

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

AGIS SOFTWARE DEVELOPMENT, LLC,

Plaintiff,

v.

**HUAWEI DEVICE USA INC., HUAWEI
DEVICE CO., LTD. AND HUAWEI
DEVICE (DONGGUAN) CO., LTD.,**

Defendants.

**CASE NO. 2:17-CV-0513-JRG
LEAD CASE**

JURY TRIAL DEMANDED

AGIS SOFTWARE DEVELOPMENT, LLC,

Plaintiff,

v.

HTC CORPORATION,

Defendant.

CASE NO. 2:17-CV-0514-JRG

JURY TRIAL DEMANDED

AGIS SOFTWARE DEVELOPMENT, LLC,

Plaintiff,

v.

**ZTE CORPORATION, ZTE (USA), INC., AND
ZTE (TX), INC.,**

Defendants.

**C.A. NO. 2:17-cv-517-JRG
(CONSOLIDATED CASE)**

JURY TRIAL DEMANDED

E-DISCOVERY ORDER

The Court ORDERS as follows:

1. This order supplements all other discovery rules and orders. It streamlines Electronically Stored Information (“ESI”) production to promote a “just, speedy, and inexpensive determination” of this action, as required by Federal Rule of Civil Procedure 1.^{1,2}
2. This order may be modified in the court’s discretion or by agreement of the parties. The parties shall jointly submit any proposed modifications within 60 days after the Federal Rule of Civil Procedure 16 conference. If the parties cannot resolve their disagreements regarding these modifications, the parties shall submit their competing proposals and a summary of their dispute.
3. A party’s meaningful compliance with this order and efforts to promote efficiency and reduce costs will be considered in cost-shifting determinations.
4. General ESI production requests under Federal Rules of Civil Procedure 34 and 45, or compliance with a mandatory disclosure requirement of this Court, shall include limited metadata. Load files should include, where applicable, the information listed in the Table of Metadata Fields, attached as Exhibit A. However, the parties are not obligated to include metadata for any document that does not contain such metadata in the original, if it is not possible to automate the creation of metadata when the document is collected. The parties reserve their rights to object to any request for the creation of metadata for documents that do not contain metadata in the original.

¹ HTC Corp. states that it submits this E-Discovery order for the Court’s consideration and entry subject to its motion to dismiss and without waiver of its objection to personal jurisdiction in this case.

² Defendant ZTE Corporation has not yet been served or appeared in this matter; thus, but all discovery limits will apply, if Defendant ZTE Corporation is served. Further, ZTE (USA), Inc. and ZTE (TX), Inc. state that they enter into this E-Discovery order subject to their motion to dismiss, or in the alternative transfer, and without waiver of its objection to venue in this case.

5. Absent agreement of the parties or further order of this court, the following parameters shall apply to ESI production:

A. **General Document Image Format.** Except as otherwise provided for in this Order, all documents existing in electronic format shall be produced in either: (1) single page Tagged Image File Format (“TIFF”) format, with such TIFF files named with a unique production number followed by the appropriate file extension and produced with Load files to indicate the location and unitization of the TIFF files, and which shall maintain the unitization of the documents and any attachments and/or affixed notes as they existed in the original document or (2) as multiple page, searchable PDF format at a resolution of at least 300 dpi in accordance with the following:

PDF files shall be produced along with Concordance/Opticon image load files that indicate the beginning and ending of each document and includes all of the metadata listed in Exhibit A as well as the OCR Text for the PDF as a separate text file.

B. **Format for production of documents - hardcopy or paper documents.** All documents that are hardcopy or paper files shall be scanned and produced in the same manner as documents existing in electronic format, above.

C. **Text-Searchable Documents.** No party has an obligation to make its production text-searchable; however, if a party’s documents already exist in text-searchable format independent of this litigation, or are converted to text-searchable format for use in this litigation, including for use by the producing party’s counsel, then such documents shall be produced in the same text-searchable format at no cost to the receiving party.

D. **Footer.** Each document image shall contain a footer with a sequentially ascending unique Bates number.

- E. **Confidentiality Designation.** Responsive documents in TIFF format will be stamped with the appropriate confidentiality designations in accordance with the Protective Order in this matter. Each responsive document produced in native format will have its confidentiality designation identified in the filename of the native file.
- F. **Native Files.** Spreadsheets (e.g., MS Excel, Google Sheets) and delimited text files (e.g. comma-separated value (.csv) files and tab-separated value (.tsv) files) shall be produced in their native file format. TIFF images need not be produced unless the files have been redacted, in which instance such files shall be produced in TIFF with OCR Text Files. If good cause exists to request production of files, other than those specifically set forth above, in native format, the party may request such production and provide an explanation of the need for native file review, which request shall not unreasonably be denied. Any native files that are produced shall be produced with a link in the NativeLink field, along with extracted text and applicable metadata fields set forth in Exhibit A. A TIFF placeholder indicating that the document was provided in native format should accompany the database record. If a file has been redacted, TIFF images and OCR text of the redacted document will suffice in lieu of a native file and extracted text. Documents produced natively shall be represented in the set of imaged documents by a slipsheet indicating the production identification number and confidentiality designation for the native file that is being produced.
- G. **No Backup Restoration Required.** Absent a showing of good cause, no party need restore any form of media upon which backup data is maintained in a party's normal or allowed processes, including but not limited to backup tapes, disks, SAN, and other forms of media, to comply with its discovery obligations in the present case.

- H. **Voicemail and Mobile Devices.** Absent a showing of good cause, voicemails, PDAs and mobile phones are deemed not reasonably accessible and need not be collected and preserved.
- I. **Social Media and Messengers:** Text messages and electronic chat files (*e.g.*, OCS, Line, WeChat, Facebook, Facebook Messenger, etc.) are deemed not reasonably accessible and need not be collected and produced.³
- J. **Source code.** This Order does not govern the format for production of source code, which shall be produced pursuant to the relevant provision of the Protective Order.
- K. **Parent and child emails.** The parties shall produce email attachments sequentially after the parent email.
- L. **Databases.** Certain types of databases are dynamic in nature and will often contain information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Thus, a party may opt to produce relevant and responsive information from databases in an alternate form, such as a report or data table. These reports or data tables will be produced in a static format, and may be used by the proponent of the reports or data tables to prove the content of the underlying databases without the need to make such databases available for examination or copying, or both. The parties agree to identify the specific databases, by name, that contain the relevant and responsive information that parties produce.
- M. **Foreign language documents.** All documents shall be produced in their original language. Where a requested document exists in a foreign language and the producing party also has an English-language version of that document that it prepared for non-

³ The parties reserve the right to make reasonable requests for these messages on a case by case basis.

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