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 23 *Information Systems, Inc., and*  
 24 *AGIS Software Development LLC*

25 **UNITED STATES DISTRICT COURT**  
 26 **NORTHERN DISTRICT OF CALIFORNIA**  
 27 **SAN JOSE DIVISION**

28 GOOGLE LLC,

*Plaintiff,*

v.

29 AGIS HOLDINGS, INC., ADVANCED  
 30 GROUND INFORMATION SYSTEMS,  
 31 INC., AND AGIS SOFTWARE  
 32 DEVELOPMENT LLC,

*Defendants.*

Case No. 3:23-cv-03624-PHK

**DECLARATION OF MALCOLM K.  
 BEYER, JR. IN SUPPORT OF MOTION  
 TO DISMISS COMPLAINT FOR  
 DECLARATORY JUDGMENT**

Complaint for Declaratory Judgment Filed:  
21-JUL-2023

Deadline to Respond: 16-OCT-2023

Hearing Date: March 21, 2024

Time: 9:00 a.m.

Location: TBD

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**DECLARATION OF MALCOLM K. BEYER, JR.**

I, Malcolm K. Beyer, Jr., do hereby declare as follows:

1. I submit this declaration based on my personal knowledge and in support of Defendants AGIS Holdings, Inc. (“AGIS Holdings”), Advanced Ground Information Systems, Inc. (“AGIS, Inc.”), and AGIS Software Development LLC’s (“AGIS Software”) (collectively, “Defendants”) Motion to Dismiss, Or in The Alternative, to Transfer to the Eastern District of Texas (“EDTX”), the Complaint for Declaratory Judgment filed by Google LLC (“Google” or “Plaintiff”) (Dkt. 1).

**Background**

2. I am the Chief Executive Officer (“CEO”) of Defendant AGIS Software, Defendant AGIS, Inc., and Defendant AGIS Holdings.

3. I am the first-named inventor on U.S. Patent No. 8,213,970 (the “970 Patent” or the “Patent-in-Suit”) issued by the U.S. Patent and Trademark Office.

4. I live in Jupiter, Florida with my wife Margaret Beyer. We have lived in Jupiter, Florida for over three decades.

5. I graduated from the U.S. Naval Academy in 1962 and was commissioned as a Second Lieutenant in the U.S. Marine Corps. I later attended the U.S. Navy’s programming school and was the lead programmer for the first automated Marine Corps Tactical Operations Center Link-11 Navy Interface. After leaving active service, I worked at a number of well-known technology companies, including System Development Corporation (considered the world’s first computer software company) and Litton Industries. I then started several businesses which provided technology and engineering solutions supporting defense and military customers.

6. In 1987, I co-founded Advanced Programming Concepts, Inc. (“APC”), a Texas corporation based in Austin, Texas. APC operated primarily out of its main business location in Austin, Texas. APC specialized in designing, building, and supporting systems for enabling integration and sharing time-critical information across dissimilar military and defense applications. At APC, I was the majority shareholder and Chairman until we sold the business to Ultra Electronics

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1 in July 1999.

2 7. In 2004, I founded Advanced Ground Information Systems, Inc. (“AGIS, Inc.”), a  
3 Florida corporation. AGIS, Inc.’s main business location is located at 92 Lighthouse Drive, Jupiter  
4 Florida. AGIS, Inc. also maintains business locations in Austin, TX and Kansas City, KS. AGIS,  
5 Inc. employs approximately 15 people.

6 8. None of AGIS Inc.’s employees and consultants live or work in the Northern District  
7 of California.

8 9. In 2013, AGIS, Inc. began a corporate restructuring plan for business growth  
9 purposes. By 2017, AGIS, Inc.’s board of directors approved the restructuring plan which resulted  
10 in the formation of a parent corporation, AGIS Holdings, Inc. (“AGIS Holdings”), a Florida  
11 corporation. AGIS Holdings consists of two subsidiaries, AGIS, Inc. and AGIS Software  
12 Development LLC (“AGIS Software”), a limited liability company organized under Texas law. Each  
13 is a separate corporate entity and maintains separate corporate formalities. Each entity maintains  
14 separate bank accounts and keeps separate business records. AGIS Software was established in  
15 Texas because of my previous successful business operation in Texas and because of my  
16 longstanding personal connections to Texas, which I describe in more detail below. AGIS Software  
17 has an office and a separate data center in Marshall, Texas.

