

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

AGIS SOFTWARE DEVELOPMENT LLC,	§	Case No. 6:23-cv-00160
	§	
Plaintiff,	§	<u>JURY TRIAL DEMANDED</u>
	§	
v.	§	
	§	
GOOGLE LLC,	§	
	§	
Defendant.	§	
	§	
	§	

PLAINTIFF’S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, AGIS Software Development LLC (“AGIS Software” or “Plaintiff”) files this Complaint against Defendant Google LLC (“Google” or “Defendant”) 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 No. 8,213,970 (the “Patent-in-Suit”).

2. On information and belief, Defendant Google is a Delaware corporation, with a principal address of 1600 Amphitheatre Parkway, Mountain View, California 94043, and has regular and established places of business throughout this District, including at least at 500 West 2nd Street, Suite 2900, Austin, Texas 78701. See https://about.google/intl/en_us/locations/?region=north-america&office=austin. Defendant is registered to do business in Texas and may be served through its registered agent at Corporation

Service Company DBA CSC – Lawyers Inco, located at 211 East 7th Street, Suite 620, Austin, Texas 78701.

3. On information and belief, Defendant directly and/or indirectly develops, designs, manufactures, distributes, markets, offers to sell, and/or sells infringing products and services in the United States, including in the Western District of Texas, and otherwise directs infringing activities to this District in connection with its products and services.

JURISDICTION AND VENUE

4. 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 subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

5. This Court has specific and personal jurisdiction over Defendant in this action because Defendant has committed acts within this Judicial District giving rise to this action and has established minimum contacts with this forum, such that the exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice. Defendant conducts business and has committed acts of patent infringement and/or has induced acts of patent infringement by others in this Judicial District and/or has contributed to patent infringement by others in this Judicial District, the State of Texas, and elsewhere in the United States by, among other things, offering to sell and selling products and/or services that infringe the Patent-in-Suit.

6. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Defendant has regular and established places of business in this Judicial District. Defendant through its own acts and/or through the acts of others, makes, uses, sells, and/or offers to sell infringing products within this Judicial District, regularly does and solicits business in this

District, and has the requisite minimum contacts with this Judicial District, such that this venue is a fair and reasonable one.

PATENT-IN-SUIT

7. 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.” On September 1, 2021, the United States Patent and Trademark Office issued an *Inter Partes* Review Certificate for the ’970 Patent cancelling claims 1 and 3-9. On December 9, 2021, the United States Patent and Trademark Office issued an *Ex Parte* Reexamination Certificate for the ’970 Patent determining claims 2 and 10 (as amended) and claims 11-13 to be valid and patentable. A true and correct copy of the ’970 Patent, which includes the September 1, 2021 *Inter Partes* Review Certificate and the December 9, 2021 *Ex Parte* Reexamination Certificate, is attached hereto as **Exhibit A**.

8. AGIS is the sole and exclusive owner of all right, title, and interest in the Patent-in-Suit, and holds the exclusive right to take all actions necessary to enforce its rights to the Patent-in-Suit, including the filing of this patent infringement lawsuit. AGIS also has the right to recover all damages for past, present, and future infringement of the Patent-in-Suit and to seek injunctive relief as appropriate under the law.

FACTUAL ALLEGATIONS

9. 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. AGIS Software was formed in 2017 and has since opened two offices in Texas, including one office at 2226 Washington Avenue #2, Waco, Texas 76701. AGIS Software also has a data center in Texas.

10. Mr. Beyer has maintained longstanding ties to Texas and the Western District. In 1987, Mr. Beyer founded Advanced Programming Concepts, an Austin-based company focused on real-time tactical command and control systems. Advanced Programming Concepts was later acquired by Ultra Electronics, Inc. and is now the Advanced Tactical Systems unit of Ultra Electronics, Inc., still based in Austin, Texas.

11. 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.

12. 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.

