

EXHIBIT 1

DRAFT-1

DRAFT-3

1 *UNCERTIFIED, UNEDITED, ROUGH DRAFT TRANSCRIPT*

2 DEPOSITION OF: Neil G. Siegel, Ph.D.

3 12-15-2021

4 AGIS v Uber

5

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2 -----

3 P R O C E E D I N G S

4 December 15, 2021, 9:38 a.m. PST

09:38:46 5 -----

09:38:46 6 THE VIDEOGRAPHER: We are now

09:38:55 7 on the record. Today's date is

09:38:57 8 December 15th, 2021, and the time is

09:39:02 9 9:39 a.m. Pacific Standard Time. This

09:39:05 10 is the deposition of Neil Siegel in

09:39:08 11 the matter of AGIS Software

09:39:10 12 Development, LLC versus Uber

09:39:12 13 Technologies, Inc., filed in the

09:39:14 14 United States District Court for the

09:39:16 15 Eastern District of Texas, Marshall

09:39:18 16 Division. Case number is

09:39:23 17 2:21-CV-00026-JRG.

09:39:27 18 This deposition is taking place

09:39:30 19 via webview conference with all

09:39:32 20 participants attending remotely. My

09:39:34 21 name is Matthew Greenhalgh. I'm the

09:39:37 22 videographer from TransPerfect. Would

09:39:38 23 counsel on conference please identify

09:39:38 24 yourselves and state whom you

09:39:40 25 represent beginning with the

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DRAFT-4

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09:39:40 2 questioning attorney.

09:39:42 3 MR. RUBINO: Vincent Rubino for

09:39:45 4 the law firm Fabricant LLP for the

09:39:47 5 plaintiff AGIS.

09:39:48 6 MR. IWAHASHI: Ryan Iwahashi,

09:39:51 7 Gibson Dunn, on behalf of Uber.

09:39:56 8 THE VIDEOGRAPHER: The court

09:39:57 9 reporter today is Debbie Dibble,

09:39:58 10 representing TransPerfect. The court

09:40:00 11 reporter will now swear in the

09:40:01 12 witness.

09:40:19 13 -----

14 NEIL SIEGEL, Ph.D.,

15 having been duly sworn,

16 testified as follows:

09:40:19 17 -----

18 EXAMINATION

19 -----

20 BY MR. RUBINO:

09:40:20 21 Q. Good afternoon, sir. Can you

09:40:22 22 please state your full name for the record?

09:40:24 23 A. Neil Gilbert Siegel.

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11:52:39 **2** done by IP. There are other protocols, of

11:52:44 **3** course, but all FBCB2 communications used IP.

11:52:48 **4** **Q.** Including the voice

11:52:49 **5** communications?

11:52:50 **6** **A.** Including the voice

11:52:51 **7** communications, yeah.

11:52:52 **8** **Q.** So it's fair to say all of the

11:52:55 **9** voice communications used by FBCB2 were over

11:53:00 **10** IP; correct?

11:53:02 **11** **A.** Yes. If you turn back to

11:53:03 **12** page 61 of my report. Tell me when you're

11:53:09 **13** there.

11:53:29 **14** **Q.** Okay.

11:53:29 **15** **A.** Do you see the little diagram

11:53:31 **16** about a third of the way down the page?

11:53:35 **17** **Q.** Okay.

11:53:36 **18** **A.** So do you see the little

11:53:37 **19** diamond-shaped box in the center of that

11:53:39 **20** diagram that has the letters INC?

11:53:46 **21** **Q.** Okay.

11:53:46 **22** **A.** That box stands for internet

11:53:48 **23** controller. That is an IP router. And you

11:53:51 **24** see that the applique FBCB2 computer talks

11:53:56 **25** directly to that router and that router is

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11:57:18 **2** I could find one or more if you give me the

11:57:20 **3** time. I talked about, for example, the login

11:57:23 **4** process, and the server registration -- other

11:57:27 **5** places I talk about the server registration

11:57:29 **6** process, which allows the -- involves the

11:57:35 **7** exchange of IP addresses. Several places in

11:57:39 **8** here I talk about messaging processes, which

11:57:44 **9** uses those IP addresses to route those

11:57:47 **10** messages.

