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 \$ (CONSOLIDATED CASE)
v.	\$ \$ \$
APPLE INC.,	\$ \$ \$
Defendant.	8 §

APPLE INC.'S OPPOSITION TO AGIS SOFTWARE DEVELOPMENT LLC'S MOTIONS IN LIMINE NOS. 1-12 (DKT. NO. 293)



TABLE OF CONTENTS

		Page
I.	AGIS'S MIL NO. 1 TO PRECLUDE APPLE FROM INTRODUCING TESTIMONY OR EVIDENCE RELATED TO AGIS'S FINANCES	1
II.	AGIS'S MIL NO. 2 TO PRECLUDE THE USE OF DEROGATORY, DISPARAGING, AND/OR PEJORATIVE REFERENCES ABOUT NON-PRACTICING ENTITIES INCLUDING AGIS SOFTWARE DEVELOPMENT LLC AND AGIS, INC.	2
III.	AGIS'S MIL NO. 3 TO PRECLUDE DISPARAGING THE UNITED STATES PATENT AND TRADEMARK OFFICE	4
IV.	AGIS'S MIL NO. 4 TO PRECLUDE APPLE FROM REFERENCING PENDING INTER PARTES REVIEW PROCEEDINGS OR SUCCESS RATES OF SUCH PROCEEDINGS	5
V.	AGIS'S MIL NO. 5 TO PRECLUDE APPLE FROM INTRODUCING EVIDENCE OR TESTIMONY REGARDING UNRELATED LITIGATION INCLUDING VERDICTS	6
	A. The Life360 Case Is Relevant	6
	B. Evidence Regarding The Life360 Case Is Not Unfairly Prejudicial	8
VI.	AGIS'S MIL NO. 6 TO PRECLUDE APPLE FROM INTRODUCING TESTIMONY, EVIDENCE, OR ARGUMENT RELATED TO LITIGATION FUNDING	9
VII.	AGIS'S MIL NO. 7 TO PRECLUDE APPLE FROM INTRODUCING TESTIMONY, EVIDENCE, OR ARGUMENT RELATED TO POTENTIAL TARGETS FOR LITIGATION	10
VIII.	AGIS'S MIL NO. 8 TO PRECLUDE APPLE FROM INTRODUCING TESTIMONY OR EVIDENCE RELATED TO AGIS'S INTELLECTUAL PROPERTY MONETIZATION OR LITIGATION EFFORTS UNRELATED TO THE CURRENT LAWSUIT	12
IX.	AGIS'S MIL NO. 9 TO PRECLUDE ANY REFERENCES, EVIDENCE, SUGGESTION, TESTIMONY OR ELICITATION OF ANY TESTIMONY BY APPLE COMPARING ANY ACCUSED PRODUCT TO ANY PURPORTED PRIOR ART DEVICE, A PRIOR ART PATENT, OR ANY OTHER PRIOR ART	13
X.	AGIS'S MIL NO. 10 TO PRECLUDE ANY REFERENCE, EVIDENCE, SUGGESTION, TESTIMONY, OR ELICITATION OF ANY TESTIMONY BY	



TABLE OF CONTENTS (cont'd)

		Page
	APPLE REGARDING AGIS'S ELECTION OF PATENT CLAIMS TO	
	STREAMLINE THIS LITIGATION	14
XI.	AGIS'S MIL NO. 11 TO PRECLUDE ANY REFERENCE, EVIDENCE,	
711.	SUGGESTION, TESTIMONY, OR ELICITATION OF ANY TESTIMONY BY	
	APPLE THAT PLAINTIFF ENGAGED IN "FORUM SHOPPING" OR	
	"LITIGATION ABUSE," OR THAT THIS DISTRICT IS A POPULAR VENUE	
	FOR PATENT HOLDERS	14
XII.	AGIS'S MIL NO. 12 TO PRECLUDE APPLE FROM INTRODUCING	
	EVIDENCE OF PRIOR ART NOT INCLUDED IN APPLE'S FINAL	
	ELECTION OF PRIOR ART	15



