

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

AGIS SOFTWARE DEVELOPMENT LLC,	§	
	§	Case No. 2:21-cv-00072-JRG
Plaintiff,	§	(LEAD CASE)
	§	
v.	§	<u>JURY TRIAL DEMANDED</u>
	§	
T-MOBILE USA, INC. and T-MOBILE US,	§	
INC.,	§	
	§	
Defendants.	§	
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AGIS SOFTWARE DEVELOPMENT LLC,	§	Case No. 2:21-cv-00026-JRG
	§	(MEMBER CASE)
Plaintiff,	§	
	§	<u>JURY TRIAL DEMANDED</u>
v.	§	
	§	
UBER TECHNOLOGIES, INC., d/b/a	§	
UBER,	§	
	§	
Defendant.	§	

**PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC'S SUR-REPLY
IN OPPOSITION TO DEFENDANT UBER TECHNOLOGIES, INC.,
D/B/A UBER'S MOTION TO DISMISS (DKT. 24)**

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Plaintiff AGIS Software Development LLC (“AGIS” or “Plaintiff”), by and through its undersigned counsel, hereby submits this sur-reply in opposition to Defendant Uber Technologies, Inc., d/b/a Uber’s (“Defendant” or “Uber”) Motion to Dismiss (Dkt. 24) (the “Motion”).

Defendant mischaracterizes AGIS’s arguments and misstates the law in summarily dismissing the arguments made in AGIS’s opposition to the Motion. However, AGIS has sufficiently plead and established that (1) venue is proper with respect to the ’838 Patent; (2) the ’728 Patent is directed to patent eligible subject matter; and (3) AGIS’s claims for direct, indirect, and willful infringement are sufficient.

I. VENUE IS PROPER IN THE EDTX WITH RESPECT TO THE ’838 PATENT

AGIS has adequately pled acts of infringement in this District as they relate to the claims of the ’838 Patent. *See* Dkt. 43 (“Resp.”) at 15. As stated in AGIS’s opposition, AGIS has sufficiently plead direct and indirect infringement with respect to the ’838 Patent, and AGIS is not required to set forth in detail its infringement theories at this stage. *See Id.* at 17 (“However, ‘[t]he issue of infringement is not reached on the merits in considering venue requirements.’”) (citing *Seven Networks LLC v. Google LLC*, 315 F. Supp. 3d 933, 942-43 (E.D. Tex. July 19, 2018)). Moreover, the Court “must accept as true all allegations in the complaint and resolve all conflicts in favor of the plaintiff.” *Andra Grp., LP v. Victoria’s Secret Stores, LLC*, No. 4:19-cv-288-ALM-KPJ, 2020 WL 2478546, at *2 (E.D. Tex. Feb. 24, 2020).

As the Court stated in *Seven Networks*, it is not required that acts of infringement required to support venue in a patent infringement action be acts of direct infringement. *Resp.* at 15. Defendant cannot dispute that AGIS has pled both direct and indirect infringement of the ’838 Patent. *See id.* at 15. AGIS has alleged that Defendant and its customers have performed at least one step of the ’838 Patent claims in this District and some portion of Defendant’s infringing

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