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13  
14 Attorneys for Plaintiffs  
SMITH MICRO SOFTWARE, INC. and  
15 SMITH MICRO SOFTWARE, LLC

16 UNITED STATES DISTRICT COURT  
17 NORTHERN DISTRICT OF CALIFORNIA  
18 SAN JOSE DIVISION

19  
20 SMITH MICRO SOFTWARE, INC.,  
21 and SMITH MICRO SOFTWARE,  
LLC

22 Plaintiffs,

23 v.

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

26 Defendants.  
27

Case No. 5:21-cv-3677

**COMPLAINT FOR  
DECLARATORY JUDGMENT**

**JURY TRIAL DEMANDED**

28

1 Plaintiffs Smith Micro Software, Inc. (“SMSI”) and Smith Micro Software,  
2 LLC (“SMSL”) (jointly “Smith Micro” or “Plaintiffs”) hereby bring this Complaint  
3 for Declaratory Judgment against Defendant AGIS Software Development LLC  
4 (“AGIS Software”) and Does 1-10, and allege as follows:

## 5 THE PARTIES

### 6 Smith Micro Software, Inc. and Smith Micro Software, LLC

7 1. SMSI is a corporation that was originally founded, incorporated, and  
8 opened its first office in California in 1983. The company reincorporated in  
9 Delaware in 1995 in conjunction with its initial public offering, and the California  
10 corporation merged into the Delaware corporation SMSI at that time. SMSI is  
11 currently organized under the laws of Delaware. SMSI’s headquarters were located  
12 in Aliso Viejo, California until 2019, at which time its office in Pittsburgh,  
13 Pennsylvania was designated as the company headquarters.

14 2. SMSI continues to maintain its office in Aliso Viejo, which is the  
15 home office for the company’s CEO and other key members of the company’s  
16 leadership team, including SMSI’s Chief Technology Officer, who has been with  
17 the company since 1989, has held the position of Chief Technology Officer since  
18 1999, and resides and works in California.

19 3. SMSL (formerly known as Location Labs, LLC) is a Delaware limited  
20 liability company that is wholly owned by SMSI. SMSI acquired Location Labs,  
21 LLC and related assets in April, 2021, and at that time changed its name to Smith  
22 Micro Software, LLC. As a result of that acquisition, SMSI and/or SMSL have in  
23 excess of fifty (50) employees who reside and work in Northern California.

24 4. In terms of the SMSI and SMSL documents and personnel who are  
25 most likely to have knowledge and information relevant to the technology at issue  
26 in this lawsuit, the majority currently resides and works in California, and many of  
27 those work and reside in Northern California.

28 5. SMSI also acquired some of the technology at issue in this lawsuit

1 from Circle Media Labs, Inc., located in Portland, Oregon. Plaintiffs are informed  
2 and believe that some documents and personnel having knowledge and information  
3 relevant to that technology are located in and around Portland, Oregon, and that  
4 trial in Northern California would be much more convenient for them than in  
5 Marshall, Texas.

6 6. SMSI and/or SMSL have offices in Northern California in Emeryville,  
7 California (where Location Labs, LLC had its headquarters) and also in Petaluma,  
8 California. SMSI further maintains certain servers in Santa Clara, California for the  
9 operation of its business.

10 7. SMSI and SMSL are both registered to do business in the state of  
11 California, and both conduct business in the state of California on a regular and  
12 continuous basis.

13 8. Smith Micro is a leading global provider of highly scalable mobile  
14 applications and value-added solutions for mobile and cable operators.

### 15 **AGIS Software and Related Entities**

16 9. Smith Micro is informed and believes that AGIS Software is a Texas  
17 limited liability company, listing 100 W. Houston Street, Marshall, Texas 75670 as  
18 its office address. According to Google Maps, the only sign on the building at that  
19 address says “Truelove Law Firm” and a Google search for the Truelove Law Firm  
20 lists its address as 100 W. Houston Street, Marshall, Texas 75670.

21 10. Smith Micro is informed and believes that AGIS Software has no other  
22 “office” in Texas; that AGIS Software has no employees who reside or work in  
23 Texas; and that AGIS Software does not conduct any meaningful business from its  
24 “office” in Marshall, Texas, other than bringing patent infringement lawsuits in the  
25 federal district court in Marshall, Texas, in which the Truelove Law Firm acts as  
26 local counsel for AGIS Software..

