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9 *Attorneys for Plaintiff*

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

12
13 LYFT, INC.

14 Plaintiffs,

15 v.

16 AGIS SOFTWARE DEVELOPMENT LLC,

17 Defendant.

Case No. 21-cv-4653

**COMPLAINT FOR DECLARATORY
JUDGMENT**

JURY TRIAL DEMANDED

18
19
20 Plaintiff Lyft, Inc. (“Lyft”) hereby pleads the following claims for Declaratory Judgment
21 against Defendant AGIS Software Development LLC (“AGIS Software”) and alleges as follows:

22 **THE PARTIES**

23 1. Lyft is a Delaware limited liability corporation with its principal place of business
24 located at 185 Berry Street, Suite 5000, San Francisco, California 94107.

25 2. On information and belief, AGIS Software is an agent and alter ego of Advanced
26 Ground Information Systems, Inc. Per AGIS Software’s allegations in another litigation between
27 the parties, AGIS Software is a Texas limited liability company, having its principal place of
28

1 business at 100 W. Houston Street, Marshall, Texas 75670. **Exhibit A** ¶ 1. According to Texas
2 public records, the sole member of AGIS Software is AGIS Holdings, Inc. (“AGIS Holdings”).
3 According to Florida public records, AGIS Holdings is organized and existing under the laws of
4 the State of Florida, and maintains its principal place of business at 92 Lighthouse Drive, Jupiter,
5 FL 33469. It shares the same address with Advanced Ground Information Systems, Inc.,
6 (“AGIS”) a corporation organized and existing under the laws of the State of Florida that also
7 maintains its principal place of business at 92 Lighthouse Drive, Jupiter, FL 33469.

8 JURISDICTION AND VENUE

9 3. The Court has subject matter jurisdiction over Lyft’s declaratory judgment claims
10 relating to patent non-infringement under 28 U.S.C. §§ 2201, 2202, 1331, and 1338(a).

11 4. On January 29, 2021, AGIS Software sued Lyft for infringing United States Patent
12 Nos. 7,031,728 (“’728 patent”), 7,630,724 (“’724 patent”), 8,213,970 (“’970 patent”), 10,299,100
13 (“’100 patent”), and 10,341,838 (“’1,838 patent”) (collectively, “Patents-in-Suit”) in the United
14 States District Court of the Eastern District of Texas by manufacturing, using, distributing, selling,
15 offering for sale, and/or exporting from and importing into the United States the “the Lyft and Lyft
16 Driver applications and the related services and/or servers for the applications.” *See* Compl. ¶ 23,
17 *AGIS Software Development LLC v. Lyft, Inc.*, Civil Action No. 2:21-cv-00024-JRG (E.D. Tex.),
18 Dkt. 1. AGIS Software purported to be the owner of all right, title, and interest in the Patents-in-
19 Suit. *Id.* ¶ 1. On April 27, 2021 Lyft moved to dismiss the Eastern District of Texas litigation for
20 improper venue. *See* Lyft, Inc.’s Motion to Dismiss for Improper Venue, *AGIS Software*
21 *Development LLC v. T-Mobile USA, Inc. et al.*, Civil Action No. 2:21-cv-00072-JRG (E.D. Tex.),
22 Dkt. 30.

23 5. Lyft denies that the Patents-in-Suit are infringed through the making, using,
24 distributing, sale, offering for sale, exportation, or importation of the Lyft rider or Lyft driver
25 applications, or any other Lyft product or service. Under all circumstances, AGIS Software’s
26 infringement allegations and related actions threaten actual and imminent injury to Lyft that can be
27 redressed by judicial relief and warrants the issue of a declaratory judgment. An actual and
28 justiciable controversy exists between Lyft and AGIS Software with respect to the Patents-in-Suit.

