

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, §  
§ [REDACTED]  
§  
Defendant. §

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LG ELECTRONICS INC., § Case No. 2:17-CV-0515-JRG  
§ (CONSOLIDATED CASE)  
Defendant. §  
§ **JURY TRIAL DEMANDED**

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**PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC'S  
RESPONSE IN OPPOSITION TO LG ELECTRONICS INC.'S  
SEALED DAUBERT MOTION TO EXCLUDE THE OPINIONS OF  
MR. ALAN RATLIFF RELATING TO DAMAGES (DKT. 118)**

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<b><u>Exhibit Number</u></b>	<b><u>Description</u></b>
Ex. A	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Plaintiff AGIS Software Development LLC (“Plaintiff” or “AGIS”) submits this memorandum in opposition to the motion by Defendant LG Electronics Inc. (“Defendant” or “LG”) to exclude certain opinions of AGIS’s damages expert, Alan Ratliff, under *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). For the reasons set forth below, LG’s motion should be denied.

## I. INTRODUCTION

AGIS accuses LG’s Android-based smartphones and tablets (the “Accused Devices”) that are pre-configured or adapted with (whether pre-installed, pre-loaded, and/or ready for/capable of downloading) map-based communications applications and/or features, of infringing AGIS’s Patents-in-Suit. See Ex. A, Damages Expert Report of Alan Ratliff (“Ratliff Rep.”), at ¶ 22. As of 2010, LG preconfigured, and as of 2013, LG preloaded all accused LG devices (LG smartphones and tablets) with the Accused Apps. *Id.* at ¶¶ 27-30. Instead of charging an upfront fee, LG monetizes the Accused Apps by promoting the further adoption of LG devices within its ecosystem. *Id.* at ¶¶ 22-26, 33, 44, 52, 76-80. As part of his analysis, Mr. Ratliff logically relies on publicly-available information about comparable third-party phone-finding and friend-finding apps. Although these applications charge upfront fees and promote a subscription based model, Mr. Ratliff’s analysis and conclusions were independent of the monetization model used. *Id.* at ¶¶ 53-64; Ex. B at StoneTurn Exhibit B (Article: “How Much is an Active User Worth”). Mr. Ratliff computed a reasonable royalty specific to the value contributed by the accused functionality of the Accused Devices by (1) determining the market value of the Accused Apps which represents in this case, the smallest salable patent practicing unit (“SSPPU”), and then determined the “value [of] the infringed features based on comparable features in the market place” within a hypothetical negotiation framework applying the Georgia-Pacific factors; (2) relying upon similar feature industry usage and mobile device maker profit data for usage and

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