

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

AGIS SOFTWARE DEVELOPMENT LLC,

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Plaintiff,

Civil Action No. 2:17-CV-513-JRG
(Lead Case)

v.

HUAWEI DEVICE USA INC.,
HUAWEI DEVICE CO., LTD. AND
HUAWEI DEVICE (DONGGUAN) CO.,
LTD., HTC CORPORATION,
LG ELECTRONICS, INC.,
APPLE INC.,
ZTE CORPORATION, ZTE (USA), INC.,
AND ZTE (TX), INC.,

Civil Action No. 2:17-CV-514-JRG
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Civil Action No. 2:17-CV-517-JRG

Defendants.

**PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC'S OPPOSITION TO
DEFENDANT LG ELECTRONIC, INC'S MOTION FOR LEAVE TO FILE MOTION
TO SUPPLEMENT THE RECORD IN SUPPORT OF ITS MOTION TO TRANSFER
VENUE TO THE NORTHERN DISTRICT OF CALIFORNIA**

Plaintiff AGIS Software Development LLC (“AGIS”), by and through its undersigned counsel, hereby submits this response in opposition to LG Electronics, Inc.’s (“LG”) Motion for Leave to Supplement the Record in Support of its Pending Motion to Dismiss for Lack of Personal Jurisdiction or, in the Alternative, to Transfer Venue to the Northern District of California (Dkt. No. 46).

LG’s motion fails to address statements made by AGIS at the Evidentiary Hearing held on August 8, 2018, and that AGIS raised during the meet and confer on this motion. At the Evidentiary Hearing held on August 8, 2018. AGIS represented that it “may take discovery of Google with respect to any proprietary Google application material that’s not in . . . the public information.” Dkt. 176 at 70:19-22. LG maintained its position at the hearing that its products are based on confidential Google code and LG served an updated Initial Disclosure on August 31, 2018 that continues to list Google as a potential trial witness. As it indicated that it may, AGIS served a subpoena on Google, LLC, consistent with its statements at the hearing. Because the record already indicated that AGIS may seek such information from Google, no supplementation is necessary or appropriate.

Further, in correspondence with LGEKR on August 31, 2018, AGIS represented that it would be willing to meet and confer regarding supplementation, and provided not only the relevant portion of the testimony from the Evidentiary Hearing cited above, but additionally, indicated that LGEKR continues to list a “Witness from Google LLC who may have knowledge related to the functionality implicated in the accused applications” in its initial disclosures. LGEKR cannot represent that it would provide a witness from Google while also feigning surprise when AGIS seeks to depose that witness. AGIS is entitled to seek discovery from witnesses listed in LGEKR’s initial disclosures.

LGEKR also cites to AGIS's Response in Opposition of LGEKR's Motion to Change Venue to the Northern District of California, stating that "AGIS has chosen not to pursue claims related to methods performed by a server against Huawei." Dkt. 56 at 9. This statement is irrelevant to the issue at hand as AGIS's position has not changed. AGIS has not asserted those server claims against either Huawei or LG in this case.¹ See Dkt. 1; see also Dkt. 194.

For the foregoing reasons, AGIS respectfully requests that the Court deny LGEKR's leave to file the opposed Motion to Supplement the Record in Support of its Motion to Transfer Venue to the Northern District of California.

Dated: September 5, 2018

Respectfully submitted

BROWN RUDNICK LLP

/s/ Vincent J. Rubino, III

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¹ AGIS has not asserted claims related to methods performed by a server, such as claims 1, 10, 12, 24, and 31 of U.S. Patent 9,445,251; and claims 1, 2, 19, 39, 51, 54, 55, 58, 65, 71, 72, 78, and 79 of U.S. Patent 9,467,838.

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**ATTORNEYS FOR PLAINTIFF, AGIS
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on September 5, 2018, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Vincent J. Rubino, III

Vincent J. Rubino, III