1 6. On information and belief, AGIS Software is subject to this Court's specific
2 jurisdiction, pursuant to due process and/or the California Long Arm Statute due to: (1) AGIS
3 Software and/or AGIS's activities purposefully directed at residents of this forum, and (2) the
4 claims arising out of or relating to AGIS Software and/or AGIS's activities with this forum.
5 Further, the assertion of personal jurisdictions is reasonable and fair.

6 7. On information and belief, AGIS Software and/or AGIS have taken intentional and
7 purposeful steps to enforce the Patents-in-Suit against residents of this judicial district, including
8 by suing Lyft and other companies with principal places of business or operations in this judicial
9 district for infringement of the Patents-in-Suit.

10 8. Based on Public Access to Court Electronic Records ("PACER"), on June 21,
11 2017, AGIS Software sued Apple Inc. ("Apple"), a California corporation with its principal place
12 of business in this District in Cupertino, California, alleging infringement of the '970 patent and
13 other patents related to the Patents-In-Suit. *See AGIS Software Development LLC v. Apple Inc.*,
14 Civil Action No. 2:17-cv-00516 (E.D. Tex.), Dkt. 1 at ¶¶ 18, 27, 41, 55. Based on U.S. Patent &
15 Trademark Office ("USPTO") records, Apple filed petitions for *inter partes* review of each patent
16 AGIS Software asserted against it. *See* Petition for Inter Partes Review of U.S. Patent No.
17 8,213,970, *Apple Inc. v. AGIS Software Development LLC*, No. IPR2019-00411 (PTAB), Paper
18 No. 1; Petition for Inter Partes Review of U.S. Patent No. 9,467,838, *Apple Inc. v. AGIS Software*
19 *Development LLC*, No. IPR2018-00819 (PTAB), Paper No. 1; Petition for Inter Partes Review of
20 U.S. Patent No. 9,445,251, *Apple Inc. v. AGIS Software Development LLC*, No. IPR2019-00523
21 (PTAB), Paper No. 1; Petition for Inter Partes Review of U.S. Patent No. 9,445,251, *Apple Inc. v.*
22 *AGIS Software Development LLC*, No. IPR2019-00524 (PTAB), Paper No. 1; Petition for Inter
23 Partes Review of U.S. Patent No. 9,408,055, *Apple Inc. v. AGIS Software Development LLC*, No.
24 IPR2019-01471 (PTAB), Paper No. 1; Petition for Inter Partes Review of U.S. Patent No.
25 9,749,829, *Apple Inc. v. AGIS Software Development LLC*, No. IPR2019-01471 (PTAB), Paper
26 No. 1. . Based on USPTO records, on or around April 2, 2019, each of these *inter partes* review
27 proceedings were terminated as a result of the Apple and AGIS Software reaching a settlement
28 agreement. *See, e.g.*, Decision Granting Joint Motion to Terminate and Granting Request to Treat

1 Settlement Document as Confidential Business Information, *Apple Inc. v. AGIS Software*
2 *Development LLC*, No. IPR2018-01471 (PTAB), Paper No. 15. Based on PACER, on March 14,
3 2019, the Eastern District of Texas dismissed the district court litigation between AGIS Software
4 and Apple as a result of settlement. Order, *AGIS Software Development LLC v. Apple Inc.*, Civil
5 Action No. 2:17-cv-00516 (E.D. Tex. Mar. 14, 2019), Dkt. 87.

6 9. Based on PACER, on June 21, 2017, AGIS Software sued ZTE Corporation and
7 ZTE (TX) Inc. alleging infringement of patents, including the '970 patent, '055 patent, '251
8 patent, and 7'838 patent. *AGIS Software Development LLC v. ZTE Corporation et al.*, Civil
9 Action No. 2:17-v-00517-JRG (E.D. Tex.), Dkt. 1 at ¶¶ 19, 28, 42, 54. Based on PACER, on
10 October 17, 2017, AGIS Software filed an amended complaint, adding ZTE (USA) Inc. as a
11 defendant to this litigation and alleging infringement of an additional related patent, the '829
12 patent. *AGIS Software Development LLC v. ZTE Corporation et al.*, Civil Action No. 2:17-v-
13 00517-JRG (E.D. Tex.), Dkt. 32 at ¶¶ 3 & 73. On information and belief, ZTE (USA) Inc. has an
14 office located at 1900 McCarthy Boulevard, Milpitas, California 95035.