13. AGIS Software licenses its patent portfolio, including the ’970 Patent to AGIS, Inc. AGIS, Inc. has marked its products accordingly. AGIS Software and all previous assignees of the Patent-in-Suit have complied with the requirements of 35 U.S.C. § 287(a).

14. Defendant manufactures, uses, sells, offers for sale, and/or imports into the United States products, such as [1] Google mobile devices, smartphones, and tablets including, but not

limited to: Nexus S, Galaxy Nexus, Nexus 4, Nexus 5, Nexus 6, Nexus 5X, Nexus 6P, Nexus 7 1st Gen., Nexus 7 2nd Gen., Nexus 10, Pixel 2, Pixel 2 XL, Pixel 3, Pixel 3 XL, Pixel 3a XL, Pixel 4, Pixel 4 XL, Pixel 4a, Pixel 4a (5G), Pixel 5, Pixel 5a, Pixel 6, Pixel 6 Pro, Pixel 6a, Pixel 7, Pixel 7 Pro, Pixel C, Chromebook Pixel, Google Pixelbook, Google Pixelbook Go, and Pixel Slate; and [2] the Android operating system and Android-based applications and/or services including, but not limited to, Google Find My Device (formerly Android Device Manager), Google Play Protect, Google Play Services, Google Mobile Services, Google Maps, Google Messages, and Google Chrome (collectively, “Accused Products”), as well as Google’s servers for running the aforementioned applications and services. The Accused Products include applications and software including, but not limited to, the above-listed applications and/or features as components of its operating system and as downloads from a pre-installed application store, such as the Play Store, in the Accused Products. The Accused Products, together with Google’s software components such as, but not limited to, Google Find My Device (formerly Android Device Manager), Google Play Protect, Google Play Services, Google Mobile Services, Google Maps, Google Messages, and Google Chrome applications and services which are configured to interact with Google’s servers which provide services related to the above Android OS and Android-based applications and services, among other services provided by Google and utilized by Google’s customers when operating the Accused Products, such as the Google mobile devices, smartphones, and tablets identified herein.

15. The Accused Products include functionalities that allow users to share and view locations with other users, display symbols corresponding to locations (including locations of other users or entities) on a map, and initiate communications with other users through the interface of the Accused Products. The Accused Products include the functionalities to display map

information, including symbols corresponding with users, entities, and locations. The Accused Products further include the functionalities to remotely control their own lost or stolen devices. The Accused Products further include functionalities to send a forced message alert to which a required response must be transmitted.

Find, lock, or erase a lost Android device

If you lose an Android phone or tablet, or Wear OS watch, you can find, lock, or erase it. If you've added a Google Account to your device, Find My Device is automatically turned on. If you allow Find My Device to encrypt your phone's most recent location and store it with Google, your device's most recent location is available to the first account activated on the device.

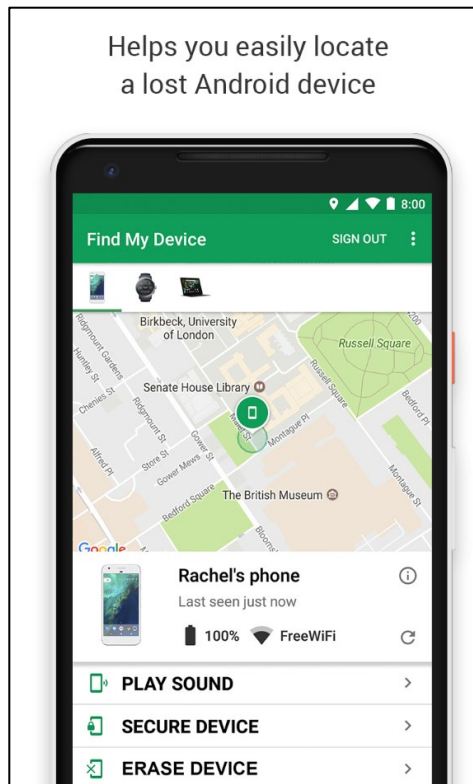
Tip: To find, lock, or erase your Wear OS device, connect it to WiFi or mobile data.

