



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

AGIS SOFTWARE DEVELOPMENT LLC,

*Plaintiff,*

v.

HUAWEI DEVICE USA INC., *et al.*,

*Defendants.*

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Civil Action No. 2:17-CV-513-JRG  
(LEAD CASE)

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AGIS SOFTWARE DEVELOPMENT LLC,

*Plaintiff,*

v.

APPLE INC.,

*Defendant.*

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Civil Action No. 2:17-CV-516-JRG  
(CONSOLIDATED CASE)

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**DEFENDANT APPLE INC.'S MOTION FOR SUMMARY JUDGMENT OF NO  
INFRINGEMENT AND NO DAMAGES FOR FOREIGN USES**



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[REDACTED]  
[REDACTED]

## I. INTRODUCTION

Plaintiff AGIS Software Development LLC (“AGIS”) improperly asserts that it is entitled to [REDACTED] in damages based solely on *foreign uses* of Defendant Apple Inc.’s accused devices. In particular, AGIS’s damages expert argues—in two conclusory paragraphs—that

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] AGIS’s assertion is contrary to long-standing law.

To establish infringement of a method claim, a patentee must prove the performance of each step of the claimed method in the United States. *NTP, Inc. v. Research In Motion, Ltd.*, 418 F.3d 1282, 1318 (Fed. Cir. 2005) (abrogated on other unrelated grounds). The method claims of the ’829 patent each include steps that are allegedly performed by a user operating a mobile device—*e.g.*, an iPhone or iPad. For AGIS’s claims of infringement and damages based on foreign uses, the devices required to perform these steps would be located *outside* the United States.

Similarly, infringement of a system claim occurs where the system, as a whole, is put into service—*i.e.*, the place where *control* of the system is exercised and *beneficial use* of the system is obtained. *NTP*, 418 F.3d at 1317. AGIS’s experts concede that [REDACTED]

[REDACTED] Accordingly,

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<sup>1</sup> The accused devices include Apple’s iPhones, iPads, iPod Touch, and Apple Watch products that include the Apple Maps, Find My iPhone, Find My Friends, and iMessage applications (the “Accused Apps”). See Dkt. No. 32 [Am. Compl.] at 4-5.

<sup>2</sup> All emphasis is added unless otherwise stated.

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