

Exhibit D

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

AGIS SOFTWARE DEVELOPMENT LLC,	§	
	§	Case No. 2:21-cv-00072-JRG
Plaintiff,	§	(LEAD CASE)
	§	
v.	§	<u>JURY TRIAL DEMANDED</u>
	§	
T-MOBILE USA, INC. and T-MOBILE US,	§	
INC.,	§	
	§	
Defendants.	§	

AGIS SOFTWARE DEVELOPMENT LLC,	§	
	§	Case No. 2:21-cv-00024-JRG
Plaintiff,	§	(CONSOLIDATED CASE)
	§	
v.	§	<u>JURY TRIAL DEMANDED</u>
	§	
LYFT, INC.,	§	
	§	
Defendant.	§	

**PLAINTIFF’S FIRST AMENDED DISCLOSURE OF ASSERTED CLAIMS
AND INFRINGEMENT CONTENTIONS**

Plaintiff AGIS Software Development LLC (“AGIS”) hereby makes the following amended infringement disclosures under the Patent Local Rules with respect to United States Patent Nos. 7,031,728; 7,630,724; 8,213,970; 10,299,100, and 10,341,838 (collectively, “Patents-in-Suit”). AGIS’s investigation is ongoing and discovery has not yet commenced. Accordingly, these disclosures are based on information available to AGIS at this time. AGIS reserves the right to supplement this disclosure after further discovery from defendant and non-parties, particularly documents and other discovery regarding the Lyft Accused Products set forth below. AGIS also reserves the right to assert additional claims of the Patents-in-Suit,

accuse different products, or find alternative literal and/or equivalent infringing elements in the Lyft Accused Products.

I. DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS PURSUANT TO PATENT LOCAL RULE 3-1

A. ASSERTED CLAIMS¹

Defendant Lyft, Inc. (“Defendant” or “Lyft”) has infringed and continues to infringe at least the following claims of the Patents-in-Suit in connection with the Lyft Accused Products set forth below:

- Claim 7 of the ’728 Patent;
- Claims 9, 12-16 of the ’724 Patent;
- Claims 2, 10-13 of the ’970 Patent;
- Claims 1-31 of the ’100 Patent; and
- Claims 1-26 of the ’838 Patent.

AGIS reserves the right to seek leave of court to add, delete, substitute, or otherwise amend this list of asserted claims should further discovery, the Court’s claim construction, or other circumstances so merit.

B. ACCUSED INSTRUMENTALITIES

AGIS is currently aware that the following Lyft Products infringe each of the Patents-in-Suit, either alone or in concert with one or more other Lyft Accused Products:

- Lyft applications, services, and servers; and
- Lyft Driver applications, services, and servers.

¹ On August 6, 2021, Lyft declined AGIS’s July 28, 2021 proposal to adopt the Court’s Model Order for Focusing Claims and Prior Art to Reduce Costs as to the ’100 Patent and the ’838 Patent.

AGIS reserves the right to amend this list of accused instrumentalities, as well as other information contained in this document and the exhibits hereto, to incorporate new information learned during the course of discovery including, but not limited to, the inclusion of newly-released products or any other equivalent devices ascertained through discovery.

C. CLAIM CHARTS

Claim charts identifying a location of every element of every asserted claim of the Patents-in-Suit within Lyft Accused Products are attached hereto as Exhibits A-E. AGIS believes that the citations in the claim charts are representative of all Lyft Accused Products. For example, where AGIS cites reference material or images representing an application, service, or server that citation is representative for all other such applications, services, or servers including all prior and future versions unless otherwise noted. AGIS reserves the right to amend these claim charts as well as other information contained in this document and the exhibits hereto, to incorporate new information learned during the course of discovery including, but not limited to, information that is not publicly available or readily discernible without discovery. AGIS further reserves the right to amend these claim charts, as well as other information contained in this document and the exhibits attached hereto, pursuant to Patent Local Rules 3-1(g) and 3-6.

D. LITERAL INFRINGEMENT AND DOCTRINE OF EQUIVALENTS

AGIS asserts that, under the proper construction of the asserted claims and their claim terms, the limitations of the asserted claims of the Patents-in-Suit are literally present in the Lyft Accused Products as set forth in the claim charts attached hereto as Exhibits A-E. AGIS contends that any and all elements found not to be literally infringed are infringed under the doctrine of equivalents because the differences between the claimed inventions and the accused instrumentalities, if any, are insubstantial.

AGIS contends that Lyft directly infringes the asserted claims by making, using, offering for sale, selling, and importing into the United States the accused instrumentalities as well as indirectly infringe by contributing to and/or inducing others (*e.g.*, Lyft customers or its Lyft customers' customers) to directly infringe those claims by making, using, offering for sale, or selling the Lyft Accused Products. AGIS contends that Lyft directly infringes the asserted claims by testing the Lyft Accused Products in the United States.

Pursuant to Patent Local Rule 3-6(a)(1), AGIS reserves the right to amend its Infringement Contentions as to literal infringement or infringement under the doctrine of equivalents, *e.g.*, in light of the Court's claim construction.

E. PRIORITY DATES

Under P.R. 3-1(e), each of the asserted claims of the Patents-in-Suit are entitled to a priority date of at least as early as September 21, 2004.² AGIS reserves the right to establish an earlier date of invention based upon actions related to conception and reduction to practice of the claimed inventions.

F. AGIS'S OWN PRODUCTS

Pursuant to P.R. 3-1(f), AGIS contends that AGIS, Inc.'s LifeRing products are covered by at least one of claim 7 of the '728 Patent; claims 9, 12-16 of the '724 Patent; claims 2, 10-13 of the '970 Patent; claims 1-31 of the '100 Patent; and claims 1-26 of the '838 Patent. AGIS's investigation is ongoing and AGIS reserves the right to supplement, amend, or amend these contentions in view of facts learned during discovery, the release of new products, or the modification of current products, and/or the Court's claim construction.

² AGIS continues to rely on interim priority dates identified in each of the Patents-in-Suit to establish priority prior to the actual filing date of the Patents-in-Suit (*e.g.*, interim priority date April 17, 2006 which corresponds to the filing date of U.S. Patent No. 7,630,724).

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