

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LYFT, INC.,

Plaintiff,

v.

AGIS SOFTWARE DEVELOPMENT LLC,

Defendant.

Case No. 21-cv-04653-BLF

**ORDER GRANTING PLAINTIFF
LYFT, INC.’S MOTION FOR LEAVE
TO FILE FIRST AMENDED
COMPLAINT**

[Re: ECF No. 78]

United States District Court
Northern District of California

Before the Court is Plaintiff Lyft, Inc.’s (“Lyft”) motion for leave to file a first amended complaint in this patent declaratory judgment action against AGIS Software Development LLC (“AGIS Software”). Lyft seeks to add three new parties—Advanced Ground Information Systems, Inc. (“AGIS, Inc.”); AGIS Holdings, Inc. (“AGIS Holdings”); and Malcolm K. Beyer, Jr. (collectively, the “Proposed Parties”)—and a breach of contract claim in its first amended complaint. *See* Motion, ECF No. 78. AGIS Software opposes. *See* Opposition, ECF No. 94.

Pursuant to Civil Local Rule 7-1(b), the Court finds that Lyft’s motion is appropriate for determination without oral argument. Based on the below reasoning, the Court GRANTS Lyft’s motion.

I. BACKGROUND

On January 29, 2021, AGIS Software filed a patent infringement action against Lyft in the Eastern District of Texas regarding the Patents-in-Suit based on “the Lyft and Lyft Driver applications and the related services and/or servers for the applications.” *See* Complaint, ECF No. 1

¶ 4. The case was consolidated with other AGIS Software cases under the caption *AGIS Software*

1 opposing party, or (5) futility of amendment. *See Eminence Capital, LLC v. Aspeon, Inc.*,
 2 316 F.3d 1048, 1052 (9th Cir. 2003) (citing *Foman v. Davis*, 37 U.S. 178, 182 (1962)). “[I]t is the
 3 consideration of prejudice to the opposing party that carries the greatest weight.” *Id.* However, a
 4 strong showing with respect to one of the other factors may warrant denial of leave to amend. *Id.*

5 **III. DISCUSSION**

6 Lyft seeks leave to (1) add the Proposed Parties and (2) add a breach of contract claim to its
 7 first amended complaint. *See* Motion, ECF No. 78. AGIS Software opposes each request. *See*
 8 Opposition, ECF No. 94. The Court will consider each issue in turn.

9 **A. Leave to Add Proposed Parties**

10 Lyft argues that adding the Proposed Parties is warranted because (1) they have opposed
 11 Lyft’s discovery requests on the basis that they are not parties to the present suit and
 12 (2) jurisdictional discovery has shown that [REDACTED]
 13 [REDACTED], so AGIS Software may seek to avoid liability [REDACTED]
 14 [REDACTED]. *See* Motion, ECF No. 78 at 4–5 (citing Salpietra Decl., ECF No. 78-1, Ex. 7 at 12–17; *id.*,
 15 Ex. 11 at 144:7–8). Lyft also argues that jurisdictional discovery has revealed facts indicating that
 16 the Proposed Parties are alter egos of AGIS Software, including shared office space and [REDACTED],
 17 [REDACTED], and AGIS Software’s undercapitalization. *See* Reply, ECF No. 107
 18 at 4–7. In response, AGIS Software argues that the evidence shows that AGIS Software paid for
 19 the Proposed Parties’ services—it does not indicate [REDACTED] or undercapitalization. *See*
 20 Opposition, ECF No. 94 at 4–6. Further, AGIS Software argues that the evidence indicates that
 21 AGIS Software, AGIS Holdings, and AGIS, Inc. are separate and distinct business entities—for
 22 instance, they have different [REDACTED]. *See id.* at 6–7.