11:57:50 **11** But the server registration and

11:57:52 **12** the logon process is explicitly are discussed

11:57:55 **13** and they both involve the exchange of IP

11:58:00 **14** addresses.

11:58:02 **15** **Q.** So where is that in paragraphs

11:58:11 **16** 132 through 138?

11:58:14 **17** **A.** Well, at the beginning of

11:58:46 **18** paragraph 136 says: Also as explained above

11:58:50 **19** with respect to element six, communication

11:58:53 **20** between participants with FBCB2 is

11:58:56 **21** established and accomplished by the use of IP

11:58:59 **22** protocol. And, of course, a person of

11:59:04 **23** ordinary skill in the art would understand

11:59:05 **24** that to establish and accomplish

11:59:08 **25** communications by using the IP protocol

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11:53:58 **2** what talks to the actual communication

11:54:00 **3** devices, as is very common in IP

11:54:05 **4** communication systems. So FBCB2 only talks

11:54:11 **5** to devices by talking through that controller

11:54:14 **6** and it does that communication via IP.

11:54:16 **7** **Q.** You'd like you to take a look

11:55:06 **8** at paragraph 132 of your report.

11:55:12 **9** **A.** 1-3-2. Uh-huh. I see it.

11:55:18 **10** **Q.** So for this limitation you have

11:56:07 **11** set forth as 7, which is exchanging IP

11:56:11 **12** addresses using SMS. Do you see that?

11:56:14 **13** **A.** Uh-huh.

11:56:19 **14** **Q.** Are you saying that that

11:56:20 **15** limitation is met explicitly by FBCB2 or

11:56:27 **16** rendered obvious by FBCB2?

11:56:29 **17** **A.** Let me read it again.

11:56:34 **18** [Document review.]

11:56:41 **19** From FBCB2 explicitly meets

11:56:44 **20** that is what I'm saying.

11:56:45 **21** **Q.** (BY MR. RUBINO) So I just

11:56:55 **22** don't see it in her, but where are you saying

11:56:59 **23** that FBCB2 exchanges IP addresses using SMS

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11:59:10 **2** involves the exchange of IP addresses.

11:59:12 **3** **Q.** It involves the exchange of IP

11:59:16 **4** addresses over SMS?

11:59:17 **5** **A.** Your claim limitations says

11:59:21 **6** using SMS or other digital message format.

11:59:24 **7** **Q.** So what's the other digital

11:59:26 **8** message you're relying on in paragraph 136?

11:59:30 **9** **A.** Hang on for a second. Let me

11:59:32 **10** find the discussion.

11:59:41 **11** There's a discussion that

11:59:43 **12** commences with paragraph 83 on page 45 that

11:59:48 **13** talks about the FBCB2 short message service.

11:59:54 **14** **Q.** I'm asking you, in your

11:59:56 **15** description of this limitation, where do you

11:59:59 **16** say that IP addresses are exchanged over SMS

12:00:05 **17** or other digital messages?

12:00:06 **18** **A.** It says right here: Establish

12:00:10 **19** and accomplish by use of the IP protocol.

12:00:13 **20** That is a -- and there's another place in

12:00:16 **21** here where I talk about the exact message

12:00:18 **22** formats we use.

12:00:22 **23** **Q.** So, in other words, what you're

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12:00:29 **2** met this limitation. Is that what you're

12:00:30 **3** saying?

12:00:30 **4** MR. IWAHASHI: Object to the

12:00:31 **5** form.

12:00:31 **6** A. No, I talk about in other

12:00:36 **7** places the message format that we use.

12:00:44 **8** In 137, there's a whole

12:00:46 **9** discussion of the message formats, which

12:00:48 **10** would appear to exactly meet the limitation

12:00:51 **11** phrase "other digital message format." In

12:00:54 **12** one 37, I exactly discuss the message formats

12:01:04 **13** and I even have a citation that shows the

12:01:08 **14** list of these short messages.

12:01:09 **15** Q. (BY MR. RUBINO) How is that

12:01:12 **16** exchanging IP addresses?

12:01:17 **17** A. It's the format of the messages

12:01:19 **18** that could include the IP address as the data

12:01:22 **19** that's being exchanged.

