

# EXHIBIT A

**From:** Schulz, Bradford <Bradford.Schulz@finnegan.com>  
**Sent:** Tuesday, March 12, 2019 3:53 PM  
**To:** Hartman, Sarah G.  
**Cc:** Su, Michael; AGIS-Lit; Lambrianakos, Peter; Rubino, Vincent J.; Sivakumar, Arjun; Lavenue, Lionel  
**Subject:** RE: ZTE (USA) Inc. v. AGIS Software Development LLC, et al. - Case. No. 4:18-cv-06185-HSG

Sarah,

As previously stated, our understanding of the Protective Order is different, and we disagree with your assessment in this dispute. As to your complaints, not only has ZTE explained how the ambiguous terms of the Protective Order created this dispute, but ZTE further explained how several of the referenced sections of the Response are corroborative in nature. See ZTE correspondence on March 6, 2019 and March 8, 2019. Nevertheless, given AGIS's objection and in an effort to minimize resources to this issue, ZTE agreed to withdraw the designated Exhibits at issue and their associated non-sealed documents (previously labeled "the Documents"), prior to the Civil L.R. 79-5(e)(1)-(2) deadline.

I am sure you are aware that Civil L.R. 79-5(e)(1)-(2) provides the party designating the material, i.e. AGIS, four days to file a declaration in support of the sealing motion; otherwise, the sealed documents become unsealed. As such, to prevent the Documents' unsealing by operation of local rule, there was a March 11, 2019 deadline for withdrawing the AGIS's designated Documents.

Last night, ZTE did as it agreed and followed the Northern District of California local procedures for withdrawing the Documents through an Administrative Motion. As you indicated, AGIS refused to agree to that Motion (twelve minutes before the established deadline on March 11, 2019), so ZTE filed the Administrative Motion with a declaration rather than a joint stipulation.

As it stands, the uncontested Exhibits, and the redacted versions of the Response and the supporting Declaration remain on the record. The remaining Exhibits are publicly available, and AGIS does not contest this fact. As for the remaining redacted Response and supporting Declaration, they both further rely on publicly available and non-confidential information. Any information that is not corroborated by public information or citations is properly redacted.

For instance, as previously noted:

- The proposition that AGIS, Inc. and AGIS Software share the same corporate officers is not confidential information. See ZTE correspondence on March 8, 2019. As such, this proposition did not require redaction in the Response. See the Response, pp. 6 & 10.
- The fact that AGIS hired California-based entities is supported by the public record. See ZTE correspondence on March 8, 2019; see also the Response, p. 21. As an example of corroborating public evidence, the Response states that "[a]lso, **AGIS hired California-based** firm Green Hills Software to promote, market, and test the patented technology, in California. Life360-California, Dkt. 52 at 6-7; Ex. 13. Additionally, **AGIS hired California-based** [redacted]." The Green Hills Software (a California resident) evidence is supported by public filings. As such, the fact that "AGIS hired California-based" entities did not require redaction in the Response. See the Response, pp. 21.

AGIS now newly references conclusory lists on pp. 13 and 23 of the Response. But, like the above examples, these statements are supported by public information and public-citations throughout the Response. For example, the referenced list, *see* the Response, p. 13, is supported by public information:

AGIS is unable to deny that the same corporate officers for AGIS, Inc. and AGIS Software devised a business plan to:

