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DEVELOPMENT LLC

22 UNITED STATES DISTRICT COURT  
23 NORTHERN DISTRICT OF CALIFORNIA

24 ZTE (USA) INC.,

25 Plaintiff(s),

26 vs.

27 AGIS SOFTWARE DEVELOPMENT LLC,

Defendant(s).

) Case Number: 4:18-cv-06185-HSG  
) (Former Case No. 2:17-cv-00517-JRG) (E.D.  
) Tex.)

**JOINT STIPULATION AND ORDER RE:  
DISCOVERY OF ELECTRONICALLY  
STORED INFORMATION FOR PATENT  
LITIGATION**

1 Pursuant to Civil Local Rule 7-12 and the Court's Scheduling Order (Dkt. 63), the parties  
2 hereby agree to the terms of the following proposed order regarding discovery of electronically  
3 stored information and respectfully request that the Court enter the proposed order.

4  
5 Upon the stipulation of the parties, the Court ORDERS as follows:

6 1. This Order supplements all other discovery rules and orders. It streamlines  
7 Electronically Stored Information ("ESI") production to promote a "just, speedy, and  
8 inexpensive determination of this action, as required by Federal Rule of Civil Procedure 1."

9 2. This Order may be modified in the Court's discretion or by stipulation. The parties  
10 shall jointly submit any proposed modifications within 30 days after the Federal Rule of Civil  
11 Procedure 16 Conference.

12 3. As in all cases, costs may be shifted for disproportionate ESI production requests  
13 pursuant to Federal Rule of Civil Procedure 26. Likewise, a party's nonresponsive or dilatory  
14 discovery tactics are cost-shifting considerations.

15 4. A party's meaningful compliance with this Order and efforts to promote efficiency and  
16 reduce costs will be considered in cost-shifting determinations.

17 5. The parties are expected to comply with the District's E-Discovery Guidelines  
18 ("Guidelines") and are encouraged to employ the District's Model Stipulated Order Re: the  
19 Discovery of Electronically Stored Information and Checklist for Rule 26(f) Meet and Confer  
20 regarding Electronically Stored Information.

21 6. General ESI production requests under Federal Rules of Civil Procedure 34 and 45  
22 shall not include email or other forms of electronic correspondence (collectively "email"). To  
23 obtain email parties must propound specific email production requests.

24 7. Email production requests shall only be propounded for specific issues, rather than  
25 general discovery of a product or business.

26 8. Email production requests shall be phased to occur after the parties have exchanged  
27 initial disclosures and basic documentation about the patents, the prior art, the accused

1 instrumentalities, and the relevant finances. While this provision does not require the production  
2 of such information, the Court encourages prompt and early production of this information to  
3 promote efficient and economical streamlining of the case.

4 9. Email production requests shall identify the custodian, search terms, and time frame.  
5 The parties shall cooperate to identify the proper custodians, proper search terms and proper  
6 timeframe as set forth in the Guidelines.

7 10. Each requesting party shall limit its email production requests to a total of five  
8 custodians per producing party for all such requests. The parties may jointly agree to modify this  
9 limit without the Court's leave. The Court shall consider contested requests for additional  
10 custodians, upon showing a distinct need based on the size, complexity, and issues of this  
11 specific case. Cost-shifting may be considered as part of any such request.

12 11. Each requesting party shall limit its email production requests to a total of five search  
13 terms per custodian per party. The parties may jointly agree to modify this limit without the  
14 Court's leave. The Court shall consider contested requests for additional search terms per  
15 custodian, upon showing a distinct need based on the size, complexity, and issues of this specific  
16 case. The Court encourages the parties to confer on a process to test the efficacy of the search  
17 terms. The search terms shall be narrowly tailored to particular issues. Indiscriminate terms, such  
18 as the producing company's name or its product name, are inappropriate unless combined with  
19 narrowing search criteria that sufficiently reduce the risk of overproduction. A conjunctive  
20 combination of multiple words or phrases (*e.g.*, "computer" and "system") narrows the search  
21 and shall count as a single search term. A disjunctive combination of multiple words or phrases  
22 (*e.g.*, "computer" or "system") broadens the search, and thus each word or phrase shall count as a  
23 separate search term unless they are variants of the same word. Use of narrowing search criteria  
24 (*e.g.*, "and," "but not," "w/x") is encouraged to limit the production and shall be considered  
25 when determining whether to shift costs for disproportionate discovery. Should a party serve  
26 email production requests with search terms beyond the limits agreed to by the parties or granted  
27 by the Court pursuant to this paragraph, this shall be considered in determining whether any

1 party shall bear all reasonable costs caused by such additional discovery.

2 12. Nothing in this Order prevents the parties from agreeing to use technology assisted  
3 review and other techniques insofar as their use improves the efficacy of discovery. Such topics  
4 should be discussed pursuant to the District's E-Discovery Guidelines.

5  
6  
7 Dated: May 13, 2019

Respectfully submitted,

8 /s/ Michael Liu Su

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22 Dated: May 13, 2019

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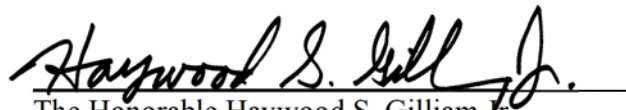
**ATTESTATION**

I, Michael Liu Su, hereby attest that concurrence in the filing of this document has been obtained from each of the other Signatories indicated by a confirmed signature (/s/) within this e-filed document.

/s/ Michael Liu Su  
Michael Liu Su

**PURSUANT TO STIPULATION, IT IS SO ORDERED,**

Dated: May 14, 2019

  
The Honorable Haywood S. Gilliam Jr.  
U.S. District Court Judge  
Northern District of California