

[REDACTED]  
[REDACTED]  
**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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**DAUBERT MOTION TO EXCLUDE THE OPINIONS OF MR. ALAN RATLIFF  
RELATING TO DAMAGES**



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Ex. 2	Ratliff Workpaper 17
Ex. 3	Paul K Meyer Declaration
Ex. 4	McAlexander Infringement Report
Ex. 5	Ratliff Dep. Tr.
Ex. 6	Paul C Clark Declaration
Ex. 7	Apple Consumer Survey
Ex. 8	Beyer Dep. Tr. Vol. I
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Ex. 12	Ratliff Workpaper 12
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[REDACTED]  
[REDACTED]

## I. INTRODUCTION

Plaintiff AGIS Software Development, Inc.’s (“AGIS”) damages expert, Alan Ratliff, asserts that AGIS is entitled to [REDACTED] for the alleged infringement by two software applications that Defendant Apple Inc. provides *for free*. To arrive at his damages figure, Mr. Ratliff devised a [REDACTED] based on a string of flawed assumptions. Each step of Mr. Ratliff’s damages model suffers from fundamental evidentiary flaws, thereby compounding the problems with Mr. Ratliff’s inflated result. But in particular, [REDACTED]  
[REDACTED]  
[REDACTED]—are fatal to his entire damages determination.

In the first step of his analysis, Mr. Ratliff estimates the “market price” of a hypothetical app to serve as a proxy for Apple’s Find My Friends and Find My iPhone applications (the “Accused Apps”). To do so, [REDACTED]  
[REDACTED]  
[REDACTED] Compared to third-party apps that [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] But basic rules of economics dictate that consumers would not have bought and used the Accused Apps to the same extent had Apple charged Mr. Ratliff’s inflated hypothetical app price instead of distributing them

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<sup>1</sup> The Find My Friends app allows users to use location-sharing features to find friends and family members on a digital map. Ex. 1 [Ratliff Rep.] ¶ 36. The Find My iPhone app allows users to locate a lost or stolen phone. Ex. 1 [Ratliff Rep.] ¶ 33.

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