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Plaintiff AGIS Software Development LLC (“AGIS” or “Plaintiff”), by and through its undersigned counsel, hereby submits this sur-reply in further support of opposition to Defendant WhatsApp, Inc.’s (“Defendant” or “WhatsApp”) Motion to Dismiss First Amended Complaint for Improper Venue (Dkt. 63) (the “Motion”).<sup>1</sup>

AGIS has shown that venue is proper over WhatsApp in this District. WhatsApp’s Reply (Dkt. 88) fails to show otherwise. WhatsApp’s Motion must be denied because the record shows that WhatsApp maintains regular and established places of business in the District. It is undisputed that (1) WhatsApp has physical property located in this District which includes the Like Way Data Center and the physical devices within the Like Way Data Center, (2) WhatsApp employees and personnel are physically present at this physical property located in this District, and (3) WhatsApp pays taxes directly to Denton County in this District. There is no dispute that the Like Way Data Center is “of WhatsApp.”

In the event the Court finds that venue is not proper, and transfer is warranted under 28 U.S.C. § 1406, AGIS respectfully requests that this Court transfer this action to the Northern District of Texas (“NDTX”) or the Western District of Texas (“WDTX”) instead of the Northern District of California (“NDCA”).

#### **I. WHATSAPP’S MOTION MUST BE DENIED**

WhatsApp maintains regular and established places of business in this District. Contrary to WhatsApp’s allegations, publicly available information from both Texas state and local county governments shows that sections of the Like Way Data Center are physically located in Denton County. Dkt. 82 (“Resp.”) at 13-14. In support, AGIS submits the Real Property Asset Maps for

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<sup>1</sup> AGIS’s Response in Opposition to Defendant WhatsApp, Inc’s Motion to Dismiss for Improper Venue (Dkt. 82) inadvertently referred to Dkt. 34, WhatsApp’s Motion to Dismiss the Original Complaint. AGIS’s Response is in opposition to WhatsApp’s Motion to Dismiss the First Amended Complaint for Improper Venue (Dkt. 63).

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