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Attorneys for Defendant/Counterclaim Plaintiff
AGIS Software Development LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

LYFT, INC.,
 	
               Plaintiff,
 	
     v.
 	
AGIS SOFTWARE DEVELOPMENT LLC,
 	
               Defendant.
	Case No. 5:21-cv-04653-BLF (SVK)
	
	DECLARATION OF VINCENT J. RUBINO IN SUPPORT OF DEFENDANT AGIS SOFTWARE DEVELOPMENT LLC'S ADMINISTRATIVE MOTION TO SEAL (DKT. 106)
	
	Dept: Courtroom 3 – 5th Floor
	Judge: Hon. Beth Labson Freeman
	
	Trial date: October 16, 2023

BAKER BOTTS L.L.P.

BAKER BOTTS L.L.P.

I, Vincent J. Rubino, hereby declare as follows:

1.   I am a partner at the law firm of Fabricant LLP and counsel for AGIS Software Development LLC ("AGIS Software"). I am admitted to practice before this Court. I have personal knowledge of the facts stated in this declaration and can and would testify truthfully thereto if called upon to do so.

2.   Pursuant to Civil L.R. 79-5, 7-11, and the Court's Standing Order Governing Administrative Motions to File Materials Under Seal, I submit this declaration in support of AGIS Software's Administrative Motion to File Under Seal ("Motion") (Dkt. 106).

3.   AGIS Software has determined that the information requested to be sealed is narrowly tailored and able to overcome the presumption in favor of access to court records. AGIS Software also submits that there are compelling reasons to grant AGIS Software's Motion.

4.   Specifically, the following documents submitted in connection with AGIS Software's Motion should be sealed:

ECF or Ex. No.	Document	Description of Portions to be Sealed	Reasons for Sealing
ECF 106	Defendant AGIS Software Development LLC's Response in Opposition to Lyft, Inc.'s ("Lyft") Motion to Compel Discovery and Compliance with Local Rules	Highlighted Portions at: • Page 3: lines 25-26; • Page 4: lines 1-2, 18-28.	The highlighted portions disclose information from Exhibits 10 and 18 to Lyft's Motion to Compel Discovery and Compliance with Local Rules, which AGIS Software designated as highly confidential. These highlighted portions contain highly confidential settlement licenses and negotiations with third parties, and which are covered by confidentiality provisions in the written agreements. Revealing the identity and nature of third parties who have entered into licenses and/or settlement agreements with AGIS would be harmful if its contents became known to competitors of these third parties, would cause AGIS Software harm, and also violate the confidentiality provisions in those third party agreements. Moreover, the parties to these agreements have maintained the confidentiality of the

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			information contained in the license agreements. *See Powertech Tech., Inc. v. Tessera, Inc.*, 2013 WL 12324116, at *19 (N.D.Cal. Apr. 15, 2013) (granting a motion to seal a draft license agreement with a third party). The highlighted portions also contain confidential financial information, such as AGIS Software's confidential bank records. They also contain information regarding the corporate structure and contents of agreements between business entities. *See In re Elec. Arts, Inc.*, 298 Fed. Appx. 568, 569 (9th Cir. 2008) (finding the Court abused its discretion when it refused to seal "pricing terms, royalty rates, and guaranteed minimum payment terms" found in a license agreement); *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978) (holding that "sources of business information that might harm a litigant's competitive standing" may give rise to a compelling reason to seal).
ECF 106-1	Ex. 1 to AGIS Software's Response in Opposition to Lyft Motion to Compel Discovery and Compliance with Local Rules	Entire Document	This document discloses highly confidential settlement licenses and negotiations with third parties, and which are covered by confidentiality provisions in the written agreements. This document also contain confidential financial information, such as AGIS Software's confidential bank records.
ECF 106-2	Ex. 2 to AGIS Software's Response in Opposition to Lyft Motion to Compel Discovery and Compliance with Local Rules	Entire Document	This document discloses excerpts of the deposition testimony of Thomas Meriam, the corporate representative of AGIS Software. Mr. Meriam's testimony includes information regarding the corporate structure and employees of AGIS Software, and contents of agreements between business entities, including the identities of shareholders. They also contain highly confidential settlement

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			licenses and negotiations with third parties, and which are covered by confidentiality provisions in the written agreements. They also contain confidential financial information, such as AGIS Software's confidential bank records. Rubino Decl. ¶ 4.

5.   For the reasons set forth above, AGIS respectfully submits that good cause exists for AGIS Software's Motion and AGIS Software respectfully requests the court grant its Motion.

I declare under penalty of perjury under the laws of the United States the foregoing is true and correct.

Executed April 18, 2022.   Respectfully submitted,

                                            /s/ Vincent J. Rubino, III
                                            Vincent J. Rubino, III, Declarant

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CERTIFICATE OF SERVICE

2   I certify that I caused the foregoing document to be electronically filed with the Clerk of

3   the Court for the United States District Court for the Northern District of California using the

4   CM/ECF System on April 18, 2022.

5   I certify that all counsel of record who are deemed to have consented to electronic service

6   are being served on April 18, 2022 with a copy of this document via the Court's CM/ECF systems

7   per Local Rule CV-5(a)(3). Any other counsel will be served by electronic mail, facsimile, overnight

8   delivery and/or First Class Mail on this date.

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10   DATED: April 18, 2022   */s/ Vincent Rubino*

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