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 15 *AGIS Software Development LLC*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

20 SMITH MICRO SOFTWARE, INC., and
 21 SMITH MICRO SOFTWARE, LLC

Plaintiffs,

v.

24 AGIS SOFTWARE DEVELOPMENT LLC,
 25 and DOES 1 to 10,

Defendants.

Case No. 3:21-cv-03677-JD

**DECLARATION OF MALCOLM K.
 BEYER, JR. IN SUPPORT OF MOTION
 TO DISMISS COMPLAINT FOR
 DECLARATORY JUDGMENT**

Date: October 7, 2021
 Time: 10:00 a.m.
 Location: Courtroom 11

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DECLARATION OF MALCOLM K. BEYER, JR.

I, Malcolm K. Beyer, Jr., do hereby declare as follows:

1. I submit this declaration based on my personal knowledge and in support of Defendant AGIS Software Development LLC’s (“AGIS Software” or “Defendant”) Motion to Dismiss the Complaint for Declaratory Judgment filed by Smith Micro Software, Inc. and Smith Micro Software, LLC (collectively, “Smith Micro” or “Plaintiffs”).

2. I am the Chief Executive Officer of Defendant AGIS Software.

3. I am also the first-named inventor on U.S. Patent Nos. 9,408,055 (the “’055 Patent”); 9,445,251 (the “’251 Patent”); 9,467,838 (the “’838 Patent”); 9,749,829 (the “’829 Patent”); 7,630,724 (the “’724 Patent”); and 7,031,728 (the “’728 Patent”) (collectively, the “Patents-in-Suit”) issued by the U.S. Patent and Trademark Office.

4. I live in Jupiter, Florida with my wife Margaret Beyer, who is the corporate secretary for AGIS Software. We have lived in Jupiter, Florida for over three decades.

5. In 2004, I founded Advanced Ground Information Systems, Inc. (“AGIS, Inc.”).

6. In 2013, AGIS, Inc. began a corporate restructuring plan for business growth purposes. By 2017, AGIS, Inc.’s board of directors approved the restructuring plan which resulted in the formation of a parent corporation, AGIS Holdings, Inc. (“AGIS Holdings”). AGIS Holdings consists of two subsidiaries: AGIS, Inc. and AGIS Software Development LLC.

7. AGIS Software is the sole and exclusive owner of all right, title, and interest in and to each of the Patents-in-Suit.

8. AGIS Software is a limited liability company organized under Texas law.

9. AGIS Software maintains an office and its principal place of business at 100 W. Houston Street, Marshall, Texas 75670. AGIS Software maintains all documentary evidence at this office.

10. AGIS Software is not registered to do business in California.

11. AGIS Software does not have a registered agent for service of process in California.

12. AGIS Software does not have offices, employees, equipment, bank accounts, or other

- 1 assets in California.
- 2 13. AGIS Software is not subject to and has never paid taxes in California.
- 3 14. AGIS Software does not manufacture products in California.
- 4 15. AGIS Software has never made any sales in California.
- 5 16. AGIS Software does not solicit or engage in business in California.
- 6 17. AGIS Software has not signed any contracts in California.
- 7 18. AGIS Software does not recruit employees in California.
- 8 19. AGIS Software does not own, lease, or rent any property in California.
- 9 20. AGIS Software did not retain counsel located in California in connection with
- 10 enforcement actions involving the Patents-in-Suit.
- 11 21. AGIS Software has never filed a lawsuit in California.

12 I declare under the penalty of perjury that the foregoing is true and correct. Executed this
13 20th day of August, 2021.



Malcolm K. Beyer, Jr.

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