

# EXHIBIT 22

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

**REBUTTAL EXPERT REPORT OF JOSEPH C. MALEXANDER III  
REGARDING VALIDITY OF U.S. PATENT NUMBERS:  
8,213,970; 9,408,055; 9,445,251; 9,467,838; AND 9,749,829**

**AGIS SOFTWARE DEVELOPMENT LLC,  
vs.  
APPLE, INC.**

**Civil Action No. 2:17-CV-516-JRG**

**November 19, 2018**

secondary considerations of non-obviousness. I disagree with the conclusions presented by both Clark and Siegel.

6. This rebuttal report contains my opinions with respect to the subject matter of this proceeding and with the understandings as set forth above. I specifically reserve the right to formulate and offer additional or supplemental opinions based on any additional information, discovery, or evidence that may be provided or derived, future court rulings, or agreements between the parties, to the extent permitted by the Court.

7. The opinions I formed, regarding validity of the asserted claims of the '970, '055, '251, '838, and '829 Patents, are covered in detail in **Section 7**. The bases for those opinions are defined in **Section 6**. And the documents, references and other materials I have reviewed and considered are addressed in **Section 5**.

8. I anticipate being called to provide expert testimony before the U.S. District Court for the Eastern District of Texas regarding my opinions formed, resulting from my review of the '970, '055, '251, '838, and '829 Patents, the respective patent prosecution histories, and the previous October 29, 2018 reports of Clark and Siegel, including the identified art, as well as other invalidity arguments or contentions raised by APPLE, INC., (hereinafter referred to as "APPLE.")

If called, I will so testify.

9. Clark addressed the following alleged, prior art references in his report:

- (1) U. S. Patent Number 7,386,589 to Tanumihardja and Brown ("the '589 Patent" or "Tanumihardja");
- (2) U. S. Patent Application Publication Number 2003/0217109 to Ordille and Petsche ("the '109 Application" or "Ordille");
- (3) U. S. Patent Number 5,692,032 to Seppänen, et. al. ("the '032 Patent" or "Seppänen");
- (4) U. S. Patent Application Publication Number 2006/0178128 to Eaton, et. al. ("the '128 Application" or "Eaton");

- (5) U. S. Patent Application Publication Number 2002/0115453 to Poulin, et. al. (“the '453 Application” or “Poulin”);
- (6) U. S. Patent Number 7,353,034 to Haney (“the '034 Patent” or “Haney”);
- (7) U. S. Patent Application Publication Number 2007/0281690 to Altman and Sivo (“the '690 Application” or “Altman”); and
- (8) LifeRing.

10. Siegel addressed the following alleged, prior art references in his report:

- (9) Force XXI Battle Command Brigade-and-Below System (“FBCB2” or “Blue Force Tracker”).

11. Table 1 below summarizes the references, addressed by Clark and Siegel, as applied to the '970, '055, '251, '838, and '829 Patents claims-at-issue in this case (reference numbers correspond to the numbers of the alleged prior art list above):

| Patent Claims at Issue | Alleged Anticipation References | Alleged Obviousness References                 |
|------------------------|---------------------------------|--|
| '970 Patent, Claim 1   | 1; 2                            | 1; 2;<br>(1 or 2) in view of (3 or 4);         |
| '970 Patent, Claim 5   | 1; 2                            | 1; 2;<br>(1 or 2) in view of (3 or 4);         |
| '970 Patent, Claim 6   | 1; 2                            | 1; 2;<br>(1 or 2) in view of (3 or 4);         |
| '970 Patent, Claim 8   | 1; 2                            | 1; 2;<br>(1 or 2) in view of (3 or 4);         |
|                        |                                 |  |
| '055 Patent, Claim 1   | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |

| Patent Claims at Issue | Alleged Anticipation References | Alleged Obviousness References                 |
|------------------------|---------------------------------|--|
| '055 Patent, Claim 5   | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |
| '055 Patent, Claim 7   | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |
| '055 Patent, Claim 24  | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |
| '055 Patent, Claim 27  | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |
| '055 Patent, Claim 32  | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |
| '055 Patent, Claim 36  | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |
| '055 Patent, Claim 41  | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |
| '055 Patent, Claim 42  | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |
| '055 Patent, Claim 54  | 5; 6; 8; 9                      | 5;<br>(5) in view of (7); 9 in view of PHOSITA |

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