

EXHIBIT A

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November 28, 2018

VIA EMAIL (MBernstein@perkinscoie.com)

Matthew C. Bernstein
Perkins Coie
11988 El Camino Real
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San Diego, CA 92130-2594

RE: AGIS Software Development, LLC v. HTC Corporation, Case No. 2:17-cv-00514 (E.D. Tex.)
(Lead Case)

Dear Matthew,

I write in response to HTC Corporation's ("HTC") letter dated November 13, 2018 regarding HTC's request to AGIS to stipulate to non-infringement of the '970 patent. As I communicated on the phone earlier this week, AGIS does not agree to stipulate to non-infringement of the '970 patent and maintains that it has a good faith basis to continue to assert the '970 patent against HTC.

First, AGIS notes that HTC's letter does not challenge that the accused applications, Find My Device and Android Device Manager, meet the limitations of the '970 patent.¹

Second, HTC appears to argue that it cannot be a direct infringer because, according to HTC, the HTC Accused Devices do not have the "accused Google-made applications, Find My Device and Device Manager." HTC's statement in its letter are inaccurate. The functionalities of Find My Device and Android Device Manager have been embedded within the Android operating system and/or Google's Google Mobile Services ("GMS") on HTC Accused Devices since at least 2013, most recently as part of the Google Play Protect suite which is mandatory on all Android devices. Android devices allow users to access the device finder functionality through native apps as well as through the Google Chrome browser and Google search bar, which are also provided with the Android operating system as part of GMS, which has been preinstalled on HTC devices, sold in the United States. HTC has directly infringed the '970 Patent at least as a result of selling its Android Smartphones, which include the GMS suite, in the United States prior to the filing of the complaint. [REDACTED]

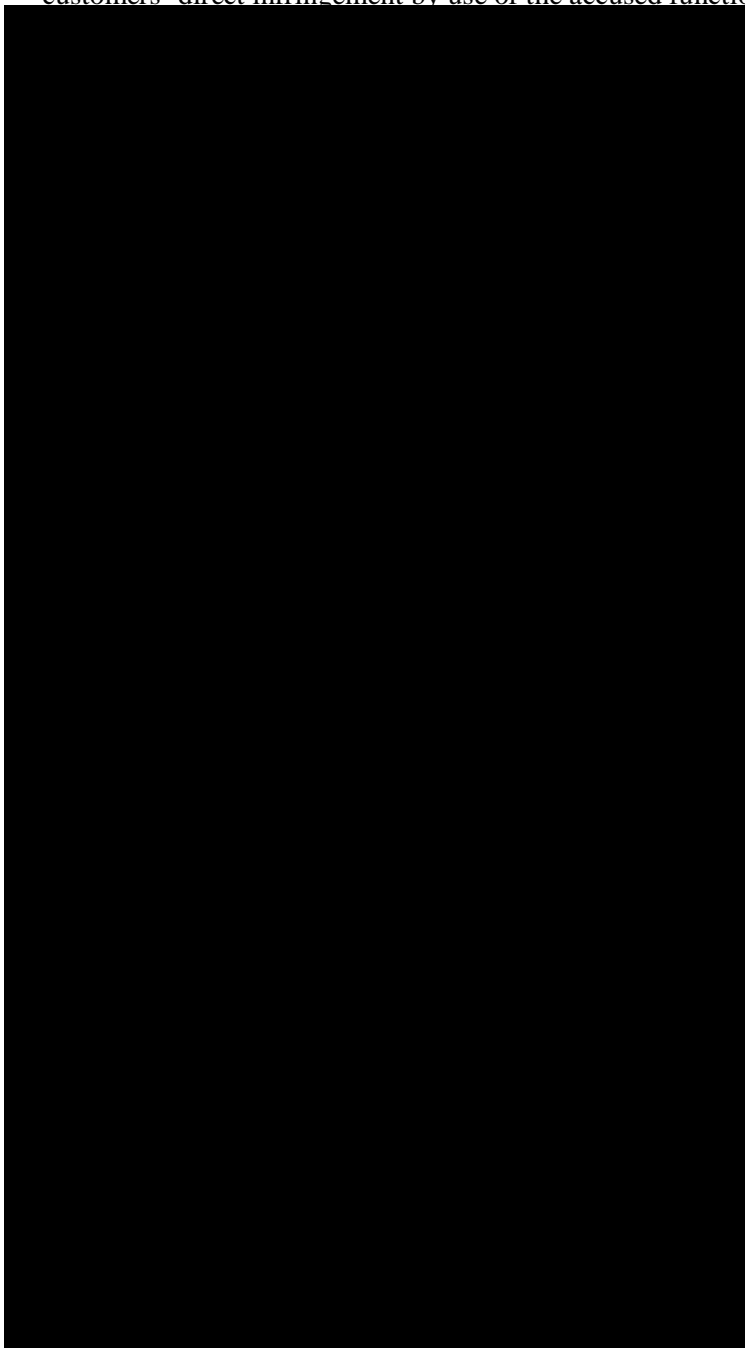
Third, HTC incorrectly states that AGIS is prohibited from recovering for inducement because HTC was unaware of the asserted patents before filing of the complaint. HTC incorrectly argues that without pre-suit notice, "AGIS cannot conceivably argue that specific intent exists." Pre-suit notice is not a requirement to find specific intent to induce infringement. Where Defendant has knowledge of the patent and specific intent *to cause the acts constituting infringement*, specific intent may be inferred from circumstantial evidence. *Ricoh Co. v. Quanta Comput. Inc.*, 550 F.3d 1325, 1342 (Fed. Cir. 2008). For example, on HTC's website, HTC directs customers to use Find My Device and Android Device

¹ Nothing herein shall be construed as a waiver by AGIS of its rights or remedies, and AGIS specifically reserves its right to supplement its response to HTC's Letter.



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Manager to locate lost devices (*See below*); [REDACTED]² Indeed, HTC has no basis to challenge post-complaint inducement, which is based on HTC's continued encouragement of its customers' direct infringement by use of the accused functionalities.

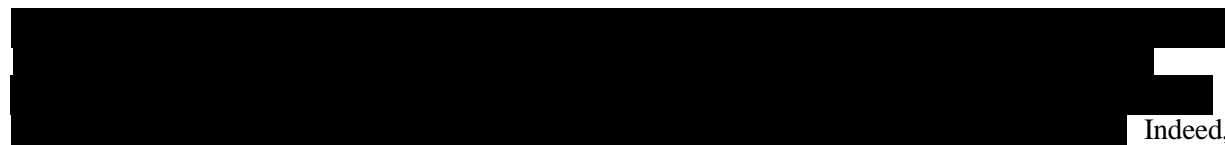


Teng Dep. Exhibit 11

² "Evidence of active steps taken to induce infringement, such as advertising an infringing use, can support a finding of an intention for the product to be used in an infringing manner." *DSU Med. Corp. v. JMS Co.*, 471 F.3d 1293, 1305 (Fed. Cir. 2006).



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Indeed,
this post-filing inducement (including upgrades to older devices) applies to the same products that AGIS
has alleged infringe due to HTC's pre-suit sales.

We are available to confer regarding these issues on December 3, 2018.

Sincerely,

BROWN RUDNICK LLP

Vincent J. Rubino III
cc: Counsel of Record