[Learn about how to find an Android device.](#)

To find an Android device, make sure that device:

- Is signed in to a Google Account
- Has Location turned on
- Has Find My Device turned on
- Has power and is connected to mobile data or WiFi.
 - If your device is off or isn't connected to mobile data or WiFi, you may still find its most recent location if you've enabled "Store recent location." [Learn more about 2-step verification backups.](#)
- Is visible on Google Play

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¹ <https://support.google.com/accounts/answer/6160491?hl=en>

COUNT I
(Infringement of the '970 Patent)

16. Paragraphs 1 through 15 are incorporated herein by reference as if fully set forth in their entireties.

17. AGIS Software has not licensed or otherwise authorized Defendant to make, use, offer for sale, sell, or import any Accused Products and/or products that embody the inventions of the '970 Patent.

18. Defendant infringes, contributes to the infringement of, and/or induces infringement of the '970 Patent by making, using, selling, offering for sale, distributing, exporting from, and/or importing into the United States products and/or methods covered by one or more claims of the '970 Patent including, but not limited to, the Accused Products.

19. Defendant has and continues to directly infringe at least claim 10 of the '970 Patent, either literally or under the doctrine of equivalents, by making, using, selling, offering for sale, distributing, exporting from, and/or importing into the United States the Accused Products without authority and in violation of 35 U.S.C. § 271(a).

20. Defendant has and continues to indirectly infringe at least claim 10 of the '970 Patent by actively, knowingly, and intentionally inducing others to directly infringe, either literally or under the doctrine of equivalents, by making, using, selling, offering for sale, distributing, exporting from, and/or importing into the United States the Accused Products and by instructing users of the Accused Products to perform methods claimed in the '970 Patent. For example, Defendant, with knowledge that the Accused Products infringe the '970 Patent at least as of the

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https://play.google.com/store/apps/details?id=com.google.android.apps.adm&hl=en_US&gl=US&pli=1

date of this Complaint, actively, knowingly, and intentionally induced, and continues to knowingly and intentionally induce direct infringement of the '970 Patent in violation of 35 U.S.C. § 271(b).

21. For example, Defendant has indirectly infringed and continues to indirectly infringe at least claim 10 of the '970 Patent in the United States because Defendant's customers use the Accused Products in accordance with Defendant's instructions and thereby directly infringe at least claim 10 of the '970 Patent in violation of 35 U.S.C. § 271. For example, Defendant directly and/or indirectly intentionally instruct its customers to infringe through training videos, demonstrations, brochures, installations and/or user guides, such as those located at one or more of the following: <https://support.google.com/android/answer/6160491?hl=en>; <https://play.google.com/store/apps/details?id=com.google.android.apps.adm>; https://support.google.com/android/answer/9459346?visit_id=638132811099646203-2467035281&rd=1; <https://www.youtube.com/watch?v=Kic-A51Wqgk&t=2s>; <https://support.google.com/pixelphone/answer/9338817?hl=en>; <https://www.google.com/android/find/>; <https://support.google.com/pixelphone/?hl=en#topic=7078250>; https://support.google.com/pixelphone/topic/7083317?hl=en&ref_topic=7077942; <https://guidebooks.google.com/pixel> and https://support.google.com/pixelphone/answer/9338680?hl=en&ref_topic=7083317. Defendant is thereby liable for infringement of the '970 Patent under 35 U.S.C. § 271(b).

