

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

AGIS SOFTWARE DEVELOPMENT LLC,

Plaintiff,

vs.

HTC CORPORATION,

Defendant.

CIVIL ACTION NO. 2:17-cv-514-JRG

JURY TRIAL DEMANDED

**DECLARATION OF KYLE R. CANAVERA IN SUPPORT OF DEFENDANT
HTC CORPORATION'S MOTION TO RECONSIDER DENIAL OF MOTION TO
TRANSFER VENUE PURSUANT TO 28 U.S.C. § 1404(A) TO THE NORTHERN
DISTRICT OF CALIFORNIA**

I, Kyle R. Canavera, hereby declare as follows:

1. I am an attorney at the law firm of Perkins Coie LLP and counsel of record for HTC Corporation (“HTC Corp.”) in the above entitled matter. I am a member of good standing of the California and United States Patent and Trademark Bar and am admitted to practice in the Eastern District of Texas.
2. I make this declaration in support of HTC Corp.’s Motion to Reconsider Denial of the Motion to Transfer Venue to the Northern District of California.
3. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the transcript of the deposition of Eric Armstrong.
4. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the transcript of the deposition of Rebecca Clark.
5. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the transcript of the deposition of Ronald Wisneski.
6. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the transcript of the deposition of Sandel Blackwell.
7. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the transcript of the deposition of Malcolm Beyer.
8. On October 16, 2018, Vincent Rubino, counsel for AGIS Software Development LLC (“AGIS”), reported by email to counsel for HTC Corp. and other defendants that Mr. Sietsema would not at that time be available for deposition, and that AGIS would not call him as a witness at trial unless they did make him available. Attached hereto as Exhibit 6 is a true and correct copy of Mr. Rubino’s October 16, 2018 email (email chain removed for brevity). AGIS has not made Mr. Sietsema available for deposition.

9. On October 14, 2018, Amy Park, counsel for AGIS, reported by email to counsel for HTC Corp. and other defendants that Ms. Clark would no longer be designated for the “testing” portion of Rule 30(b)(6) topic 74: “The structure, operation, design, development, functionality, use, and testing of any AGIS Practicing Product.” Attached hereto as Exhibit 7 is a true and correct copy of Ms. Park’s October 14, 2018 email (email chain removed for brevity). With this de-designation, Ms. Clark was no longer designated for any topics.

10. On September 21, 2018, Enrique Iturralde, counsel for AGIS, provided designations of AGIS’s witnesses for the Rule 30(b)(6) topics. The designees were: Ronald Wisneski, Malcolm Beyer, Sandel Blackwell, and Rebecca Clark. Attached hereto as Exhibit 8 is a true and correct copy of Mr. Iturralde’s September 21, 2018 email (email chain removed for brevity). Though some designations were subsequently changed, no witnesses other than these four were ever designated for any topics.

11. On November 26, 2018, Mr. Iturralde informed counsel for HTC Corp. that Google had made source code available for inspection in Palo Alto, that AGIS’s expert had inspected the source code, and that AGIS’s counsel had requested printouts of some of the source code. Attached hereto as Exhibit 9 is a true and correct copy of Mr. Iturralde’s November 26, 2018 email. AGIS requested printing of 422 pages of source code, identified by production numbers in the range Google_SC_00000001 to Google_SC_00000422.

12. On December 13, 2018, Mr. Iturralde informed counsel for HTC Corp. that AGIS’s technical expert, Mr. McAlexander, had reviewed Google’s source code in Palo Alto. Attached hereto as Exhibit 10 is a true and correct copy of Mr. Iturralde’s December 13, 2018 email.

13. On October 3, 2018, Omid Kia, on behalf of AGIS, reviewed source code made available by HTC Corp. at the office of HTC Corp.'s counsel in San Diego, California. Mr. Kia reviewed the source code only on October 3, 2018, and he did not request any printouts. AGIS has not sent any further representatives to review HTC Corp.'s source code.

14. HTC Corp. served interrogatories on AGIS, of which Interrogatory No. 8 related to damages claimed by AGIS. In its Second Supplemental Responses, AGIS has not provided any substantive response to Interrogatory No. 8. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from AGIS's Second Supplemental Responses, including AGIS's response to Interrogatory No. 8.

15. Attached hereto as Exhibit 12 is a true and correct copy of *Uniloc USA, Inc. et al v. Apple Inc.*, No. 2:17-cv-00258-JRG, D.I. 104 (E.D. Tex. 2017).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20th day of December, 2018, in San Diego, California.

/s/ Kyle R. Canavera
Kyle R. Canavera