12:01:24 **20** Q. So to meet this limitation that

12:01:28 **21** you've identified as limitation 7, it's your

12:01:31 **22** opinion that all you need to do is to have a

12:01:34 **23** digital message format that includes the IP

12:01:37 **24** address and you've met it. Is that fair?

12:01:41 **25** MR. IWAHASHI: Object to the

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12:02:53 **2** Which transmits data to other

12:02:57 **3** network participants using IP. And I talk

12:02:59 **4** about that in many places in the document as

12:03:01 **5** well. For example, when I talk about

12:03:03 **6** situational awareness distribution, I talk

12:03:06 **7** about that FBCB2 report their position to

12:03:12 **8** their server and the server bundles those up

12:03:15 **9** and periodically, according to some rules

12:03:18 **10** based on time and motion, transmits bundles

12:03:22 **11** of those position reports to all of the units

12:03:26 **12** that it serves and to other servers. And

12:03:29 **13** that's all accomplished by IP.

12:03:31 **14** Q. So you have no problem reading

12:03:34 **15** and understanding this limitation and

12:03:36 **16** understanding how it is met by IP

12:03:39 **17** communication using digital messages. Is

12:03:42 **18** that fair?

12:03:43 **19** A. Yes, I understand this

12:03:45 **20** limitation.

12:03:47 **21** Q. And it's your understanding

12:03:48 **22** that this claim limitation that you've called

12:03:52 **23** 7 is met by exchanging IP addresses, using a

12:04:00 **24** digital message format, sending those IP

12:04:04 **25** addresses to the server, and communicating on

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12:01:42 **2** form.

12:01:42 **3** A. No, you have to actually

12:01:49 **4** exchange those IP addresses.

12:01:52 **5** Q. (BY MR. RUBINO) Is that it?

12:01:52 **6** Does it require anything else?

12:01:54 **7** A. Using SMS or another digital --

12:01:56 **8** I mean, I could read the limitation to you,

12:01:59 **9** right? Establish via IP, et cetera,

12:02:04 **10** et cetera. What's required are all the words

12:02:08 **11** in limitation 7.

12:02:12 **12** Q. So what is required -- explain

12:02:17 **13** to me like you're going to explain to a jury,

12:02:20 **14** what is required to meet this limitation.

12:02:23 **15** A. You have to exchange IP

12:02:26 **16** addresses using SMS or another digital

12:02:29 **17** format, and I addressed both of those.

12:02:32 **18** Among network participant

12:02:34 **19** users, so that communication between

12:02:36 **20** participants is established by IP. And I

12:02:42 **21** talked about that.

12:02:42 **22** Or transmission of a network

12:02:47 **23** participant's IP network of a server, and I

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12:04:06 **2** those IP addresses; right?

12:04:08 **3** A. And all of the other words that

12:04:10 **4** you have in that limitation, yes.

12:04:12 **5** Q. You know, with regard to second

12:04:28 **6** to last line, limitation 7, do you see where

12:04:33 **7** it says: Which then transmits data to other

12:04:37 **8** network participants using the IP address

12:04:39 **9** previously?

12:04:42 **10** A. Yes, I see that.

12:04:44 **11** Q. Which IP address is that?

12:04:48 **12** MR. IWAHASHI: Object to the

12:04:48 **13** form.

12:04:56 **14** Q. (BY MR. RUBINO) In other

12:04:56 **15** words, is it the server's IP address or the

12:04:58 **16** device's IP address?

12:05:03 **17** A. It's the client's IP address.

12:05:06 **18** Q. So, in other words, that's the

12:05:07 **19** client's IP address that was previously

12:05:10 **20** provided to the server over the digital

12:05:12 **21** message; is that right?

12:05:16 **22** A. Right. This talks about the

12:05:18 **23** server which transmits data, and the server

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12:05:26 **2** in the report, it might be sending that data

12:05:30 **3** to other servers in the configuration

12:05:35 **4** registration where there's more than one

12:05:36 **5** server.

12:05:37 **6** But generally, when a server

12:05:39 **7** transmits something, it is thought of

12:05:41 **8** primarily as transmitting to its served

12:05:45 **9** clients.

12:05:46 **10** Q. And so you have no problem

12:05:47 **11** reading that and understanding that

12:05:48 **12** limitation and explaining it to a jury. Is

12:05:50 **13** that what you're saying?

