

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

AGIS SOFTWARE DEVELOPMENT LLC,

Plaintiff,

v.

T-MOBILE USA, INC. and T-MOBILE US,  
INC.,

Defendants.

CASE NO. 2:21-cv-00072-JRG  
(Lead Case)

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AGIS SOFTWARE DEVELOPMENT LLC,

Plaintiff,

v.

UBER TECHNOLOGIES, INC., d/b/a UBER,

Defendant.

CASE NO. 2:21-cv-00026-JRG  
(Member Case)

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**DEFENDANT UBER TECHNOLOGIES, INC.’S OPPOSITION TO PLAINTIFF AGIS  
SOFTWARE DEVELOPMENT LLC’S MOTION TO COMPEL UBER TO PROVIDE  
DISCOVERY RELATING TO FOREIGN RIDES**



**TABLE OF CONTENTS**

	<u>Page</u>
I. INTRODUCTION .....	1
II. FACTUAL AND PROCEDURAL BACKGROUND.....	1
III. ARGUMENT .....	4
A. AGIS Must Prove All Alleged Infringing Steps Occur In The United States. ....	4
B. Judicial Estoppel Bars AGIS’s Request.....	6
C. AGIS’s Motion Ignored The Actual Dispute Between the Parties, and AGIS Should be Sanctioned for Its Conduct. ....	7
IV. CONCLUSION.....	7



**TABLE OF AUTHORITIES**

**Page(s)**

**CASES**

*Carnegie Mellon Univ. v. Marvell Tech. Grp., Ltd.*,  
807 F.3d 1283 (Fed. Cir. 2015).....8

*Finjan, Inc. v. Qualys Inc.*,  
2020 WL 5569704 (N.D. Cal. Sept. 17, 2020) .....8

*Internet Machines LLC v. Alienware Corp.*,  
2011 WL 13152813 (E.D. Tex. Nov. 29, 2011) .....8

*IRIS Corp. v. Japan Airlines Corp.*,  
769 F.3d 1359 (Fed. Cir. 2014).....7

*Kajeet, Inc. v. Qustodio, LLC*,  
2019 WL 8060078 (C.D. Cal. Oct. 22, 2019).....8

*Love v. Tyson Foods, Inc.*,  
677 F.3d 258 (5th Cir. 2012) .....9

*NTP, Inc. v. Rsch. In Motion, Ltd.*,  
418 F.3d 1282 (Fed. Cir. 2005).....7

**STATUTES**

35 U.S.C. § 271.....7

## I. INTRODUCTION

AGIS's motion to compel Uber to produce financial information relating to foreign rides ignores the representations AGIS made to this Court in opposition to Uber's venue-related motion to dismiss, ignores Uber's discovery responses, ignores the law, and misrepresents the facts. Respectfully, the Court should deny the motion and award Uber its fees incurred in responding to this frivolous motion.

## II. FACTUAL AND PROCEDURAL BACKGROUND

One of the patents asserted in this case, U.S. Patent No. 10,341,838, has claims which, according to the preambles, are directed to systems and methods of operation of servers. Given the server-focus of the '838 patent, Uber filed a motion to dismiss for improper venue, explaining that Uber does not have any servers in this District, and so no acts of infringement occurred in this District to support venue. *See* Dkt. No. 24 at 5–6.

In its Opposition to Uber's motion, AGIS argued that venue is appropriate in this District because at least one claim element was satisfied in the District, citing *Seven Networks, LLC v. Google LLC*. Dkt. No. 43 at 9. In support, AGIS argued that Uber engages “in a classic hybrid cloud approach[,] which utilizes co-located data centers located in the United States and multiple third-party cloud computing services.” Dkt. No. 43 at 8 (internal quotation marks and citation omitted). AGIS also pointed the Court to Uber's “massive network” consisting of “tens of millions of Drivers, consumers, restaurants, shippers, [and] carriers,” *id.* at 8, such that “Uber and its customers have performed at least one step of the '838 Patent claims in the District,” *id.* at 10. AGIS repeated these arguments in its sur-reply: “Defendant [Uber] and its customers have performed at least one step of the '838 Patent claims in this District and some portion of Defendant's infringing products, systems, and/or servers is located in this District.” Dkt. No. 69

[REDACTED]

at 1–2. In short, AGIS repeatedly asserted that because drivers, riders, and co-located servers were present in the District, regardless of the location of Uber’s servers, at least one step or act of infringement occurred in this District, making venue proper. *Id.*

On September 3, 2021, the Court denied Uber’s motion to dismiss for improper venue, adopting AGIS’s position. Specifically, the Court pointed to the co-located data centers, the third-party cloud computing services, and the drivers and riders in the District as evidence that acts of infringement occur in the District. *See* Dkt. No. 142 at 6.

On October 13, 2021, AGIS took the deposition of Tate Postnikoff. Mr. Postnikoff is an engineer who works on the Rider application at Uber, and he was designated as a Rule 30(b)(6) witness on topics relating to the Rider app. He was not designated on topics relating to Uber’s servers. Despite this, AGIS asked Mr. Postnikoff about Uber’s servers. In response, Mr. Postnikoff testified [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Mr. Postnikoff’s answers were neither on behalf of the company nor were they definitive.

Based on this testimony, AGIS asserted all activity relevant to the ’838 patent, including activity related to rides outside of the United States, occurred in the United States and demanded

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