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

LYFT, INC.

Plaintiff,

v.

AGIS SOFTWARE DEVELOPMENT LLC,

Defendant.

Case No. 5:21-cv-04653-BLF

**PLAINTIFF LYFT, INC.’S NOTICE OF  
MOTION AND OPPOSED MOTION TO  
COMPEL DISCOVERY AND  
COMPLIANCE WITH LOCAL PATENT  
RULES**

Date: July 28, 2022  
Time: 9:00 AM  
Judge: Hon. Beth Labson Freeman  
Trial Date: October 16, 2023  
Courtroom: 3, Fifth Floor

**NOTICE OF MOTION AND MOTION**

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Plaintiff Lyft, Inc. (“Lyft”) hereby gives notice that on July 28, 2022 at 9:00 A.M., in Courtroom 3, Fifth Floor, of the United States District Court for Northern District of California, San Jose Division, located at 280 South First Street, San Jose, California, or as soon thereafter as counsel may be heard, a hearing will be held by the Honorable Beth Labson Freeman, United States District Judge, on Lyft’s Motion to Compel Discovery and Compliance with Local Patent Rules in this action.

Through this Motion, Lyft moves to compel AGIS Software Development LLC to: (1) comply with its obligations set forth under Patent Local Rule 3-2 and (2) provide full and accurate responses to Lyft’s discovery pursuant to this Court's Order (Dkt. 61).

This Motion is based on the following Memorandum of Points and Authorities, the accompanying declaration of Arya Moshiri, the pleadings and records on file in this action, and such other written and/or oral arguments as may be presented at or before the time this Motion is taken under submission by the Court.

**MEMORANDUM OF POINTS AND AUTHORITIES**

1  
2 Plaintiff Lyft, Inc. (“Lyft”) respectfully requests that the Court order Defendant AGIS  
3 Software Development LLC (“AGIS Software”) to comply with its obligations set forth under Patent  
4 Local Rule 3-2 (“Patent L.R. 3-2”) and to compel full and accurate responses to Lyft’s discovery  
5 served pursuant to this Court’s Order (Dkt. 61).

6 On February 25, 2022, AGIS Software served its Patent Local Rule 3-2 production but failed  
7 to produce, and continues to refuse to produce, certain categories of documents required under the  
8 Local Rules, including patent licenses, conception and reduction to practice materials, and  
9 documents evidencing third-party disclosures of the alleged invention. AGIS has provided no  
10 reason for withholding these categories of materials.

11 On January 28, 2022 the Court granted Lyft discovery into “AGIS Software’s patent  
12 enforcement communications with California companies.” Dkt. 61 at 9. Despite having license  
13 agreements with at least [REDACTED] companies located or operating out of California and ongoing  
14 enforcement activities against three others, AGIS Software claims it never communicated or had  
15 any interaction with these companies. AGIS Software bases its refusal to produce these relevant  
16 materials on its belief that it need not produce non-privileged communications handled by AGIS  
17 Software’s attorneys hired to handle its enforcement and licensing efforts.

18 On January 29, 2022, the Court also granted discovery “regarding the relationship between  
19 AGIS Software, AGIS, Inc., and AGIS Holdings and their contacts with California.” *Id.* Despite  
20 serving interrogatories to AGIS Software and subpoenas to AGIS Holdings and AGIS, Inc. seeking  
21 this information, the AGIS affiliates collectively refused to provide any information about AGIS  
22 Holdings or AGIS, Inc. because they were not named in the original complaint and because Lyft  
23 had not yet filed an amended complaint, even though this is precisely *why* the Court ordered  
24 discovery.

25 This is not the first case between AGIS and Lyft. AGIS Software initially brought suit  
26 against Lyft in the Eastern District of Texas alleging infringement of the same five patents at issue  
27 here. *See AGIS Software Development LLC v. Lyft, Inc.*, 2:21-cv-00024-JRG (E.D.T.X.) (later  
28 consolidated with 2:21-cv-00072-JRG (E.D.T.X.)) (hereinafter referred to as “the EDTX Action”).

1 The EDTX Action proceeded to the expert report phase before Judge Payne issued an order  
2 recommending dismissal of the case for improper venue, which was subsequently adopted by Judge  
3 Gilstrap. Dkts. 212 & 235, Case No. 2:21-cv-00072-JRG. Despite the broad discovery already  
4 taken in the EDTX Action and AGIS Software’s assurances at the case management conference that  
5 “we can work through this issue very quickly,” AGIS Software still refuses to allow discovery taken  
6 in the EDTX Action to be used in this case without onerous and unacceptable conditions. *See* Jan.  
7 27, 2022 Case Management Conference Hearing Tr. (“CMC Hearing Tr.”) at 35:3-8.

