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

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

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

**REPLY IN SUPPORT OF DEFENDANT APPLE INC.'S MOTION FOR SUMMARY
JUDGMENT OF NO DAMAGES FOR FOREIGN USES (DKT. 230)**

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TABLE OF EXHIBITS

Exhibit Number	Description
Appendix A	Independent Claims of '829 Patent With Emphasis
Ex. 1	McAlexander Opening Expert Report, Attachment E ('829 patent)
Ex. 2	Rebuttal (Non-Infringement) Report of Paul C. Clark ("Clark Rebut. Rep.")
Dkt. No. 32	AGIS's First Amended Complaint ("Am. Compl.")
Dkt. No. 230	Apple's Motion For Summary Judgment Of No Infringement And No Damages For Foreign Uses ("Mot.")
Dkt. No. 230, Mot., Ex. 1	Damages Expert Report of Alan Ratliff ("Ratliff Rep.")
Dkt. No. 230, Mot., Ex. 2	Deposition of Alan Ratliff, Dec. 7, 2018 ("Ratliff Tr.")
Dkt. No. 230, Mot., Ex. 4	Infringement Expert Report of Joseph McAlexander ("McAlexander Rep.")
Dkt. No. 230, Mot., Ex. 7	Deposition of Joseph McAlexander, Dec. 7, 2018 ("McAlexander Tr.")
Dkt. No. 256	AGIS's Opposition to Apple's Motion For Summary Judgment Of No Infringement And No Damages For Foreign Uses ("Opp.")

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I.   INTRODUCTION

Plaintiff AGIS Software Development LLC ("AGIS") alleges infringement of U.S. Patent No. 9,749,829 (the "'829 patent") based on the use of certain applications (the "Accused Apps") that run on Apple's iPhone, iPad, and other user devices. *See* Dkt. 32 [Am. Compl.]. AGIS claims damages based on foreign uses of the Accused Apps. Dkt. 230 [Apple's Motion for Summary Judgement ("Mot.")], ██

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███████████████████████[1] To operate, the Accused Apps use multiple components, including (1) user devices on which the apps run and (2) servers that send and receive data to and from the user devices. *See* Mot., Ex. 4 [McAlexander Rep.] ¶ 283. For foreign uses, those user devices (and at least some of the servers) are located outside the United States. Mot. at 6-9.

AGIS seems to argue that to prove infringement it is sufficient to show that extraterritorial use of the Accused Apps may invoke servers within the United States. But that is not the law. To show infringement of a method claim, AGIS must show that "***each*** of the steps" of the claimed method is performed in the United States. *NTP, Inc. v. Research In Motion, Ltd.*, 418 F.3d 1282, 1318 (Fed. Cir. 2005). To show infringement of a system claim, AGIS must show that "the place where control of the system is exercised and beneficial use of the system [is] obtained" is within the United States. *Id*. at 1317. The asserted claims are directed to multicomponent methods and systems that include both user devices and servers. Under AGIS's foreign use theory, at least some of the limitations of the asserted claims would have to be met by user devices located outside

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[1] All emphasis has been added unless otherwise stated.

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