

# EXHIBIT B

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

AGIS SOFTWARE DEVELOPMENT, LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

**Civil Action No. 2:17-cv-513-JRG  
LEAD CASE**

Civil Action No. 2:17-cv-0516-JRG  
Consolidated Case

**APPLE INC.'S FINAL ELECTION OF PRIOR ART REFERENCES**

Defendant Apple Inc. (“Apple”) serves its Final Election of Prior Art References, as set forth below, pursuant to the Court’s Sixth Amended Docket Control Order (Dkt. No. 193) and in view of Plaintiff AGIS Software Development, LLC’s (“AGIS”) August 15, 2018 Final Election of Asserted Claims. Apple expressly reserves its right to assert at or before trial that the patents-in-suit are invalid for additional reasons, including (without limitation) under 35 U.S.C. §§ 101 and/or 112. Apple further expressly reserves its rights to assert additional prior art references uncovered during the course of fact discovery (including, but not limited to, any references based upon discovery from third parties).

In addition, as Apple explained in its December 1, 2017 Patent Rule 3-3 Invalidation Contentions and April 16, 2018 Amended Patent Rule 3-3 Invalidation Contentions, U.S. Pat. Nos. 9,408,055; 9,445,251; 9,467,838; and 9,749,829 are entitled to a priority date no earlier than October 31, 2014. Apple expressly reserves its right to assert at trial that, under that priority date, to the extent that any of the accused Apple products are determined to infringe any claim of any of those asserted patents, those accused Apple products would also render the claims invalid under

at least AIA 35 U.S.C. § 102(a)(1) because they were each in public use and on sale or available for download before the effective filing date of those patents. Apple further reserves the right to assert at trial that, under that priority date, earlier AGIS patents and/or applications, including (without limitation) U.S. Patent No. 7,630,724, would also render the claims invalid under at least AIA 35 U.S.C. § 102(a)(1) because they were publicly available before the effective filing date of the those asserted patents.

#### **I. U.S. Pat. No. 8,213,970**

The asserted claims of U.S. Pat. No. 8,213,970 are invalid in view of the following prior art references alone, in combination with one another, and/or in combination with the knowledge of a person of ordinary skill in the art prior to the date of the alleged invention of the asserted claims:

- United States Patent No. 7,609,669, entitled “Voice Directed System and Method Configured for Assured Messaging to Multiple Recipients” to Sweeney (APL-AGIS\_00012170 - APL-AGIS\_00012180), anticipates asserted claims, as demonstrated in Exhibit A-3 to Apple’s December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent Application No. 08/0219416, entitled “Method and System for Obtaining Feedback from at Least One Recipient Via a Telecommunication Network” to Roujinsky (APL-AGIS\_00012145 - APLAGIS\_00012161), anticipates asserted claims, as demonstrated in Exhibit A-2 to Apple’s December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent No. 7,609,669, entitled “Voice Directed System and Method Configured for Assured Messaging to Multiple Recipients” to Sweeney (APL-AGIS\_00012170 - APL-AGIS\_00012180) renders asserted claims obvious in combination with United States Patent Application No. 08/0219416, entitled “Method and System for Obtaining Feedback from at Least One Recipient Via a Telecommunication Network” to Roujinsky (APL-AGIS\_00012145 - APLAGIS\_00012161), and the knowledge of a person of ordinary skill in the art prior to the proper priority date of the asserted claims, as demonstrated in Exhibits A-2 and A-3 to Apple’s December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent Publication No. 2003/0217109, entitled “Method and Apparatus for Automatic Notification and Response” to Ordille (APLAGIS\_00012105 - APL-

AGIS\_00012144), anticipates asserted claims, as demonstrated in Exhibit A-1 to Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.

