

EXHIBIT 11

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

AGIS SOFTWARE DEVELOPMENT LLC,	§	Case No. 2:17-CV-0516-JRG
	§	
Plaintiff,	§	
	§	
v.	§	<u>JURY TRIAL DEMANDED</u>
	§	
APPLE, INC.,	§	
	§	
Defendant.	§	
	§	

**PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC’S SECOND SUPPLEMENTAL
OBJECTIONS AND RESPONSES TO DEFENDANT APPLE INC.’S
THIRD SET OF INTERROGATORIES TO PLAINTIFF (NOS. 12-15)**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the Local Rules of this Court, Plaintiff AGIS Software Development LLC (“AGIS” or “Plaintiff”) hereby responds to Defendant Apple Inc.’s (“Apple” or “Defendant”) Third Set of Interrogatories to Plaintiff (Nos. 12-15). These Interrogatories are continuing in nature and require supplementation in accordance with the Federal Rules of Civil Procedure as follows:

These responses are made solely for the purposes of this action, and are made without waiving, or intending to waive, the right at any time to revise, correct, modify, supplement or clarify any response provided herein or the right to object on any proper grounds to the use of these responses, for any purpose in whole or in part, in any subsequent proceedings or any other action. The right to raise any applicable objections at any time is expressly reserved. A response to any interrogatory herein should not be taken as an admission or acceptance of the existence of any facts set forth or assumed by such interrogatory, or that such response constitutes admissible

Data Sheet filed on February 27, 2015. Accordingly, each application of the '251, '055, '838, and '829 Patents was properly identified as pre-AIA application and each of the '251, '055, '838, and '829 Patents are subject to pre-AIA law.

Discovery in this case is still ongoing and AGIS continues to investigate this matter. AGIS reserves the right to supplement or amend its response to this interrogatory.

INTERROGATORY NO. 14

Identify any reference cited and relied upon by Apple in its December 1, 2017 invalidity contentions that AGIS contends is not prior art for purposes of 35 U.S.C. §§ 102 and 103 (e.g., because is not a printed publication, was not in public use, was not available to the public, or for any other reason) and the complete factual and legal bases for such contention.

RESPONSE TO INTERROGATORY NO. 14:

AGIS hereby incorporates the General Objections as if fully set forth herein. AGIS further objects to this interrogatory as containing multiple distinct subparts, each of which count towards Apple's total number of interrogatories, and AGIS is willing to meet and confer to properly narrow the scope of the interrogatory. AGIS objects to this interrogatory to the extent it seeks production of documents or information that is in the public domain and, therefore, of no greater burden for Apple than Plaintiff to obtain. AGIS objects to this interrogatory to the extent it seeks identification and production of documents based on legal conclusions or questions of pure law. AGIS further objects to this request as premature at least to the extent it seeks expert opinion or testimony, and AGIS will not produce such information until the appropriate time under this Court's scheduling order. AGIS further objects to this interrogatory to the extent it purports to require AGIS to identify "complete factual and legal bases" concerning requested subject matter. AGIS further objects to this Topic on the ground it seeks information not within the custody, possession, or control of AGIS. AGIS further objects to this Topic on the ground it seeks information not within the custody, possession, or control of AGIS. AGIS objects to this

interrogatory to the extent it is overly broad and/or unduly burdensome, and not proportional to the needs of the case. AGIS objects to this interrogatory to the extent it calls for confidential and/or proprietary information of any individual or entity other than AGIS.

Notwithstanding its general and specific objections, AGIS answers as follows:

Discovery in this case is still ongoing and AGIS continues to investigate this matter. The Patents-in-Suit are presumed valid, and it is Defendant's burden to establish invalidity by clear and convincing evidence. The Asserted Claims are valid under 35 U.S.C. §§ 102 and 103. AGIS's discovery, investigation and analysis are ongoing. Moreover, Apple continues to produce documents that appear to be related to, among other things, the subject of this Interrogatory. AGIS reserves the right to supplement or amend its response to this interrogatory.

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:

AGIS hereby incorporates the General Objections as if fully set forth herein. AGIS further objects to this Interrogatory as seeking information that is irrelevant, overly broad, and unduly burdensome because Apple no longer asserts many of the references cited and formerly relied upon by Apple in its December 1, 2017 invalidity contentions. Apple elected a final subset of alleged prior art on August 29, 2018, and this Response addresses only the elected references.

Notwithstanding its general and specific objections, AGIS answers as follows: The following references are not prior art to the respective patents-in-suit as contended by Apple in its August 29, 2018 election of prior art references:

- United States Patent No. 7,609,669 to Sweeney is not prior art because the filing date listed on the face of the patent is February 14, 2005.

- United States Patent Application No. 08/0219416 to Roujinsky is not prior art because the filing date listed on the face of the published patent application is February 15, 2008. While Roujinsky appears to claim priority to August 10, 2006 and/or August 15, 2005 on the face of the patent application, the features for which Apple relies on in Roujinsky are not adequately supported under 35 U.S.C. Section 112(a) by the descriptions corresponding to the alleged priority dates.
- AGIS's LifeRing product is not prior art because Apple has not alleged or shown that the invention was in public use or on sale in this country, more than one year prior to the date of application for patent in the United States, and Apple has not alleged that it was in public use, on sale, or offered for sale more than a year prior to the earliest filing date of each of the patents-in-suit. AGIS's LifeRing product and its prototypes are not prior art because Apple alleges that the product was made available to the public "at least by October 30, 2005." Apple has not shown that the LifeRing product and its prototypes were "in public use" or "on sale." Apple has not shown that any LifeRing documents are printed publications.
- The Force XXI Battle Command, Brigade and Below system is not prior art because Apple has not alleged or shown that the invention was in public use or on sale in this country, more than one year prior to the date of application for patent in the United States, and Apple has not alleged that it was in public use, on sale, or offered for sale more than a year prior to the earliest filing date of each of the patents-in-suit. The Force XXI Battle Command, Brigade and Below is not prior art because Apple has not shown that the Force XXI Battle Command, Brigade and Below was in "public use" or "on sale." The Force XXI Battle Command, Brigade and Below system is not prior art

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