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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

LYFT, INC.

Plaintiff,

v.

AGIS SOFTWARE DEVELOPMENT LLC,

Defendant.

Case No. 5:21-cv-04653-BLF (SVK)

**PLAINTIFF LYFT, INC.’S STATEMENT
REGARDING APPROPRIATE
TIMEFRAME FOR EVALUATING
PERSONAL JURISDICTION CONTACTS**

Judge: Hon. Beth Labson Freeman
Trial Date: October 16, 2023
Courtroom: 3, Fifth Floor

1 Plaintiff Lyft, Inc. (“Lyft”) respectfully submits this Statement Regarding Appropriate
2 Timeframe for Evaluating Personal Jurisdiction Contacts pursuant to this Court’s Order re
3 Supplemental Briefing and Protective Order (Dkt. 117).

4 The specific personal jurisdiction inquiry considers to what extent the defendant
5 purposefully directed its activities at residents of the forum, and to what extent the declaratory
6 judgment “claim *arises out of or relates to* those activities.” *Avocent Huntsville Corp. v. Aten Int’l*
7 *Co.*, 552 F.3d 1324, 1332 (Fed. Cir. 2008) (emphasis added). As recognized by the Federal Circuit,
8 a patentee’s enforcement activities should be considered in the jurisdictional inquiry and need not
9 be limited to activities directed at the plaintiff in the action. *Id.* at 1334 (“While ‘the plaintiff need
10 not be the forum resident toward whom any, much less all, of the defendant’s relevant activities were
11 purposefully directed,’ we have consistently required the defendant to have engaged in ‘other
12 activities’ that relate to the *enforcement* or the *defense of the validity* of the relevant patents.”
13 (emphasis in original)); *see also Trimble Inc. v. PerDiemCo LLC*, 997 F.3d 1147, 1155–56 (Fed.
14 Cir. 2021) (confirming the relevance of third-party nonexclusive patent licenses and licensing
15 communications as relevant to the jurisdictional inquiry). Indeed, the connection between the
16 contacts and the suit required for a court to exercise jurisdiction simply “demands that the suit ‘arise
17 out of *or relate to* the defendant’s contacts with the forum.’” *Trimble*, 997 F.3d at 1156 (quoting
18 *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 141 S. Ct. 1017, 1021 (2021)) (emphasis added).

19 In this case, Lyft seeks a declaration of non-infringement from the first date AGIS Software
20 Development LLC (“AGIS”) may recover damages for the alleged infringement (*i.e.*, January 29,
21 2015, six years before AGIS first sued Lyft in E.D. Tex.). *See* Dkt. 1 at 9 (seeking relief from all
22 past and ongoing alleged infringement); *see also* 35 U.S.C. § 286. Accordingly, AGIS’s activities
23 related to the patents-in-suit and directed at this forum during this time period relate to Lyft’s causes
24 of action and should be considered for purposes of personal jurisdiction. Courts routinely consider
25 a defendant’s contacts with a forum occurring on or before the time when the cause of action first
26 accrued and, in many instances, more than one year before the filing of a complaint. *See, e.g., Apple*
27 *Inc. v. Zipit Wireless, Inc.*, No. 2021-1760, 2022 WL 1132169, at *3 (Fed. Cir. Apr. 18, 2022)
28 (considering contacts seven years before patent infringement lawsuit when determining personal

1 jurisdiction in a declaratory judgment patent case); *NexLearn, LLC v. Allen Interactions, Inc.*, 859
2 F.3d 1371, 1379 (Fed. Cir. 2017) (tying the jurisdictional inquiry to the date of first alleged patent
3 infringement); *Campbell Pet Co. v. Miale*, 542 F.3d 879 (Fed. Cir. 2008) (considering defendant's
4 contacts with a forum eight years prior to patent infringement complaint when considering general
5 jurisdiction); *Akro Corp. v. Luker*, 45 F.3d 1541 (Fed. Cir. 1995) (considering contacts more than
6 three years prior to initiating a patent infringement lawsuit as relevant to personal jurisdiction);
7 *Autogenomics, Inc. v. Oxford Gene Tech. Ltd.*, 566 F.3d 1012, 1018 (Fed. Cir. 2009) (considering
8 defendant's attendance at a conference in the forum four years prior to filing suit for personal
9 jurisdiction purposes); *Synthes (U.S.A.) v. G.M. Dos Reis Jr. Ind. Com. De Equip. Medico*, 563 F.3d
10 1285, 1299 (Fed. Cir. 2009) (considering defendant's participation at a trade show in the forum four
11 years prior to filing suit as a contact for personal jurisdiction purposes); *ActiveVideo Networks, Inc.*
12 *v. Trans Video Elecs. Ltd.*, 975 F. Supp. 2d 1083, 1097 (N.D. Cal. 2013) (considering, as relevant
13 to the jurisdictional inquiry, a defendant patentee's prior judicial enforcement actions in the forum,
14 the earliest of which was filed more than six years before the challenged lawsuit); *Twitter, Inc. v.*
15 *VoIP-Pal.com, Inc.*, No. 21-CV-02769-LHK, 2021 U.S. Dist. LEXIS 211777, at *37 (N.D. Cal.
16 Nov. 2, 2021) (considering a defendant's judicial enforcement actions filed four years prior to filing
17 suit for purposes of determining personal jurisdiction); *Table De France, Inc. v. DBC Corp.*, No.
18 EDCV 19-423-JGB (KKx), 2019 U.S. Dist. LEXIS 221931 (C.D. Cal. Aug. 1, 2019) (granting-in-
19 part plaintiff's motion to compel requests for production concerning defendant's contacts with the
20 forum for nine years prior to initiating the lawsuit, finding such requests relevant to the issue of
21 personal jurisdiction).

22 At least as indicated by the case law cited herein, defendant's contacts with a forum—even
23 when those contacts are unrelated to the plaintiff—is appropriately measured by when the cause of
24 action first accrued, which is January 29, 2015 in this action.

25 Dated: May 3, 2022

Respectfully submitted,

27 By: /s/ Jeremy J. Taylor

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