



**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
	§	(Member Case)
Plaintiff,	§	
	§	
v.	§	JURY TRIAL DEMANDED
	§	
LG ELECTRONICS INC.	§	
	§	
Defendant.	§	

**DEFENDANT LG ELECTRONICS INC.'S REPLY IN SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT OF NON-INFRINGEMENT**



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[REDACTED]

Defendant LG Electronics Inc.’s (“LG Korea”) motion for summary judgment of non-infringement should be granted because Plaintiff AGIS Software Development LLC (“AGIS”) fails to show a genuine issue of material fact as to any of the matters raised.

I. AGIS HAS PRESENTED NO EVIDENCE TO SHOW THAT ANY GENUINE ISSUE OF MATERIAL FACT EXISTS

Following LG Korea’s opening brief showing that it does not engage in acts capable of constituting infringement in the United States, AGIS bore the burden of providing contrary evidence. See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249-50 (1986) (“[I]n the face of the defendant’s properly supported motion for summary judgment, the plaintiff could not rest on his allegations of a conspiracy to get to a jury without ‘any significant probative evidence tending to support the complaint.’ . . . [T]he adverse party ‘must set forth specific facts showing that there is a genuine issue for trial.’”). AGIS has failed to do so, instead repeatedly offering conjecture or speculation about what *may* transpire at trial. As LG Korea showed, it does not manufacture Accused Devices in the United States (D.I. 119-2, ¶ 3); [REDACTED]

[REDACTED]

[REDACTED]. In response, AGIS hypothesizes that unnamed evidence “may” show something else. But now is the time to put forth evidence, not speculate. As shown below, with no evidence of sales, offers for sale, or use within the United States or of importation into the United States by LG Korea, AGIS’s claims must fail.

First, AGIS asserts that LG Korea did not produce contracts reflecting arrangements with its subsidiaries, and that a witness testified that such agreements exist. (D.I. 190 at 15-16.) But,

[REDACTED]

[REDACTED] In any event, as stated to AGIS’s counsel several times, LG Korea searched on more than one occasion and did

[REDACTED]

not locate a supply agreement between LG Korea and its U.S. subsidiaries regarding the purchase and sale of mobile devices. At the hearing on LG Korea’s motion to dismiss for lack of personal jurisdiction, the Court raised this issue; AGIS “made it known that they made a conscious decision not to seek the Court’s involvement in compelling the production of any contractual record between LG Korea and LG United States.” Ex. 1, Aug. 8, 2018 Hearing Tr., at 20:12-17; 21:2-5; 35:5-8. In fact, AGIS’s counsel stated that it was *not* critical to have the contract. *Id.*, Aug. 8, 2018 Hearing Tr., at 20:19-20.

Second, AGIS makes much of [REDACTED]

[REDACTED] Fatally to its argument, AGIS offers zero *evidence* of LG Korea selling or importing in the United States, only speculation about what

[REDACTED] while *nothing* says it is the importer. “Shipping” is not an act of infringement under 35 U.S.C. § 271, making summary judgment appropriate. Further, AGIS cites nothing in support of its interpretation of “CIP.” LG Korea showed that this “Incoterm” merely transfers risk when product is placed with a logistics company, though the seller still bears the cost. (D.I. 119 at 12 (citing *Bristol-Meyers Squibb Co. v. Matrix Labs. Ltd.*, No. 12Civ5846 (PAE), 2015 WL 2257705, at * 6 (S.D.N.Y. May 13, 2014)).) AGIS ignores this case and offers no contrary evidence or authority.

Third, AGIS contorts [REDACTED]

[REDACTED]

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