22. For example, Defendant directly infringes and/or indirectly infringes by instructing its customers to infringe by performing claim 10 of the '970 Patent, including: a method of receiving, acknowledging and responding to a forced message alert from a sender PDA/cell phone to a recipient PDA/cell phone, wherein the receipt, acknowledgment, and response to said forced

message alert is forced by a forced message alert software application program, said method comprising the steps of: receiving an electronically transmitted electronic message; identifying said electronic message as a forced message alert, wherein said forced message alert comprises a voice or text message and a forced message alert application software packet, which triggers the activation of the forced message alert software application program within the recipient PDA/cell phone; transmitting an automatic acknowledgment of receipt to the sender PDA/cell phone, which triggers the forced message alert software application program to take control of the recipient PDA/cell phone and show the content of the text message and a required response list on the display recipient PDA/cell phone or to repeat audibly the content of the voice message on the speakers of the recipient PDA/cell phone and show the required response list on the display recipient PDA/cell phone; and transmitting a selected required response from the response list in order to allow the message required response list to be cleared from the recipient's cell phone display, whether said selected response is a chosen option from the response list, causing the forced message alert software to release control of the recipient PDA/cell phone and stop showing the content of the text message and a response list on the display recipient PDA/cell phone and/or stop repeating the content of the voice message on the speakers of the recipient PDA/cell phone; displaying the response received from the PDA/cell phone that transmitted the response on the sender of the forced alert PDA/cell phone; and providing a list of the recipient PDA/cell phones that have automatically acknowledged receipt of a forced alert message and their response to the forced alert message; and displaying a geographical map with georeferenced entities on the display of the sender PDA/cell phone; obtaining location and status data associated with the recipient PDA/cellphone; and presenting a recipient symbol on the geographical map corresponding to a

correct geographical location of the recipient PDA/cellphone based on at least the location data.

For example, the Accused Products include features as shown below.

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If you lose an Android phone or tablet, or Wear OS watch, you can find, lock, or erase it. If you've added a Google Account to your device, Find My Device is automatically turned on. If you allow Find My Device to encrypt your phone's most recent location and store it with Google, your device's most recent location is available to the first account activated on the device.

Tip: To find, lock, or erase your Wear OS device, connect it to WiFi or mobile data.

[Learn about how to find an Android device.](#)

To find an Android device, make sure that device:

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- Has Location turned on
- Has Find My Device turned on
- Has power and is connected to mobile data or WiFi.
 - If your device is off or isn't connected to mobile data or WiFi, you may still find its most recent location if you've enabled "Store recent location." [Learn more about 2-step verification backups.](#)
- Is visible on Google Play

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³ <https://support.google.com/accounts/answer/6160491?hl=en>

Find, lock, or erase a device remotely



Important: If you find your device after you erase it, to use your device again, you need your Google Account password. [Learn about device protection.](#)

1. On a browser, go to android.com/find.
2. Sign in to your Google Account.
 - **If you have more than one device:** At the top of the sidebar, select the lost device.
 - **If your lost device has more than one user profile:** Sign in with a Google Account that's on the main or personal profile. [Learn about user profiles.](#)
3. The lost device gets a notification.
4. On the map, you'll get info about where the device is.
 - The location is approximate and may not be accurate.
 - If your device can't be found, you may find its last known location, if available.
5. If you get a prompt, tap **Enable lock & erase**.
6. Select what you want to do:
 - **Play sound:** Rings your device at full volume for 5 minutes, even if it's set to silent or vibrate.
 - **Secure device:** Locks your device with your PIN or password. If you don't have a lock, you can set one. To help someone return your device to you, you can add a message or device number to the lock screen.
 - **Erase device:** Permanently deletes all data on your device, but may not delete SD cards. After you erase, Find My Device won't work on the device.

