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 22 *AGIS Software Development LLC*

23 **UNITED STATES DISTRICT COURT**
 24 **NORTHERN DISTRICT OF CALIFORNIA**

25 LYFT, INC.,

26 *Plaintiff,*

27 v.

28 AGIS SOFTWARE DEVELOPMENT LLC,

29 Defendant.

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

**DEFENDANT AGIS SOFTWARE
DEVELOPMENT LLC'S STATEMENT
REGARDING DISCOVERY REQUESTS**

Hon. Judge Beth Labson Freeman

1 Pursuant to the Court’s April 29, 2022 Hearing before Magistrate Judge Susan van Keulen
 2 Regarding Plaintiff Lyft, Inc’s Motion to Compel Discovery and Compliance with Local Patent
 3 Rules (Dkt. 88) (the “Hearing”), Defendant AGIS Software Development LLC (“AGIS Software”)
 4 submits the following supplemental statement regarding Plaintiff’s request for (1) a complete
 5 response to Lyft’s Interrogatory No. 1; and (2) document productions pursuant to P.L.R. 3-2.

6 **A. Motion to Compel Response to Lyft’s Interrogatory No. 1**

7 At the Hearing, the Court stated its intention to permit Lyft discovery on AGIS Software’s
 8 communications with the California Companies one year prior to the date of the filing of the
 9 complaint in response to the appropriate timeline of the requests contained within Interrogatory No.

10 1. AGIS Software submits that the relevant time period is based off the time the cause of action
 11 accrued. *See Steel v. U.S.*, 813 F.2d 1545, 1549 (9th Cir. 1987) (“When a court is exercising specific
 12 jurisdiction over a defendant, ‘arising out of or related to the defendant’s contacts with the forum,’
 13 the fair warning that the due process requires arises not at the time of the suit, but when the events
 14 that gave rise to the suit occurred.”) (internal citation omitted). Based on this case law, AGIS
 15 proposes a timeframe of one year from the date of its formation, i.e., June 2017. Alternatively,
 16 AGIS proposes a timeframe from the AGIS Software’s formation (June 2017) to the date of the
 17 filing of the complaint alleging infringement against Lyft in EDTX, (January 29, 2021), where Lyft
 18 has identified the harm as “AGIS Software sued Lyft for infringing” the Asserted Patents. *See* Dkt.
 19 1, ¶ 4. AGIS Software submits that it shall identify communications responsive to Interrogatory
 20 No. 1 with the California Companies, to the extent such communications exist, for the time period
 21 starting with its formation in June 2017 through the date of the filing of the complaint in the EDTX
 22 action.¹ Anything later than Lyft’s statement of the accrual of the cause of action is not relevant.

23 Beyond AGIS Software’s proposal, Lyft has not demonstrated the relevance of discovery
 24 dating back to six years prior to the first date of allegation of infringement. *Cf. Neal Techs., Inc. v.*

25 _____
 26 ¹ AGIS Software reserved all rights and arguments and noted that any identification of
 27 communications was not intended to be a waiver of any kind or a concession that any such
 28 communications are relevant to the specific jurisdiction analysis.

1 *Innovative Performance Res., LLC*, No. 4:16-cv-00746, 2017 WL 590298, at *2 (E.D. Tex. Feb. 14,
2 2017); *Calix Networks, Inc. v. Wi-Lan, Inc.*, No. C-09-06038-CRB (DMR), 2010 WL 3515759, at
3 *7 (N.D. Cal. Sept. 8, 2010) (“Thus, having considered the *aggregate* picture of Wi-LAN’s
4 California contacts, the Court concludes that Calix has set forth a colorable basis to obtain
5 jurisdictional discovery and demonstrated that such discovery prior to January 2008 may yield
6 additional facts relevant to the question of personal jurisdiction.”). Lyft has not cited to any case
7 law demonstrating that six years prior to the date of infringement is a bright-line rule regarding
8 jurisdictional discovery. Lyft must demonstrate the relevance of the discovery it seeks, and any
9 discovery must have some bearing on the infringement issue or the alleged harm to the declaratory
10 judgment plaintiff.

11 **B. Motion to Compel Further Document Production Pursuant to P.L.R. 3-2**

12 Yesterday, AGIS Software produced the entire P.R. 3-2 production from the EDTX Case.
13 This P.R. 3-2 production from the EDTX Case was produced pursuant to arguments made by Lyft
14 in its briefing for its motion to compel and during the Hearing to the Court. Seeking more than it
15 requested, Lyft changed course and requested more discovery (approximately 600,000 pages of
16 documents AND source code). On this issue, Lyft’s briefing submitted that P.L.R. 3-2(a) – (c) is
17 coextensive with EDTX P.R. 3-2 and that AGIS Software would produce the same 3-2 documents
18 in this case, notwithstanding that they are AGIS, Inc. documents. Dkt. 88 at 2-3. This is not the
19 first time Lyft changes course on discovery requests. In its briefing in response to AGIS Software’s
20 motion to dismiss the original complaint, Lyft asked for limited jurisdictional discovery (five
21 interrogatories to AGIS Software and one four-hour Rule 30(b)(6) deposition of AGIS Software) in
22 order to obtain approval from the Court. Dkt. 41 at 17. After receiving what it had explicitly
23 requested, Lyft sought more discovery and attempted to conduct third party discovery outside the
24 scope of the Court’s order. Now, Lyft continues to engage in the same bad faith tactics. Lyft
25 requested re-production of the EDTX P.R. 3-2 document production in its motion, and immediately
26 upon receiving AGIS Software’s compromise, it seeks more. AGIS Software respectfully requests
27 that the Court find that Defendant has satisfied its obligations and deny Lyft’s new request.

RUSS AUGUST & KABAT

28

1 DATED: May 3, 2022

Respectfully submitted,

2 **RUSS AUGUST & KABAT**

3 By: /s/ Benjamin T. Wang

Benjamin T. Wang

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CERTIFICATE OF SERVICE

The undersigned hereby certified that a true and correct copy of the above and foregoing document has been served via electronic mail on May 3, 2022, to all counsel of record.

I declare under the penalty of perjury that the foregoing is true and correct.

DATED: May 3, 2022

/s/ Benjamin T. Wang

Benjamin T. Wang

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