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 18 *AGIS Software Development LLC*

19 **UNITED STATES DISTRICT COURT**
 20 **NORTHERN DISTRICT OF CALIFORNIA**
 21 **SAN JOSE DIVISION**

22 SMITH MICRO SOFTWARE, INC., and
 23 SMITH MICRO SOFTWARE, LLC,

24 *Plaintiff,*

25 v.

26 AGIS SOFTWARE DEVELOPMENT LLC,

27 Defendant.

Case No. 5:21-cv-03677-BLF

Hon. Judge Beth Labson Freeman

**DECLARATION OF VINCENT J.
 RUBINO, III IN SUPPORT OF REPLY IN
 SUPPRT OF MOTION TO DISMISS
 COMPLAINT FOR DECLARATORY
 JUDGMENT**

Date: January 27, 2022

Time: 9:00 a.m.

Ctrm: 3

Judge Beth Labson Freeman

DECLARATION OF VINCENT J. RUBINO, III

I, Vincent J. Rubino, III, do hereby declare as follows:

1. I am a partner at the law firm of Fabricant LLP. I submit this declaration 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 (“Smith Micro” or “Plaintiff”). I am familiar with the facts set forth herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the Certificate of Formation for AGIS Software Development LLC, dated June 1, 2017.

3. Attached hereto as **Exhibit 2** is a true and correct copy of Malcolm K. Beyer, Jr.’s Declaration in Opposition to Defendant Lyft, Inc.’s Motion to Dismiss for Improper Venue in *AGIS Software Development LLC, v. T-Mobile USA, Inc. and T-Mobile US, Inc.*, E.D. Tex. Case No. 2:21-cv-00072-JRG (Lead), dated May 22, 2021, filed as Docket No. 64-2.

4. Attached hereto as **Exhibit 3** is a true and correct copy of Malcolm K. Beyer, Jr.’s Declaration in Opposition to Defendant WhatsApp, Inc.’s Motion to Dismiss for Improper Venue, in *AGIS Software Development, LLC v. T-Mobile USA, Inc., et al.*, E.D. Tex. Case No. 2:21-cv-00072-JRG (Lead), filed on June 8, 2021 at Dkt. 82-2.

5. Attached hereto as **Exhibit 4** is a true and correct copy of Smith Micro Software, Inc.’s Franchise Tax Account Status in Texas as of September 15, 2021.

6. Attached hereto as **Exhibit 5** is a true and correct copy of an article from Fierce Wireless titled, “Smith Micro Software Shakes Up Mobile Family Safety Landscape, Strikes Deal with Avast,” dated April 26, 2021.

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