

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

AGIS Software Development, LLC,
Plaintiff

v.

ZTE Corporation et al.,
Defendants

Case No. 2:17-cv-517

AFFIDAVIT OF JAMES RAY WOOD

I, James Ray Wood, declare under penalty of perjury as follows:

1. I am over the age of eighteen years and competent to make this declaration.
2. The facts stated in this Declaration are true and correct to the best of my knowledge and belief.
3. I am employed in the role of in-house counsel of ZTE (USA) Inc. (“ZTA”).
4. I understand that, in the opposition brief filed by AGIS Software Development, LLC (“AGIS”) (dkt. #46), AGIS asserts that “ZTA maintains a regular and established place of business in Plano, Texas.” This is not true. Indeed, ZTA does not maintain a regular and established place of business in Plano, Texas. Further, ZTA does not own, lease, rent, operate, or control any place of business in Plano, Texas, including the iQor local call center.
5. I understand that AGIS also asserts that “ZTA established a local customer service center with iQor in Plano, Texas,” but this is not fully explained by AGIS. To accurately explain, in 2015, ZTA decided to subcontract its U.S.-customer support service activities to a third-party provider, to iQor. Thus,

ZTA established a vendor business relationship with third party company, iQor, to provide customer support services for ZTA. ZTA established a business relationship with a third-party company, iQor, to provide customer support services via a call center, but iQor is a separate business from ZTA. ZTA is not a part of iQor, and iQor is not a part of ZTE – both are entirely separate businesses.

6. Additionally, I further understand that AGIS claims that the alleged “ZTA local customer service center has more than sixty dedicated ZTA customer service representatives whose objective is to ‘build brand loyalty with exceptional customer service,” and AGIS alleges that ZTA “employees visit the local customer service center regularly to work with iQor representatives,” and AGIS alleges that “ZTA has at least two full-time employees on site at the local customer service center,” and and AGIS alleges that “ZTA’s customer-facing website seamlessly integrates with customer support provided by the local customer service center, including links to call and live chat with representatives at the local customer call service center.” I do not understand the basis of these allegations. Indeed, the facts are that:
 - a. ZTA does not have dedicated representatives at any iQor call center;
 - b. ZTA does not have full time employees on site at the iQor call centers;
 - c. ZTA does not have control over the call center agents’ apparel; and
 - d. ZTA does not maintain direct control over the call center agents, representatives, or the call center itself.

7. In my November 20, 2017 declaration for this case, I stated that “ZTA has employee(s) who live in the Eastern District of Texas, and one or more of those employee(s) may work from home.” (Emphasis added.) However, on further investigation, I have confirmed that no ZTA employee formally “works from home” in the Eastern District of Texas. In fact, the ZTA Employee Handbook (Revised September 2015), specifically prohibits “working from home,” i.e. telecommuting, without approval of Human Resources. And, after confirming with ZTA’s Human Resources Department, I confirmed that, while it is correct that ZTA has employee(s) who live in the Eastern District of Texas, in fact, none of those employees has ZTA-approved home offices; and all of the ZTA employees, who live in the Eastern District of Texas, are required to work at the Richardson, Texas office, and none has approval to “work at home,” as an approved alternative.
8. In this case, I also understand that AGIS alleges, “[u]pon information and belief,” that “ZTA’s Eastern District employees possess ZTE USA-issued permanent workstations and equipment for carrying out their duties within the scope of their employment from ‘ZTA’s employee home offices’; ZTA reimburses these employees for certain costs associated with working from ‘ZTA’s employee home offices’ which include the cost of devices, equipment, furniture, travel, and/or utility costs; that these employees are subject to ZTA’s rules and/or procedures for using ZTA computers/equipment and for working from ‘ZTA’s employee home offices’; ZTA sets forth standards for

conducting work from the 'ZTA's employee home offices' and ensures compliance with all relevant federal, state, and local laws for such home offices; ZTA creates job descriptions and identifies tasks eligible for 'ZTA's employee home offices;' ZTA reserves the right to discontinue and/or make changes to the arrangements, at its discretion, for 'ZTA's employee home offices'; ZTA implements procedures and policies for ongoing reviews, pilot programs, test periods with defined end dates, benchmarks for success of its employees and their performance at the 'ZTA's employee home offices'; ZTA implements procedures and policies for restricting an employee's schedule at or ability to work from the 'ZTA's employee home offices,' including exercising control over the employee to work at particular sites other than the 'ZTA's employee home offices' for specific business reasons; ZTA affords the worker's compensation benefits for injuries or disabilities arising out of and in the course and/or scope of employment at the 'ZTA's employee home offices'; ZTA maintains records for hours worked by its employees, proactively monitors timekeeping to ensure timekeeping accuracy, and sets forth policies for what constitutes hours worked for work performed at the 'ZTA's employee home offices'; ZTA implements technology maintenance and data security policies, regardless of whether it provides certain computers/equipment or a 'bring your own device' policy for work at 'ZTA's employee home offices.' However, after extensive research, I cannot find any truth in these allegations. Indeed,

these statements do not accurately reflect any of ZTA's policies; and, indeed, none of ZTA's employees work from home in the Eastern District of Texas.

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

18 Jan 2018

Date



By: James Ray Wood

In House Counsel, ZTE (USA) Inc.