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Use Find My Device app

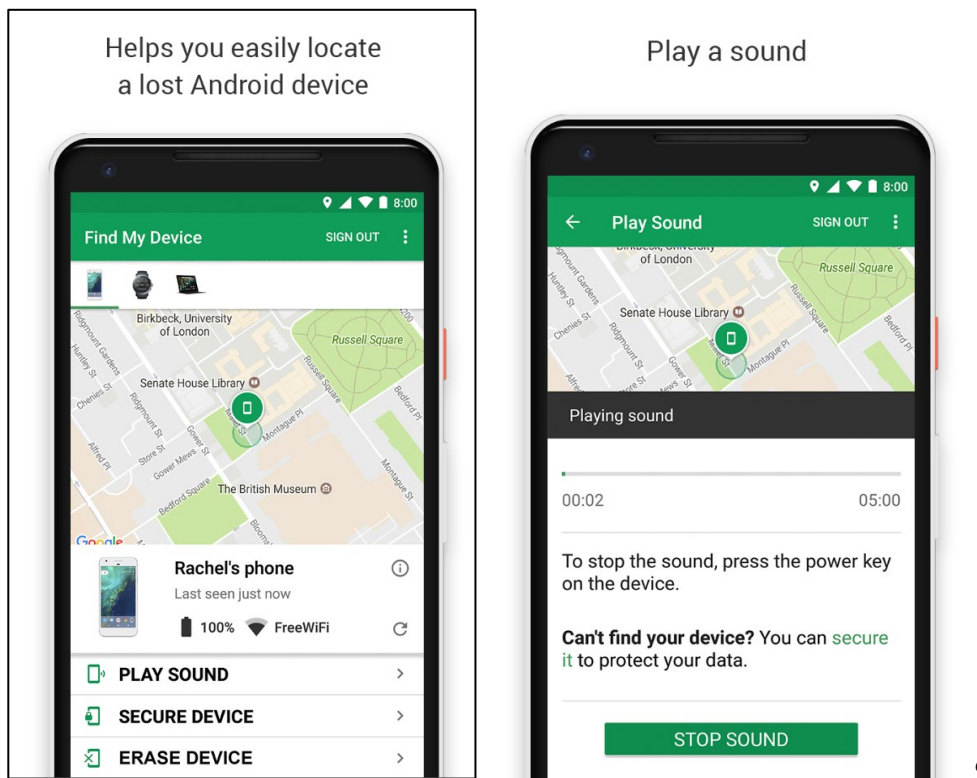


1. On another Android phone or tablet, open the Find My Device app .
 - If the other device doesn't yet have the app, [get it on Google Play](#). 
2. Sign in.
 - **If your own device is lost:** Tap **Continue as [your name]**.
 - **If you're helping a friend:** Tap **Sign in as guest** and let your friend sign in.
3. From the listed devices, select the device you want to locate.
 - You'll find the same options listed in the [above steps](#).
4. You may be prompted to provide the lock screen PIN for the Android device you want to locate. This applies to Android 9 or higher. If the device you want to find doesn't use a PIN, or runs Android 8 or lower, you may be prompted for your Google password.
5. Follow the same steps on [find, lock, or erase a device remotely](#).

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⁴ <https://support.google.com/accounts/answer/6160491?hl=en>

⁵ <https://support.google.com/accounts/answer/6160491?hl=en#zippy=%2Cuse-find-my-device-app>

