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**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
	§	(CONSOLIDATED CASE)
	§	
Plaintiff,	§	
	§	**JURY TRIAL DEMANDED**
v.	§	
	§	
LG ELECTRONICS INC.	§	
	§	
Defendant.		

**REPLY TO AGIS SOFTWARE DEVELOPMENT LLC'S RESPONSE IN OPPOSITION
TO LG ELECTRONICS INC.'S MOTION TO EXCLUDE THE OPINIONS OF
<u>MR. ALAN RATLIFF RELATING TO DAMAGES</u>**

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As set forth below and in LG Electronics Inc.'s ("LG Korea") motion (D.I. 118), the Court should exclude the opinions of AGIS's damages expert Alan Ratliff.

I.   **MR. RATLIFF'S** ███████████████ **IS AN UNRELIABLE BASIS FOR THE HYPOTHETICAL NEGOTIATION**

Mr. Ratliff ignores ██

AGIS asserts that it is an "'apples to oranges' comparison" to suggest that ████████████

████████████████████ (D.I. 153 at 4.) But this illustrates how Mr. Ratliff has made an

unsupported comparison between ████████████████████████████. AGIS claims █

███

██████████████████████████" (D.I. 153 at 4.) AGIS has no citation to back this,

proving that Mr. Ratliff ███████████████████████████████████████

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████████ AGIS cites no discussion or evidence in Mr. Ratliff's report purporting to analyze

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AGIS also argues that "LG provides no case law in support of its argument that Mr. Ratliff's ██ is unreliable." (D.I. 153 at 4.) But, LG Korea provided Federal Circuit authority holding that the failure to address basic economic principles merits exclusion of damages testimony. (D.I. 118, at 5 (citing *Exmark Mfg. Co. v. Briggs & Stratton Power Prods. Group, LLC*, 879 F.3d 1332, 1350 (Fed. Cir. 2018).) *Exmark* held it an abuse of discretion to admit the testimony of an expert who "failed to conduct any analysis indicating the degree to which these considerations [that affect sales and profits] impact the market value or profitability" of the accused product, and how these in turn affected the royalty rate. 879 F.3d at 1350. Similarly, here, Mr. Ratliff failed to analyze ██████████████████████████████ ███. AGIS's opposition fails to cite, discuss, or distinguish *Exmark* at all.

AGIS asserts that LG Korea has focused on "Mr. Ratliff's starting point, to the exclusion of his additional adjustments," leading to a "misleading and erroneous conclusion." (D.I. 153 at 6.) Mr. Ratliff's "additional adjustments" are no less problematic, and addressed elsewhere in LG Korea's motion. But no matter how many "adjustments" are made, they cannot fix the flaw of ███ ██████████████████████████████████.

II.   THE ███████████████████████ IS UNRELIABLE AND UNSUPPORTED

Mr. Ratliff's ████████████████████ is unreliable for failure to ██████████████ ███ ███████████████████████████████████ AGIS now claims "using Google Maps to navigate to a shared location is merely another step or component performed after the infringing activity." (D.I. 153 at 6.) This assertion demonstrates the foundational errors of

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