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

AGIS SOFTWARE DEVELOPMENT LLC,	§ § § §	Case No. 2:17-CV-0513-JRG (LEAD CASE)
Plaintiff,	§ §	**JURY TRIAL DEMANDED**
v.	§ §	▮▮▮▮▮▮▮▮▮
HUAWEI DEVICE USA INC. ET AL.,	§ §	
Defendants.	§ §	
APPLE, INC.,	§ §	Case No. 2:17-CV-0516-JRG (CONSOLIDATED CASE)
Defendant.	§ § §	**JURY TRIAL DEMANDED**

**PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC'S MOTION
FOR PARTIAL SUMMARY JUDGMENT OF NO INVALIDITY**

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Pursuant to Fed. R. Civ. P. 56, L.R. CV-56, and the Court's Docket Control Order of October 29, 2018 (Dkt. 217), Plaintiff AGIS Software Development LLC ("AGIS") respectfully moves the Court for partial summary judgment of:

[1] no anticipation of U.S. Patent No. 9,445,251 (the "'251 Patent"), U.S. Patent No. 9,408,055 (the "'055 Patent"), U.S. Patent No. 9,467,838 (the "'838 Patent"), and U.S. Patent No. 9,749,829 (the "'829 Patent") (collectively, the "Location Patents") with respect to U.S. Patent Application Publication No. 2002/0115453 ("Poulin"); and

[2] no anticipation of the '251 Patent, the '055 Patent, the '838 Patent, and the '829 Patent over the alleged Force XXI Battle Command Brigade-and-Below ("FBCB2") system.

Particularly, there is no evidence in the record that: [1] Poulin discloses "user selectable" symbols, or that [2] FBCB2 discloses sending data from a first device that "does not have access to respective Internet Protocol addresses" of the destination device(s). AGIS respectfully submits as follows:

I.   STATEMENT OF UNDISPUTED MATERIAL FACTS

1.   AGIS asserts the following U.S. Patent Nos. in this case: 9,445,251; 9,408,055; 9,467,838; and 9,749,829. *AGIS Software Development LLC v. Apple Inc.*, 2:17-cv-00516, Dkts. 32-B through 32-E.

2.   Apple asserts that Poulin is prior art. *See* Ex. A, U.S. Patent Application Publication No. 2002/0115453; Ex. B, Apple Inc.'s Final Election of Prior Art References[1]

3.   Apple asserts that the FBCB2 system is a prior art product. *See* Ex. B, Apple Inc.'s Final Election of Prior Art References.

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[1] References to Exs. A–G refer to the exhibits submitted with the Declaration of Alfred R. Fabricant in support of this motion and attached hereto.

4.   Apple alleges that the Location Patents are anticipated by Poulin and anticipated or rendered obvious by FBCB2. *See* Ex. C, Expert Report of Paul Clark, served on October 26, 2018; Ex. D, Expert Report of Neil Siegel, served on October 29, 2018.

5.   Each claim of the '251 Patent requires that "the first device does not have access to respective Internet Protocol addresses of the second devices." *AGIS Software Development LLC v. Apple Inc.*, 2:17-cv-00516, Dkt. 32-C.

6.   With regard to the FBCB2 System, Dr. Siegel does not disclose any secondary reference to allegedly teach that "the first device does not have access to respective Internet Protocol addresses of the second devices." Ex. D, at ¶¶ 118-119, 215-216, 430-431, 484-485.

7.   Dr. Siegel admits that all versions of FBCB2 are "dynamic" and "[t]he FBCB2 units that are . . . acting in the role of a server will change over time." Ex. E, Deposition Transcript of Neil Siegel at 192:10-199:23.

8.   Dr. Siegel admitted at his deposition that FBCB2 dynamic electing servers require a startup procedure where IP addresses are exchanged among at least some of the systems. Ex. D at ¶¶ 71, 100, 104, 164, 168, 183, 219, 235, 243, 265, 273, 418, 470; Ex. E, Deposition Transcript of Neil Siegel at 194:5-199:23.

II.   STATEMENT OF THE ISSUE TO BE DECIDED BY THE COURT

Whether AGIS is entitled to summary judgment that the claims of the '251 Patent, the '055 Patent, the '838 Patent, and the '829 Patent are not anticipated by Poulin and the FBCB2 system, where the record contains no evidence that the alleged prior art references meet each and every limitation of the Patents-in-Suit such that they are anticipated by Poulin and the FBCB2 system.

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