

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

AGIS SOFTWARE DEVELOPMENT LLC,	§	
	§	
Plaintiff	§	
	§	
v.	§	Case No. 2:17-CV-0516-JRG
	§	
APPLE, INC.,	§	
	§	
Defendant.	§	JURY TRIAL DEMANDED
	§	
	§	

**DECLARATION OF VINCENT J. RUBINO, III IN
OPPOSITION TO DEFENDANT APPLE, INC.’S MOTION TO
TRANSFER VENUE TO THE NORTHERN DISTRICT OF CALIFORNIA**

I, Vincent J. Rubino III, being duly sworn, hereby depose and state as follows:

1. I am a member of Brown Rudnick LLP, counsel of record for Plaintiff AGIS Software Development LLC (“AGIS”). I am a member of the Bar of the State of New York and have been admitted to practice in the United States District Court for the Eastern District of Texas. I make this declaration in opposition to the Motion to Transfer Venue to the Northern District of California filed by Defendant Apple, Inc. (“Apple”). The statements in this declaration are based upon my review of information obtained from public records, except where noted.

2. Attached hereto as Exhibit 1 is a true and correct copy of a September 2, 2016 Fortune.com article discussing Apple’s largest campus location in Austin, Texas, available at <http://fortune.com/2016/09/01/apple-austin-campus/> entitled “Where Apple Has Quietly Built Its Biggest Campus.”

3. Attached hereto as Exhibit 2 of a Westlaw search performed on December 8, 2017 displaying Apple's past litigations in the Eastern District of Texas dating back to 2013. An analysis of this list reflects Apple was a party to litigations in Eastern District of Texas over 100 times during this period.

4. Attached hereto as Exhibit 3 is a true and correct copy of distances calculated "as the crow flies" using the website: <http://tjpeiffer.com/crowflies.html>, between: 1) Austin, Texas and 100 East Houston Street Marshall, Texas; 2) Austin, Texas and San Francisco, California; 3) Lenexa, Kansas and 100 East Houston Street Marshall, Texas; 4) Lenexa, Kansas and San Francisco, California; 5) Jupiter, Florida and 100 East Houston Street Marshall, Texas; 6) Jupiter, Florida and San Francisco, California; 7) Allen, Texas and San Francisco, California; 5) Jupiter, Florida and 100 East Houston Street Marshall, Texas; 8) Allen, Texas and San Francisco.

5. Attached hereto as Exhibit 4 is a true and correct copy of an Apple Website, indicating the location of an Apple Store at 6121 West Park Boulevard Plano, TX 75093, available at: <https://www.apple.com/retail/willowbend/>.

6. Attached hereto as Exhibit 5 is a true and correct copy of an Apple Website, indicating the location of an Apple Store at 2601 Preston Road Frisco, TX, 75034, available at: <https://www.apple.com/retail/stonebriar/>.

7. Attached hereto as Exhibit 6 is a true and correct copy of an August 25th, 2017 512tech article titled "As Apple continues its booming growth in Austin, CEO Tim Cook pays a visit" available at <http://www.512tech.com/technology/apple-continues-its-booming-growth-austin-ceo-tim-cook-pays-visit/SqwmjDV51qzp4GoA3ZVIZO/>.

8. Attached hereto as Exhibit 7 is a true and correct copy of a CBS DFW article titled “Apple Creating 3,600 Jobs in Texas Facility” and is currently available at <http://dfw.cbslocal.com/2012/03/09/apple-creating-3600-jobs-in-new-texas-facility/>.

9. Attached hereto as Exhibit 8 is a true and correct copy of a job posting for a “Senior Back-End Software Engineer” position in Apple’s Dallas, Texas office on the Data Center Network Team, which was posted on November 29, 2017, and is currently accessible at https://www.glassdoor.com/job-listing/senior-back-end-software-engineer-apple-JV_IC1139977_KO0,33_KE34,39.htm?jl=2600150569.

10. Attached hereto as Exhibit 9 is a true and correct copy of “CAD Engineer - HW/SW Interface” position in Apple’s Austin, Texas office, which was posted in November 2017, and is currently accessible at <https://www.linkedin.com/jobs/view/cad-engineer-%E2%80%93-hw-sw-interface-at-apple-464543955>.

11. Attached hereto as Exhibit 10 is a letter from Kerri-Ann Limbeek to Vincent Rubino dated December 1, 2017 titled “AGIS Software Development LLC v. Apple Inc. Civil Action No. 2:17-CV-516-JRG (E.D. Tex.)”

12. Based on my personal knowledge as counsel to AGIS, AGIS has retained Joseph C. McAlexander to serve as an expert witness in support of this patent infringement action. Mr. McAlexander is located at McAlexander Sound, Inc., 101 W. Renner Road, Suite 350, Richardson, Texas 5082-2016.

13. Third-party cellular carriers including AT&T, Sprint, and Verizon are likely to possess information relating to the consumer demand and market value of the features enabled by the patents-in-suit, as well as consumer surveys and marketing information regarding demand for particular software applications and features. According to AT&T’s website, AT&T is

headquartered in Dallas, Texas. *See e.g.*, <https://investors.att.com/resources/contacts>. According to Sprint's website, Sprint is headquartered in Overland Park, Kansas. *See e.g.*, <https://www.sprint.com/en/support/contact-us.html#tab-business>. According to Verizon's website, Verizon is headquartered in Basking Ridge, New Jersey. *See e.g.*, <http://www.verizon.com/about/our-company/verizon-corporate-headquarters>. AGIS plans to serve subpoenas on employees of least these three third-party companies.

14. Attached hereto as Exhibit 11 is a true and correct copy of the LinkedIn Profile of Bahadir 'Baha' Koseli available at website: <https://www.linkedin.com/in/bahadir-baha-%E2%80%8B-koseli-ms-53834118/>.

15. Attached hereto as Exhibit 12 is a true and correct copy of U.S. District Courts Median Time Intervals from Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During 12 Month Period Ending March 31, 2017, and is currently available at http://www.uscourts.gov/sites/default/files/data_tables/fjcs_c5_0331.2017.pdf.

16. Attached hereto as Exhibit 13 a true and correct copy of a relevant excerpt of Federal Court Management Statistics report entitled "U.S. District Courts - Federal Court Management Statistics - Profiles," for the reporting period September 30, 2017, which is accessible at

http://www.uscourts.gov/sites/default/files/data_tables/fcms_na_distprofile0930.2017.pdf.

17. Attached hereto as Exhibit 14 a true and correct copy of the Memorandum Opinion and Order from the *Core Wireless Licensing, S.A.R.I., v. Apple, Inc.*, Civil Action No. 6:12-CV-100 LED-JDL, 2013 WL 682849 (E.D. Texas Feb. 22, 2013).

18. Attached hereto as Exhibit 15 is a true and correct copy of a LinkedIn Profile of Keith Gladhill available at website: <https://www.linkedin.com/in/keith-gladhill-0a002b89/>.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on December 11, 2017.

/s/ Vincent J. Rubino, III
Vincent J. Rubino, III