

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

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

---

AGIS SOFTWARE DEVELOPMENT LLC, §  
v. § CASE NO. 2:21-cv-00024-JRG  
LYFT, INC. § (Member Case)

---

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

---

AGIS SOFTWARE DEVELOPMENT LLC, §  
v. § CASE NO. 2:21-cv-00029-JRG  
WHATSAPP, INC. § (Member Case)

**DEFENDANT UBER TECHNOLOGIES, INC.'S MOTION TO DISMISS**

**TABLE OF CONTENTS**

	<u>Page</u>
I. INTRODUCTION .....	1
II. STATEMENT OF THE ISSUES TO BE DECIDED.....	3
III. BACKGROUND .....	3
IV. ARGUMENT .....	5
A. Venue Is Improper for the '838 Patent. ....	5
B. The '728 Patent Should Be Dismissed as Patent Ineligible.....	6
1. The History and Summary of the '728 Patent .....	7
a) AGIS, Inc.'s Failed Litigation in the Southern District of Florida. ....	7
b) The '728 Patent Discloses and Claims Speed Dial Using a Graphical Display. ....	8
2. The '728 Patent Fails the <i>Alice</i> Two-Step Eligibility Test. ....	10
a) <i>Alice</i> Step One: The Claims Are Directed to an Abstract Idea of Storing, Organizing and Displaying Information. ....	10
i. Initiating a Call By Touching the Symbol on a Map Display Merely Involves the Abstract Idea of Collecting, Organizing and Displaying Information. ....	11
ii. Placing a Call by Pressing a Symbol on a Display Is a Routine Task That Could Be Performed by a Human.....	12
b) <i>Alice</i> Step Two: The Asserted Claims Do Not Include an Inventive Concept. ....	14
i. Viewed Individually, the Elements of Claim 7 Recite Only Conventional Subject Matter. ....	14
ii. Viewed Collectively, the Elements of Claim 7 Still Recite Only Conventional Subject Matter. ....	16
C. AGIS Fails to Present Plausible Claims of Direct, Indirect and Willful Infringement.....	17
1. For the '970, '728, and '724 Patents, AGIS Fails to Plausibly Plead Direct Infringement Under a Joint Infringement Theory. ....	18
2. AGIS Fails to Plead Facts to Plausibly Support Its Direct Infringement Allegations for All Patents. ....	20
a) AGIS Nonsensically Cuts and Pastes the Same Conclusory Allegations Across Different Patents .....	21
b) AGIS's Complaint Contains Irreconcilable Internal Inconsistencies. ....	22
i. For the '970 Patent, the Allegations and Factual Support Are Irreconcilable. ....	23
ii. For the '724 and '728 Patents, the Allegations and Factual Support Are Irreconcilable.....	24
c) AGIS's Other Direct Infringement Allegations Are Insufficient. ....	25
3. AGIS's Indirect Infringement Claims for All Patents Fail. ....	27

a) Lacking Plausible Claims of Direct Infringement, the Complaint Cannot Allege Plausible Claims of Indirect Infringement.....	27
b) For the '838 Patent, AGIS Fails to Allege Direct Infringement by Another.....	28
B. AGIS's Claims of Willful Infringement Should Be Dismissed.....	29
II. CONCLUSION.....	30

### TABLE OF ABBREVIATIONS

<b>Abbreviation</b>	<b>Meaning</b>
'970 Patent	U.S. Patent No. 8,213,970 (Dkt. No. 1-1)
'724 Patent	U.S. Patent No. 7,630,724 (Dkt. No. 1-2)
'728 Patent	U.S. Patent No. 7,031,728 (Dkt. No. 1-3)
'100 Patent	U.S. Patent No. 10,299,100 (Dkt. No. 1-4)
'838 Patent	U.S. Patent No. 10,341,838 (Dkt. No. 1-5)
Complaint/Compl.	Complaint for Patent Infringement (Dkt. No. 1) (Jan. 29, 2021)

## TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE(S)</u>
<i>Achates Reference Publ'g, Inc. v. Symantec Corp.</i> , 2013 WL 693955 (E.D. Tex. Jan. 10, 2013).....	29
<i>Advanced Ground Information Systems, Inc. v. Life360, Inc.</i> , 830 F.3d 1341 (Fed. Cir. 2016).....	8
<i>Advanced Ground Information Systems, Inc. v. Life360, Inc.</i> , No. 14-80651, 2014 WL 12652322 (S.D. Fla. Nov. 21, 2014) .....	8
<i>Advanced Ground Information Systems, Inc. v. Life360, Inc.</i> , No. 14-80651, Dkt. 48 (S.D. Fla. Sept. 17, 2014) .....	8
<i>Affinity Labs of Tex., LLC v. DIRECTV, LLC</i> , 838 F.3d 1253 (Fed. Cir. 2016).....	16
<i>Aftechmobile Inc. v. Salesforce.com, Inc.</i> , 2020 WL 6129139 (N.D. Cal. Sept. 2, 2020) .....	26
<i>Akamai Techs., Inc. v. Limelight Networks, Inc.</i> , 797 F.3d 1020 (Fed. Cir. 2015).....	18
<i>Alice Corp. v. CLS Bank Int'l</i> , 573 U.S. 208 (2014).....	6, 14
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009).....	20
<i>Bell Atlantic Corp. v. Twombly</i> , 550 U.S. 544 (2007).....	29
<i>BSG Tech LLC v. Buyseasons, Inc.</i> , 899 F.3d 1281 (Fed. Cir. 2018).....	13, 14, 16, 17
<i>Chapterhouse, LLC v. Shopify, Inc.</i> , 2018 WL 6981828 (E.D. Tex. Dec. 11, 2018).....	21, 26, 27
<i>ChargePoint, Inc. v. SemaConnect, Inc.</i> , 920 F.3d 759 (Fed. Cir. 2019).....	6
<i>Cleveland Clinic Found. v. True Health Diagnostics LLC</i> , 859 F.3d 1352 (Fed. Cir. 2017).....	7
<i>Content Extraction &amp; Transmission LLC v. Wells Fargo Bank, National Ass'n</i> , 776 F.3d 1343 (Fed. Cir. 2014).....	13, 15

# 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.