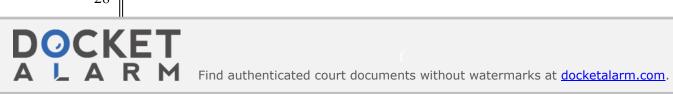1

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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GOOGLE LLC,

Case No.

Plaintiff,

13

v.

14

AGIS HOLDINGS, INC., ADVANCED
GROUND INFORMATION SYSTEMS,
INC., AND AGIS SOFTWARE
DEVELOPMENT LLC,

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16

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Defendants.

**COMPLAINT FOR DECLARATORY
JUDGMENT**

DEMAND FOR JURY TRIAL

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1   Plaintiff Google LLC ("Google") brings this action for declaratory judgment against

2 Defendants AGIS Holdings, Inc. ("AGIS Holdings"), Advanced Ground Information Systems,

3 Inc. ("AGIS, Inc."), and AGIS Software Development LLC ("AGIS Software") (collectively

4 "AGIS" or "AGIS Entities") and alleges:

5   **NATURE OF THE ACTION**

6   1.   This is an action for declaratory judgment of non-infringement, invalidity, and

7 unenforceability of U.S. Patent No. 8,213,970 ("'970 Patent") against AGIS pursuant to the

8 Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, and the patent laws of the United States, 35

9 U.S.C. § 100 et seq., and for other relief the Court deems just and proper.

10   2.   Google requests this relief because AGIS has asserted in multiple cases that

11 Google and others infringe the '970 Patent based on Google's Find My Device ("FMD")

12 application.

13   3.   In 2017, AGIS asserted infringement of the '970 Patent based on FMD in cases

14 filed in the Eastern District of Texas ("EDTX"), against Huawei, LG, ZTE, and HTC. *See AGIS*

15 *Software Development LLC v. ZTE Corp.*, 2:17-cv-00517 (E.D. Tex.); *AGIS Software*

16 *Development LLC v. LG Elecs. Inc..*, 2:17-cv-00515 (E.D. Tex.); *AGIS Software Development*

17 *LLC v. HTC Corp.*, 2:17-cv-00514 (E.D. Tex.); *AGIS Software Development LLC v. Huawei*

18 *Device USA Inc.*, 2:17-cv-00513 (E.D. Tex.). As part of those actions, AGIS served a subpoena

19 to Google seeking discovery relating to FMD.

20   4.   In 2019, AGIS filed a complaint against Google in the Eastern District of Texas

21 ("EDTX") asserting, among other claims, the '970 Patent against FMD. *AGIS Software*

22 *Development LLC v. Google LLC*, EDTX, No. 2:19-CV-00361-JRG ("AGIS I"). While AGIS I

23 was pending, AGIS amended the claims of the '970 Patent to overcome prior art asserted during

24 an *ex parte* reexamination ("EPR") of the patent. After the EPR proceedings concluded, Google

25 filed a Rule 12(b)(1) motion to dismiss AGIS's claims regarding the '970 Patent for lack of

26 subject matter jurisdiction because AGIS had substantively amended the patent's asserted claims

27 to avoid prior art. Before the EDTX court resolved that motion, the Federal Circuit ordered the

28 case transferred to the Northern District of California ("NDCA"). *In re Google LLC*, No. 2022-

1   140-42, 2022 WL 1613192, at *1 (Fed. Cir. May 23, 2022).

2   5.   The case was assigned to Judge Beth Labson Freeman in this District. *AGIS*

3   *Software Development LLC v. Google LLC*, NDCA, No. 5:22-CV-04826-BLF ("the NDCA

4   Case"). Google then refiled in this District its motion to dismiss the '970 Patent for lack of

5   subject matter jurisdiction. In response, AGIS dismissed the '970 Patent with prejudice. *See*

6   NDCA Case, Dkts. 437, 438. The remainder of the NDCA Case remains pending before Judge

7   Freeman.

8   6.   Before AGIS agreed to dismiss the '970 Patent with prejudice from the NDCA

9   case, it filed a duplicative action against Google in the Western District of Texas, asserting the

10 amended claims of the '970 Patent against the same Google FMD application. *AGIS Software*

11 *Development LLC v. Google LLC*, No. 6:23-CV-00160-DC-DTG ("the WDTX Case").

12   7.   On April 4, 2023, the WDTX granted Google's unopposed motion to stay the

13 WDTX Case. *See* WDTX Case, Dkt. 11. As stated in the unopposed motion to stay, AGIS

14 agreed to transfer the WDTX Case to this District following the stay: "[t]he parties have agreed

15 that if and after the requested stay has been lifted, AGIS will not oppose a motion by Google to

16 transfer this case to the Northern District of California following the stay." *See* WDTX Case,

17 Dkt. 10 at 3 n.1.

18   8.   On July 20, 2023, while the case was still stayed, AGIS voluntarily dismissed the

19 WDTX Case without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). *See*

20 WDTX Case, Dkt. 12.

21   9.   Google denies that it has infringed or is infringing any claims of the '970 Patent,

22 denies that any claim of the '970 Patent is valid or enforceable, and denies that AGIS can assert

23 any claim of the '970 Patent against Google.