1. design the underlying technology to assist with California emergencies, such as wildfires,
  - a. The patents-in-suit further describe how the claimed technology provides ad hoc communication systems for emergency personnel responding to fires. *See* '970 patent at 6:27-31; '055 patent at 2:26-28, 7:48-52, 10:20-22, and Fig. 6; '251 patent at 2:30-33, 8:60-64, 10:35-37, and Fig. 6; '838 patent at 2:27-29, 7:52-56, 10:27-30, and Fig. 6; and '829 patent at 2:28-37, 7:60-64, 10:35-37, and Fig. 6.
  - b. *See also* "COMM-OPS: UAV Cellular Payload for First Responder Emergency Teams," by Robert Varga, July 2009 Ed. (available at <http://www.milsatmagazine.com/story.php?number=1435005486>) (indicating that LifeRing is one example of technology reacting to the "challenges during the 2007 wildfires in southern California").
2. hire employees to solicit users' test feedback in California,
  - a. One California Court already found that the evidence established that Mr. Beyer demonstrated LifeRing to representatives of private companies in California, Mr. Beyer permitted private companies to download LifeRing in California for purposes of evaluation, and Mr. Beyer reached out to and permitted Green Hills to test LifeRing and demonstrate it in California. *See Life360-California*, Dkt. 52 at \*10-\*12.
  - b. Sandel Blackwell testified that AGIS, Inc. continues to develop the patented technology, the LifeRing product, and that this technology was regularly involved in field testing in San Diego, California, with the Joint Tactical Networking Center. Ex. 11 (3/9/15 Trial Tr. 145:16-17, 146:15-22); *see also* Ex. 12 (drawing recognition for the LifeRing test event). AGIS, Inc. even hired a California-based firm, Green Hills Software, to promote, market, and test the patented LifeRing technology in California. *See Life360-California*, Dkt. 52 at 6-7; Ex. 13.
3. develop products based on the comments,
  - a. Sandel Blackwell testified that AGIS, Inc. continues to develop the patented technology, the LifeRing product, and that this technology was regularly involved in field testing in San Diego, California, with the Joint Tactical Networking Center. Ex. 11 (3/9/15 Trial Tr. 145:16-17, 146:15-22); *see also* Ex. 12 (drawing recognition for the LifeRing test event). AGIS, Inc. even hired a California-based firm, Green Hills Software, to promote, market, and test the patented LifeRing technology in California. *See Life360-California*, Dkt. 52 at 6-7; Ex. 13.
4. engage California attorneys to prosecute the resulting patent family—more than twelve continuation applications, including eight continuation-in-parts and the patents-in-suit,
  - a. In order to circumvent the pre-AIA enablement requirement, the California based prosecuting attorney, Daniel Burns, represented to the USPTO that the patents-in-suit contain subject matter claiming priority after March 16, 2013, and should be considered under post-AIA law. *See* Huawei-EDTX matter, Dkt. 244 at 4-6; *see also* Ex. 30 at 2-3 (USPTO office action rejecting '838 patent application in part because certain added claim limitations lacked written description support); Ex. 31 at 3, 6; Ex. 32 at 15-16.
5. license the products and patents to California entities,
  - a. Further, AGIS, Inc. licenses the patents-in-suit. *See* Ex. 2 (licensing the patents-in-suit and indicating the LifeRing "applications, solutions, and software products" are covered by the patents-in-suit).
  - b. David Sietsema licenses AGIS, Inc.'s patent portfolio, including the patents-in-suit. *See* Ex. 1, ¶ 17; Ex. 2 (website available online to California residents).
6. interfere with competitor's businesses and contracts in California, and

- a. On May 16, 2014, AGIS, Inc. filed its first-ever complaint asserting, among others, the '728 and '474 patents against California-resident and direct competitor, Life360, Inc. ("Life360"). See *Life360-Florida*, Dkt. 1.
  - b. For instance, after suing Life360 for alleged infringement of this patent family, AGIS, Inc. "communicated with [third party] ADT" and "threatened ADT with a lawsuit for patent infringement arising out of ADT's partnership with Life360 and ADT's own mobile app." *Id.*, Dkt. 1, ¶¶ 46-52. AGIS, Inc.'s interactions with ADT disrupted Life360's relationship with ADT and further pressured Life360 into settlement discussions with AGIS, Inc. *Id.* Based on these activities and others, the Northern District of California found sufficient minimum contacts existed in California, and the district court in the Northern District of California found personal jurisdiction over AGIS, Inc. *Id.*, Dkt. 52 at 11.
7. enforce the patents against California based companies through district court litigation and California local discovery.
- a. AGIS further sought discovery in California regarding Google's confidential source code for Google Maps and Find My Device, both of which are accused functionalities in the EDTX matters. See HTC-EDTX matter, Dkt. 75 (lead consolidated case); see also Ex. 27, at 8-10.
  - b. See also "How Life360 won its patent war," by Joe Mullin, ArsTechnica (available at <https://arstechnica.com/tech-policy/2015/03/how-life360-won-its-patent-war/>) (indicating cease and desist letters sent to Google, Facebook, and Foursquare).
  - c. See also all EDTX filings for Apple, Inc. and ZTE (TX), Inc.

Other than the above, AGIS offers no other specific objections to ZTE's Response citations. Rather, AGIS generally objects to the mere visual of redacted lines in the Response, because they allegedly "create [ ] an improper inference as to the existence" of evidence supporting personal jurisdiction in California. Strikingly, AGIS does not deny the Documents existence, nor does AGIS deny they support personal jurisdiction in California (and thus are relevant to this analysis). Instead, AGIS objects and argues that it is improper for the Northern District of California Court to view the Documents under seal—or even know they exist.

This is an untenable position and further emphasizes AGIS's flawed assertions regarding the scope of the Protective Order. According to AGIS, the mere mention of *the existence* of other documents is improper (irrespective of the content), thus effectively precluding any party other than AGIS—apparently even for rebuttal purposes—from stating that a document may exist and support personal jurisdiction. However, the *redaction* of the Documents herein was not an "improper use" under the Protective Order. AGIS is not free to declare that no factual or legal evidence exists supporting personal jurisdiction in California (thus concluding it was unreasonable to file the SAC), while simultaneously muzzling *any* indication to the contrary. If the Court approves jurisdictional discovery, then ZTE is entitled to pursue it. It is already known that information exists from the EDTX actions, and the mere reference to the existence of further/other information is entirely appropriate.

