

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

AGIS SOFTWARE DEVELOPMENT LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
HTC CORPORATION,	§	Civil Action No. 2:17-CV-514-JRG
LG ELECTRONICS, INC.,	§	(Lead Case)
ZTE CORPORATION, ZTE (USA), INC.,	§	
AND ZTE (TX), INC.	§	Civil Action No. 2:17-CV-515-JRG
	§	Civil Action No. 2:17-CV-517-JRG
Defendants.	§	
	§	

**DEFENDANT LG ELECTRONICS, INC.'S REPLY IN SUPPORT OF ITS
MOTION FOR LEAVE TO FILE MOTION TO SUPPLEMENT THE RECORD
IN SUPPORT OF ITS MOTION TO TRANSFER VENUE TO THE
NORTHERN DISTRICT OF CALIFORNIA**

Defendant LG Electronics, Inc. (“Defendant” or “LGEKR”) respectfully submits this reply in support of its motion for leave to file a motion to supplement the record in support of its pending Motion to Dismiss for Lack of Personal Jurisdiction or, in the Alternative, to Transfer Venue to the Northern District of California (the “Motion to Transfer Venue”) (513 Dkt. 46).

AGIS contends that its subpoena on Google LLC (“Google”) is consistent with its statements at the August 8, 2018 evidentiary hearing that it “may take discovery of Google with respect to any proprietary Google application material that’s not in . . . the public information.” (513 Dkt. 176 at 70:20-22.) AGIS is mischaracterizing the record. AGIS’s full statement at the evidentiary hearing was that “**we don’t think we need it at this point in time**, but there may be, and we may take discovery of Google with respect to any proprietary Google application material that’s not in the [] public information.” (513 Dkt. 176 at 70:18-22 (emphasis added).) AGIS fully intended to create the impression that, for transfer, as of August 8, it did not need discovery from third-party Google (in California) and that it was standing on its infringement contentions, which, as AGIS claimed, were solely based on publicly available information (*see, e.g.*, 513 Dkt. 68 at 2, 19, 22). AGIS’s representation cannot be squared with a subpoena sent out just 15 days later expressly seeking 15 categories of confidential Google information, where nothing in the case had substantively changed in the interim. The Court has the right to know when games are being played with representations to the Court.

Relatedly, with respect to the deposition subpoenas on Google, AGIS’s assertions that it “is entitled to seek discovery from witnesses listed in LGEKR’s initial disclosures” misses the point. AGIS knew that Google witnesses were listed on the initial disclosures during the transfer briefing and during the transfer hearing. Nevertheless, AGIS contended that Google witnesses were not relevant and should not be considered under the convenience of the parties and

witnesses factor because “AGIS’s infringement contentions rely on Google’s open source code and/or application programming interfaces, which are publicly available.” (513 Dkt. 68 at 19.) Nothing in this regard changed in between the transfer hearing and the issuance of the subpoena – the Google witnesses had been in initial disclosures the entire time. AGIS’s subpoena merely confirms that AGIS was being misleading in its transfer arguments about witnesses as well as documents. Accordingly, supplementation of the record to include the deposition subpoena is appropriate to show that Google’s witnesses are relevant to understand the operation of the accused features of at least Google Maps and Find My Device, and that those witnesses are located in the Northern District of California.

For the reasons stated herein and in LGEKR’s motion for leave to file, LGEKR respectfully requests that the Court grant LGEKR leave to file the Motion to Supplement the Record in Support of its Motion to Transfer Venue to the Northern District of California.

Dated: September 12, 2018

Respectfully submitted,

/s/ Mark Mann

Mark Mann

SBN: 12926150

mark@themannfirm.com

G. Blake Thompson

SBN: 24042033

blake@themannfirm.com

MANN TINDEL THOMPSON

300 West Main Street

Henderson, Texas 75652

Tel: 903-657-8540

Michael A. Berta

Michael.bera@arnoldporter.com

ARNOLD & PORTER

KAYE SCHOLER LLP

Three Embarcadero Center

10th Floor

San Francisco, CA 94111-4024

Tel: 415-471-3000

Matthew M. Wolf
Matthew.wolf@arnoldporter.com
ARNOLD & PORTER
KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Tel: 202-942-5000

James S. Blackburn
James.blackburn@arnoldporter.com
Nicholas H. Lee
Nicholas.lee@arnoldporter.com
ARNOLD & PORTER
KAYE SCHOLER LLP
777 South Figueroa Street
44th Floor
Los Angeles, CA 90017-5844
Tel: 213-243-4000

ATTORNEYS FOR DEFENDANT
LG ELECTRONICS, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 12, 2018, a true and correct copy of the foregoing was served to the parties' counsel of record via ECF pursuant to Local Rule CV-5(d).

/s/ Mark Mann