



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

AGIS SOFTWARE DEVELOPMENT, LLC	§	CASE NO. 2:17-cv-514-JRG
	§	(Lead Case)
Plaintiff,	§	
	§	
v.	§	JURY TRIAL DEMANDED
	§	
HTC CORPORATION, et al.	§	
	§	
Defendant.	§	

AGIS SOFTWARE DEVELOPMENT, LLC	§	CASE NO. 2:17-CV-515-JRG
	§	(Member Case)
Plaintiff,	§	
	§	
v.	§	JURY TRIAL DEMANDED
	§	
LG ELECTRONICS INC.	§	
	§	
Defendant.	§	

DECLARATION OF SEAN CALLAGY IN SUPPORT OF DEFENDANT LG ELECTRONICS INC.’S OPPOSITION TO AGIS’S MOTION TO STRIKE THE JANUARY 11, 2019 EXPERT REPORT OF EDWARD R. TITTEL

I, Sean Callagy, state and declare as follows:

1. I am a partner in the law firm Arnold & Porter Kaye Scholer, LLP (“Arnold & Porter”), and counsel of record for Google LLC (“Google”) in the above-captioned matter. I am a member of the Bar of the States of Texas and California, and have been admitted to practice in the United States District Court for the Eastern District of Texas (“EDTX”). I provide this declaration in support of Defendant LG Electronics Inc.’s Opposition to AGIS’s Motion to Strike the January 11, 2019 Expert Report of Edward R. Tittel. I have personal knowledge of the matters stated in this declaration and would testify competently and truthfully to them if called upon to do so.

[REDACTED]

2. AGIS Software Development LLC (“AGIS”) issued a subpoena for documents and deposition testimony to Google on August 29, 2018. Google timely served objections and responses to the subpoena. In the objections and responses, Google offered to meet and confer concerning the documents and topics of deposition testimony sought by the subpoena. Counsel for AGIS contacted me and, as detailed below, we engaged in meet-and-confer discussions. Following several such discussions with counsel for AGIS, Google made available for AGIS’s inspection source code for the applications accused of infringement.

3. On November 12, 2018, Arnold & Porter’s IT Support Analyst, Stefan Froese, working at my instruction, arranged for the loading of Google source code on a review machine hosted in Arnold & Porter’s Silicon Valley office for this case in response to the AGIS subpoena. We thereupon informed AGIS that the source code was available for review. At various times from November 2018 to December 2018, AGIS sent reviewers to inspect the source code files.

4. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

5. [REDACTED]
[REDACTED]
[REDACTED]

6. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9. On or around January 11, 2019, at my instruction, Mr. Froese downloaded the source code for [REDACTED] and installed it on the source code review machine in Arnold & Porter's Silicon Valley office. Google made this code available following discussions with AGIS concerning the responsiveness of certain portions of Google's source code production. This additional source code was made available for AGIS's inspection on January 13, 2019.

10. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



11. AGIS sent a reviewer to Arnold & Porter's Silicon Valley office to review the supplemental source code production for [REDACTED] on January 18, 2019, and requested additional source code printouts from Google at such time.

12. Attached hereto as Exhibit C is a true and correct copy of correspondence between myself as counsel for Google and counsel for LGEKR, memorializing that Google had provided printouts of source code files requested by AGIS, HTC, and LGEKR, and has marked such documents with the bates stamp range GOOGLE_SC_00000494 - GOOGLE_SC_00000563.

13. Attached hereto as Exhibit D is a true and correct copy of the document and deposition subpoena referenced above, which indicates that it was issued by AGIS to Google on or about August 29, 2018.

14. Attached hereto as Exhibit E is a true and correct copy of Google's Objections and Responses to AGIS's deposition and document subpoenas, served in the related litigation *AGIS Software Development, LLC v. Huawei Device USA Inc., et al.*, Case No. 2:17-cv-513, on September 7, 2018.

15. Attached hereto as Exhibit F is a true and correct copy of Google's Objections and Responses to AGIS's deposition and document subpoenas, served in the instant case on September 13, 2018. These objections and responses to AGIS's deposition and document requests are substantively identical to the Objections and Responses to AGIS's deposition and document subpoenas served in the related case against Huawei defendants.

16. I first telephonically met and conferred with counsel for AGIS regarding the objections and responses to AGIS's subpoenas on September 13, 2018. I had numerous subsequent discussions with counsel for AGIS on this matter as well.

[REDACTED]

17. The meet-and-confer process continued for several months. This entailed several email exchanges, as well as several subsequent telephonic discussions. Throughout this process, counsel for AGIS only raised AGIS's requests for documents, with virtually all of the discussion focusing on the source code that Google produced. During these discussions, counsel for AGIS never asked to discuss AGIS's deposition subpoena topics or Google's responses thereto (including Google's offer to meet and confer about such topics). Counsel for AGIS likewise never asked for a date for a deposition of any Google witness, nor that I identify witnesses who might testify on behalf of Google should a deposition proceed.

18. On December 7, 2018, which I understood to be the final day for parties to seek to compel discovery responses, I discussed the status of Google's production of source code with counsel for AGIS. During the call, it was agreed among myself and counsel for AGIS that

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Notably, no part of my discussion with counsel for AGIS entailed a

request or demand from AGIS to obtain deposition testimony, or follow-up from the offer to meet and confer by Google or any reservation of rights by AGIS to seek deposition testimony after the Court's deadline to move to compel further responses to fact discovery requests.

19. As indicated by the foregoing, given AGIS's apparent decision not to pursue its request for deposition testimony at any point in the meet-and-confer process, AGIS never deposed a Google witness with respect to the instant litigation.

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