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

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

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

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

DEFENDANT UBER TECHNOLOGIES, INC.'S REPLY IN SUPPORT OF ITS
MOTION TO STAY PENDING RESOLUTION OF STANDING ISSUE

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TABLE OF ABBREVIATIONS

Abbreviation	Meaning
'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)
Mot.	Defendant Uber's Motion to Stay Pending Resolution of Standing Issue (Dkt. No. 25)
Opp.	Plaintiff AGIS's Opposition to Uber's Motion to Stay (Dkt. No. 42)

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CASES

STATUTES

I.   INTRODUCTION

Uber asks this Court to stay this case to resolve a threshold issue: Whether AGIS has standing to bring claims of infringement for three of the five asserted patents. In support of that request, Uber presented substantial case law, including from this Court, that recognizes the plaintiff bears the burden of establishing standing and that questions of standing must be resolved before proceeding to the merits of the case. AGIS does not dispute, nor does it even address this case law. In support of its request, Uber also presented substantial evidence—evidence that showed one of the inventors worked at Microsoft at the time he purported to assign his inventions to AGIS and that Microsoft's employment agreement included language whereby employees assign, upon employment, rights to any future inventions to Microsoft. AGIS does not dispute any of the evidence, and in large part also does not even address much of the evidence. The absence of any challenge to either the law or to the evidence leaves little room for doubt that a stay will simplify the issues in this case. Uber, therefore, respectfully requests that the Court grant the motion to stay, permit discovery regarding the standing issue and enter an order setting a briefing and hearing schedule that will resolve the standing question expeditiously.

II.   ARGUMENT

A.   AGIS Ignores Uber's Cited Case Law.

1.   AGIS Bears the Burden of Proof to Establish Standing.

"Standing to sue is a threshold requirement in every federal action." *Sicom Sys., Ltd. v. Agilent Techs., Inc.*, 427 F.3d 971, 975–76 (Fed. Cir. 2005). A plaintiff must satisfy both Article III standing, as well as standing defined by § 281 of the Patent Act, which limits claims for patent infringement to the "patentee." *Alps South, LLC v. Ohio Willow Wood Co.*, 787 F.3d 1379, 1382 (Fed. Cir. 2015). The "patentee," however, "is not limited to the person to whom the patent issued, but also includes 'successors in title to the patentee.'" *Id.* (quoting 35 U.S.C. § 100(d)). Because

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