

Plaintiff AGIS Software Development LLC (“AGIS”) hereby submits the following notice of supplemental information to notify the Court of new information relevant to AGIS’s Objections to the Court’s Claim Construction Order (Dkt. 237) (“Objections”). Attached to this notice are **Exhibit 1**, which consists of relevant excerpts of the December 15, 2021 deposition of Defendant Uber, Inc.’s (“Uber”) technical expert witness, Dr. Neil Siegel, and **Exhibit 2**, which consists of the relevant portions of the technical expert report of Dr. Siegel referenced by Dr. Siegel in the excerpts of the depositions transcript in Exhibit 1.

AGIS submitted in its Opening Claim Construction Brief that the term “using the IP address previously” of claim 9 of the ’724 patent should be construed according to its plain and ordinary meaning and that the claim term is not indefinite. Defendants’ argued that this claim term is indefinite. In the Claim Construction Order, the Court found that this claim term is indefinite. *See* Dkt. 213 at 28.

In its Objections, AGIS stated that a person of ordinary skill in the art would understand that “using the IP address previously” refers to the previously-received IP address in the beginning of the limitation. AGIS submitted that the Order was based on a clear error by rejecting AGIS’s proposed construction and holding this claim term was indefinite, particularly where (a) the claims and specification of the ’724 Patent disclose that claim 9 of the ’724 Patent recites two alternatives for IP-based transmission, and (b) the record demonstrated that a person of ordinary skill in the art would have understood the term with reasonable certainty and that no skilled artisan would have understood the claim to use the IP address to transmit to plural recipients, as initially found by the Court. *See* Dkt. 237 at 2. Uber’s expert testimony confirms these points.

During the December 15, 2021 deposition of Uber’s technical expert, Dr. Neil Siegel testified that he had “no problem reading and understanding this limitation and understanding how

it is met by IP communication using digital messages.” *See* Exhibit 1, Siegel Rough Tr. 91:14-20 (“Yes, I understand this limitation.”) *citing* Exhibit 2. Dr. Siegel further testified that in order to meet this claim limitation, “[y]ou have to exchange IP addresses using SMS or another digital format, and I addressed both of these. Among network participant users, so that communication between participants is established by IP. And I talked about that.” *Id.* at 90:15-21. Accordingly, Dr. Siegel stated that it is his understanding that the claim limitation “is met by exchanging IP addresses, using a digital message format, sending those IP addresses to the server, and communicating on those IP addresses.” *Id.* at 91:21-92:4. Dr. Siegel testified that “using the IP address previously,” refers to the “*client’s IP address*” that was “previously provided to the server over the digital message.” *Id.* at 92:14-93:9; *see also id.* at 93:10-14 (“Q. And so you have no problem reading that and understanding that limitation and explaining it to a jury. Is that what you’re saying? A. Correct.”). This expert testimony is relevant to Plaintiff’s arguments that claim 9 sufficiently informs, with reasonable certainty, those skilled in the art about the scope of the invention, particularly where Uber and Dr. Siegel have submitted that Dr. Siegel’s experience enables him to speak with authority concerning what a person of ordinary skill in the art would know and would be expected to know. *See* Exhibit 2.

Accordingly, AGIS submits that the above information is relevant to the Court’s construction of the term “using the IP address previously” of claim 9 of the ’724 patent. AGIS respectfully requests consideration of this information in the Court’s review of its Objections.

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Respectfully submitted,

/s/ Vincent J. Rubino, III

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2021, a true and correct copy of the above and foregoing document has been served by email on all counsel of record.

/s/ Vincent J. Rubino, III

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