27 11. According to Texas public records, the sole member of AGIS Software  
28

1 is AGIS Holdings, Inc. (“AGIS Holdings”). According to Florida public records,  
2 AGIS Holdings is organized and existing under the laws of the state of Florida, and  
3 maintains its principal place of business at 92 Lighthouse Drive, Jupiter, FL 33469.  
4 AGIS Holdings shares the same address with Advanced Ground Information  
5 Systems, Inc. (“AGIS”), a corporation organized and existing under the laws of the  
6 state of Florida that also maintains its principal place of business at 92 Lighthouse  
7 Drive, Jupiter, FL 33469. Smith Micro is informed and believes that neither AGIS  
8 nor AGIS Holdings has any office, officers or employees that reside and work in  
9 the state of Texas. Hereinafter, AGIS, AGIS Holdings and AGIS Software will be  
10 collectively referred to as “the AGIS Companies.”

11 12. Smith Micro is informed and believes that AGIS Holdings registered  
12 AGIS Software as an LLC in Texas on June 1, 2017, twenty (20) days before filing  
13 patent infringement cases against Apple and ZTE in the Eastern District of Texas.

14 13. Smith Micro is informed and believes that only two months prior to  
15 the registration of AGIS Software, AGIS was litigating a patent infringement action  
16 in the Southern District of Florida against Life360, Inc., a company headquartered  
17 in San Francisco, California (*see Advanced Ground Information Sys., Inc. v.*  
18 *Life360, Inc.*, 9:14-cv-80651 (S.D. Fla.)). Based on Public Access to Court  
19 Electronic Records (“PACER”), AGIS asserted that Life360 infringed the ’728  
20 patent (one of the Patents-in-Suit) and other related patents. Based on PACER,  
21 AGIS’s claims against Life360 resulted in a jury finding of no-infringement and, on  
22 December 1, 2015, an award of nearly \$700,000 in attorneys’ fees against AGIS for  
23 litigating “an exceptionally weak case.” *Id.*, Dkts. 200, 212.

24 14. Smith Micro is informed and believes that AGIS and AGIS Holdings  
25 thereafter, in an attempt to remake AGIS and to distance AGIS from the adverse  
26 result in *Advanced Ground Information Sys., Inc. v. Life360, Inc.*, 9:14-cv-80651  
27 (S.D. Fla.), and from the federal district court in Florida, created the Texas LLC,  
28 AGIS Software, and listed its only “office” as being in the Eastern District of

1 Texas. Smith Micro is informed and believes that the creation of AGIS Software as  
2 a Texas LLC was a pretext and a façade for the sole purpose of being able to file  
3 patent infringement suits in the Eastern District of Texas and allege that AGIS  
4 Software “resides” in that judicial district. Smith Micro is informed and believes  
5 that the AGIS Companies consider the Eastern District of Texas to be a venue that  
6 favors patent plaintiffs, and an inconvenient forum for non-Texas-based defendants,  
7 including those primarily located in California.

8 15. Smith Micro does not have access to complete information concerning  
9 all of the corporate relationships, responsibilities and decision-making processes  
10 within, between and among AGIS, AGIS Holdings, AGIS Software and each of  
11 their owners, officers, directors, members and managers, but is informed and  
12 believes that from time to time there have been corporate realignments among and  
13 between them. Smith Micro therefore reserves the right to add defendants or to  
14 substitute the current correct name of a defendant as that information is obtained  
15 through discovery, and to amend the complaint to identify a DOE defendant.

#### 16 **NATURE OF THE ACTION**

17 16. Smith Micro brings this action for a declaratory judgment that U.S.  
18 Patent Nos. 7,031,728 (“the ‘728 patent”), 7,630,724 (“the ‘724 patent”), 9,408,055  
19 (“the ‘055 patent”), 9,445,251 (“the ‘251 patent”), 9,467,838 (“the ‘838 patent”),  
20 and 9,749,829 (“the ‘829 patent”) (collectively, the “Patents-in-Suit”) are not  
21 infringed, directly or indirectly, by the Family Mode application and systems and  
22 the FamilyWhere application and systems (including all related services and  
23 infrastructure) owned by Smith Micro (“Accused Products” or “Smith Micro  
24 Products”) that Smith Micro sells to T-Mobile USA, Inc., among others.

25 17. Smith Micro acquired the FamilyWhere application and systems as  
26 part of its April 2021 acquisition of Avast plc’s Family Safety Mobile Business,  
27 mainly based in Emeryville, California, in this judicial district. Smith Micro is  
28 informed and believes that the persons involved in the development of the

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