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15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**
 17 **SAN JOSE DIVISION**

18 SMITH MICRO SOFTWARE, INC., and
 19 SMITH MICRO SOFTWARE, LLC

20 *Plaintiffs,*

21 v.

22 AGIS SOFTWARE DEVELOPMENT LLC,
 23 and DOES 1 to 10,

24 *Defendants.*

Case No. 5:21-cv-03677-BLF

**DEFENDANTS' REPLY IN SUPPORT OF
 MOTION TO DISMISS COMPLAINT
 FOR DECLARATORY JUDGMENT**

Date: January 27, 2022
 Time: 9:00 a.m.
 Ctrm: 3

Judge Beth Labson Freeman

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Page(s)

I. INTRODUCTION..... 1

II. PLAINTIFF’S RECITATION OF “UNCONTESTED FACTUAL ALLEGATIONS” ARE MISLEADING AND DO NOT ESTABLISH IMPUTATION OF AGIS, INC’S PURPORTED CONTACTS OVER AGIS SOFTWARE..... 1

III. SMITH MICRO’S RECITATION OF “UNCONTESTED FACTUAL ALLEGATIONS” ARE MISLEADING AND DO NOT ESTABLISH “MINIMUM CONTACTS” SUFFICIENT FOR SPECIFIC JURISDICTION 4

IV. THE PROPER VENUE FOR THIS ACTION IS THE EASTERN DISTRICT OF TEXAS..... 7

V. SMITH MICRO’S COMPLAINT SHOULD BE DISMISSED UNDER THE FIRST-TO-FILE RULE 9

VI. PERSONAL JURISDICTION OVER AGIS SOFTWARE DOES NOT COMPORT WITH FAIR PLAY AND SUBSTANTIAL JUSTICE 11

VII. ALTERNATIVELY, THIS ACTION SHOULD BE STAYED PENDING A DECISION IN THE TEXAS ACTION..... 13

VIII. SMITH MICRO’S REQUEST FOR JURISDICTIONAL DISCOVERY SHOULD BE DENIED 14

IX. CONCLUSION..... 14

RUSS AUGUST & KABAT

TABLE OF AUTHORITIES

Page(s)