8 As a result of AGIS’s failure to fulfill its obligations under the Patent Local Rules and the  
9 Court’s order, Lyft has been forced to unnecessarily repeat discovery previously taken in the EDTX  
10 Action and file this motion to compel production of relevant information that is readily accessible  
11 to AGIS Software, much of which was likely produced in the EDTX Action, and information that  
12 AGIS Software is under independent obligation to produce in this case. AGIS Software’s refusal to  
13 comply with its discovery obligations and the requirements of the Patent Local Rules prejudices  
14 Lyft’s ability to prepare its amended complaint and prepare defenses.

15 The Court granted an expedited case schedule with deadlines, shorter than those provided  
16 under the Patent Local Rules, based on AGIS Software’s assurances of a smooth discovery process  
17 that was “virtually complete” due to the advanced stages of the EDTX Action. CMC Hearing Tr.  
18 at 49:19-50:2. AGIS Software’s refusal to provide discovery from the EDTX Action, refusal to  
19 produce materials required under the Patent Local Rules, and refusal to produce the discovery  
20 specifically ordered by this Court, however, jeopardizes the current case schedule and calls into  
21 question AGIS Software’s assurance that the parties would be able to work through discovery  
22 disputes “very quickly.” CMC Hearing Tr. at 35:4-5.

23 For the reasons explained herein, Lyft respectfully moves the Court to compel AGIS  
24 Software to comply with AGIS’s obligations under the Patent Local Rules and to provide complete  
25 responses to Lyft’s discovery requests specifically ordered by this Court.

26 **I. STATEMENT OF FACTS**

27 On January 28, 2022, the Court found that Lyft had “presented sufficient facts to justify  
28 jurisdictional discovery” regarding its claim that AGIS Software is an alter ego of its affiliates

1 Advanced Ground Information Systems, Inc. (“AGIS, Inc.”) and AGIS Holdings, Inc. (“AGIS  
2 Holdings”) and granted Lyft leave to pursue jurisdictional discovery “regarding the relationship  
3 between AGIS Software, AGIS, Inc., and AGIS Holdings and their contacts with California. Dkt.  
4 61 at 9. The Court also found that Lyft had established “a ‘colorable’ basis for personal jurisdiction”  
5 under *Trimble v. PerDiemCo LLC*, 997 F.3d 1147 (9th Cir. 2021)), and granted Lyft leave to pursue  
6 jurisdictional discovery to seek more facts regarding AGIS Software’s patent enforcement  
7 communications with California companies. *Id.* The Order specifically granted Lyft’s request for  
8 jurisdictional discovery in the form of five interrogatories and one four-hour Rule 30(b)(6)  
9 deposition. *Id.* at 10.

10 Pursuant to the Court’s order, Lyft served a 30(b)(6) notice and five jurisdictional  
11 interrogatories on AGIS Software on February 4, 2022. *See* Exs. 11 & 12. Simultaneously, Lyft  
12 issued document and deposition subpoenas to AGIS, Inc. and AGIS Holdings, which included  
13 requests that are coextensive with the interrogatories and deposition topics directed at AGIS  
14 Software. *See* Exs. 13 & 14.

15 On February 14, 2022, the Court issued a case schedule setting a February 25, 2022 deadline  
16 for AGIS Software to serve infringement contentions and its accompanying document production  
17 specified in Patent Local Rule 3-2.

## 18 **II. ARGUMENT**

### 19 **A. AGIS Software’s Deficient Patent L.R. 3-2 Production**

20 Patent L.R. 3-2 requires the production of numerous categories of documents, including:

- 21 • “All agreements, including licenses, transferring an interest in any patent-in-suit”  
22 (Patent L.R. 3-2(f));
- 23 • documents “sufficient to evidence each discussion with, disclosure to, or other  
24 manner of providing to a third party, or sale of or offer to sell, or any public use of,  
25 the claimed invention prior to the date of application for the patent in suit” (Patent  
26 L.R. 3-2(a)); and
- 27 • “documents evidencing the conception, reduction to practice, design, and  
28 development of each claimed invention” (Patent L.R. 3-2(b)).

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