24   10.   An actual and justiciable controversy therefore exists under 28 U.S.C. §§ 2201-

25 2202 between Google and AGIS regarding the '970 Patent.

26   **THE PARTIES**

27   11.   Plaintiff Google LLC is a subsidiary of Alphabet Inc. with its principal place of

28 business located at 1600 Amphitheatre Parkway, Mountain View, California 94043.

1   12.   According to Florida public records, Defendant AGIS Holdings, Inc. is organized

2   and existing under the laws of the State of Florida, and maintains its principal place of business at

3   92 Lighthouse Drive, Jupiter, FL 33469.

4   13.   According to Florida public records, Defendant AGIS, Inc. is organized and

5   existing under the laws of the State of Florida, and maintains its principal place of business at 92

6   Lighthouse Drive, Jupiter, FL 33469.

7   14.   On information and belief, Defendant AGIS Software is an agent and alter ego of

8   AGIS, Inc. According to AGIS Software's allegations in another litigation between the parties,

9   AGIS software is a Texas limited liability company, having its principal place of business at 100

10   W. Houston Street, Marshall, Texas 75670. Exhibit K ¶ 1.

11   **JURISDICTION AND VENUE**

12   15.   This is a declaratory judgment action for patent non-infringement, invalidity, and

13   unenforceability arising under the patent laws of the United States, Title 35, United States Code,

14   Section 100 *et seq*. This Court has subject matter jurisdiction over this controversy pursuant to 28

15   U.S.C. §§ 1331, 1338(a), 2201 and 2202.

16   **I.   AGIS Accused Google of Infringing the '970 Patent Based on FMD**

17   16.   AGIS asserted the '970 Patent against FMD and Google in AGIS I, which was

18   transferred to the NDCA and became the NDCA Case, in International Trade Commission

19   ("ITC") Investigation No. 337-TA-1347 ("ITC Action"), and in the WDTX Case. AGIS

20   dismissed its '970 Claims from the NDCA case and voluntarily dismissed the WDTX case.

21   **II.   Google Seeks Declaratory Judgments That It Does Not Infringe The '970 Patent**
22   **and That The '970 Patent Is Invalid and Unenforceable**

23   17.   Google denies that it infringes or has infringed the '970 Patent through the

24   making, using, distributing, sale, offering for sale, exportation, or importation of FMD or any

25   related services for FMD or through the making, using, distributing, sale, offering for sale,

26   exportation, or importation of devices that a may be configured to run FMD.

27   18.   AGIS's infringement allegations, asserted in related actions, threaten actual and

28   imminent injury to Google that can be redressed by judicial relief and warrants the issue of a

1   declaratory judgment, under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq*.

2   19.   An actual and justiciable controversy with respect to the '970 Patent exists

3   between Google and AGIS Software, and between Google and AGIS Inc., and AGIS Holdings

4   under an alter ego theory.

5   **III.   AGIS Software is Subject to the Specific Jurisdiction of This Court**

6   20.   AGIS Software is subject to this Court's specific jurisdiction, pursuant to due

7   process and/or the California Long Arm Statute based on: (1) AGIS's agreement in the WDTX

8   Case to transfer the very dispute that is the subject of this declaratory judgment action to the

9   NDCA; (2) the activities of AGIS over a long period of time purposefully directed at the state of

10   California, including at residents of this state; (3) AGIS having over a long period of time

11   performed purposeful acts intended to harm residents of the state of California; (4) AGIS having

12   engaged in business-related activities over a long period of time that are directed to customers and

13   potential customers in the state of California such that AGIS has purposefully availed itself of the

14   privilege of doing business in this state; and (5) the claims asserted herein arise out of or relate to

15   activities by AGIS within and directed at this forum. Further, the assertions of personal

16   jurisdiction are reasonable and fair.

17   **A.   AGIS Software Purposefully Directed Its Patent Licensing Activities to
         California Companies Subjecting It To Specific Jurisdiction Under *Trimble***
18

19   21.   AGIS Software is a patent licensing company that licenses its patent portfolio,

20   including the '970 Patent.

21   22.   AGIS Software has no employees.

22   23.   AGIS Software's principal source of revenue is from patent licenses with

23   California companies and other companies operating in the State of California.

24   24.   AGIS Software or its predecessor-in-interest has taken purposeful steps to enforce

25   the '970 Patent and/or obtain licenses to the '970 Patent and/or related patents with companies

26   having principal places of business and operations in this judicial district, including Lyft, Apple

27   Inc. ("Apple"), WhatsApp LLC ("WhatsApp"), Facebook, Inc. ("Facebook"), Uber Technologies,

28   Inc. d/b/a UBER ("Uber"), and Life360, Inc. ("Life360"), and with companies or their affiliates

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