18 10. As the CEO of AGIS Software, AGIS Inc., and AGIS Holdings, and as first-named  
19 inventor of the Patent-in-Suit, I will be one of the primary witnesses because I have knowledge of  
20 the businesses and the conception and reduction to practice of the Patent-in-Suit. I live and work in  
21 Jupiter, Florida. The distance from Jupiter, Florida to the Northern District of California is  
22 approximately 2,560 miles, while the distance to the Eastern District of Texas is approximately 940  
23 miles.

24 11. AGIS Software is the sole and exclusive owner of all right, title, and interest in and  
25 to the '970 Patent.

26 12. AGIS Software is a limited liability company organized under Texas law.

27 13. AGIS Software maintains an office and its principal place of business at 100 W.  
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- 1 Houston Street, Marshall, Texas 75670.
- 2 14. AGIS, Inc. is a corporation organized under Florida law.
- 3 15. AGIS, Inc. maintains its principal place of business at 92 Lighthouse Drive, Jupiter,
- 4 FL 33469.
- 5 16. AGIS Holdings is a corporation organized under Florida law.
- 6 17. AGIS Holdings maintains its principal place of business at 92 Lighthouse Drive,
- 7 Jupiter FL 33469.
- 8 18. AGIS Software, AGIS, Inc., and AGIS Holdings are not registered to do business in
- 9 California.
- 10 19. AGIS Software, AGIS, Inc., and AGIS Holdings do not have a registered agent for
- 11 service of process in California.
- 12 20. AGIS Software, AGIS, Inc., and AGIS Holdings do not have offices, employees,
- 13 equipment, bank accounts, or other assets in California.
- 14 21. AGIS Software, AGIS, Inc., and AGIS Holdings are not subject to taxes in California.
- 15 22. AGIS Software, AGIS, Inc., and AGIS Holdings do not manufacture products in
- 16 California.
- 17 23. AGIS Software, AGIS, Inc., and AGIS Holdings do not sell products or services in
- 18 California.
- 19 24. AGIS Software, AGIS, Inc., and AGIS Holdings do not solicit or engage in business
- 20 in California.
- 21 25. AGIS Software, AGIS, Inc., and AGIS Holdings do not sign contracts in California.
- 22 26. AGIS Software, AGIS, Inc., and AGIS Holdings do not recruit employees in
- 23 California.
- 24 27. AGIS Software, AGIS, Inc., and AGIS Holdings do not lease or rent any property in
- 25 California.
- 26 28. AGIS Software, AGIS, Inc., and AGIS Holdings do not own property in California.
- 27 29. AGIS Software, AGIS, Inc., and AGIS Holdings have never filed a lawsuit in
- 28

1 California.

2 30. AGIS Software's efforts to enforce its rights in the '970 Patent consist only of  
3 litigating patent infringement lawsuits filed in the Eastern District of Texas.

4 **Defendants' Witnesses and Other Sources of Proof are in or Closer to the Eastern District of**  
5 **Texas Than to the Northern District of California**

6 31. As stated above, AGIS Software is a limited liability company organized and existing  
7 under the laws of the State of Texas. AGIS Software maintains an office and its principal place of  
8 business at 100 W. Houston Street, Marshall, Texas 75670. The lease on AGIS Software's Marshall  
9 office has run from June 1, 2017, and continues to present. AGIS Software's documents are  
10 maintained at this location, including patents, files histories, assignment records, prosecution  
11 records, formation documents, licenses, agreements, and corporate records. AGIS, Inc. also conducts  
12 business and maintains documents and records at AGIS Software's Marshall office.

13 32. AGIS Software has a data center located at 1005 Stuart Lane, Marshall, Texas 75672.  
14 The Marshall data center hosts servers, code, applications, and services necessary to run operations  
15 for AGIS, Inc.'s LifeRing and ASSIST products and solutions. The Marshall data center is used to  
16 store code, documents, and other data related to AGIS Inc.'s LifeRing and ASSIST products and  
17 solutions. The Marshall data center is used for research and development projects. AGIS, Inc.  
18 invoices AGIS Software for AGIS Inc.'s provision of personnel and services related to the use,  
19 maintenance, and operation of the Marshall data center and for labor, travel expenses, and other  
20 expenses related to work performed at the Marshall data center.

21 33. AGIS, Inc. also maintains a business location in Jupiter, Florida, at which it employs  
22 several software developers. Documents relevant to this action are located at AGIS Software's  
23 Marshall office, AGIS Software's Marshall data center, and AGIS Inc.'s Jupiter office.

24 34. AGIS Software and AGIS, Inc. have no business locations, employees, or other  
25 presence in or connection to the Northern District of California.

26 35. For over 15 years, AGIS Inc.'s primary business has revolved around offering the  
27 "LifeRing" products and solutions which include client-based applications and a server-based

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