

**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
	§	(LEAD CASE)
Plaintiff,	§	
	§	<b><u>JURY TRIAL DEMANDED</u></b>
v.	§	
	§	
T-MOBILE USA, INC. and T-MOBILE US,	§	
INC.,	§	
	§	
LYFT, INC.,	§	Case No. 2:21-cv-00024-JRG
	§	(MEMBER CASE)
	§	
	§	<b><u>JURY TRIAL DEMANDED</u></b>
	§	
UBER TECHNOLOGIES, INC., d/b/a	§	Case No. 2:21-cv-00026-JRG
UBER,	§	(MEMBER CASE)
	§	
	§	<b><u>JURY TRIAL DEMANDED</u></b>
	§	
WHATSAPP, INC.,	§	Case No. 2:21-cv-00029-JRG
	§	(MEMBER CASE)
Defendants.	§	
	§	<b><u>JURY TRIAL DEMANDED</u></b>
	§	
	§	

**PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC'S  
OPENING CLAIM CONSTRUCTION BRIEF**

**TABLE OF CONTENTS**

	<b><u>Page(s)</u></b>
I. CLAIM CONSTRUCTION STANDARD OF REVIEW .....	1
A. GOVERNING LAW.....	1
B. LEVEL OF ORDINARY SKILL IN THE ART .....	1
II. PRIOR LITIGATION.....	2
III. PATENT BACKGROUND AND TECHNOLOGY.....	3
C. DISPUTED TERMS – ALL DEFENDANTS.....	7
1. “SMS / short message service (SMS) messages” (Claim 9 of the ’724 Patent; Claims 3, 12, 31 of the ’055 Patent; Claims 7, 30 of the ’251 Patent) .....	7
2. “providing a cellular phone communication network for designated participating users” (Claim 9, 16 of the ’724 Patent) .....	8
3. “similarly equipped cellular phone” (Claim 9 of the ’724 Patent; Claim 7 of the ’728 Patent) / “similarly equipped PDA cellular phone” (Claim 16 of the ’724 Patent) / “similarly equipped PDA/cellphone” (Claim 1 of the ’970 Patent) .....	10
4. “said database including the generation of one or more symbols associated with a particular participating users” (Claim 9 of the ’724 Patent).....	11
5. “accessing an application program in each cell phone for generating one or more symbols representative of one or more participant users, each of whom have a similarly equipped cellular phone” (Claim 9 of the ’724 Patent).....	12
6. “using the IP address previously” (Claim 9 of the ’724 Patent).....	15
7. “map display” (Claim 9 of the ’724 Patent).....	16
8. “free and operator selected text messages” (Claim 7 of the ’728 Patent).....	17
9. “establishing a cellular phone communication network for designated participants” (Claim 7 of the ’728 Patent).....	20
10. “providing initiating cellular phone calling software in each cellular phone that is activated by touching a symbol on the touch	

display that automatically initiates a cellular phone call using the stored cellular phone number to the participant represented by the symbol” (Claim 7 of the ’728 Patent).....22

D. DISPUTED TERMS—T-MOBILE AND WHATSAPP.....23

1. “database” (Claim 9 of the ’724 Patent).....23

2. “receiving a message from a second device” (Claims 1, 24 of the ’251 Patent).....24

3. “message” (Claims 1, 24 of the ’251 Patent; Claims 1, 54 of the ’838 Patent).....25

E. DISPUTED TERMS – LYFT, INC. AND UBER TECHNOLOGIES, INC., d/b/a UBER.....27

1. “a forced message alert software application / a forced message alert software application program” (Claims 1, 2, 10, 11, 12 of the ’970 Patent) .....27

2. “manual response” (Claim 2 of the ’970 Patent) .....28

3. “a data transmission means that facilitates the transmission of electronic files between said PDA/cell phone in different locations” (Claim 1 of the ’970 Patent) .....28

4. “means for allowing a manual response to be manually selected from the response list or manually recorded and transmitting said manual response to the sender PDA/cell phone” (Claim 2 of the ’970 Patent).....30

5. “required response list” (Claim 10 of the ’970 Patent) .....31

6. “transmitting a selected required response from the response list in order to allow the message required response list to be cleared from the recipient’s cellphone display” (Claim 10 of the ’970 Patent).....32

