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

AGIS SOFTWARE DEVELOPMENT LLC, Plaintiff, v. HMD GLOBAL, et al., Defendants.	§	Case No. 2:22-cv-00443-JRG (LEAD CASE) **JURY TRIAL DEMANDED**
AGIS SOFTWARE DEVELOPMENT LLC, Plaintiff, v. ASUSTEK COMPUTER INC., et al., Defendant.	§	Case No. 2:22-cv-00440-JRG (MEMBER CASE) **JURY TRIAL DEMANDED**
AGIS SOFTWARE DEVELOPMENT LLC, Plaintiff, v. PANASONIC CORPORATION, et al. Defendant.	§	Case No. 2:22-cv-00447-JRG (MEMBER CASE) **JURY TRIAL DEMANDED**

AGIS SOFTWARE DEVELOPMENT LLC, Plaintiff, v. SONY CORPORATION, et al., Defendant.	§ § § § § § § § § § § §	Case No. 2:22-cv-00448-JRG (MEMBER CASE) **JURY TRIAL DEMANDED**

DISCOVERY ORDER

After a review of the pleaded claims and defenses in this action, in furtherance of the management of the Court's docket under Federal Rule of Civil Procedure 16, and after receiving the input of the parties to this action, it is ORDERED AS FOLLOWS:

1. Initial Disclosures. In lieu of the disclosures required by Federal Rule of Civil Procedure 26(a)(1), each party shall disclose to every other party the following information:

(a) the correct names of the parties to the lawsuit;

(b) the name, address, and telephone number of any potential parties;

(c) the legal theories and, in general, the factual bases of the disclosing party's claims or defenses (the disclosing party need not marshal all evidence that may be offered at trial);

(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;

(e) any indemnity and insuring agreements under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment entered

in this action or to indemnify or reimburse for payments made to satisfy the judgment;

(f) any settlement agreements relevant to the subject matter of this action; and

(g) any statement of any party to the litigation.

2. Disclosure of Expert Testimony.[1] A party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703 or 705, and:

(a) if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, provide the disclosures required by Federal Rule of Civil Procedure 26(a)(2)(B) and Local Rule CV-26; and

(b) for all other such witnesses, provide the disclosure required by Federal Rule of Civil Procedure 26(a)(2)(C).

3. Additional Disclosures. Without awaiting a discovery request,[2] each party will make the following disclosures to every other party:

(a) provide the disclosures required by the Patent Rules for the Eastern District of Texas with the following modifications to P.R. 3-1 and P.R. 3-3:

i. If a party claiming patent infringement asserts that a claim element is a software limitation, the party need not comply with P.R. 3-1 for those claim elements until 30 days after source code for each Accused Instrumentality

[1] All expert reports should be written such that the report is organized with discrete paragraph numbers.

[2] The Court anticipates that this disclosure requirement will obviate the need for requests for production.

is produced by the opposing party. Thereafter, the party claiming patent infringement shall identify, on an element-by-element basis for each asserted claim, what source code of each Accused Instrumentality allegedly satisfies the software limitations of the asserted claim elements.

ii. If a party claiming patent infringement exercises the provisions of Paragraph 3(a)(i) of this Discovery Order, the party opposing a claim of patent infringement may serve, not later than 30 days after receipt of a Paragraph 3(a)(i) disclosure, supplemental "Invalidity Contentions" that amend only those claim elements identified as software limitations by the party claiming patent infringement.

(b) produce or permit the inspection of all documents, electronically stored information, and tangible things in the possession, custody, or control of the party that are relevant to the pleaded claims or defenses involved in this action, except to the extent these disclosures are affected by the time limits set forth in the Patent Rules for the Eastern District of Texas; and

(c) provide a complete computation of any category of damages claimed by any party to the action and produce or permit the inspection of documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered, except that the disclosure of the computation of damages may be deferred until the time for Expert Disclosures if a party will rely on a damages expert.

4. **Protective Orders.** The Court will enter the parties' Agreed Protective Order.

5. Discovery Limitations. The discovery in this cause is limited to the disclosures described in Paragraphs 1-3 together with:

(a) Interrogatories: AGIS may serve up to 25 interrogatories on each of HMD, ASUS, Panasonic, and Sony.[3] HMD, ASUS, Panasonic, and Sony may each serve up to 25 interrogatories on AGIS.

(b) Requests for Admission: AGIS may serve up to 25 requests for admission on each of HMD, ASUS, Panasonic, and Sony. Each of HMD, ASUS, Panasonic, and Sony may serve up to 25 requests for admission on AGIS. In addition, the parties will be permitted to serve a reasonable number of requests for admission that seek an admission as to (a) the authenticity of a particular document or thing, (b) the admissibility of a particular document or thing, and/or (c) whether a document qualifies as a "printed publication" or other prior art as of a certain date under 35 U.S.C. § 102.

(c) Expert witnesses: Each of AGIS, HMD, ASUS, Panasonic, and Sony is limited to five testifying expert witnesses. Each testifying expert may be deposed for no more than seven (7) hours per report offered by the expert, but in any event, for a total of no more than fourteen (14) hours per expert.

(d) Fact Depositions of Parties and Non-Parties: AGIS may take up to 50 hours of total fact deposition testimony of each of HMD, ASUS, Panasonic, and Sony, including depositions under Rule 30(b)(1) and Rule 30(b)(6). Defendants collectively may take

[3] For the purposes of this Discovery Order: "AGIS" or "Plaintiff" refers to Plaintiff AGIS Software Development LLC; "HMD" refers collectively to Defendants HMD Global OY and HMD America, Inc.; "ASUS" refers collectively to ASUSTek Computer Inc. and ASUS Computer International; "Panasonic" refers collectively to Panasonic Holdings Corporation, formerly known as Panasonic Corporation and Panasonic Corporation of North America; "Sony" refers to Sony Corporation formerly known as Sony Mobile Communications, Inc.; and "Defendants" refers collectively to HMD, ASUS, Panasonic, and Sony.

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