

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

AGIS SOFTWARE DEVELOPMENT, LLC	§	CASE NO. 2:17-cv-0514-JRG
	§	(Lead Case)
Plaintiff,	§	
	§	
v.	§	JURY TRIAL DEMANDED
	§	
HTC CORPORATION, et al.	§	
	§	
Defendant.	§	

AGIS SOFTWARE DEVELOPMENT, LLC	§	CASE NO. 2:17-CV-0515-JRG
	§	(Consolidated Case)
Plaintiff,	§	
	§	
	§	JURY TRIAL DEMANDED
LG ELECTRONICS INC.	§	
	§	
Defendant.	§	
	§	

**DEFENDANT LG ELECTRONICS INC.'S MOTION FOR PARTIAL SUMMARY
JUDGMENT OF LIMITATION OF DAMAGES**

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I. INTRODUCTION

Defendant LG Electronics Inc. (“LGEKR”) moves for partial summary judgment that AGIS Software Development LLC (“AGIS”) is not entitled to pre-suit damages for U.S. Patent Nos. 9,408,055 (the “’055 Patent”), 9,445,251 (the “’251 Patent”), and 9,467,838 (the “’838 Patent”) (collectively, the “location sharing patents”) because AGIS failed to mark products covered by these patents or otherwise notify LGEKR of the alleged infringement, as required by 35 U.S.C. § 287(a). LGEKR therefore respectfully requests that the Court grant summary judgment of no damages for such patents prior to June 21, 2017, the date that AGIS filed this lawsuit.

II. STATEMENT OF ISSUES TO BE DECIDED BY THE COURT

Whether AGIS may recover damages for pre-suit infringement of the location sharing patents where: (i) AGIS, Inc. did not mark the LifeRing product and its other publications with these patent numbers, and (ii) AGIS failed to give LGEKR notice of the alleged infringement of these patents prior to filing its Complaint in this action.

III. STATEMENT OF UNDISPUTED MATERIAL FACTS

1. The ’838 Patent was filed on October 31, 2014 and issued on October 11, 2016. D.I. 1-4 at 2. The ’251 Patent was filed on February 27, 2015 and issued on September 13, 2016. D.I. 1-3 at 2. The ’055 Patent was filed on April 24, 2015 and issued on August 2, 2016. D.I. 1-2 at 2.
2. AGIS owns the location sharing patents and contends that LGEKR infringes these patents. D.I. 1, ¶¶ 12, 14-63. AGIS Software Development LLC licenses its patent portfolio, including the location sharing patents, to AGIS, Inc. D.I. 1, ¶ 12.

[REDACTED]

3. Prior to June 15, 2017, AGIS, Inc. owned the location sharing patents. *See* Ex. A, AGISTX_00006025.¹ AGIS, Inc. assigned its patent portfolio, including the location sharing patents, to AGIS Holdings, Inc. *See id.* [REDACTED]

[REDACTED] AGIS Holdings, Inc. assigned the patent portfolio to AGIS Software Development LLC. *See* Ex. C, AGISTX_00006032. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

4. AGIS admits that AGIS, Inc.’s LifeRing product practices the location sharing patents. [REDACTED]

[REDACTED] *see also* Ex. F, AGIS’s December 7, 2018 Supplemental Response to LG’s Interrogatory No. 14 at 4–6. LGEKR first became aware of AGIS’s claims of infringement of the location sharing patents when AGIS filed the Complaint in this Action, on June 21, 2017. Ex. H, LGEKR’s Supplemental Objections and Responses to AGIS’s Interrogatory No. 9 at 44.

5. AGIS, Inc. put its LifeRing product on sale before this action was filed. In LGEKR’s Interrogatory No. 3, LGEKR asked that AGIS identify all products or services sold, offered for sale, demonstrated or used by AGIS that practice any asserted claim of the Patents-in-

¹ Unless otherwise stated, exhibits are attached to the Declaration of Justin Chi, filed herewith.

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