

**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. §

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

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

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

**DEFENDANT UBER TECHNOLOGIES, INC.'S MOTION TO STAY PENDING  
RESOLUTION OF STANDING ISSUE**

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## I. INTRODUCTION

We learn early in life that when we make a promise and give something to another, it's gone. It no longer belongs to us, so we can't give it to someone else. Unfortunately, that lesson appears to have been forgotten in this case.

Three of the five asserted patents name two inventors: Malcolm K. Beyer and Christopher R. Rice. Mr. Beyer claims to have founded Plaintiff AGIS Software Development LLC ("AGIS"), or at least its predecessor, and, based on the facts currently known to it, Defendant Uber Technologies, Inc. ("Uber") has no basis to challenge his assignment of patent rights to the company.

The facts surrounding Mr. Rice's purported assignments, however, lead to a different conclusion. Mr. Rice joined Microsoft in 2005. In 2005, Microsoft employee agreements included a provision that required the employee—at the time of their employment—to then grant, transfer, and assign to Microsoft all rights, title and interest to any inventions the employee may develop. Uber contends Mr. Rice executed such an agreement and, by doing so, he promised to and gave to Microsoft his inventions. But after joining Microsoft, and while still a Microsoft employee, Mr. Rice apparently ignored that promise and tried to give away rights he had already given to Microsoft. Indeed, in 2006 and again in 2015, Mr. Rice executed assignments for his inventions to AGIS. But as that early life lesson taught us, we can't give something away twice; Mr. Rice had nothing to give to AGIS in 2006 and 2015. Microsoft is thus a co-owner of the three patents that name Mr. Rice as an inventor.

All co-owners of a patent must join a case alleging infringement of the patent. Absent all co-owners, the case cannot proceed. That is clear. Microsoft is not a plaintiff to this case, and the case cannot proceed as to the three patents co-owned by Microsoft because AGIS lacks statutory standing. It is also clear that one co-owner cannot compel another co-owner to join the suit. This

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