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

AGIS SOFTWARE DEVELOPMENT LLC, v. T-MOBILE USA, INC., AND T-MOBILE US, INC.	§ § § § § §	CASE NO. 2:21-cv-00072-JRG (Lead Case)

AGIS SOFTWARE DEVELOPMENT LLC, v. UBER TECHNOLOGIES, INC., d/b/a UBER,	§ § § § § §	CASE NO. 2:21-cv-00026-JRG (Member Case)

DEFENDANT UBER TECHNOLOGIES, INC.'S
OPPOSED MOTION TO COMPEL ADDITIONAL DEPOSITION TIME FOR MALCOLM BEYER JR.

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Defendant Uber Technologies, Inc. ("Uber") respectfully requests that the Court order Plaintiff AGIS Software Development LLC ("AGIS") to produce Malcolm Beyer Jr. for five hours of additional deposition time, independent of any additional time requested by Lyft.

I. BACKGROUND

Mr. Beyer is the sole named inventor for two of the asserted patents in this case, and he is the named co-inventor on the other three patents in this case. He is also the CEO of AGIS Software, the plaintiff in this case, and the CEO of AGIS Inc., which is a related company that purports to sell products practicing the patents. Mr. Beyer exercises such control over both companies that, at his deposition, he mistakenly thought he was the plaintiff himself. AGIS disclosed Mr. Beyer in its Initial Disclosures as having knowledge on a number of issues, and on September 22, 2021, Uber noticed Mr. Beyer's deposition in his personal capacity. Furthermore, AGIS Software designated Mr. Beyer on ***ninety-one*** corporate topics, and AGIS Inc. designated Mr. Beyer on ***eighty-one*** corporate topics, out of the one hundred and seventy-seven total topics Uber requested to both AGIS entities. That is, AGIS Software and AGIS Inc. designated Mr. Beyer on 172 out of 177 topics, and only a handful of overlapping topics were assigned to any other witness, despite AGIS identifying twelve other witnesses with knowledge relevant to the issues in the case.

On October 1, 2021, AGIS[1] offered Mr. Beyer for deposition, subject to a seven-hour limitation. Uber responded, stating that a seven-hour limit would not work, given the number of topics for which Mr. Beyer was designated, and based on his role as inventor and CEO of both

[1] The same law firm represents AGIS Inc. and AGIS Software. The referenced email does not clarify whether it was sent on behalf of one or both of the entities.

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entities. After a number of discussions between the parties, AGIS[2] offered to put Mr. Beyer up for two five-hour depositions, and it agreed to meet and confer following the second deposition to discuss a potential third deposition. Uber maintained that it required more than ten hours, particularly given the number of topics.

Mr. Beyer was put up for deposition on October 20 and October 22, 2021, for five hours each day. At the end of the second deposition, Uber stated its need for additional time. The parties thereafter conferred, and Uber requested five additional hours. AGIS offered three hours, limited to a handful of specifically enumerated topics, and with the time being shared among the other defendants. Uber refused to agree to AGIS's conditions, and the parties reached an impasse. *See* Ex. A.

II. LEGAL STANDARD

"The rules of discovery 'are to be accorded a broad and liberal treatment to effect their purpose of adequately informing litigants in civil trials.'" *EVS Codec Techs., LLC v. OnePlus Tech. (Shenzhen) Co., Ltd.*, No. 2:19-CV-00057-JRG, 2020 WL 6365514, at *1 (E.D. Tex. Apr. 9, 2020) (quoting *Herbert v. Lando*, 441 U.S. 153, 176 (1979)). Regarding the length of depositions, the Federal Rules provide that the default length is seven hours, but the court "must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination." Fed. R. Civ. Pro. 30(d)(1). The Discovery Order in this case provides that depositions may exceed seven hours upon a showing of good cause. *See* D.I. 79 at 5(c).

[2] Again, the law firm sending the email represents both AGIS entities, and it is not clear from the email whether it was sent on behalf of one of the entities or both.

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