TABLE OF AUTHORITIES

<u>Pages</u>
Cases
Advanced Ground Information Systems, Inc. v. Life360, Inc., Case No. 9:14-cv-80651 (S.D. Fla.)
Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc., No. 2:14-CV-911-JRG-RSP, 2016 WL 4718963 (E.D. Tex. July 12, 2016), report and recommendation adopted sub nom. Core Wireless Licensing S.A.R.L v. LG Elecs., Inc., No. 2:14-CV-911-JRG-RSP, 2016 WL 4719791 (E.D. Tex. Sept. 8, 2016)
Datatreasury Corp. v. Wells Fargo & Co., No. 2:06-CV-72 DF, 2010 WL 11468934 (E.D. Tex. Oct. 5, 2010)
Droplets, Inc. v. Overstock.com, Inc., No. 2:11-CV-401-JRG-RSP, 2014 WL 11515642 (E.D. Tex. Dec. 10, 2014)
EVM Sys., LLC v. Rex Medical, L.P., 2015 WL 11089476 (E.D. Tex. June 10, 2015)
Freeny v. Murphy Oil Corp., No. 2:13-CV-791-RSP, 2015 WL 11108703 (E.D. Tex. May 29, 2015)
Garcia v. United States, No. SA-04-CR-425(17)-OG, 2010 WL 11613981 (W.D. Tex. Oct. 7, 2010)
Georgia-Pac. Corp. v. U.S. Plywood Corp., 318 F. Supp. 1116 (S.D.N.Y. 1970), modified sub nom. Georgia-Pac. Corp. v. U.S. Plywood-Champion Papers, Inc., 446 F.2d 295 (2d Cir. 1971)
Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 86 S. Ct. 684, 15 L. Ed. 2d 545 (1966)
Intellectual Ventures I LLC v. Symantec Corp., No. 10-1067-LPS, 2015 U.S. Dist. LEXIS 2841 (D. Del. Jan. 6, 2015)
Iovate Health Scis., Inc. v. Bio-Engineered Supplements & Nutrition, Inc., No. 9:07-CV-46, 2008 WL 11344916 (E.D. Tex. Aug. 29, 2008)
Mendenhall v. Cedarapids, Inc., 5 F.3d 1557 (Fed. Cir. 1993)
Mobile Telecommunications Techs., LLC v. ZTE (USA) Inc., No. 2:13-CV-946-IRG, 2016 WL 8260584 (E.D. Tex. July 22, 2016)



TABLE OF AUTHORITIES (cont'd)

<u>1 ages</u>
Motile Optics, LLC v. SAVV Entm't Sys., Inc., No. 6:15-CV-01118-RWS-JDL, 2017 WL 2901709 (E.D. Tex. Jan. 10, 2017), report and recommendation adopted, No. 6:15-CV-01118RWS-JDL, 2017 WL 2901715 (E.D. Tex. Feb. 1, 2017)
Nobelbiz, Inc. v. Glob. Connect, L.L.C., No. 6:12-CV-244-RWS, 2015 WL 11072170 (E.D. Tex. Sept. 2, 2015)
Parthenon Unified Memory Architecture LLC v. Apple Inc., No. 2:15-CV-621-JRG-RSP, 2016 WL 7743510 (E.D. Tex. Sept. 21, 2016)
Rembrandt Wireless Tech., LP v. Samsung Elecs. Co., Case No. 2:14-cv-911-JRG-RSP, 2015 WL 627430 (E.D. Tex. Jan. 31, 2015)
Respironics, Inc. v. Invacare Corp., 303 F. App'x 865 (Fed. Cir. 2008)
Retractable Techs., Inc. v. Becton, Dickinson & Co., 653 F.3d 1296 (Fed. Cir. 2011)
Silver State Intellectual Techs., Inc. v. Garmin Int'l, Inc., No. 2:11-CV-01578-GMN, 2015 WL 2152658 (D. Nev. May 7, 2015)
Smartflash LLC v. Apple Inc., No. 6:13-CV-447-JRG-KNM, 2015 WL 11089593 (E.D. Tex. Jan. 29, 2015)
Sprint Commc'ns Co., L.P. v. Time Warner Cable, Inc., No. 2017-2247, 2018 WL 6266319 (Fed. Cir. Nov. 30, 2018)
Stafford v. Lamorak Ins. Co., No. 18-60160, 2018 WL 5099628 (5th Cir. Oct. 18, 2018)
United States v. D.K.G. Appaloosas, Inc., 630 F. Supp. 1540 (E.D. Tex. 1986), aff'd, 829 F.2d 532 (5th Cir. 1987)
United States v. Del Rosario, No. 12 CR 81 KBF, 2012 WL 1710923 (S.D.N.Y. May 11, 2012)
United States v. Khoa Dang Hoang, 737 F. App'x 136 (4th Cir. 2018)
VirnetX Inc. v. Apple Inc., No. 6:12-CV-855, 2016 WL 4063802 (E.D. Tex. July 29, 2016)



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