



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

AGIS SOFTWARE DEVELOPMENT, LLC

Plaintiff,

v.

HTC CORPORATION, et al.

Defendant.

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CASE NO. 2:17-cv-514-JRG
(LEAD CASE)

JURY TRIAL DEMANDED

AGIS SOFTWARE DEVELOPMENT, LLC

Plaintiff,

v.

LG ELECTRONICS INC.

Defendant.

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CASE NO. 2:17-CV-515-JRG
(CONSOLIDATED CASE)

JURY TRIAL DEMANDED

**LG ELECTRONICS INC.'S OPPOSITION TO AGIS SOFTWARE
DEVELOPMENT LLC'S OPPOSED MOTIONS *IN LIMINE* FOR THE *AGIS
SOFTWARE DEVELOPMENT LLC V. LG ELECTRONICS INC.* TRIAL**



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[REDACTED]

For the reasons discussed below, LG Electronics Inc. (“LG Korea”) respectfully requests that the Court deny AGIS Software Development LLC’s (“AGIS”) motions *in limine* (Dkt. No. 156) to the extent opposed by LG Korea below.¹

1. AGIS’S MOTION NO. 1: TO PRECLUDE LG FROM INTRODUCING TESTIMONY OR EVIDENCE RELATED TO AGIS’S FINANCES

First, AGIS’s motion can be denied as conclusory. AGIS cites no case law to support its motion. AGIS also provides no explanation as to why evidence of its finances is irrelevant, and fails to meet its burden to show why the probative value of AGIS’s finances is *substantially* outweighed by the danger of unfair prejudice. *See* Fed. R. Evid. 403.

Second, AGIS’s motion should be denied because its financials are relevant to this case, and introduction of such evidence would not mislead or confuse the jury. For instance, evidence regarding AGIS’s finances is relevant to damages, as it bears upon what AGIS would have agreed to in a hypothetical negotiation with LG Korea, including by demonstrating AGIS’s relative bargaining strength. *See Georgia-Pac. Corp. v. U.S. Plywood Corp.*, 318 F. Supp. 1116, 1121 (S.D.N.Y. 1970), *modified sub nom. Georgia-Pac. Corp. v. U.S. Plywood-Champion Papers, Inc.*, 446 F.2d 295, (2d Cir. 1971) (outcome of hypothetical negotiation would “depend upon such factors as their relative bargaining strength”). Evidence regarding AGIS’s finances also reflects the value of the patents asserted in this action, and the purported success or failure of AGIS, Inc.’s LifeRing product and related applications, which AGIS contends practice the asserted patents (and are apparently AGIS’s only product line). *See Georgia-Pac.*, 318 F. Supp. at 1121 (outcome of the hypothetical negotiation would “depend upon such factors as . . . the anticipated amount of profits that the prospective licensor reasonably thinks he would lose as a

¹ For each category of evidence that AGIS seeks to exclude, LG Korea should be permitted to introduce such evidence or testimony for impeachment purposes to the extent AGIS opens the door by taking inconsistent positions at trial.

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