- United States Patent Publication No. 2003/0217109, entitled "Method and Apparatus for Automatic Notification and Response" to Ordille (APLAGIS\_00012105 - APL-AGIS\_00012144) renders asserted claims obvious in combination with United States Patent No. 5,692,032, entitled "Mobile Terminal Having One Key User Message Acknowledgment Function" to Seppanen (APLAGIS\_00012162 - APL-AGIS\_00012169), and the knowledge of a person of ordinary skill in the art prior to the proper priority date of the asserted claims, as demonstrated in Exhibit A-1 to Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent Publication No. 2003/0217109, entitled "Method and Apparatus for Automatic Notification and Response" to Ordille (APLAGIS\_00012105 - APL-AGIS\_00012144) renders asserted claims obvious in combination with United States Patent Publication No. 2006/0178128, entitled "Method of Operating a Mobile Communication Device and Mobile Communication System During an Emergency Situation" to Eaton (APL-AGIS\_00012094 - APL-AGIS\_00012104), and the knowledge of a person of ordinary skill in the art prior to the proper priority date of the asserted claims, as demonstrated in Exhibit A-1 to Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent Publication No. 2003/0217109, entitled "Method and Apparatus for Automatic Notification and Response" to Ordille (APLAGIS\_00012105 - APL-AGIS\_00012144), renders asserted claims obvious in combination with United States Patent No. 6,148,332, entitled "Mandatory Message Display and Reporting System" to Brewer (APL-AGIS\_00012914 - APLAGIS\_00012922), and the knowledge of a person of ordinary skill in the art prior to the proper priority date of the asserted claims, as demonstrated in Exhibit A-1 to Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent No. 7,386,589, entitled "Managed Messaging Platform with Message Response Aggregation" to Tanumihardja (APLAGIS\_00012181 - APL-AGIS\_00012235) anticipates asserted claims, as demonstrated in Exhibit A-4 to Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent No. 7,386,589, entitled "Managed Messaging Platform with Message Response Aggregation" to Tanumihardja (APLAGIS\_00012181 - APL-AGIS\_00012235), renders asserted claims obvious in combination with United States Patent No. 5,692,032, entitled "Mobile Terminal Having One Key User Message Acknowledgment Function" to Seppanen (APLAGIS\_00012162 - APL-AGIS\_00012169), and the knowledge of a person of ordinary skill in the art prior to the proper priority date of the asserted claims, as demonstrated in Exhibit A-4 to

Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.

- United States Patent No. 7,386,589, entitled "Managed Messaging Platform with Message Response Aggregation" to Tanumihardja (APLAGIS\_00012181 - APL-AGIS\_00012235), renders asserted claims obvious in combination with United States Patent Publication No. 2006/0178128, entitled "Method of Operating a Mobile Communication Device and Mobile Communication System During an Emergency Situation" to Eaton (APL-AGIS\_00012094 - APL-AGIS\_00012104), and the knowledge of a person of ordinary skill in the art prior to the proper priority date of the asserted claims, as demonstrated in Exhibit A-4 to Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent No. 7,386,589, entitled "Managed Messaging Platform with Message Response Aggregation" to Tanumihardja (APLAGIS\_00012181 - APL-AGIS\_00012235), renders asserted claims obvious in combination with United States Patent No. 6,148,332, entitled "Mandatory Message Display and Reporting System" to Brewer (APL-AGIS\_00012914 - APLAGIS\_00012922), and the knowledge of a person of ordinary skill in the art prior to the proper priority date of the asserted claims, as demonstrated in Exhibit A-4 to Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent No. 6,816,878, entitled "Alert Notification System" to Zimmers (APL-AGIS\_00012236 - APL-AGIS\_00012283), renders asserted claims obvious in combination with United States Patent Publication No. 2003/0217109, entitled "Method and Apparatus for Automatic Notification and Response" to Ordille (APLAGIS\_00012105 - APL-AGIS\_00012144); United States Patent No. 5,692,032, entitled "Mobile Terminal Having One Key User Message Acknowledgment Function" to Seppanen (APLAGIS\_00012162 - APL-AGIS\_00012169); and the knowledge of a person of ordinary skill in the art prior to the proper priority date of the asserted claims, as demonstrated in Exhibit A-5 to Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent No. 6,816,878, entitled "Alert Notification System" to Zimmers (APL-AGIS\_00012236 - APL-AGIS\_00012283), renders asserted claims obvious in combination with United States Patent Publication No. 2003/0217109, entitled "Method and Apparatus for Automatic Notification and Response" to Ordille (APLAGIS\_00012105 - APL-AGIS\_00012144); United States Patent Publication No. 2006/0178128, entitled "Method of Operating a Mobile Communication Device and Mobile Communication System During an Emergency Situation" to Eaton (APL-AGIS\_00012094 - APL-AGIS\_00012104); and the knowledge of a person of ordinary skill in the art prior to the proper priority date of the asserted claims, as demonstrated in Exhibit A-5 to Apple's December 1, 2017 invalidity contentions and in any subsequent amendments thereto.
- United States Patent No. 6,816,878, entitled "Alert Notification System" to Zimmers (APL-AGIS\_00012236 - APL-AGIS\_00012283), renders asserted claims obvious in

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