



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.

§
§
§
§
§
§
§
§
§
§

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

AGIS SOFTWARE DEVELOPMENT LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

§
§
§
§
§
§
§
§
§
§

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

**APPLE INC.'S OPPOSITION TO DKT. NO. 235, AGIS SOFTWARE DEVELOPMENT
LLC'S MOTION FOR PARTIAL SUMMARY JUDGMENT OF NO INVALIDITY**

TABLE OF CONTENTS

	<u>Pages</u>
I. INTRODUCTION	1
II. RESPONSE TO AGIS’S STATEMENT OF UNDISPUTED MATERIAL FACTS	2
III. APPLE’S STATEMENT OF ADDITIONAL RELEVANT FACTS	4
IV. RESPONSE TO AGIS’S STATEMENT OF THE ISSUE TO BE DECIDED	8
V. LEGAL STANDARD.....	9
VI. ARGUMENT.....	9
A. There Are Genuine Disputes Of Material Fact Regarding Whether Poulin Invalidates AGIS’s Asserted Claims.	9
1. There Is At Least A Genuine Factual Dispute Regarding Whether Poulin Discloses “User-Selectable Symbols.”	10
2. AGIS Ignores Evidence Showing That “User-Selectable Symbols” Were Obvious.	11
3. AGIS’s Motion Does Not Pertain To All Asserted Claims And Should Be Denied On That Basis As Well.	12
B. There Are Genuine Factual Disputes Regarding Whether The FBCB2 System Invalidates AGIS’s Asserted Claims.....	12
1. Ample Evidence Exists Demonstrating That First Devices In The FBCB2 System Do Not Have Access To The IP Addresses Of Other Second Devices.....	13
2. AGIS Either Mischaracterizes Or Wholly Ignores Evidence Showing How The FBCB2 System Meets The “IP Access” Limitation.....	15
3. AGIS’s Motion Does Not Pertain To All Asserted Claims And Should Be Denied On That Basis As Well.	17
VII. CONCLUSION.....	18



TABLE OF AUTHORITIES

Pages

Cases

ActiveVideo Networks, Inc. v. Verizon Comm'cns, Inc.,
694 F.3d 1312 (Fed. Cir. 2012)..... 13

Celotex Corp. v. Catrett,
477 U.S. 317 (1986)..... 9

Cheese Sys., Inc. v. Tetra Pak Cheese & Powder Sys., Inc.,
725 F.3d 1341 (Fed. Cir. 2013)..... 14

Edwards Sys. Tech. v. Dig. Control Sys., Inc.,
99 F. App'x 911 (Fed. Cir. 2004) 10

Environmental Designs, Ltd. v. Union Oil Co.,
713 F.2d 693 (Fed. Cir. 1983)..... 11

Lectec Corp. v. Chattem, Inc.,
C.A. No. 5:08-CV-130, 2010 WL 11433202 (E.D. Tex. Dec. 16, 2010)..... 10

Rules

Fed. R. Civ. P. 56(c) 9

TABLE OF EXHIBITS

<u>Exhibit Number</u>	<u>Description</u>
Ex. 1	US Pat. No. 9,445,251
Ex. 2	US Pat. No. 9,408,055
Ex. 3	US Pat. No. 9,467,838
Ex. 4	US Pat. No. 9,749,829
Ex. 5	US Pat. Pub. No. US20020115453 (Poulin)
Ex. 6	Clark Invalidity Report Excerpts
Ex. 7	Siegel Invalidity Report Excerpts
Ex. 8	Siegel Deposition Excerpts
Ex. 9	AGIS's Final Election of Asserted Claims
Ex. 10	McAlexander Infringement Report Excerpts

[REDACTED]

[REDACTED]

I. INTRODUCTION

AGIS provides no credible basis that could justify granting the sweeping relief it seeks—“that the Court preclude Apple from raising [the ‘Poulin’ and ‘FBCB2’ prior art references], and any products associated with these references, at trial.” (Dkt. No. 235 at 9). AGIS’s motion for partial summary judgment of no invalidity (one of *four* different motions AGIS filed to prevent Apple from demonstrating the invalidity of the patents-in-suit to the jury) should be denied.

First, for the Poulin reference, AGIS offers only attorney argument regarding Poulin’s disclosures. Those arguments pertain to only one limitation that is not even required by every asserted claim, and thus AGIS’s sweeping motion can be denied on that basis alone. Moreover, AGIS’s unsupported contentions do not overcome the evidence of record and expert opinion of Dr. Paul Clark explaining how the Poulin reference invalidates AGIS’s claims. AGIS also completely ignores evidence and Dr. Clark’s corresponding explanation demonstrating the obviousness of the claims in view of Poulin. Because genuine factual disputes exist concerning the Poulin reference and how it renders the asserted claims invalid, summary judgment should be denied.

Second, for the FBCB2 system, AGIS again offers only concocted attorney argument about allegedly missing features of the prior art system. And again, AGIS’s arguments center on one claim limitation that does not exist in every asserted claim—defeating its motion on that basis alone. Nevertheless, ample evidence exists concerning the features of FBCB2 and how the system meets the asserted claims, including the factual and expert testimony of Dr. Neil Siegel, a developer of the FBCB2 system. At best, AGIS’s motion identifies disputed questions of fact that should be resolved by the jury at trial. AGIS’s motion for summary judgment should be denied.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.