23 The Court agrees with Lyft. AGIS Software’s only objections to Lyft’s motion are directed
 24 to the merits of Lyft’s alter ego case. In other words, AGIS Software appears to be arguing that
 25 Lyft’s proposed amendment would be futile, because Lyft cannot show that the Proposed Parties
 26 are alter egos of AGIS Software. AGIS Software has failed to show that addition of the Proposed
 27 Parties would be futile. Lyft has raised facts indicating significant [REDACTED]
 28 [REDACTED]. *See* Salpietra Decl., ECF No. 78-1, Ex. 7 at 12–17;

1 *id.*, Ex. 11 at 144:7–8. Further, Lyft points to facts indicating [REDACTED]
 2 [REDACTED], shared office space, and shared [REDACTED]. *See* Salpietra
 3 Reply Decl., ECF No. 107-1, Ex. 13 at 12:22–13:24, 24:1–32:21, 36:11–43:15, 119:9–128:10,
 4 134:19–135:14; *id.*, Exs. 14–16. Based on the evidence, the Court finds that it cannot say there is
 5 “no set of facts [that] can be proved under the amendment to the pleadings that would constitute a
 6 valid and sufficient claim” against the Proposed Parties. *Missouri ex rel. Koster v. Harris*,
 7 847 F.3d 646, 656 (9th Cir. 2017) (citations omitted). Without a sufficient showing as to any of the
 8 *Foman* factors, the Court finds that leave to amend regarding the Proposed Parties is appropriate.
 9 *See Foman*, 371 U.S. at 182.

10 Accordingly, the Court GRANTS Lyft leave to add the Proposed Parties in the first amended
 11 complaint.

12 **B. Leave to Add Breach of Contract Claim**

13 Lyft argues that the Court should grant it leave to add the breach of contract claim because
 14 it previously asserted the claim in the E.D. Texas Action, and Lyft was not dismissed from that case
 15 until January 2022. *See* Motion, ECF No. 78 at 5–6. Further, Lyft argues that it waited to bring its
 16 breach of contract claim in this case because AGIS Software has objected to Lyft using any protected
 17 information from the E.D. Texas Action in this case, and [REDACTED]
 18 [REDACTED]. *See* Reply, ECF No. 107 at 7–8. In
 19 response, AGIS Software argues that Lyft was dilatory in asserting the breach of contract claim in
 20 this action, since Lyft waited until April 2022—nearly six months after originally asserting the claim
 21 in the E.D. Texas Action in November 2021. *See* Opposition, ECF No. 94 at 7–8. Further, AGIS
 22 Software argues that Lyft’s breach of contract claim is mooted by AGIS Software’s pending motion
 23 to amend its infringement contentions at ECF No. 84, which Lyft opposes. *See id.* at 7. AGIS
 24 Software’s motion to amend its infringement contentions seeks to “mak[e] clear” that it is not
 25 alleging infringement of “any Lyft iOS-based application” or “any Apple products.” *See*
 26 Opposition, ECF No. 94 at 7 (quoting ECF No. 84-8 at 2 n.1). On reply, Lyft argues that regardless
 27 of the outcome of AGIS Software’s motion to amend its infringement contentions, Lyft can still

1 action and the E.D. Texas action. *See Reply*, ECF No. 107 at 8.

2 The Court agrees with Lyft. While AGIS Software points to some delay in Lyft asserting
3 the breach of contract claim in this case, it appears that AGIS Software is at least partially
4 responsible for that delay through its obstructive discovery posturing. *See Reply*, ECF No. 107
5 at 7–8. Accordingly, the Court does not consider Lyft’s delay in bringing its breach of contract
6 claim in this case to indicate undue delay, dilatory motive, or bad faith. *See Eminence Capital*,
7 316 F.3d at 1052. Further, AGIS Software does not indicate the delay prejudiced it in any way.

8 Additionally, the Court finds that AGIS Software has not shown that the addition of the
9 breach of contract claim would be futile, given AGIS Software’s pending motion to amend its
10 infringement contentions. Lyft has adequately explained how its breach of contract claim might
11 survive even if AGIS Software amends its infringement contentions—*i.e.*, based on AGIS
12 Software’s prior assertion of infringement of iOS-based products in the E.D. Texas Action and the
13 present case. *See Reply*, ECF No. 107 at 8; *Harris*, 847 F.3d at 656.

14 Accordingly, the Court GRANTS Lyft leave to add the breach of contract claim in the first
15 amended complaint.

16 **IV. ORDER**

17 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 18 1. Lyft’s motion to file a first amended complaint is GRANTED; and
- 19 2. Lyft SHALL file its proposed first amended complaint on or before May 25, 2022.

20
21 Dated: May 19, 2022



22
23 BETH LABSON FREEMAN
United States District Judge