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

AGIS SOFTWARE DEVELOPMENT LLC, Plaintiff,	<pre>\$     Case No. 2:21-cv-00072-JRG \$ (LEAD CASE) \$     JURY TRIAL DEMANDED</pre>
v.	§
T-MOBILE USA, INC. and T-MOBILE US, INC.,	\$ \$ \$
Defendants.	§
AGIS SOFTWARE DEVELOPMENT LLC,	<ul> <li>\$ Case No. 2:21-cv-00029-JRG</li> <li>\$ (MEMBER CASE)</li> <li>\$</li> </ul>
Plaintiff,	§ <u>JURY TRIAL DEMANDED</u>
v. WHATSAPP, INC.,	§ § § §
Defendant.	§ §

## DECLARATION OF VINCENT J. RUBINO, III IN SUPPORT OF PLAINTIFF AGIS SOFTWARE DEVELOPMENT LLC'S RESPONSE IN OPPOSITION TO DEFENDANT WHATSAPP, INC.'S MOTION TO DISMISS FOR IMPROPER VENUE (DKT. 34)

- I, Vincent J. Rubino, hereby declare as follows:
- 1. I have personal knowledge of the facts set forth in this declaration. I am competent to testify as to all matters stated, and I am not under any legal disability that would in any way preclude me from testifying.
- 2. I am a Partner at the law firm of Fabricant LLP and counsel of record for Plaintiff AGIS Software Development LLC in this matter.
- 3. The exhibits attached to this declaration may contain annotations and/or excerpts of the originals.



- 4. Attached hereto as Exhibit A is a true and correct copy of the Declaration of Malcolm K. Beyer, Jr. in Opposition to Defendant WhatsApp, Inc.'s Motion to Dismiss for Improper Venue, dated June 7, 2021.
- 5. Attached hereto as Exhibit B is a true and correct copy of the U.S. Patent and Trademark Office Report for U.S. Patent Application No. 16/237,267 titled "Methods and systems for determining an unread message count" filed by WhatsApp, Inc., available at https://uspto.report/patent/grant/10992633, and accessed on May 4, 2021.
- 6. Attached hereto as Exhibit C is a true and correct copy of a screenshot of the webpage titled "WhatsApp," available at https://www.whatsapp.com/?lang=en, and accessed on May 4, 2021.
- 7. Attached hereto as Exhibit D is a true and correct copy of a screenshot of the webpage titled "About WhatsApp," available at https://www.whatsapp.com/about, and accessed on May 4, 2021.
- 8. Attached hereto as Exhibit E is a true and correct copy of a screenshot of the Collin County Property Tax Record for 1221 Coit Road, available at https://taxpublic.collincountytx.gov/webcollincounty/accountsearch.htm, and accessed on May 10, 2021.
- 9. Attached hereto as Exhibit F is a true and correct copy of a screenshot of the webpage, "Facebook Fort Worth Data Center Expansion 5000 Like Way, Fort Worth, TX," available at https://www.commercialcafe.com/commercial-property/us/tx/fort-worth/facebook-fort-worth-data-center-expansion/, and accessed on May 4, 2021.
- 10. Attached hereto as Exhibit G is a true and correct copy of a screenshot of the webpage, "Expanding our Fort Worth Data Center to five buildings," available at



https://www.facebook.com/notes/fort-worth-data-center/expanding-our-fort-worth-data-center-to-five-buildings/1187767507983650, and accessed on May 4, 2021. Attached hereto as Exhibit H is a true and correct copy of a screenshot of the Real Property Asset Map, available at https://www.txdot.gov/inside-txdot/division/right-of-way/delineation-system.html, and retrieved on June 7, 2021.

- 11. Attached hereto as Exhibit I is a true and correct copy of a screenshot of the Real Property Asset Map, available at https://maps.dot.state.tx.us/AGO\_Template/TxDOT\_Viewer/?appid=6e6821ecba51466789de423 165516843 and retrieved on June 7, 2021, and navigated from Exhibit L by selecting "Real Property Asset Map."
- 12. Attached hereto as Exhibit J is a true and correct copy of a screenshot of the Real Property Asset Map for 4500 Like Way, available at https://maps.dot.state.tx.us/AGO\_Template/TxDOT\_Viewer/?appid=6e6821ecba51466789de423 165516843 and retrieved on June 7, 2021, and navigated from Exhibit M by entering "4500 Like Way" in the Search Bar "Find address or place."
- 13. Attached hereto as Exhibit K is a true and correct copy of a screenshot of the Facebook Fort Worth Data Center, available at https://baxtel.com/data-center/facebook-fortworth, retrieved on June 7, 2021.
- 14. Attached hereto as Exhibit L is a true and correct copy of a screenshot of the ArcGIS Web Map from the Tarrant Appraisal District, available at https://utility.arcgisonline.com/arcgis/rest/directories/arcgisoutput/Utilities/PrintingTools\_GPSer ver/x\_\_\_xRVPk\_hlgwpDx9swYoHNKLQ..x\_\_xags\_34dfce58-c80f-11eb-b4ba-22000a5fffa8.pdf, retrieved on June 8, 2021.



- 15. Attached hereto as Exhibit M is a true and correct copy of a screenshot of the Property Tax Record from the Denton County Tax Office for 4500 Like Way, Facebook Data Center, available at https://www.dentoncounty.gov/841/Search-Property-Tax-Records, and retrieved on May 4, 2021.
- 16. Attached hereto as Exhibit N is a true and correct copy of a screenshot of the Property Tax Record from the Denton County Tax Office for 4500 Like Way, Alliance Gateway, North Block 3, Lot 7R2, available at https://www.dentoncounty.gov/841/Search-Property-Tax-Records, and retrieved on May 4, 2021.
- 17. Attached hereto as Exhibit O is a true and correct copy of a screenshot of the Property Tax Record from the Denton County Tax Office for 4500 Like Way, Alliance Gateway, North Addn Block 3 Lot 7 Plat, available at https://www.dentoncounty.gov/841/Search-Property-Tax-Records, and retrieved on May 4, 2021.
- 18. Attached hereto as Exhibit P is a true and correct copy of a screenshot of the Property Tax Record from the Denton County Tax Office for 4500 Like Way, Alliance Gateway, North Addn Block 3 Lot 7R Plat, available at https://www.dentoncounty.gov/841/Search-Property-Tax-Records, and retrieved on May 4, 2021.
- 19. Attached hereto as Exhibit Q is a true and correct copy of a screenshot of the webpage, "INAP Dallas Data Centers," available at https://www/inap.com/data-centers/dallas-data-centers/, and accessed on May 4, 2021.
- 20. Attached hereto as Exhibit R is a true and correct copy of a screenshot of the webpage, "INAP Dallas Data Center (DAL006) Cloud and Colocation," available at https://cloudandcolocation.com/datacenters/inap-dallas-data-center-dal006/, and accessed on May 4, 2021.



- 21. Attached hereto as Exhibit S is a true and correct copy of a screenshot of the webpage, "WhatsApp Legal Info, available at https://www.whatsapp.com/legal/?doc=privacy-policy&version=20120707&lang=en, and accessed on May 3, 2021.
- 22. Attached hereto as Exhibit T is a true and correct copy of a screenshot of the webpage, "First look: Facebook headcount swells as social media giant opens new Austin office," available at https://www.bizjournals.com/austin/news/2019/09/04/first-look-facebook-headcount-swells-as-social.html, and accessed on June 7, 2021.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 8, 2021 in Marshall, Texas.

/s/ Vincent J. Rubino, III
Vincent J. Rubino, III

