

Exhibit 1

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

AGIS SOFTWARE DEVELOPMENT, LLC,	) (	CIVIL ACTION NO.
	) (	2:21-cv-00072-JRG-RSP
PLAINTIFF(S),	) (	(Lead Case)
) (
versus	) (	MARSHALL, TEXAS
	) (	SEPTEMBER 29, 2021
T-MOBILE USA, INC., and) (
T-MOBILE US, INC.,) (
) (
DEFENDANT(S).) (

AGIS SOFTWARE DEVELOPMENT, LLC,	) (	CIVIL ACTION NO.
	) (	2:21-cv-00024-JRG-RSP
PLAINTIFF(S),	) (	(Member Case)
) (
versus) (
) (
LYFT, INC.) (

AGIS SOFTWARE DEVELOPMENT, LLC,	) (	CIVIL ACTION NO.
	) (	2:21-cv-00026-JRG-RSP
PLAINTIFF(S),	) (	(Member Case)
) (
versus) (
) (
UBER TECHNOLOGIES, INC.,) (
d/b/a UBER,) (

AGIS SOFTWARE DEVELOPMENT, LLC,	) (	CIVIL ACTION NO.
	) (	2:21-cv-00029-JRG-RSP
PLAINTIFF(S),	) (	(Member Case)
) (
versus) (
) (
WHATSAPP, INC.) (

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE

1 MARSHALL, TEXAS; MONDAY, SEPTEMBER 29, 2021

2 1:30 P.M.

3 THE COURT: For the record, we're here this afternoon
4 for the hearing on the motion to dismiss filed by Lyft in the
12:41PM 5 case of AGIS Software Development versus T-Mobile -- or, at
6 least, that's the lead case -- which is Number 2:21-72.

7 Counsel state their appearances.

8 MS. TRUELOVE: Good afternoon, Your Honor. Jennifer
9 Truelove and Vincent Rubino here on behalf of AGIS. We are
12:42PM 10 ready to proceed.

11 Mr. Rubino will be conducting the argument on behalf of
12 plaintiff this afternoon.

13 And if it pleases the Court, could I be excused shortly
14 before 2 to attend some scheduling conferences in Judge
12:42PM 15 Gilstrap's court?

16 THE COURT: I understand you're required upstairs at
17 some point; and, certainly, you're free to take off whenever
18 you need to do that.

19 MS. TRUELOVE: Thank you, Your Honor.

12:42PM 20 MR. DACUS: Good afternoon. Daron Dacus here on behalf
21 of Lyft. Here with me are Jeremy Taylor and Bethany Salpietra
22 from the Baker Botts firm. Also with us is Mr. Max Loosen, who
23 is the client representative from Lyft, Your Honor. And we are
24 ready to proceed.

12:42PM 25 THE COURT: All right. Thank you, Mr. Dacus.

1 those properties. There's no Lyft employees onsite. Lyft is
2 like any other customer, a repeat customer, that may have
3 agreements with these organizations to provide repair,
4 maintenance, services.

12:49PM

5 Finally, the other thing that has come up during the
6 briefing is Lyft's mobile support trucks. Lyft maintains a
7 handful of trucks that operate out of Lyft's hubs, none of
8 which are located in the Eastern District of Texas. The
9 closest one would be near the DFW Airport in Irving and some

12:49PM

10 Lyft mobile vehicle trucks and service drivers that may be
11 using the Lyft app in the Eastern District of Texas. These
12 are, by definition, not regular and established places of
13 business in the Eastern District of Texas. Nine times out of
14 10 -- maybe even more than that -- they're not even going to be
15 in the Eastern District of Texas. They're based out of Irving.
16 But they do provide service in the Eastern District of Texas if
17 requested by the drives that are using the Lyft app. Your
18 Honor, that's why venue's improper.

12:49PM

19 If Your Honor grants the motion that Lyft has brought --
20 Your Honor, of course, has an option to dismiss the case or
21 transfer the case, and I'd only briefly like to touch on that
22 point.

12:49PM

23 We'd ask you to dismiss the case or transfer to the
24 Northern District of California. AGIS, plaintiff, is asking
25 for the case to be transferred to the Western District of

12:50PM

1 Texas. And I won't go through the transfer factors. You can
2 read those in our briefing. We think they overwhelmingly
3 support transfer to the Northern District of California. But I
4 just want to bring to your attention, to the extent you were
12:50PM 5 thinking about transferring to one of those districts.

6 First of all, very recently, the Western District of
7 Texas transferred out a case, the *Ikorongo v Lyft* case, for
8 convenience, into the Northern District of California. The
9 facts of that case will not be meaningfully different.

12:50PM 10 Although there will be differences, the facts that determined
11 that motion will be the same here. So the expectation is that,
12 if this case is transferred to the Western District of Texas,
13 it would then be transferred likely again on the same ground to
14 the Northern District of California.

12:50PM 15 Secondly, Judge Albright, actually in a different case,
16 where I am actually counsel, *Quartz Auto v Lyft*, dismissed a
17 patent very similar to the '838 patent asserted against Lyft in
18 this case, where the accused infringement occurred on Lyft's
19 servers. Those servers don't exist in the Western District of
12:51PM 20 Texas; and, thus, there's no active infringement there.

21 Dismissed on a venue basis and admitted it was a pendent venue
22 issue. It was dismissed from the Western District of Texas,
23 and that patent has proceeded in the Northern District of
24 California.

12:51PM 25 Finally, perhaps the most important point, is there's

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