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,	§ Case No. 2:21-cv-00072-JRG (LEAD CASE) § JURY TRIAL DEMANDED § § § § § § § § § § § § § § § § § § §
INC.,	8 §
UBER TECHNOLOGIES, INC., d/b/a UBER,	§ § Case No. 2:21-cv-00026-JRG § (MEMBER CASE) §
Defendants.	§ § <u>JURY TRIAL DEMANDED</u> §

PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC'S RESPONSE TO DEFENDANT UBER TECHNOLOGIES, INC., D/B/A UBER'S NOTICE REGARDING MOTION TO DISMISS U.S. PATENT NO. 8,213,970 (DKT. 269)

Plaintiff AGIS Software Development LLC ("AGIS") respectfully submits this notice in response to Defendant Uber Technologies, Inc., d/b/a/ Uber's Notice of Non-Opposition (Dkt. 269) (the "Notice") to Motion to Dismiss U.S. Patent No. 8,213,970 (Dkt. 248) (the "Motion").

Uber filed the Notice without attempting to confer with counsel for AGIS.

Immediately upon receipt of the Notice, counsel for AGIS notified Uber that the Motion was received as a dispositive motion filed on December 13, 2021. AGIS explained that the Motion is a dispositive motion because it seeks to dispose of claims of U.S. Patent No. 8,213,970, and the opposition to the Motion is due on January 7, 2021, as set forth by the Court's Amended Docket Control Order. *See* Dkt. 257 (setting date for "Response to Dispositive Motions" as January 7, 2022) (relevant entry reproduced below).

December 30, 2021 January 7, 2022 *Response to Dispositive Motions (including Daubert Motions). Responses to dispositive motions that were filed prior to the dispositive motion deadline, including Daubert Motions, shall be due in accordance with Local Rule CV7(e), not to exceed the deadline as set forth in this Docket Control Order. ² Motions for Summary Judgment shall comply with Local Rule CV-56.
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While counsel for Uber cannot contend that a motion to dismiss is not a dispositive motion, counsel for Uber responded the relevant entry "refers to" to L.R. CV-56. However, the reference to L.R. CV-56 pertains only to summary judgment motions, *i.e.*, the form and procedure for filing summary judgment motions. The Amended Docket Control Order does not limit dispositive motions to summary judgment motions.

AGIS respectfully submits that it will file its opposition to the Motion on January 7, 2022 as per the Court's Amended Docket Control Order unless the Court provides further guidance.

Dated: December 29, 2021

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Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 29, 2021, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(1)(3).

<u>/s/ Alfred R. Fabricant</u> Alfred R. Fabricant