ZTE agreed to withdraw the Documents, not the entire Response. ZTE did just that last night, March 11, 2019.

Regards,

Bradford

**Bradford Schulz, Ph.D.**

Attorney at Law

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

11955 Freedom Drive, Reston, VA 20190-5675

571.203.2739 | fax 202.408.4400 | [bradford.schulz@finnegan.com](mailto:bradford.schulz@finnegan.com) | [www.finnegan.com](http://www.finnegan.com)

---

From: Hartman, Sarah G. <[SHartman@brownrudnick.com](mailto:SHartman@brownrudnick.com)>

To: Schulz, Bradford <[Bradford.Schulz@finnegan.com](mailto:Bradford.Schulz@finnegan.com)>

Cc: Su, Michael <[michael.liu.su@finnegan.com](mailto:michael.liu.su@finnegan.com)>; AGIS-Lit <[agislit@brownrudnick.com](mailto:agislit@brownrudnick.com)>; Lambrianakos, Peter <[PLambrianakos@brownrudnick.com](mailto:PLambrianakos@brownrudnick.com)>; Rubino, Vincent J. <[VRubino@brownrudnick.com](mailto:VRubino@brownrudnick.com)>; Sivakumar, Arjun <[ASivakumar@brownrudnick.com](mailto:ASivakumar@brownrudnick.com)>; Lavenue, Lionel <[lionel.lavenue@finnegan.com](mailto:lionel.lavenue@finnegan.com)>

Subject: RE: ZTE (USA) Inc. v. AGIS Software Development LLC, et al. - Case. No. 4:18-cv-06185-HSG

**EXTERNAL Email:**

Counsel,

Last Wednesday, we informed you that ZTE (USA), Inc.'s ("ZTE") use and filing of documents and information in support of its response to Defendant's Motion to Dismiss the Second Amended Complaint ("Response") in the instant action that was previously designated "CONFIDENTIAL" and/or "RESTRICTED-ATTORNEYS EYES ONLY" in the prior Texas Action violated the terms of the parties' Protective Order in the Texas Action, and requested that you immediately withdraw the Exhibits and "documents referencing any and all designated information." In response, you agreed to withdraw the designated exhibits and their "associated non-sealed documents." You provided us with a proposed Joint Stipulation to Remove Filed Documents ("Proposed Joint Stipulation") seeking to withdraw the designated Exhibits and sealed versions of the Response and Declaration. However, after reviewing the Proposed Joint Stipulation and publicly-filed versions of the Response and Declaration, we informed you that your proposal only partially rectifies ZTE's violation of the Protective Order, as the publicly-filed versions of the Response and Declaration still improperly include information citing to and relying on the designated Exhibits. I identified three examples of un-redacted sentences and/or parts of sentences in the Response that still cite to designated exhibits. This is improper. Further, as I previously stated, the Response brief contains numerous sentences, conclusions and arguments that rely on information contained in one or more of the improper exhibits, which are not redacted. For example, the list of activities on the bottom of page 13 of the Response, which are not redacted and do not include citations, reference information contained in Ex. 8, one of the designated exhibits that must be withdrawn. ZTE references this same information again on the page 23, without redaction or citation. Elsewhere in the Response, ZTE redacts this information, acknowledging that it should not be disclosed pursuant to the Protective Order. This is just one example of un-redacted statements in the Response that rely on information contained in the designated exhibits. Additionally, the fact that redactions are visible at all, and that citations to withdrawn exhibits are visible, creates an improper inference as to the existence of designated material that, pursuant to the terms of the Protective Order, is not to be used for *any purpose* other than in connection with the Texas Action.

Accordingly, we requested that you file a Corrected Response that removes all references to the designated Exhibits and all information contained therein, without the use of redactions. Our request that ZTE file a Corrected Response is not a new request, as you contend, but rather is part of our initial request made nearly a week ago that all designated exhibits and information be withdrawn. ZTE's position that it will not file a Corrected Response that removes all references to and reliance on information contained in the designated Exhibits is improper and constitutes a continued violation of the Protective Order.

Because the Proposed Joint Stipulation does not adequately rectify ZTE's violation of the parties' Protective Order, AGIS does not agree to its filing. Given ZTE's representation that it will file an Administrative Motion to Remove Filed Documents by 5:00PM (PST) today, AGIS Software's obligation to file a declaration in support of ZTE's sealing motion pursuant to Civil L.R. 79-5(e)(1)-(2) is moot. AGIS Software reserves all rights, including but not limited to the right to seek relief for ZTE's violation of the Protective Order, as well as judicial intervention compelling ZTE to withdraw its Response and Declaration in support thereof and file a Corrected Response.

**brownrudnick**

**Sarah G. Hartman**

**DOCKET  
ALARM**

Find authenticated court documents without watermarks at [docketalarm.com](http://docketalarm.com).

# 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.