

# EXHIBIT 3

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

**AGIS SOFTWARE DEVELOPMENT, LLC,**

**Plaintiff,**

**v.**

**HTC CORPORATION,**

**Defendant.**

**CASE NO. 2:17-CV-0514-JRG  
(LEAD CASE)**

**JURY TRIAL DEMANDED**

**DEFENDANT HTC CORPORATION'S SECOND SET OF INTERROGATORIES TO  
PLAINTIFF AGIS SOFTWARE DEVELOPMENT, LLC (NOS. 16-25)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant HTC Corporation, ("HTC") through its counsel, hereby requests that Plaintiff AGIS Software Development, LLC ("AGIS") fully answer the following interrogatories within thirty (30) days in writing, under oath, and in conformity with the Definitions and Instructions set forth below, and afterwards supplement such interrogatory answers as may become necessary to comply with the requirements of Rule 26(e) of the Federal Rules of Civil Procedure.

**DEFINITIONS**

The following definitions shall apply throughout these interrogatories, regardless of whether upper or lower-case letters are used:

1. "AGIS Software Development, LLC," "AGIS," "You," or "Your" refers to Plaintiff AGIS Software Development, LLC, including without limitation all subsidiaries, parents, affiliates, and all past or present directors, officers, attorneys, agents, representatives, employees, and consultants.

- a. the specification of Documents shall be in sufficient detail to permit Defendant to locate and identify records and to ascertain the answer as readily as could AGIS (*e.g.*, by production number);
- b. AGIS shall make available any computerized information or summaries thereof that it either has, or can adduce by a relatively simple procedure, unless these materials are privileged or otherwise immune from discovery;
- c. AGIS shall provide any relevant compilations, abstracts, or summaries in its custody or otherwise readily obtainable by it, unless these materials are privileged or otherwise immune from discovery; and
- d. to the extent not already produced, the Documents shall be made available for inspection and copying within thirty (30) days after service of the answers to this interrogatory or on a date mutually agreed upon by Defendant and AGIS.

### **INTERROGATORIES**

#### **INTERROGATORY NO. 16:**

AGIS declared that the applications for each of the '838, '055, and '251 patents were subject to the First-to-File provisions of the America Invents Act. *See* '838 patent prosecution, App. No. 14/529978, April 25, 2016 Applicant Amendment at 15-16 (AGIS stated that "it is understood that the present application will be examined under the post-AIA, first-to-file provisions of the patent laws"); '055 patent prosecution, App. No. 14/695233, October 30, 2015 Applicant Amendment at 13-14 (AGIS stated that "it is understood that the present application will be examined under the post-AIA, first-to-file provisions of the patent laws."); '251 patent prosecution, App. No. 14/633804, November 13, 2015 Applicant Amendment at 10 (AGIS stated that "it is understood that the present application will be examined under the post-AIA, first-to-

file provisions of the patent laws. See MPEP 2159.02 (March 2014).”). AGIS’s Supplemental Responses to HTC’s 1st Set of Interrogatories, served on August 17, 2018, state that AGIS will rely upon an invention date prior to September 21, 2004 for the ’838, ’055, and ’251 patents but patents subject to the First-to-File provisions of the America Invents Act cannot claim earlier invention dates. State AGIS’s basis for claiming a pre-filing invention date for the ’838, ’055, and ’251 patents in view of AGIS’s representation to the USPTO that the ’838, ’055, and ’251 patents are subject to the First-to-File provisions of the America Invents Act, which forbids claiming a pre-filing invention date.

**INTERROGATORY NO. 17:**

Identify all communications made by any representative or individual associated with any AGIS Company to any representative or individual associated with HTC Corporation or HTC America, Inc. that pre-date June 21, 2017.

**INTERROGATORY NO. 18:**

Describe, in full, the date on which AGIS contends that HTC Corporation received notice of each of the ’055, ’251, ’838, and ’970 patents, including: (a) the date of the notice; (b) the form that the notice was in (*e.g.*, whether it was a hand-delivered letter, an e-mail, or was made verbally, etc.); (c) all documents reflecting the notice; (d) the person who received the notice; (e) the person who sent the notice; (f) the patent identified in the notice; and (g) how the notice put HTC Corporation on notice of an allegedly infringing act.

**INTERROGATORY NO. 19:**

AGIS has accused Find My Device and Device Manager (Find My Device’s predecessor) of infringing the ’970 patent. Find My Device is not installed on any HTC Corporation-made phone and Device Manager (Find My Device’s predecessor) and was only available from a

Google owned and operated website accessible only via a web browser. Explain AGIS's basis, and identify all documents in support of AGIS's basis, for alleging that HTC Corporation directly infringes the '970 patent.

**INTERROGATORY NO. 20:**

HTC Corporation does not make, use, offer to sell, or sell smartphones in the United States or import smartphones into the United States. For each of the asserted claims of the '055, '251, '838, and '970 patents, separately identify the party or parties that AGIS contends directly infringe each patent, and which activity or activities from 35 U.S.C. § 271(a) (*i.e.*, “makes . . . within the United States”, “uses . . . within the United States,” “offers to sell . . . within the United States,” “sells . . . within the United States,” or “imports into the United States”) constitute the infringing acts. Identify the documents that demonstrate these activities.

**INTERROGATORY NO. 21:**

Explain AGIS's basis, and identify all documents in support of AGIS's basis, for contending that HTC Corporation induces others to infringe each of the '055, '251, '838, and '970 patents under 35 U.S.C. § 271(b), including an identification of the party or parties that perform the alleged direct infringement and an identification of the activities conducted by HTC Corporation that you claim demonstrate a specific intent of HTC Corporation to encourage direct infringement, including HTC Corporation's knowledge of the '055, '251, '838, and '970 patents, knowledge that the induced acts constitute direct infringement of the '055, '251, '838, and '970 patents, and the affirmative steps taken by HTC Corporation to bring about direct infringement.

**INTERROGATORY NO. 22:**

Claims 1 and 54 of the '838 patent require the following claim limitations:

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