

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

AGIS SOFTWARE DEVELOPMENT LLC,	§	
	§	Case No. 2:21-cv-00072-JRG
Plaintiff,	§	(LEAD CASE)
	§	
v.	§	<u>JURY TRIAL DEMANDED</u>
	§	
T-MOBILE USA, INC. and T-MOBILE US,	§	
INC.,	§	
	§	
Defendants.	§	

**DECLARATION OF VINCENT J. RUBINO, III IN SUPPORT OF
PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC’S SUR-REPLY
IN OPPOSITION TO INTERVENORS SMITH MICRO SOFTWARE, INC.
AND SMITH MICRO SOFTWARE, LLC’S MOTION TO INTERVENE AND
MOTION TO STAY PROCEEDINGS AS TO ITS ACCUSED TECHNOLOGY,
PENDING ADJUDICATION OF THEIR PENDING DECLARATORY JUDGMENT
ACTION AGAINST AGIS SOFTWARE DEVELOPMENT LLC (DKT. 114)**

I, Vincent J. Rubino, III, hereby declare as follows:

1. I have personal knowledge of the facts set forth in this declaration. I am competent to testify as to all matters stated, and I am not under any legal disability that would in any way preclude me from testifying.
2. I am a Partner at the law firm of Fabricant LLP and counsel of record for Plaintiff AGIS Software Development LLC, in this matter.
3. The exhibits attached to this declaration may contain annotations and/or excerpts of the originals.
4. Attached hereto as Exhibit 1 is a true and correct copy of U.S. Patent No. 9,749,829, issued by the USPTO on August 29, 2017 to Malcolm K. Beyer, Jr.

5. Attached hereto as Exhibit 2 is a true and correct copy of U.S. Patent No. 7,031,728, issued by the USPTO on April 18, 2006 to Malcolm K. Beyer, Jr.
6. Attached hereto as Exhibit 3 is a true and correct copy of s a true and correct copy of U.S. Patent No. 7,630,724, issued by the USPTO on December 8, 2009 to Malcolm K. Beyer, Jr.
7. Attached hereto as Exhibit 4 is a true and correct copy of Initiation Report of Smith Micro Software, Inc. by Dawson/James Securities, dated May 4, 2021.
8. Attached hereto as Exhibit 5 is a true and correct copy of an Article entitled, “Smith Micro Software Shakes Up Mobile Family Safety Landscape, Strikes Deal with Avast,” by Fierce Wireless, dated April 26, 2021.
9. Attached hereto as Exhibit 6 is a true and correct copy of a Trademark Electronic Search System (TESS) on FAMILYMODE, executed on August 31, 2021.
10. Attached hereto as Exhibit 7 is a true and correct copy of a Trademark Electronic Search System (TESS) on FAMILYWHERE, executed on August 31, 2021.
11. Attached hereto as Exhibit 8 is a true and correct copy of “Smith Micro Software: An undervalued software company worth triple” by Willowdale Partners.
12. Attached hereto as Exhibit 9 is a true and correct copy of an article entitled. “Concerned About Your Kids’ Online Activities? Meet T-Mobile FamilyMode. The Digital Ally Parents Need,” by businesswire, dated June 25, 2018.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 7, 2021 in Livingston, New Jersey.

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