7. “each PDA/cell phone within a predetermined communication network is similarly equipped” (Claim 11 of the ’970 Patent) .....34

8. “[a] method of receiving, acknowledging, and responding to a forced message alert from a sender PDA/cell phone to a recipient PDA/cell phone” (Claim 10 of the ’970 Patent) .....35

9. “each representing a different participant that has a cellular phone that includes said voice communication, free and operator

selected text messages, photograph and video, a CPU, said GPS system and a touch screen display” (Claim 7 of the ’728 Patent).....35

10. “consisting of: a position of the participant symbol, positions of the one or more vehicle symbols, and a portion of the map displayed on the display of the mobile device” (Claim 4 of the ’100 Patent).....37

11. “based on at least one criterion selected from the group consisting of: (1) passage of time, and (2) movement of the first vehicle” (Claim 7 of the ’100 Patent).....39

12. “event / event symbol” (Claim 20 of the ’100 Patent; Claims 11, 24 ’1,838 Patent) .....40

13. “based on the participant selection data, performing one or more acts selected from the group consisting of: sending updated vehicle data to the first mobile device corresponding to the vehicle, sending updated participant data to the second mobile device corresponding to the participant, and sending a message to the first mobile device corresponding to the vehicle” (Claims 1, 14 of the ’1,838 Patent) .....42

14. “receiving entity-of-interest data transmitted by the second mobile device, the entity-of-interest data comprising coordinates of a geographical location of a new entity of interest” (Claims 1, 14 of the ’1,838 Patent) .....43

15. “obtaining first data provided by a first mobile device corresponding to a vehicle, the first data including a first identifier” (Claims 1, 14 of the ’1,838 Patent) / “obtaining second data provided by a second mobile device corresponding to a participant, the second data including a second identifier associated with the participant” (Claims 1, 14 of the ’1,838 Patent).....44

IV. CONCLUSION .....46

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Abbott Labs. v. Baxter Pharm. Prods., Inc.</i> , 334 F.3d 1274 (Fed. Cir. 2003).....	37
<i>AGIS Software Dev. LLC v. Google LLC</i> , No. 2:19-cv-00361-JRG, Dkt. 147.....	<i>passim</i>
<i>AGIS Software Dev., LLC v. Huawei Device USA Inc.</i> , No. 2:17-cv-513-JRG, 2018 WL 4908169 (E.D. Tex. Oct. 10, 2018).....	<i>passim</i>
<i>Alexsam, Inc. v. Cigna Corp.</i> , No. 2:20-cv-00081-JRG-RSP, 2021 WL 1561606 (E.D. Tex. Apr. 20, 2021) .....	3
<i>Baldwin Graphic Sys., Inc. v. Siebert, Inc.</i> , 512 F.3d 1338 (Fed. Cir. 2008).....	36
<i>Bicon, Inc. v. Straumann Co.</i> , 441 F.3d 945 (Fed. Cir. 2006).....	8
<i>Boehringer Ingelheim Vetmedica, Inc. v. Schering-Plough Corp.</i> , 320 F.3d 1339 (Fed. Cir. 2003).....	9
<i>Catalina Mktg. Int’l, Inc. v. Coolsavings.com, Inc.</i> , 289 F.3d 801 (Fed. Cir. 2002).....	9, 20, 21
<i>Conoco, Inc. v. Energy &amp; Env’tl. Int’l, L.C.</i> , 460 F.3d 1349 (Fed. Cir. 2006).....	38
<i>Cordis Corp. v. Boston Sci. Corp.</i> , 561 F.3d 1319 (Fed. Cir. 2009).....	33
<i>In re Driscoll</i> , 562 F.2d 1245 (C.C.P.A. 1977) .....	38
<i>Finisar Corp. v. DirecTV Grp., Inc.</i> , 523 F.3d 1323 (Fed. Cir. 2008).....	3
<i>Hill-Rom Servs., Inc. v. Stryker Corp.</i> , 755 F.3d 1367 (Fed. Cir. 2014).....	33, 44, 45
<i>Hochst Celanese Corp. v. BP Chems. LP</i> , 78 F.3d 1575 (Fed. Cir. 1996).....	39, 40

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.