

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

**AGIS SOFTWARE DEVELOPMENT LLC,**

**Plaintiff,**

**vs.**

**HTC CORPORATION,**

**Defendant.**

**CASE NO. 2:17-CV-514-JRG  
(LEAD CASE)**

**JURY TRIAL DEMANDED**

**DECLARATION OF KYLE R. CANAVERA  
IN SUPPORT OF DEFENDANT HTC CORPORATION'S  
OPPOSITION TO AGIS SOFTWARE DEVELOPMENT LLC'S  
MOTION TO STRIKE PORTIONS OF THE  
JANUARY 11, 2019, EXPERT REPORT OF DR. ANDREW WOLFE**

I, Kyle R. Canavera, hereby declare as follows:

1. I am an attorney at the law firm of Perkins Coie LLP and counsel of record for HTC Corporation (“HTC Corp.”) in the above entitled matter. I am a member of good standing of the California and United States Patent and Trademark Bar and am admitted to practice in the Eastern District of Texas.

2. I make this declaration in support of HTC Corp.’s Opposition to AGIS Software Development LLC’s Motion to Strike Portions of the January 11, 2019 Expert Report of Dr. Andrew Wolfe.

3. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the expert report of Mr. Wolfe, HTC Corp.’s non-infringement expert.

4. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the expert report of Mr. McAlexander, AGIS’s infringement expert.

5. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the source code production made by Google on or about November 12, 2018.

6. HTC Corp. is aware of two source code productions made by Google. Google made the first source code production on or around November 12, 2018 (“First Google Source Code Production”). Google made the second source code production on or around January 14, 2019 (“Second Google Source Code Production”).

7. HTC Corp. became aware of First Google Source Code Production on November 7, 2018, when an Arnold & Porter attorney informed counsel for HTC Corp. of the forthcoming production. Attached hereto as Exhibit 4 is a true and correct copy of the November 7, 2018 email on this subject matter. This email demonstrates that AGIS had also been informed of the forthcoming production on that same day, November 7, 2018. AGIS informed HTC Corp. of

the First Google Source Code Production on November 26, 2018. Attached hereto as Exhibit 5 is a true and correct copy of the November 26, 2018 email on this subject matter.

8. HTC Corp. became aware of the Second Google Source Code Production on January 14, 2019, when counsel for AGIS informed counsel for HTC Corp. of the production. Attached hereto as Exhibit 6 is a true and correct copy of the January 14, 2019 email on this subject matter.

9. Representatives for HTC Corp. reviewed the Google source code productions on four occasions. On November 13, 2018, an Perkins Coie attorney representing HTC Corp. reviewed the First Google Source Code Production at the offices of Arnold & Porter. On December 3 and 4, 2018, Perkins Coie attorneys representing HTC Corp. reviewed the First Google Source Code Production at the offices of Arnold & Porter. On December 7, 2018, Dr. Wolfe reviewed the First Google Source Code Production at the offices of Arnold & Porter.

10. The four instances identified in the preceding paragraph are the only occasions when representatives for HTC Corp. have reviewed the First Google Source Code Production (excepting the physical printouts HTC Corp. has received, as addressed below). Representatives for HTC Corp. have never reviewed the Second Google Source Code Production (excepting the physical printouts HTC Corp. has received, as addressed below). HTC Corp. never had access to the First Google Source Code Production prior to November 13, 2018. HTC Corp. never had access to the Second Google Source Code Production prior to January 14, 2019. HTC Corp. has never received access to any of the electronic files in the First Google Source Code Production or the Second Google Source Code Production except for on the four occasions when HTC Corp.'s representatives travelled to the offices of Arnold & Porter to review the source code productions (as identified above).

11. HTC Corp. has received printouts from the First Google Source Code Production and the Second Google Source Code Production on four occasions. Each of these is described below.

12. On November 26, 2018, counsel for AGIS informed counsel for HTC Corp. that it had received source code printouts. Exhibit 5, already attached hereto, is a true and correct copy of the November 26, 2018 email on this subject matter. On December 2, 2018, counsel for HTC Corp. requested duplicates of the same printouts and later received them. Attached hereto as Exhibit 7 is a true and correct copy of the December 2, 2018 email on this subject matter.

13. On December 13, 2018, counsel for AGIS informed counsel for HTC Corp. that it had received source code printouts. Attached hereto as Exhibit 8 is a true and correct copy of the December 13, 2018 email on this subject matter. On December 13, 2018, counsel for HTC Corp. requested duplicates of the same printouts and later received them. Attached hereto as Exhibit 9 is a true and correct copy of the December 13, 2018 email on this subject matter.

14. On January 24, 2019, counsel for AGIS informed counsel for HTC Corp. that it had received source code printouts. Attached hereto as Exhibit 10 is a true and correct copy of the January 24, 2019 email on this subject matter. On January 24, 2019, counsel for HTC Corp. requested duplicates of the same printouts and later received them. Attached hereto as Exhibit 11 is a true and correct copy of the January 24, 2019 email on this subject matter.

15. On January 28, 2019, counsel for HTC Corp. received source code printouts. On January 28, 2019, counsel for HTC Corp. informed counsel for AGIS of the receipt of these source code printouts. Attached hereto as Exhibit 12 is a true and correct copy of the January 28, 2019 email on this subject matter. On January 28, 2019, counsel for AGIS responded, noting that it had also received the source code printouts that same day. Attached hereto as

Exhibit 13 is a true and correct copy of the January 28, 2019 email on this subject matter. The printouts received on January 28, 2019 included the files cited by Dr. Wolfe in footnotes 108 and 109 of his report, as well as a number of other printouts with which counsel for HTC Corp. are not familiar.

16. HTC Corp. has never received any printouts from the First Google Source Code Production or the Second Google Source Code Production other than the four occasions identified above.

17. Other than the aforementioned source code reviews and printouts, HTC Corp. has not had any access to the Google source code. Google is represented by Arnold & Porter in this matter. HTC Corp. is represented by Perkins Coie in this matter. Google is not indemnifying HTC Corp. in this matter.

18. In a May 16, 2018 letter, counsel for HTC Corp. notified counsel for AGIS that HTC Corp. was making its source code available for review. Attached hereto as Exhibit 14 is a true and correct copy of the May 16, 2018 letter. On October 1, 2018, counsel for HTC Corp. again notified counsel for AGIS that HTC Corp.'s source code had been available for review since May 16, 2018. Attached hereto as Exhibit 15 is a true and correct copy of the October 1, 2018 email on this subject matter. On October 2, 2018, counsel for AGIS informed counsel for HTC Corp. that AGIS's representative, Omid Kia, would be reviewing the HTC Corp. source code production on October 3, 2018. Attached hereto as Exhibit 16 is a true and correct copy of the October 2, 2018 email on this subject matter. Mr. Kia did in fact review the HTC Corp. source code production on that date. AGIS has not requested printouts of any of the HTC Corp. source code production.

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