12:05:52 **14** A. Correct.

12:06:03 **15** MR. RUBINO: I'm about to move

12:06:04 **16** on to a different subject. Would you

12:06:06 **17** like to take another break?

12:06:08 **18** THE WITNESS: That would be

12:06:09 **19** swell.

12:06:16 **20** THE VIDEOGRAPHER: We are now

12:06:17 **21** going off the record. The time is

12:06:18 **22** 12:06 p.m.

12:06:19 **23** (Recess taken, 12:06 p.m. to

13:03:05 **24** 1:03 p.m. PST)

13:03:05 **25** THE VIDEOGRAPHER: We are now

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13:05:29 **2** Q. Do you see where you say: For

13:05:40 **3** example, if a command sends an order using

13:05:43 **4** FBCB2 to a subordinate, the command requires

13:05:46 **5** the subordinate to review and respond. The

13:05:49 **6** list of response will include "I will

13:05:50 **7** comply," "I cannot comply"? That's

13:05:52 **8** paragraph 176.

13:05:54 **9** A. Right, I see that as the last

13:05:56 **10** sentence on the page 92.

13:05:58 **11** Q. So you don't have any citations

13:06:15 **12** for that. Am I missing that? There's no

13:06:20 **13** citations in that paragraph, right?

13:06:21 **14** A. There's no citations in that

13:06:23 **15** paragraph. I believe the same thing is

13:06:24 **16** discussed in other places and there might be

13:06:26 **17** a citation. But there's no citation in this

13:06:30 **18** paragraph, I agree with that.

13:06:31 **19** Q. Bear with me for just one

13:06:52 **20** minute.

13:07:02 **21** So for the next limitation

13:08:07 **22** which you have listed as 7, do you see

13:08:23 **23** paragraph 182?

13:08:25 **24** A. Yes, sir, I do.

13:08:25 **25** Q. In the middle of the paragraph

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13:03:14 **2** back on the record. The time is

13:03:16 **3** 1:03 p.m.

13:03:20 **4** Q. (BY MR. RUBINO) Good

13:03:21 **5** afternoon, sir. How are you?

13:03:22 **6** A. Good afternoon. Hope you had a

13:03:24 **7** good lunch.

13:03:25 **8** Q. So, before the break we were

13:03:29 **9** discussing the '724 patent. Do you recall

13:03:33 **10** that?

13:03:34 **11** A. '724 patent.

13:03:47 **12** Okay, I have it here.

13:03:49 **13** Q. And for the next patent you

13:04:22 **14** have in your analysis, you look at the '970

13:04:26 **15** patent; right?

13:04:27 **16** A. I'm sorry, I'm not quite

13:04:31 **17** following where you are.

13:04:32 **18** Q. So we were looking at the '724

13:04:35 **19** patent. The next patent in your analysis in

13:04:38 **20** your report is the '970 patent; right?

13:04:42 **21** A. Yeah, '970 starts on page 87,

13:04:45 **22** according to the table of contents here.

13:04:52 **23** Q. So I want you to take a look at

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13:08:33 **2** you say -- it's about halfway through, you

13:08:37 **3** say: There is a permanent indicator of the

13:08:40 **4** number of items waiting in the message cue.

13:08:54 **5** Does the message cue include

13:08:57 **6** any messages to a user of FBCB2?

13:09:04 **7** A. As is explained here and in

13:09:06 **8** other places, there are four cues called

13:09:10 **9** flash, immediate, priority, and routine,

13:09:13 **10** which are military terms. And there are four

13:09:16 **11** counters at the top of the screen, each

13:09:19 **12** corresponding to one of those categories,

13:09:24 **13** saying how many messages are waiting in each

13:09:26 **14** of those priorities. A message that requires

13:09:33 **15** a response would be flash or immediate, and

13:09:35 **16** would show up in one of those cues. And the

13:09:37 **17** military operators are trained to see that,

13:09:42 **18** to respond to the sound that gets played in

13:09:44 **19** their headset, and to deal with those items

13:09:49 **20** promptly.

13:09:49 **21** By the way, earlier in this

13:09:52 **22** paragraph, lines 3 and 4, you see I actually

13:09:54 **23** provide a citation here for the will comply