

# EXHIBIT C

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

**AGIS SOFTWARE DEVELOPMENT, LLC,**

**Plaintiff,**

**v.**

**HUAWEI DEVICE USA INC., HUAWEI  
DEVICE CO., LTD. AND HUAWEI  
DEVICE (DONGGUAN) CO., LTD.,**

**Defendants.**

**CASE NO. 2:17-CV-0513-JRG  
LEAD CASE**

**JURY TRIAL DEMANDED**

**AGIS SOFTWARE DEVELOPMENT, LLC,**

**Plaintiff,**

**v.**

**HTC CORPORATION,**

**Defendant.**

**CASE NO. 2:17-CV-0514-JRG**

**JURY TRIAL DEMANDED**

**DEFENDANT HTC CORPORATION'S  
FIRST SUPPLEMENTAL INITIAL DISCLOSURES**

Pursuant to Fed. R. Civ. P. 26(a)(1), and the Docket Control and Discovery Order entered in this case, Defendant HTC Corp. supplements its initial disclosures based on the information reasonably available to it at this time. HTC Corp. has moved to dismiss for lack of personal jurisdiction in this case for reasons as set forth in that motion. The service of the following initial disclosures is done subject to HTC Corp.'s motion to dismiss and without waiver of HTC Corp.'s objection to personal jurisdiction in this case.

HTC Corp. is continuing its investigation as to relevant documents and witnesses and will, as necessary, further supplement these disclosures in a timely manner as necessary. HTC Corp. reserves the right to supplement, revise, correct, clarify, or otherwise amend the

information disclosed, consistent with the Federal Rules of Civil Procedure and any applicable orders of the Court, including after HTC Corp. receives and reviews any applicable discovery or other information from third parties or from Plaintiff AGIS Software Development, LLC (“AGIS” or “Plaintiff”).

By making these disclosures, HTC Corp. does not intend to waive any applicable privilege or work product protection and expressly reserves its right to object to the production of any of the information identified herein on those grounds. HTC Corp. also reserves its right to object to the admissibility of any of the information disclosed below. Subject to these reservations, HTC Corp. provides the following information:

**I. Initial disclosures under the discovery order**

**a. “the correct names of the parties to the lawsuit”**

The correct name of HTC Corp. is listed above. HTC Corp. lacks knowledge as to whether the correct names have been used for other parties to this lawsuit.

**b. “the name, address, and telephone number of any potential parties”**

HTC Corp. is currently unaware of any potential parties.

**c. “the legal theories and, in general, the factual bases of the disclosing party’s claims or defenses”**

HTC Corp. has moved to dismiss AGIS’s complaint in this case, and that motion is still pending. Nevertheless, HTC Corp. denies the allegations contained in AGIS’s complaint and contends that AGIS is not entitled to any damages or other relief. HTC Corp. reserves the right to raise additional claims as discovery progresses.

HTC Corp. does not, and has not infringed, under any theory of infringement (including directly (whether individually or jointly) or indirectly (whether contributorily or by inducement),

any valid, enforceable claim of the Patents-in-Suit.<sup>1</sup> AGIS's claims that HTC Corp. indirectly infringes the Patents-in-Suit, either contributorily or by inducement, are barred, in whole or in part, because HTC Corp. is not liable to AGIS for the allegedly infringing acts for any time periods during which HTC Corp. did not know of the Patents-in-Suit and/or did not have the specific intent to cause infringement of the Patents-in-Suit and/or otherwise did not know that their actions would constitute indirect infringement. In addition, any and all products or actions accused of infringement have substantial uses that do not infringe and do not induce or contribute to the infringement of the claims of the Patents-in-Suit.

Each asserted claim of the Patents-in-Suit are invalid for failure to comply with one or more of the requirements of United States Code, Title 35, including without limitation, 35 U.S.C. §§ 101, 102, 103, and 112, and the rules, regulations, and laws pertaining thereto. The legal theories and general factual bases for invalidity are disclosed in HTC Corp.'s invalidity contentions to be served on AGIS pursuant to P.R. 3-3.

AGIS's claims are barred in whole or in part by the doctrines of prosecution history estoppel and/or prosecution history disclaimer based on statements, representations, and admissions made during the prosecution of the patent applications.

AGIS's claim for damages is limited by 35 U.S.C. § 286. Further, to the extent that AGIS and alleged predecessors-in-interest to the Patents-in-Suit failed to properly mark any of their relevant products, as required by 35 U.S.C. § 287, or otherwise give proper notice that HTC Corp.'s actions allegedly infringed the Patents-in-Suit, HTC Corp. is not liable to AGIS for the acts alleged to have been performed before it received actual notice that it was allegedly

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<sup>1</sup> "Patents-in-Suit" refers to U.S. Pat. Nos. 8,213,970 (the "970 patent"); 9,408,055 (the "055 patent"); 9,445,251 (the "251 patent"); and 9,467,838 (the "838 patent").

infringing the Patents-in-Suit.

AGIS is not entitled to any damages in this case, nor is AGIS entitled to any enhanced damages or attorneys' fees. Should AGIS make a specific claim for damages, HTC Corp. reserves the right to challenge any such claim. It is also HTC Corp.'s position that AGIS is not entitled to any injunctive relief in this case. AGIS's claims for injunctive relief are barred because there exist adequate remedies at law and because AGIS's claims otherwise fail to meet the requirements for such relief. In addition, 35 U.S.C. § 288 bars AGIS from recovering costs associated with this action.

HTC Corp. seeks reimbursement of all costs and expenses, including reasonable attorneys' fees incurred as a result of this action. HTC Corp. reserves the right to assert any additional damage claims, including sanctions, if appropriate, against AGIS at a later stage in this case. Such costs and expenses continue to accrue, and therefore an exact computation thereof cannot be performed at this time.

- d. "the name, address, and telephone number of persons having knowledge of relevant facts, a brief statement of each identified person's connection with the case, and a brief, fair summary of the substance of the information known by any such person"**

Based on currently known information, HTC Corp. believes the following individuals may have discoverable information. These individuals are identified based upon HTC Corp.'s current understanding of the lawsuit, and HTC Corp. expressly reserves the right to supplement, limit, or otherwise amend the list below as the case progresses. Any HTC Corp. employee listed in these disclosures, or in any supplement thereto, may only be contacted through HTC Corp.'s counsel of record.

Name	Contact Information	Subjects
Malcolm Beyer Jr.	Known to Plaintiff	Patents-in-Suit; prosecution of the Patents-in-Suit; conception and reduction to

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