Cases

1

2 **Cases**

3 *AGIS Software Dev. LLC v. Apple, Inc.*,

4 2018 WL 2721826 (E.D. Tex. June 6, 2018) 3, 4, 5

5 *AGIS Software Dev. LLC v. HTC Corp.*,

6 2018 WL 4680557 (E.D. Tex. Sept. 28, 2018) 3

7 *AGIS Software Dev. LLC v. T-Mobile USA, Inc., et al.*,

8 No. 2:21-cv-00072-JRG, Dkts. 53, 54 (E.D. Tex. May 18, 2021) passim

9 *Allphin v. Peter K. Fitness, LLC*,

10 2014 WL 6997653 (N.D. Cal. Dec. 11, 2014) 2

11 *AU Optronics Corp. Am. v. Vista Peak Ventures, LLC*,

12 No. 18-CV-04638-HSG, 2019 WL 690282 (N.D. Cal. Feb. 19, 2019) 5

13 *Autogenomics, Inc. v. Oxford Gene Tech. Ltd.*,

14 566 F.3d 1012 (Fed. Cir. 2009) 4, 7

15 *Avocent v. Huntsville Corp. v. Aten Intern. Co., Ltd.*,

16 552 F.3d 1324 (Fed. Cir. 2008) 4, 7

17 *Bayer Healthcare LLC v. Nektar Therapeutics*,

18 2018 WL 1258202 (N.D. Cal. Mar. 12, 2018) 7

19 *Boschetto v. Hansing*,

20 539 F.3d 1011 (9th Cir. 2008) 14

21 *Celgard, LLC v. SK Innovation Co., Ltd.*,

22 792 F.3d 1373 (Fed. Cir. 2015) 6

23 *Dainippon Screen Mfg. Co.*,

24 142 F.3d 1266 (Fed. Cir. 1998) 3

25 *Doe v. Unocal Corp.*,

26 248 F.3d 915 (9th Cir. 2001) 5

27 *EMC Corp. v. Bright Response, LLC*,

28 2012 WL 4097707 (N.D. Cal. Sept. 17, 2012) 13

Finisar Corp. v. Capella Photonics, Inc.,

2021 WL 810227 (N.D. Cal. Mar. 3, 2021) 11

In re Apple, Inc.,

No. 2018-151 (Fed. Cir. Oct. 16, 2018) 3

In re LG Elecs. Inc.,

No. 2019-107 (Fed. Cir. Jan. 24, 2019) 3

In re Nintendo of Amer., Inc.,

756 F.3d 1363 (Fed. Cir. 2014) 10

Kyocera Int’l Inc. v. Semcon IP, Inc.,

No. 18-cv-1575-CAB-MDD, 2018 WL 5112056 (S.D. Cal. Oct. 19, 2018) 5

Life360, Inc. v. Advanced Ground Information Systems, Inc.,

No. 5:15-cv-00151-BLF (N.D. Cal.) 2, 4, 11

Martinez v. Manheim Cent. Cal.,

2011 WL 1466684 (E.D. Cal. Apr. 18, 2011) 14

Microchip Tech., Inc. v. United Module Corp.,

2011 WL 266927 (E.D. Tex. July 7, 2011) 11

Radio Sys. Corp. v. Accession, Inc.,

638 F.3d 785 (Fed. Cir. 2011) 5

Ranza v. Nike,

793 F.3d 1059 (9th Cir. 2015) 6

Stewart v. Screen Gems-EMI Music, Inc.,

81 F. Supp. 3d 938 (N.D. Cal. 2015) 2, 5

Trimble Inc. v. PerDiemCo LLC,

997 F.3d 1147 (Fed. Cir. 2021) 12

Walden v. Fiore,

571 U.S. 277 (2014) 5

RUSS AUGUST & KABAT

1
2
3
4
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11
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28

Williams v. Yamaha Motor Co.,
851 F.3d 1015 (9th Cir. 2017)..... 6

ZTE (USA) Inc v. AGIS Software Dev. LLC,
No. 18-cv-06185-HSG, Dkt. 114 (N.D. Cal. Sept. 12, 2021)..... 2, 4, 5, 11

RUSS AUGUST & KABAT

1 **I. INTRODUCTION**

2 Smith Micro cannot meet its burden to establish personal jurisdiction over AGIS Software.
 3 AGIS Software is a Texas corporation with a principal place of business in Texas and no relevant
 4 ties to California. Smith Micro concedes that AGIS Software itself lacks the minimum contacts
 5 necessary to find specific jurisdiction, and thus, relies on the purported contacts of AGIS Software's
 6 sister entity and non-party, AGIS, Inc. However, Smith Micro fails to allege facts sufficient to
 7 demonstrate that the alleged contacts of AGIS, Inc. should be imputed to AGIS Software. Rather,
 8 Smith Micro overlooks the fact that AGIS Software has not answered the Complaint and relies on
 9 misrepresentations by listing dozens of bullet points stating "uncontested factual allegations,"
 10 which, to the contrary, are contested. AGIS Software has provided specific facts rebutting each
 11 allegation that the purported contacts of AGIS, Inc. should be imputed to AGIS Software.

12 Smith Micro has failed to show any of non-party AGIS, Inc's purported contacts warrant the
 13 exercise of personal jurisdiction over AGIS Software in this action, or factual allegations sufficient
 14 to show that AGIS Software itself has contacts with California sufficient to subject it to suit in this
 15 Court. Accordingly, AGIS Software's Motion to Dismiss should be granted.¹

16 **II. PLAINTIFF'S RECITATION OF "UNCONTESTED FACTUAL**
 17 **ALLEGATIONS" ARE MISLEADING AND DO NOT ESTABLISH**
 18 **IMPUTATION OF AGIS, INC'S PURPORTED CONTACTS OVER AGIS**
 19 **SOFTWARE**

20 Smith Micro misleads the Court when it recites thirty legally and factually incorrect
 21 "uncontested factual allegations." Smith Micro misrepresents the record and ignores the Federal
 22 Rules of Civil Procedure because, in accordance with the rules, AGIS Software has not answered
 23 the Complaint in this Action. Nonetheless, such assertions do not establish that specific jurisdiction
 24 exists over AGIS Software.

25 Contrary to Smith Micro's unsupported allegation, AGIS Holdings, Inc. ("AGIS Holdings")
 26 is *not* the "successor to Advanced Ground Information Systems, Inc. ("AGIS, Inc.>"). *See* Dkt. 33

27 ¹ Smith Micro's opposition refers to Mr. Beyer and his declaration as "Mr. Breyer" and the "Breyer
 28 Declaration." *See, e.g.*, Dkt. 33 at 6. To provide clarification to the extent necessary, the inventor

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