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AGIS SOFTWARE DEVELOPMENT LLC

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION

16
17 ZTE (USA) INC.,

18 Plaintiff,

19 v.

20 AGIS SOFTWARE DEVELOPMENT LLC, et
21 al.

22 Defendants.

Case No. 18-cv-06185-HSG

**NOTICE OF MOTION AND MOTION TO
DISMISS SECOND AMENDED
COMPLAINT; MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT**

[*Declaration of Malcolm K. Beyer, Jr.;*
Declaration of Vincent J. Rubino, III and exhibits;
and Proposed Order filed concurrently herewith]

Second Amended Complaint Filed: 05-FEB-2019
Deadline to Respond: 19-FEB-2019

Hearing Date: May 9, 2019
Time: 2:00 p.m. PST
Trial Date: None set

1 **NOTICE OF MOTION AND MOTION TO DISMISS**

2 **PLEASE TAKE NOTICE** that on May 9, 2019 at 2:00 p.m., or as soon thereafter as the
3 matter may be heard before the Honorable Judge Haywood S. Gilliam, Jr. in the United States
4 District Court for the Northern District of California, in the Ronald V. Dellums Federal
5 Building and United States Courthouse, Courtroom 2, 4th Floor, 1301 Clay Street, Oakland,
6 California 94612, Defendant AGIS Software Development LLC (“AGIS Software”) will and
7 hereby does move the Court, for an order dismissing the Second Amended Complaint (“SAC”)
8 filed by Plaintiff ZTE (USA) Inc. (“ZTE” or “Plaintiff”) pursuant to Rule 12(b)(2) of the
9 Federal Rules of Civil Procedure.

10 This Motion is made on the grounds that the Court lacks personal jurisdiction over AGIS
11 Software. AGIS Software is a Texas corporation with its principal place of business in
12 Marshall, Texas. AGIS Software is not registered to conduct business in California; does not have
13 a registered agent for service of process in California; does not have offices, employees, equipment,
14 bank accounts or other assets in California; is not subject to and has never paid taxes in California;
15 does not manufacture or sell products in California; does not solicit or engage in business in
16 California; has not signed contracts in California; does not recruit employees in California; and does
17 not own, lease or rent any property in California. Further, with the exception of the present suit, no
18 lawsuit has ever been filed by or against AGIS Software in California for any reason. Additionally,
19 AGIS Software has not purposefully directed any activities related to the enforcement or
20 defense of the Patents-in-Suit *at California*.

21 The Motion will be and is based on this Notice of Motion and Motion, the accompanying
22 Memorandum of Points and Authorities, the accompanying declarations and exhibits, the

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1 pleadings and papers filed herein, as well as upon such other and further matters, papers and
2 arguments as may be submitted to the Court.

3
4 Dated: February 19, 2019

Respectfully Submitted,

5 BROWN RUDNICK LLP

6
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