

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

**AGIS SOFTWARE DEVELOPMENT,
LLC,**

Plaintiff,

v.

**ZTE CORPORATION AND ZTE (TX),
INC.,**

Defendants.

§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§

Case No. 2:17-cv-00517-JRG

JURY TRIAL DEMANDED

PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, AGIS Software Development LLC (“AGIS Software” or “Plaintiff”) files this First Amended Complaint against Defendants ZTE Corporation, ZTE (USA) Inc., and ZTE (TX) Inc. (collectively, “Defendants” or “ZTE”) for patent infringement under 35 U.S.C. § 271 and alleges as follows:

THE PARTIES

1. Plaintiff, AGIS Software, is a limited liability company organized and existing under the laws of the State of Texas, and maintains its principal place of business at 100 W. Houston Street, Marshall, Texas 75670. AGIS Software is the owner of all right, title, and interest in and to U.S. Patent Nos. 9,467,838, 9,445,251, 9,408,055, 9,749,829, and 8,213,970 (collectively, the “patents-in-suit”).

2. Upon information and belief, ZTE Corporation is a Chinese corporation with its principal place of business at ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nanshan District, Shenzhen, Guangdong Province, People’s Republic of China 518057. Upon

information and belief, ZTE Corporation does business in Texas, directly or through intermediaries, and maintains its principal place of business in Shenzhen, China. ZTE offers its products and/or services, including those accused herein of infringement, to customers and potential customers located in Texas, including in the judicial Eastern District of Texas.

3. Upon information and belief, ZTE (USA) Inc. is a corporation organized and existing under the laws of the state of New Jersey, with its principal place of business at 2425 N. Central Expressway, Suite 600, Richardson, Texas 75080, and may be served with process through its registered agent, Jing Li, 2425 N. Central Expressway, Suite 323, Richardson, Texas 75080.

4. Upon information and belief, ZTE (TX) Inc. is a corporation organized and existing under the laws of the State of Texas, with its principal place of business at 2500 Dallas Parkway, Plano, Texas 75093 and may be served with process through its registered agent, Ferguson, Braswell & Fraser, PC at 2500 Dallas Parkway, Suite 501, Plano, Texas 75093. Upon information and belief, ZTE (TX) Inc. is a wholly-owned subsidiary of ZTE Hong Kong Ltd., which is in turn a wholly-owned subsidiary of ZTE Corporation.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, et seq. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

6. This Court has personal jurisdiction over each Defendant. Defendants conduct substantial business and have committed acts of patent infringement and/or have induced acts of patent infringement by others in this Judicial District and/or have contributed to patent infringement by others in this Judicial District, the State of Texas, and elsewhere in the United

States. Each Defendant solicits business in the State of Texas, transacts business in the State of Texas and attempts to derive financial benefit from the residents of the State of Texas in this District, including benefits directly related to the instant patent infringement causes of action set forth herein, place products and services into the stream of commerce throughout the United States, including in this Judicial District, and have been and are actively engaged in transacting business in the State of Texas and in this Judicial District.

7. Venue is proper against each defendant in this Judicial District pursuant to 28 U.S.C. § 1400(b).

8. ZTE Corporation is a foreign corporation and is subject to venue in this Judicial District.

9. ZTE (USA) Inc. is registered to do business in the State of Texas, is headquartered in Richardson, Texas, and has established a call center in Plano, Texas with 60+ dedicated ZTE representatives. *See American GNC Corp. v. ZTE Corp., et al.*, Case No. 4:17-cv-00620-ALM-KPJ, Doc. No. 66, at 1 (E.D. Tex) (quoting Doc. No. 49-2 (sealed)); Doc. No. 77, at 6-7. Therefore, ZTE (USA) Inc. has a regular and established place of business in this Judicial District. ZTE (USA) Inc. imports, ships, distributes, offers for sale, sells, uses, and advertises its products (including but not limited to the products and services through its website, www.zteusa.com) in the Eastern District of Texas.

10. ZTE (TX) Inc. is incorporated in the State of Texas and, thus, resides in Texas. Venue is proper against ZTE (TX) Inc. in any Judicial District in Texas, including the Eastern District of Texas. *See Diem LLC v. BigCommerce, Inc.*, No. 6:17-cv-00186-JRG, 2017 WL 3187473, at *2-3 (E.D. Tex. July 26, 2017). ZTE (TX) Inc. has admitted that it uses the

allegedly infringing products in the Eastern District of Texas “as an end-user of consumer wireless equipment.” Doc. No. 28, at 1.

11. Venue is further proper because Defendants together have regular and established places of business in this Judicial District, including in Plano, are deemed to reside in this Judicial District, have committed acts of infringement in this Judicial District, and/or have purposely transacted business involving the accused products in this Judicial District.

PATENTS-IN-SUIT

12. On July 3, 2012, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,213,970 (the “’970 Patent”) entitled “Method of Utilizing Forced Alerts for Interactive Remote Communications.” A true and correct copy of the ’970 Patent is attached hereto as Exhibit A.

13. On August 2, 2016, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,408,055 (the “’055 Patent”) entitled “Method to Provide Ad Hoc and Password Protected Digital and Voice Networks.” A true and correct copy of the ’055 Patent is attached hereto as Exhibit B.

14. On September 13, 2016, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,445,251 (the “’251 Patent”) entitled “Method to Provide Ad Hoc and Password Protected Digital and Voice Networks.” A true and correct copy of the ’251 Patent is attached hereto as Exhibit C.

15. On October 11, 2016, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,467,838 (the “’838 Patent”) entitled “Method to Provide Ad Hoc and Password Protected Digital and Voice Networks.” A true and correct copy of the ’838 Patent is attached hereto as Exhibit D.

16. On August 29, 2017, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,749,829 (the “’829 Patent”) entitled Method to Provide Ad Hoc and Password Protected Digital and Voice Networks.” A true and correct copy of the ’829 Patent is attached hereto as Exhibit E.

FACTUAL ALLEGATIONS

17. Malcolm K. “Cap” Beyer, Jr., a graduate of the United States Naval Academy and a former U.S. Marine, is the CEO of AGIS Software and a named inventor of the AGIS patent portfolio. Mr. Beyer founded Advanced Ground Information Systems, Inc. (“AGIS, Inc.”) shortly after the September 11, 2001 terrorist attacks because he believed that many first-responder and civilian lives could have been saved through the implementation of a better communication system. He envisioned and developed a new communication system that would use integrated software and hardware components on mobile devices to give users situational awareness superior to systems provided by conventional military and first-responder radio systems.

18. AGIS, Inc. developed prototypes that matured into its LifeRing system. LifeRing provides first responders, law enforcement, and military personnel with what is essentially a tactical operations center built into hand-held mobile devices. Using GPS-based location technology and existing or special-purpose cellular communication networks, LifeRing users can exchange location, heading, speed, and other information with other members of a group, view each other’s locations on maps and satellite images, and rapidly communicate and coordinate their efforts. The system also interfaces with military command-and-control systems, such as GCCS, JCR, AFATDS, C2PC, and FBCB2.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.