

**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-RSP  
T-MOBILE USA, INC., AND T-MOBILE § (Lead Case)  
US, INC. §

---

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

---

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

---

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

**DEFENDANT UBER TECHNOLOGIES, INC.'S REPLY IN SUPPORT OF  
ITS MOTION TO DISMISS**

## TABLE OF CONTENTS

	Page
I. INTRODUCTION .....	1
II. ARGUMENT .....	1
A. Venue Is Improper for the '838 Patent. ....	1
B. The '728 Patent Should Be Dismissed as Patent Ineligible. ....	3
1. No Claim Construction or Fact Issues Preclude Resolution. ....	3
2. <i>Alice</i> Step One: The Claims of the Asserted Patents Are Directed to an Abstract Idea. ....	4
3. <i>Alice</i> Step Two: The Asserted Claims Do Not Include an Inventive Concept. ....	6
C. AGIS's Direct, Indirect, and Willful Infringement Allegations Are Defective. ....	7
1. AGIS's Infringement Theories for the '970, '728, and '724 Patents, Require Joint Infringement, which AGIS Fails to Plead. ....	7
2. AGIS Fails to Plausibly Allege Direct Infringement for All Patents. ....	9
3. AGIS's Indirect Infringement Claims Fail for All Patents. ....	10
4. AGIS's Claims of Willful Infringement Should Be Dismissed. ....	10
II. CONCLUSION.....	10

## TABLE OF AUTHORITIES

	<u>Page(s)</u>
<b>CASES</b>	
<i>Actus, LLC v. Bank of Am. Corp.</i> , 2010 WL 547183 (E.D. Tex. Feb. 10, 2010) .....	8
<i>Cevallos v. Silva</i> , 541 F. App'x 390 (5th Cir. 2013) .....	3
<i>Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.</i> , 880 F.3d 1356 (Fed. Cir. 2018).....	5, 6
<i>CXT Systems, Inc. v. Academy, Ltd.</i> , 2019 WL 1237148 (2019).....	6
<i>Enfish, LLC v. Microsoft Corp.</i> , 822 F.3d 1327 (Fed. Cir. 2016).....	5
<i>Infernal Tech., LLC v. Sony Interactive Entm't LLC</i> , 2020 WL 6797026 (E.D. Tex. Aug. 18, 2020) .....	9
<i>Lyda v. CBS Corp.</i> , 838 F.3d 1331 (Fed. Cir. 2016).....	7
<i>Norman IP Holdings, LLC v. Chrysler Grp. LLC</i> , 2014 WL 12789842 (E.D. Tex. Mar. 5, 2014) .....	9
<i>Phil-Insul Corp. v. Airlite Plastics Co.</i> , 854 F.3d 1344 (Fed. Cir. 2017).....	3
<i>Qwikcash, LLC v. Blackhawk Network Holdings, Inc.</i> , No. 19- 876, 2020 WL 6781566 (E.D. Tex. Nov. 17, 2020) .....	10
<i>Seven Networks, LLC v. Google LLC</i> , 315 F. Supp. 3d 933 (E.D. Tex. 2018).....	2
<i>Simio, LLC v. FlexSim Software Prods., Inc.</i> , 983 F.3d 1353 (Fed. Cir. 2020).....	4
<i>Solutran, Inc. v. Evalon, Inc.</i> , 931 F.3d 1161 (Fed. Cir. 2019).....	5
<i>Synopsys, Inc. v. Mentor Graphics Corp.</i> , 839 F.3d 1138 (Fed. Cir. 2016).....	6

**TABLE OF AUTHORITIES**

*(continued)*

Page(s)

*TQP Dev., LLC v. Ticketmaster Entm't, Inc.*,  
2010 WL 1740927 (E.D. Tex. Apr. 29, 2010).....8

**TABLE OF ABBREVIATIONS**

<b>Abbreviation</b>	<b>Meaning</b>
'970 Patent	U.S. Patent No. 8,213,970 (Dkt. No. 1-1)
'724 Patent	U.S. Patent No. 7,630,724 (Dkt. No. 1-2)
'728 Patent	U.S. Patent No. 7,031,728 (Dkt. No. 1-3)
'100 Patent	U.S. Patent No. 10,299,100 (Dkt. No. 1-4)
'838 Patent	U.S. Patent No. 10,341,838 (Dkt. No. 1-5)
Complaint/Compl.	Complaint for Patent Infringement (Dkt. No. 1) (Jan. 29, 2021)
Opp.	Plaintiff Agis's Opposition to Uber's Motion to Dismiss, Dkt. 43 (May 7, 2021)

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.