

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

AGIS SOFTWARE DEVELOPMENT, LLC,	§	
	§	
Plaintiff,	§	
	§	Case No. 2:17-cv-514-JRG (Lead)
v.	§	
	§	<b><u>JURY TRIAL DEMANDED</u></b>
HTC CORPORATION,	§	
	§	
Defendant.	§	

**DECLARATION OF VINCENT J. RUBINO, III IN OPPOSITION TO  
DEFENDANT HTC CORPORATION’S MOTION TO DISMISS PURSUANT TO FED.  
R. CIV. P. 12(B)(2), OR, IN THE ALTERNATIVE, TRANSFER VENUE PURSUANT TO  
28 U.S.C. § 1404(A) TO THE NORTHERN DISTRICT OF CALIFORNIA**

I, Vincent J. Rubino III, being duly sworn, hereby depose and state as follows:

1. I am a member of Brown Rudnick LLP, counsel of record for Plaintiff AGIS Software Development LLC (“AGIS”). I am a member of the Bar of the State of New York and have been admitted to practice in the United States District Court for the Eastern District of Texas. I make this declaration in opposition to the Motion to Dismiss for Lack of Personal Jurisdiction or, in the Alternative, to Transfer Venue to the Northern District of California filed by Defendant HTC Corporation (“HTC”). The statements in this declaration are based upon my review of information obtained from public records, except where noted.

2. Attached hereto as Exhibit 1 is a true and correct copy of distances calculated “as the crow flies” using the website: <http://tjpeiffer.com/crowflies.html>, between:

- 1) Lenexa, Kansas and 100 East Houston Street, Marshall, Texas;
- 2) Lenexa, Kansas and San Francisco, California;
- 3) Jupiter, Florida and 100 East Houston Street, Marshall, Texas;
- 4) Jupiter, Florida and San Francisco, California;

- 5) Allen, Texas and 100 East Houston Street, Marshall, Texas;
- 6) Allen, Texas and San Francisco, California;
- 7) Redmond, Washington to 100 East Houston Street, Marshall, Texas;
- 8) Redmond, Washington to San Francisco, California;
- 9) Overland, Kansas to 100 East Houston Street, Marshall, Texas;
- 10) Overland, Kansas to San Francisco, California;
- 11) New York City to 100 East Houston Street Marshall, Texas;
- 12) New York City to San Francisco, California;
- 13) Dallas, Texas to 100 East Houston Street, Marshall, Texas;
- 14) Dallas, Texas to San Francisco, California;
- 15) Austin, Texas to 100 East Houston Street, Marshall, Texas; and
- 16) Austin, Texas to San Francisco, California.

3. Attached hereto as Exhibit 2 is a true and correct copy of an article by Kate Weidaw for KXAN published on September 19, 2017, entitled “Google opens new downtown Austin office,” as accessed on December 12, 2017 at <http://kxan.com/2017/09/19/google-opening-new-downtown-austin-office/>.

4. Attached hereto as Exhibit 3 is a true and correct copy of an article by Cindy Widner for Curbed Austin published on September 25, 2017, entitled “Peek inside Google’s new Austin offices-now with more photos (and info)!” as accessed on December 12, 2017, at <https://austin.curbed.com/2017/9/21/16346740/google-austin-office-new-photos-downtown>.

5. Based on my personal knowledge as counsel to AGIS, AGIS has retained Joseph C. McAlexander to serve as an expert witness in support of this patent infringement action. Mr. McAlexander is located at McAlexander Sound, Inc., 101 W. Renner Road, Suite 350, Richardson, Texas 5082-2016.

6. Third-party cellular carriers including AT&T, Sprint, and Verizon are likely to possess information relating to the consumer demand and market value of the features enabled

by the Patents-in-Suit, as well as consumer surveys and marketing information regarding demand for particular software applications and features. According to AT&T's website, AT&T is headquartered in Dallas, Texas. *See e.g.*, <https://investors.att.com/resources/contacts>. According to Sprint's website, Sprint is headquartered in Overland Park, Kansas. *See e.g.*, <https://www.sprint.com/en/support/contact-us.html#tab-business>. According to Verizon's website, Verizon is headquartered in Basking Ridge, New Jersey. *See e.g.*, <http://www.verizon.com/about/our-company/verizon-corporate-headquarters>. AGIS plans to serve subpoenas on employees of at least these three third-party companies.

7. Attached hereto as Exhibit 4 is a true and correct copy of the LinkedIn Profile of Bahadir 'Baha' Koseli available at <https://www.linkedin.com/in/bahadir-baha-%E2%80%8B-koseli-ms-53834118/>.

8. Attached hereto as Exhibit 5 is a true and correct copy of a LinkedIn Profile of Keith Gladhill available at <https://www.linkedin.com/in/keith-gladhill-0a002b89/>.

9. Attached hereto as Exhibit 6 is a true and correct copy of U.S. District Courts Median Time Intervals from Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During 12 Month Period Ending June 30, 2017.

10. Attached hereto as Exhibit 7 is a true and correct copy of U.S. District Courts-Combined Civil and Criminal Federal Court Management Statistics for the twelve-month period ending March 31, 2017, available at [http://www.uscourts.gov/sites/default/files/data\\_tables/fcms\\_na\\_distprofile0331.2017.pdf](http://www.uscourts.gov/sites/default/files/data_tables/fcms_na_distprofile0331.2017.pdf).

11. Attached hereto as Exhibit 8 is a true and correct copy of Defendant HTC's 2016 Annual Report, printed on April 17, 2017.

12. Attached hereto as Exhibit 9 is a true and correct copy of a LinkedIn Profile of Dan Burns available at <https://www.linkedin.com/in/danburnspatent/pdf>.

13. On January 19, 2018, HTC was served with infringement contentions regarding the Patents-in-Suit. To comply with the requirements of this Court, the infringement contentions include exemplary references to Android code from the Android 7 Nougat Release 1.0 which is publicly available at <https://android.googlesource.com> and additional Android API references which are also publicly available at <https://developers.google.com/android/reference/packages>.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on February 20, 2017.

/s/ Vincent J. Rubino, III  
Vincent J. Rubino, III