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

**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)**

TABLE OF CONTENTS

Page(s)

TABLE OF AUTHORITIES

Page(s)

Cases

Other Authorities

TABLE OF EXHIBITS

Exhibit Number		Description
Ex. A	██████████████████████	
████		████████████████████████████████
████		██████████████████████████████████
████		███████████████████████████████
████		██████████████████████████████████
████		████████████████████████

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

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.