

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|------------------------------|---|----------------------------|
| _____ |) | |
| JOAO CONTROL & MONITORING |) | |
| SYSTEMS, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | C.A. No. 14-525-GMS |
| v. |) | |
| |) | JURY TRIAL DEMANDED |
| VERIZON COMMUNICATIONS INC., |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

**STIPULATION AND [PROPOSED] ORDER OF
DISMISSAL OF VERIZON COMMUNICATIONS INC. AND
SUBSTITUTION OF TERREMARK NORTH AMERICA LLC**

Plaintiff Joao Control & Monitoring Systems, LLC (“JCMS”) and Defendant Verizon Communications Inc. submit the following Stipulation of Dismissal of Verizon Communications Inc. and Substitution of Terremark North America LLC, and in support thereof state:

WHEREAS, On April 23, 2014, Plaintiff JCMS filed suit against Verizon Communications Inc. alleging infringement of U.S. Patent Nos. 6,542,076; 6,542,077; 6,549,130; 6,587,046; 7,277,010 and 7,397,363;

WHEREAS, the parties are interested in substituting Terremark North America LLC in place of Defendant Verizon Communications Inc.; and

WHEREAS, Verizon Communications Inc. represents and warrants that:

1. Verizon Communications Inc. is a holding company that does not make, market, advertise, sell, offer for sale, or otherwise provide any goods or services of any kind to the public, anywhere, including any of the products and services accused of infringement in the Complaint (*see* D.I. 1).

2. Verizon Communications Inc. is separate and distinct from other Verizon entities, including Verizon's operating subsidiaries. Verizon Communications Inc. observes all corporate formalities, including having its own board of directors and its own officers.
3. Verizon Communications Inc. agrees that for purposes of discovery in this case, any relevant, responsive, non-privileged documents and information in the possession, custody or control of Verizon Communications Inc., if any, are deemed also to be in the possession, custody and control of Terremark North America LLC. Terremark North America LLC will not object to a request for a deposition on the grounds that the prospective deponent is an employee of Verizon Communications Inc. (though nothing in this stipulation prevents Terremark North America LLC from objecting to a deposition on other grounds).
4. To the extent that any judgment is awarded against Terremark North America LLC in this case, Terremark North America LLC will be able to satisfy any such judgment, if any. Verizon Communications Inc. and Terremark North America LLC each warrants and represents that it will not take any action that will cause Terremark North America LLC to be unable to fully satisfy any judgment entered in this case.

NOW THEREFORE, in reliance upon the representations and warranties made above, it is hereby stipulated by the parties, subject to the approval of the Court, that:

1. JCMS agrees to dismiss Verizon Communications Inc. without prejudice, as allowed under Rule 41(a)(2) of the Federal Rules of Civil Procedure;

2. The Complaint filed in the above captioned matter at D.I. 1 is hereby amended to substitute Terremark North America LLC as the defendant in place of Verizon Communications Inc.;
3. The Complaint's allegations concerning Verizon Communications Inc. shall be deemed to be directed to Terremark North America LLC, except that the allegations contained in Paragraph 3 are deemed to be deleted and replaced with a new Paragraph 3, which is as follows:

Upon information and belief, Terremark North America LLC is a Florida limited liability company with a principal place of business at: 50 NE 9th Street, Miami, Florida 33132.
4. JCMS has not released, and nothing in this Stipulation should be construed as a release or discharge of, any claim JCMS has or may have in the future against any defendant named in this action or any other asserted infringer of the patents-in-suit. All other rights have been expressly reserved;
5. The substitution of Terremark North America LLC as defendant in this litigation does not constitute an admission that any of these entities perform any of the acts of infringement alleged in the Complaint (*See* D.I. 1). All other rights, defenses, and counterclaims, are expressly reserved; and
6. Terremark North America LLC shall respond to the Complaint in this action on the later of three (3) business days following the entry of this stipulation by the Court or August 28, 2014.

Respectfully submitted,

STAMOULIS & WEINBLATT, LLC

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Dated: August 28, 2014

SO ORDERED, this 2nd day of Sept., 2014.



THE HONORABLE GREGORY M. SLEET
UNITED STATES DISTRICT JUDGE