15 10. Based on PACER, on October 9, 2018, ZTE (USA) Inc. filed a declaratory
16 judgment action in the Northern District of California. *ZTE (USA) Inc. v. AGIS Software*
17 *Development LLC et al.*, Civil Action No. 4:18-cv-06185-HSG (N.D. Cal.), Dkt. 1. Based on
18 PACER, on October 30, 2019, AGIS Software and ZTE (USA) Inc. filed a joint motion to stay all
19 deadlines as a result of a settlement in principle. *Id.*, Dkt. 130. Based on PACER, less than a
20 week later, on November 4, 2019, AGIS Software filed an unopposed renewed motion to dismiss.
21 *Id.*, Dkt. 135. Based on PACER, on November 5, 2019, the Court granted the motion. *Id.*, Dkt.
22 138.

23 11. On information and belief, AGIS Software has entered into agreements relating to
24 the Patents-in-Suit with companies in this District, including Apple and ZTE Corporation, ZTE
25 (USA) Inc., and ZTE (TX) Inc. ("ZTE").

26 12. On information and belief, AGIS Holdings registered AGIS Software in Texas on
27 June 1, 2017, 20 days before filing the above patent infringement cases against Apple and ZTE.

28

1 13. On information and belief, shortly before the registration of AGIS Software, AGIS
2 was litigating in the Southern District of Florida against Life360, Inc., a company headquartered in
3 San Francisco, California. *Advanced Ground Information Sys., Inc. v. Life360, Inc.*, Civil Action
4 No. 9:14-cv-80651 (S.D. Fla.). Based on PACER, AGIS asserted that Life360 infringed the '728
5 patent (one of the Patents-in-Suit) and other related patents. Based on PACER, AGIS's claims
6 against Life360 resulted in a jury finding of no-infringement and an award of nearly \$750,000 in
7 attorneys' fees for litigating "an exceptionally weak case." *Id.*, Dkt. 200, 212.

8 14. On information and belief, AGIS Software is an alter ego to AGIS Holdings and/or
9 AGIS.

10 15. On information and belief, AGIS has also committed a number of intentional acts
11 directed at the State of California.

12 16. On information and belief, AGIS has marketed and/or provided downloads of its
13 LifeRing product, which AGIS Software contends is covered by the Patents-in-Suit, in California.

14 17. On information and belief, in 2014, Mr. Malcom Beyer, CEO of both AGIS
15 Software and AGIS, attended a U.S. Navy military exercise in San Diego where he demonstrated
16 LifeRing on PCs and smartphones when asked to do so. *See Life360, Inc. v. Advanced Ground*
17 *Sys., Inc.*, 2015 WL 5612008, at *3, Case No. 15-cv-00151-BLF (N.D. Cal. Sept. 21, 2015). On
18 information and belief, during this demonstration, Mr. Beyer also discussed LifeRing with
19 companies including ADI Technology and Maven Consulting. *Id.*

20 18. On information and belief, AGIS marketed LifeRing to companies that resulted in
21 downloads of LifeRing in California. *Id.* at *4. On information and belief, AGIS marketed
22 LifeRing to at least CornerTurn LLC, Integrity Applications, and American Reliance, Inc., which
23 AGIS has stated have California addresses. *Id.*

24 19. On information and belief, AGIS has marked LifeRing as covered by the Patents-
25 in-Suit. *See, e.g.*, Patents, AGIS INC., <http://agisinc.com/about/patents> (last visited June 7, 2021).
26 On information and belief, AGIS Software has licensed the patents to end users residing in
27 California who downloaded the LifeRing software.

28

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