualification hearing			
Fact and expert discovery			
Summary judgment through consolidated pretrial			
Pretrial and trial for bench trial			

5. *Additional Kirkland Time*

Samsung's lead counsel (Greg Arovas) spent considerable time developing the overall strategy for litigating patent infringement, validity, damages and the misconduct issues. Mr. Arovas spent on tasks that overlapped all these issues and that are therefore not captured in the hours listed in the above sections. Details supporting these hours are included in Exhibit E. *See also* Ex. 1 ¶ 7.[5] Paralegals also played crucial roles in this case. Document productions, depositions, briefs, hearings, and trial could not happen without their assistance. Samsung seeks of paralegal time from November 2021 through post-trial briefing in April 2024. Details supporting these hours are included in Exhibits F and G. *See also* Ex. 1 ¶ 8.

[5] Kirkland reserves the right to supplement this request to seek fees for litigating this fee request.

[redacted]

6. *Lodestar Calculation of Kirkland Fees Sought*

Based on the rates and hours above, Samsung seeks the following fees for Kirkland's work:

Category		**Period**
1	Attorneys' fees for patent infringement, validity, and damages	$16,092,589
2	Attorneys' fees for litigating misconduct allegations	$6,770,143
3	Additional fees for work overlapping categories 1 and 2	$398,897
4	Fees for paralegals	$875,513
Total		$24,137,141

E. Requested Fees for Gillam & Smith Are Reasonable.

Local counsel plays a critical role in any case in this District, but especially in complex patent litigation. Local counsel advises on procedural and substantive issues, reviews all filings, and attends all hearings and trial. Samsung seeks $637,062 for the assistance of local counsel in this case. Details supporting these fees are included in Exhibit N. *See also* Ex. 2 ¶¶ 3-5.

F. Certain Expert Fees Are Recoverable.

Samsung also requests that the Court exercise its inherent authority to award certain expert fees because of the bad faith conduct in this case. *Takeda Chem. Indus., Ltd. v. Mylan Lab'ys, Inc.,* 549 F.3d 1381, 1391 (Fed. Cir. 2008); *MarcTec*, 664 F.3d at 921-22. Samsung seeks $1,035,804 in expert fees, as documented in Exhibit H. *See also* Ex. 1 ¶ 10.

IV. CONCLUSION

For those reasons, the Court should order Techiya to compensate Samsung for its reasonable attorney and expert fees in the amount of $25,810,007.

Samsung v. GenghisComm
IPR2025-00793, 11,424,792
GC EX2011

Dated: July 19, 2024

Respectfully submitted,

/s/ Melissa R. Smith
Melissa R. Smith
State Bar No. 24001351
GILLAM & SMITH, LLP
303 South Washington Avenue
Marshall, Texas 75670
Telephone: (903) 934-8450
Facsimile: (903) 934-9257
Email: melissa@gillamsmithlaw.com

Andrew Thompson Gorham
State Bar No. 24012715
James Travis Underwood
State Bar No. 24102587
GILLAM & SMITH, LLP
102 N. College, Suite 800
Tyler, Texas 75702
Telephone: (903) 934-8450
Facsimile: (903) 934-9257
Email: tom@gillamsmithlaw.com
Email: travis@gilliamsmithlaw.com

Gregory S. Arovas (*pro hac vice*)
Robert A. Appleby (*pro hac vice)*
Todd M. Friedman (*pro hac vice*)
James E. Marina (*pro hac vice)*
Alex R. Henriques (*pro hac vice*)
Peter Evangelatos (*pro hac vice*)
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: greg.arovas@kirkland.com
Email: rappleby@kirkland.com
Email: todd.friedman@kirkland.com
Email: JMarina@kirkland.com
Email: alex.henriques@kirkland.com
Email: peter.evangelatos@kirkland.com

Edward C. Donovan (*pro hac vice*)
F Christopher Mizzo (*pro hac vice)*
Sean M. McEldowney (*pro hac vice*)
John Rhine (*pro hac vice)*
Nichole DeJulio (*pro hac vice*)

Matthew McIntee (*pro hac vice*)
Stephen DeSalvo (*pro hac vice*)
KIRKLAND & ELLIS LLP
1301 Pennsylvania Ave, N.W.
Washington, D.C. 20004
Telephone: (202) 389-5000
Facsimile: (202) 389-5200
Email: edonovan@kirkland.com
Email: chris.mizzo@kirkland.com
Email: smceldowney@kirkland.com
Email: john.rhine@kirkland.com
Email: nichole.dejulio@kirkland.com
Email: matt.mcintee@kirkland.com
Email: stephen.desalvo@kirkland.com

David Rokach (*pro hac vice*)
Jay Emerick (*pro hac vice*)
Nikhil Krishnan (*pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
Email: david.rokach@kirkland.com
Email: jay.emerick@kirkland.com
Email: nikhil.krishnan@kirkland.com

Luke L. Dauchot (*pro hac vice)*
Ali-Reza Boloori (*pro hac vice*)
KIRKLAND & ELLIS LLP
2049 Century Park East
Suite 3700
Los Angeles, CA 90067
Telephone: (310) 552-4200
Facsimile: (310) 552-5900
Email: ldauchot@kirkland.com
Email: ali-reza.boloori@kirkland.com

Michael Lehr (*pro hac vice*)
KIRKLAND & ELLIS LLP
60 East South Temple, Suite 700
Salt Lake City, UT 84111
Telephone: (801) 877-8100
Facsimile: (801) 877-8101
Email: mike.lehr@kirkland.com

Attorneys for Defendants Samsung

[redacted]

Electronics Co., Ltd. and Samsung Electronics America, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served on all counsel of record who have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3) on July 19, 2024. Any other counsel of record will be served by facsimile transmission or by first class mail.

/s/ Melissa R. Smith
Melissa R. Smith

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(i), Samsung certifies that it has complied with the meet and confer requirement in Local Rule CV-7(h) and made a good-faith effort to resolve the matter presented herein. On June 12, 2024 and July 17, 2024, counsel for Samsung met and conferred with counsel for Techiya regarding this motion. Techiya stated that it is opposed.

/s/ Melissa R. Smith
Melissa R. Smith

[redacted]

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

STATON TECHIYA, LLC AND SYNERGY IP CORPORATION, Plaintiffs, v. SAMSUNG ELECTRONICS CO., LTD. and SAMSUNG ELECTRONICS AMERICA, INC. Defendants.	CIVIL ACTION NO. 2:21-CV-00413-JRG-RSP (LEAD CASE) CIVIL ACTION NO. 2:22-CV-00053-JRG-RSP (MEMBER CASE) **FILED UNDER SEAL**

ORDER GRANTING SAMSUNG'S MOTION FOR ATTORNEYS' AND OTHER FEES

Before the Court is Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.'s Motion for Attorneys' and Other Fees. After considering same, the Court is of the opinion that the Motion should be GRANTED.

It is therefore ORDERED that Staton Techiya, LLC shall compensate Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. for its reasonable attorney and expert fees in the amount of $25,810,007.

SO ORDERED.