UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BROADSIGN INTERNATIONAL, LLC, Plaintiff, v. T-REX PROPERTY AB, Defendant.	:	Civil Action No.: 1:16-cv-04586 (LTS) JURY TRIAL REQUESTED

PLAINTIFF BROADSIGN INTERNATIONAL, LLC'S MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT T-REX PROPERTY AB'S MOTION TO DISMISS THE AMENDED COMPLAINT

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Plaintiff BroadSign International, LLC (“BroadSign” or "Plaintiff") submits this memorandum of law in opposition to the motion by Defendant T-Rex Property AB (“T-Rex” or "Defendant") to dismiss the Amended Complaint pursuant to Fed. R. Civ. P. 12 (b)(1) (D.I. 15, D. I. 16). A declaration of BroadSign's outside patent consultant, Sandra Beauchesne ("Beauchesne Decl."), accompanies this memorandum.

I. INTRODUCTION

This is an action for a declaratory judgment of non-infringement and intervening rights directed to three patents owned and/or controlled by T-Rex. T-Rex is a prolific non-practicing entity that has the rights to a portfolio of patents in the field of digital signage. Since 2012, T-Rex has filed at least 59 patent infringement cases against more than 80 companies, in 17 judicial districts throughout the United States. All of these cases allege infringement of one or more of the following patents: U.S. Patent No. RE39, 470 (“the ’470 patent”); U.S. Patent No. 7,382,334 (“the ’334 patent”); and U.S. Patent No. 6,430,603 (“the ’603 patent”) (collectively, the “patents-in-suit”). BroadSign initiated this declaratory judgment action because T-Rex has sued several of BroadSign's customers accusing the products BroadSign sold to them of infringing the patents-in-suit and because direct communications between BroadSign and T-Rex made it apparent that T-Rex is adverse to BroadSign. T-Rex has demonstrated its intention to continue to accuse BroadSign's products of infringement, has refused to provide BroadSign with a covenant not to sue and has demanded that BroadSign take a license to protect itself and its customers from further suits. In response, BroadSign brought this action so that its business can move forward without the imminent and ever-present threat of litigation. It is difficult to imagine a case where a supplier of accused products and a potential target of a non-practicing entity has a clearer right to seek declaratory relief than BroadSign does here.

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