

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

AGIS SOFTWARE DEVELOPMENT LLC,	§	
	§	
<i>Plaintiff,</i>	§	
	§	Civil Action No. 2:17-CV-513-JRG
v.	§	(LEAD CASE)
	§	
HUAWEI DEVICE USA INC., <i>et al.</i> ,	§	
	§	
<i>Defendants.</i>	§	

AGIS SOFTWARE DEVELOPMENT LLC,	§	
	§	
<i>Plaintiff,</i>	§	
	§	Civil Action No. 2:17-CV-516-JRG
v.	§	(CONSOLIDATED CASE)
	§	
APPLE INC.,	§	
	§	
<i>Defendant.</i>	§	

**DEFENDANT APPLE INC.'S OPPOSITION TO DKT. NO. 234, PLAINTIFF'S MOTION
TO STRIKE THE EXPERT REPORT OF NEIL SIEGEL FOR FAILURE TO DISCLOSE
OBVIOUSNESS COMBINATIONS BASED ON THE SIEGEL PATENTS**

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<u>Exhibit Number</u>	<u>Description</u>
Ex. 1	Apple's Initial Invalidation Contentions (served December 1, 2017)
Ex. 2	Apple's Amended Invalidation Contentions (served April 16, 2018)
Ex. 3	Apple's Amended Invalidation Contentions Ex. B-14 ('055 Patent)
Ex. 4	Apple's Amended Invalidation Contentions Ex. C-14 ('251 Patent)
Ex. 5	Apple's Amended Invalidation Contentions Ex. D-14 ('838 Patent)
Ex. 6	Apple's Amended Invalidation Contentions Ex. E-14 ('829 Patent)
Ex. 7	Apple's Final Election of Prior Art References (served August 29, 2018)
Ex. 8	Siegel Invalidation Report Excerpts
Ex. 9	Siegel Deposition Excerpts
Ex. 10	Apple's Initial Invalidation Contentions Ex. B-14 ('055 Patent)
Ex. 11	Apple's Initial Invalidation Contentions Ex. C-14 ('251 Patent)
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Ex. 13	Apple's Initial Invalidation Contentions Ex. E-14 ('829 Patent)
Ex. 14	Model Order Focusing Patent Claims and Prior Art (Judge Davis)
Ex. 15	<i>Cardsoft, Inc. v. Verifone Holdings, Inc.</i> , No. 2:08-cv-98-RSP (E.D. Tex. Jun. 3, 2012), Dkt. No. 371

Defendant Apple Inc. (“Apple”) hereby opposes Dkt. No. 234, titled “Plaintiff AGIS Software Development LLC’s Opposed Motion to Strike the Expert Report of Neil Siegel for Failure to Disclose Obviousness Combinations Based on the Siegel Patents.”

I. INTRODUCTION

AGIS moves to strike the entire invalidity report of Dr. Neil Siegel for a nonexistent alleged deficiency. Dr. Siegel—a first-time litigation expert with decades of industry experience engineering systems deployed by the U.S. military—prepared an expert report detailing his opinions that the Force XXI Battle Command Brigade-and-Below system (“FBCB2,” also known as “Blue Force Tracker” and “Appliqué”) he designed invalidates claims of four of the asserted patents¹ in this case. In his report, Dr. Siegel explains that the functionality of the FBCB2 system is described in (among other things) four of his own patents (the “Siegel patents”) that resulted from the development of the FBCB2 system and on which he is a named inventor.

AGIS’s motion relies on the false premise that Dr. Siegel advances an obviousness theory based on a “combination” of the FBCB2 system and the Siegel patents. But Dr. Siegel does not rely on any such combination to show invalidity, and Apple does not intend to present any such “combination” theory at trial. To the contrary, Dr. Siegel explained in his report and at deposition—and Apple has consistently maintained in its invalidity contentions—that the Siegel patents describe the operation of the *FBCB2 system*, and it is the knowledge and use of that *FBCB2 system* by others before the priority date of AGIS’s patents that renders AGIS’s claims invalid. AGIS’s motion should be denied.

¹ U.S. Patent Nos. 9,467,838 (the “838 patent”), 9,445,251 (the “251 patent”), 9,408,055 (the “055 patent”), and 9,749,829 (the “829 patent”).

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