**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.	§ §	**JURY TRIAL DEMANDED**
	§	
T-MOBILE USA, INC. and T-MOBILE US, INC.,	§ § §	▮▮▮▮▮▮▮▮
	§	
Defendants.	§	
AGIS SOFTWARE DEVELOPMENT LLC,	§ § §	Case No. 2:21-cv-00026-JRG
Plaintiff,	§ §	(MEMBER CASE)
	§	
v.	§ §	**JURY TRIAL DEMANDED**
	§	
UBER TECHNOLOGIES, INC., d/b/a UBER,	§ § §	▮▮▮▮▮▮▮▮
	§	
Defendant.	§	

**PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC'S OPPOSED
MOTION TO COMPEL DEFENDANT UBER TECHNOLOGIES, INC.,
D/B/A UBER TO PROVIDE DISCOVERY**

Plaintiff AGIS Software Development LLC ("AGIS" or "Plaintiff"), by and through its undersigned counsel, respectfully requests that the Court compel Defendant Uber Technologies, Inc., d/b/a Uber's ("Defendant" or "Uber") to produce relevant discovery.

AGIS has asserted server system claims and server method claims of U.S. Patent No. 10,341,838 (the "'838 patent"). On October 13, 2021, Uber's corporate representative, ███

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On the same date, AGIS requested that Uber provide documents and information regarding foreign rides routed and processed through Uber's U.S. data centers and servers, including financial data and usage metrics relevant to damages. Uber ignored AGIS's request until after the scheduled date for Uber's financial witness, and AGIS followed up to indicate its intention to file this motion. On October 26, 2021, Uber confirmed its refusal to produce the requested information. AGIS requests that Uber (1) supplement its responses to Interrogatory No. 3 to include financial information sought related to foreign rides routed through and processed through Uber's U.S. data centers and servers; and (2) produce documents and information related to foreign rides routed through and processed through Uber's U.S. data centers and servers, including financial data and usage metrics. AGIS also requests the deposition of another Rule 30(b)(6) corporate representative designated to address the financial data and usage metrics topics related to this additional information.

I.   LEGAL STANDARDS

The Court's Discovery Order requires, upon request, production or access to "all documents . . . in the possession, custody, or control of the party that are relevant to the pleaded claims or defenses involved in this action." Dkt. 79 at 3. In the Eastern District of Texas, "[t]he rules of discovery are accorded a broad and liberal application to affect their purpose of adequately informing litigants in civil trials." *Edward D. Ioli Trust v. Avigilon Corp.*, No. 2:10-cv-605, 2012 WL 5830711, at *3 (E.D. Tex. Nov. 16, 2012); *Charles E. Hill & Assocs. v. ABT Elecs., Inc.*, 854 F. Supp. 2d 427, 428 (E.D. Tex. 2012) (same language); *see also STMicroelectronics, Inc. v. Motorola, Inc.*, 308 F. Supp. 2d 754, 756 (E.D. Tex. 2004) ("In any case the Court will not tolerate gamesmanship that attempts to conceal or delay the production of discoverable items.").

After a party attempts in good faith to obtain discovery without assistance from the court, the party may move for an order compelling disclosure or discovery. Fed. R. Civ. P. 37(a)(1). The party resisting discovery carries the burden to demonstrate "specifically how each discovery request is not relevant or [is] otherwise objectionable." *See McKinney/Pearl Rest. Partners, L.P. v. Metro. Life Ins. Co.*, No. 3:14-cv-2498-B, 2016 WL 2997744, at *4 (N.D. Tex. May 25, 2016) (citing *McLeod, Alexander, Powel & Apffel, P.C. v. Quarles,* 894 F.2d 1482, 1485 (5th Cir. 1990)). Here, Uber does not contend that AGIS's discovery requests seek irrelevant information.

II.   DISCUSSION

Throughout this case, AGIS has attempted to avoid involving the Court in its attempts to convince Uber to provide responsive information. AGIS has diligently sought discovery from Uber throughout this case. Following extensive correspondence and meet-and-confers, AGIS has yet to receive the following relevant discovery.

A.   **Uber Should Be Required to Provide a Complete Response to Interrogatory No. 3 and Accompanying Documents**

Uber has provided an incomplete response to Interrogatory No. 3 which requested that Uber identify "on a monthly basis from January 2015 to present: the gross revenue, net profits, profit margins, fixed and variable costs, average cost per unit (i.e., application, service, and server) and transfer pricing."   Ex. B, Uber's Objs. and Resp. to AGIS's First Set of Interrogatories, Interrogatory No. 3. In response, ███████████████████████████████████████

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██████████████████████████████████████. Uber refuses to supplement its financial data and usage metrics for foreign rides that are routed through U.S. data centers and servers.

████████████████ who Uber designated as a corporate representative with respect to certain topics in the Notice of Rule 30(b)(6) Deposition testified regarding the rider app of the Uber applications. ██

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████ Based on ████████ testimony, AGIS requested that Uber produce documents and information related to domestic and foreign usage, requests, and transactions of Uber's rider and driver applications that resulted in activities that infringe the server method and system claims of the Asserted Patents and occur on Uber's servers located within the United States. AGIS maintained that Uber's interrogatory responses and documents limiting its financial information to U.S. only was improper.

Accordingly, Uber should be compelled to provide (1) supplemental responses to Interrogatory No. 3 to include the financial data and usage metrics sought related to foreign rides routed and processed through Uber's U.S. data centers and servers; and (2) produce documents and information related to foreign rides routed and processed through Uber's U.S. data centers and servers, including financial data and usage metrics. AGIS also requests the deposition of another Rule 30(b)(6) corporate representative designated to address the financial and usage metrics topics related to this additional information.

III.   CONCLUSION

For the foregoing reasons, AGIS respectfully requests that the Court compel Uber to provide the requested discovery.

Dated: November 3, 2021

Respectfully submitted,

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