Alfred R. Fabricant (*pro hac vice*)
afabricant@fabricantllp.com
Peter Lambrianakos (*pro hac vice*)
plambrianakos@fabricantllp.com
Vincent J. Rubino, III (*pro hac vice*)
vrubino@fabricantllp.com
Enrique Iturralde (*pro hac vice*)
eiturralde@fabricantllp.com
FABRICANT LLP
411 Theodore Fremd Road, Suite 206 South
Rye, New York 10580
Telephone: (212) 257-5797
Facsimile: (212) 257-5796

Benjamin T. Wang (CA SBN 228712)
bwang@raklaw.com
Minna Y. Chan (CA SBN 305941)
mchan@raklaw.com
RUSS AUGUST & KABAT
12424 Wilshire Boulevard, 12th Floor
Los Angeles, California 90025
Telephone: (310) 826-7474
Facsimile: (310) 826-9226

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 **DECLARATION OF VINCENT J. RUBINO IN SUPPORT OF LYFT'S MOTION TO CONSIDER WHETHER ANOTHER PARTY'S MATERIAL SHOULD BE SEALED (DKT. 76)** Dept: Courtroom 3 – 5th Floor Judge: Hon. Beth Labson Freeman Trial date: October 16, 2023

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"). 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 Plaintiff Lyft Inc.'s ("Lyft") Motion to Consider Whether Another Party's Material Should be Sealed ("Motion") (Dkt. 76).

3.   AGIS 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 also submits that there are compelling reasons to grant Lyft's Motion to Consider Whether Another Party's Material Should Be Sealed.

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

ECF or Ex. No.	Document	Description of Portions to be Sealed	Reasons for Sealing
ECF 75	Plaintiff Lyft, Inc.'s Opposed Motion to Compel Discovery and Compliance with Local Patent Rules	Highlighted Portions at: • Page 2: line 13; • Page 5: lines 5-7; • Page 7: lines 5-6; • Page 7: lines 8-10; • Page 7: lines 16-19; • Page 7: lines 19-21; • Page 8: lines 24-25; • Page 8: line 28 – Page 9: line 6; • Page 9: lines 6-8	The highlighted portions disclose information from Exhibits 7 and 11 to Plaintiff Lyft, Inc.'s Motion for Leave to File First Amended Complaint, which AGIS Software Development LLC ("AGIS Software") designated as highly confidential. These highlighted portions contain confidential financial information, such as AGIS Software's confidential bank records. They also 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 Software 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 information contained in the license agreements. *See Powertech Tech., Inc. v. Tessera, Inc.,* 2013 WL 12324116, at *19 (N.D. Cal. April 15, 2013) (granting a motion to seal a draft license agreement with a third party); *see also 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).
Ex. 10	Exhibit 10 to Plaintiff Lyft, Inc.'s Opposed Motion to Compel Discovery and Compliance with Local Patent Rules	Although Lyft had proposed the "Entire Document" be sealed in Lyft's Motion, AGIS Software requests only the following portions be sealed at: • Page 6: lines 4-8; 24-27; • Page 7: lines 1-7; 13-17; 26-27; • Page 8: lines 22-27; • Page 9: line 1; • Page 10: lines 27-28; • Page 11: lines 1-11;	These portions that AGIS requests be sealed contain confidential financial information, such as AGIS Software's confidential bank records. They also contain highly confidential settlement licenses and negotiations with third parties, and which are covered by confidentiality provisions in the written agreements. They also contain confidential information regarding the corporate structure and contents of agreements between business entities, including the identities of shareholders. Revealing the identity and nature of third parties who have entered into licenses and/or settlement agreements with AGIS Software would be harmful if its contents became known to

DECLARATION OF VINCENT RUBINO IN SUPPORT OF LYFT'S MOTION TO

		• Page 12: lines 3-28; • Page 13: lines 1-28; • Page 14: lines 1-28; • Page 15: lines 1-28; • Page 16: lines 1-28; • Page 17: lines 1-21; • Page 20: lines 12-14; 18-22; 23-27; • Page 22: lines 14-22; • Page 23: lines 15-27.	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 information contained in the license agreements. *See Powertech Tech., Inc. v. Tessera, Inc.,* 2013 WL 12324116, at *19 (N.D. Cal. April 15, 2013) (granting a motion to seal a draft license agreement with a third party); *see also 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).
Ex. 18	Ex. 18 to Plaintiff Lyft, Inc.'s Opposed Motion to Compel Discovery and Compliance with Local Patent 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 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.

5.   For the reasons set forth above, AGIS respectfully submits that good cause exists

for Lyft's Motion (Dkt. 76) and AGIS respectfully requests the court grant Lyft's Motion (Dkt.

1   76) with respect to the portions identified by AGIS Software above.

2   I declare under penalty of perjury under the laws of the United States the foregoing is true

3   and correct.

4   Executed April 4, 2022.   Respectfully submitted,

5

6   /s/ Vincent J. Rubino, III_____
                                         Vincent J. Rubino, III, Declarant
7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

fastcase®
Smarter legal research.