

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

AGIS SOFTWARE DEVELOPMENT, LLC	§	
	§	
Plaintiff,	§	Case No. 2:17-cv-00513-JRG
	§	(Lead Case)
	§	
v.	§	<u>JURY TRIAL DEMANDED</u>
	§	
HUAWEI DEVICE USA INC., HUAWEI	§	
DEVICE CO., LTD., AND HUAWEI	§	
DEVICE (DONGGUAN) CO., LTD.	§	
	§	
Defendants.	§	
	§	

**PLAINTIFF AGIS SOFTWARE DEVELOPMENT, LLC’S RESPONSE IN
OPPOSITION TO DEFENDANTS HUAWEI DEVICE USA INC.,
HUAWEI DEVICE CO., LTD. AND HUAWEI DEVICE (DONGGUAN) CO., LTD.’S
AND LG ELECTRONICS INC.’S MOTION TO STAY (DKT. 102) PENDING
RESOLUTION OF HUAWEI’S MOTION TO TRANSFER (DKT. 36)
AND LGEKR’S MOTION TO DISMISS OR TRANSFER (DKT. 46)**

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Plaintiff AGIS Software Development, LLC (“AGIS”), by and through its undersigned counsel, hereby submits this response in opposition to Huawei Device USA Inc., Huawei Device Co., Ltd., and Huawei Device (Dongguan) Co., Ltd.’s (collectively, “Huawei”) and LG Electronics Inc.’s (“LGEKR”) motion to stay (Dkt. 102) pending resolution of Huawei’s motion to transfer (Dkt. 36) and LGEKR’s motion to dismiss or transfer (Dkt. 46).¹

I. INTRODUCTION

Defendants are not entitled to a stay merely because they filed motions to transfer and dismiss. A stay pending motions to transfer or dismiss is an extreme remedy, is not automatic, and is the exception rather than the rule. Defendants failed to meet their burden to establish good cause for the stay to be granted as none of the factors relevant to the good cause analysis weigh in favor of a stay. Rather, AGIS will suffer significant prejudice if the stay is granted because, among other things, AGIS is entitled to timely enforcement of its patent rights and a stay will delay AGIS’ day in court while Defendants continue to infringe on AGIS’ patents causing AGIS substantial harm. Moreover, *In re: ZTE (USA) Inc.*, Case No. 18-113, Dkt. 2 (Fed. Cir. Nov. 30, 2017) which is pending before the Federal Circuit, will have *no effect* on Huawei’s, LGEKR’s, or HTC’s motions to dismiss and transfer because the question before the Federal Circuit relates to venue pursuant to 1400(b), which is not the basis of Huawei’s, LGEKR’s, or HTC’s motions. Thus, the Court should deny Defendants motion to stay.

II. BACKGROUND

Approximately nine months ago, AGIS filed patent infringement cases against manufacturers and suppliers of electronic devices, each of which have been consolidated into

¹ On March 28, 2018, ZTE (TX), Inc. and ZTE (USA), Inc. (collectively, “ZTE”), defendants in *AGIS Software Development LLC v. ZTE Corporation*, No. 2:17-cv-517 (E.D. Tex. June 21, 2017) (Consolidated), filed a notice of joinder seeking to join in Huawei’s and LGEKR’s motion to stay. Dkt. 107. On April 12, 2018, HTC, defendant in *AGIS Software Development LLC v. HTC Corporation*, No. 2:17-cv-514 (E.D. Tex. June 21, 2017) (Consolidated), filed a notice of joinder seeking to join in Huawei’s and LGEKR’s motion to stay. Dkt. 120. Huawei, LGEKR, ZTE, and HTC are collectively referred to herein as “Defendants.”

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