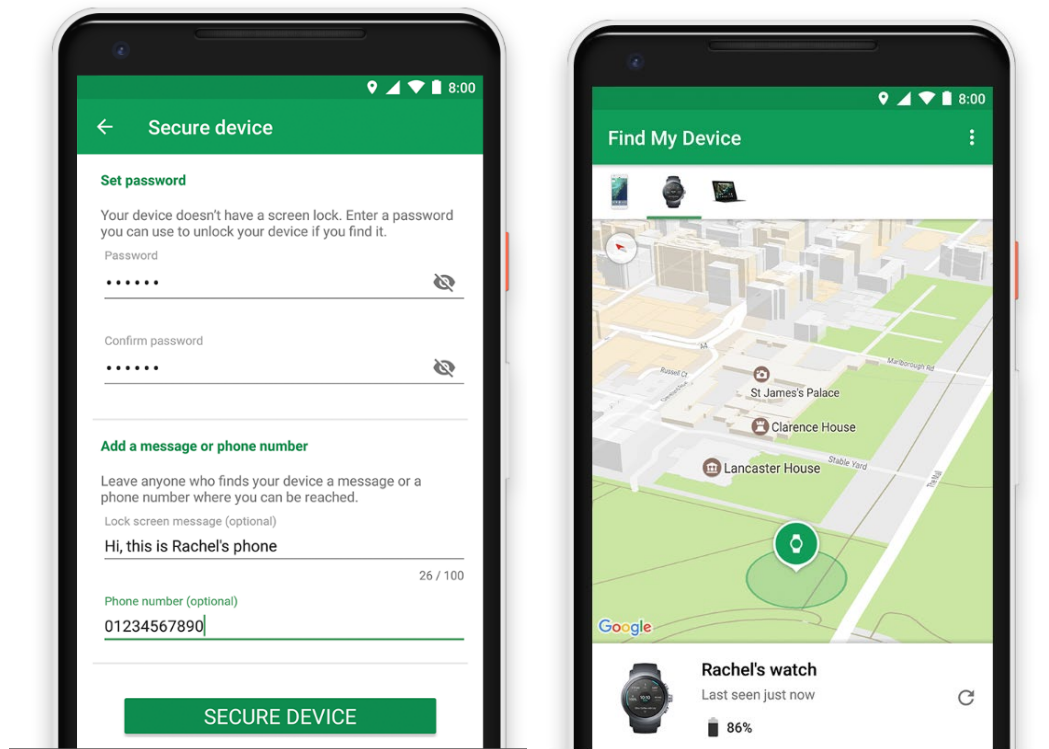


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https://play.google.com/store/apps/details?id=com.google.android.apps.adm&hl=en_US&gl=US&pli=1

Lock, erase
or show a message

Locate your phone,
tablet or watch



23. AGIS Software has suffered damages as a result of Defendant’s direct and indirect infringement of the ’970 Patent in an amount to be proved at trial.

24. AGIS Software has suffered, and will continue to suffer, irreparable harm as a result of Defendant’s infringement of the ’970 Patent for which there is no adequate remedy at law unless Defendant’s infringement is enjoined by this Court.

25. Defendant has committed and continues to commit acts of infringement that Defendant actually knew or should have known constituted an unjustifiably high risk of infringement of at least one valid and enforceable claim of the ’970 Patent. Defendant’s

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https://play.google.com/store/apps/details?id=com.google.android.apps.adm&hl=en_US&gl=US&pli=1

infringement of the '970 Patent has been and continues to be willful, entitling AGIS Software to an award of treble damages, reasonable attorney fees, and costs in bringing this action.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, AGIS Software prays for relief against Defendant as follows:

- a. Entry of judgment declaring that Defendant has directly and/or indirectly infringed one or more claims of each of the Patent-in-Suit;
- b. Entry of judgment declaring that Defendant's infringement of the Patent-in-Suit has been willful and deliberate;
- c. An order pursuant to 35 U.S.C. § 283 permanently enjoining Defendant, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with it, from further acts of infringement of the Patent-in-Suit;
- d. An order awarding damages sufficient to compensate AGIS Software for Defendant's infringement of the Patent-in-Suit including, but not limited to, lost profits or at a minimum reasonable royalties, together with pre- and post-judgment interest and costs;
- e. An order awarding AGIS Software all ongoing lost profits, royalties, and/or other damages caused by Defendant's continuing infringement of the Patent-in-Suit;
- f. An order awarding AGIS Software treble damages under 35 U.S.C. § 284 as a result of Defendant's willful and deliberate infringement of the Patent-in-Suit;
- g. Entry of judgment declaring that this case is exceptional and awarding AGIS Software its costs and reasonable attorney fees under 35 U.S.C. § 285; and
- h. Such other and further relief as the Court deems just and proper.

Dated: March 1, 2023

Respectfully submitted,

/s/ Raymond W. Mort, III

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