

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

CHRIMAR SYSTEMS, INC., d/b/a
CMS TECHNOLOGIES and CHRIMAR
HOLDING COMPANY, LLC,
Plaintiffs,

v.

AMX,
Defendant.

Case No. 6:15-CV-00163

JURY TRIAL DEMANDED

Judge Rodney Gilstrap

Magistrate Judge John D. Love

AMX'S INITIAL DISCLOSURES

Pursuant to Rule 26(a)(1)(A) of the Federal Rules of Civil Procedure, AMX ("AMX") hereby submits the following Initial Disclosures. These disclosures are limited to the information reasonably available to AMX at the present time. Discovery may yield additional information. AMX therefore reserves all rights to supplement, revise, correct, clarify or otherwise amend these disclosures should additional information become available in the future.

Furthermore, these disclosures are made without waiver of and without prejudice to any objections AMX may have regarding the subject matter of these disclosures or any documents or individuals identified herein. AMX expressly reserves all objections, including but not limited to (a) relevance; (b) attorney-client privilege; (c) work product protection; (d) any other applicable privilege or protection under federal or state law; (e) undue burden; (f) materiality; (g) overbreadth; and (h) the admissibility in evidence of these disclosures or the subject matter thereof.

A. The Correct Names of the Parties to This Lawsuit:

The Complaint filed by Chrimar Systems, Inc., et al. named AMX, LLC as the Defendant. The correct and proper name for the Defendant is AMX.

B. The Name, Address, and Telephone Number of Any Potential Parties:

AMX is not aware of any additional parties that should be added to this case.

C. The Legal Theories and General Factual Bases of AMX's Counterclaims and Defenses:

1. Non-Infringement of the Patents-in-Suit (Counterclaim Count I)

Plaintiff accuses AMX of direct infringement and inducing infringement of U.S. Patent Nos. 8,155,012 (“the ’012 Patent”), 8,942,107 (“the ’107 Patent”), 8,902,720 (“the ’760 Patent”), and 9,019,838 (“the ’838 Patent”). The above listed patents are cited herein as the “patents-in-suit.” AMX has not directly infringed or induced the infringement of, either literally or by virtue of the doctrine of equivalents, any valid and enforceable claim of the patents-in-suit and has not otherwise committed any acts in violation of 35 U.S.C. § 271. As a general matter, AMX contends that it does not infringe the patents-in-suit because (even assuming the patents are valid) not all elements of the properly construed claims of the patents-in-suit are present in AMX’s products, literally or by the doctrine of equivalents. AMX also contends that it does not induce another’s infringement. First, AMX is not aware of any other parties that do infringe the patents-in-suit by using AMX’s products. Second, AMX does not have, nor did it ever have, intent to induce infringement. Third, AMX does not sell or supply any components within the meaning of §271(c). AMX will serve its expert reports regarding non-infringement at the time and in the manner provided in the local Patent Rules and the Court’s Docket Control Order.

2. Invalidity of the Claims of the Patents-in-Suit (Counterclaim Count II)

The patents-in-suit are invalid, *inter alia*, for failing to meet the conditions of patentability set forth in 35 U.S.C. § 101 et seq., including but not limited to 35 U.S.C. §§ 101-103, and 112. AMX has and will serve invalidity contentions and expert reports regarding

invalidity at the time and in the manner provided in the local Patent Rules and the Court's Docket Control Order.

3. Unenforceability and Inequitable Conduct (Counterclaim Count III)

The patents-in-suit are unenforceable due to inequitable conduct before the United States Patent and Trademark Office.

4. AMX's Other Defenses

AMX asserts additional counterclaims and affirmative defenses as described in detail in AMX's Answer, Defenses, and Counterclaims, dated August 26, 2015.

D. Persons with Knowledge of Relevant Facts:

AMX has and will continue to identify persons with knowledge regarding the operation and deployment of the accused AMX products, and the other relevant issues in this case. As AMX's investigation progresses, it will supplement this disclosure with the identity of AMX employees who have knowledge of relevant facts.

AMX further reserves the right to supplement and/or amend this list based on further investigation, analysis, and discovery, to the extent additional disclosures are not mooted or made redundant by future discovery requests. AMX employees who are listed as witnesses should be contacted only through AMX's counsel. AMX further discloses and reserves its right to rely on witnesses identified in other cases concerning the patents-in-suit who would have knowledge relevant to the liability and damages issues in this case, including all of CMS's experts in those cases. AMX's present witness list, however, is not intended to disclose or foreclose the identification of any other expert witnesses who will be disclosed in accordance with the Court's Discovery and Docket Control Orders in this case.

Individual	Address & Telephone, if known	Subject
James Alford; Operations Manager	CMS Technologies 36528 Grand River Ave., Suite A-1 Farmington Hills, Michigan 48335	Knowledge regarding business relations, contracts, marking, licensing, ownership and accounting for CMS as it relates to the patents-in-suit; information related to damages claimed by CMS; and information related to the identification of prior art and the unenforceability of the patents-in-suit
John F. Austermann, III; President and Chief Executive Officer	CMS Technologies 36528 Grand River Ave., Suite A-1 Farmington Hills, Michigan 48335	Named Inventor of the patents-in-suit with knowledge regarding the conception, reduction to practice and inventorship of the patents-in-suit
Chris Bakewell	Duff & Phelps Heritage Plaza 1111 Bagby St., Ste. 1900 Houston, TX 77002	Appropriate reasonable royalty and damages issues related to infringement of the asserted patent
Clyde Boenke	1443 Colony Drive #223, Saline, MI 48176	Knowledge regarding the conception and reduction to practice of the inventions disclosed in the patents-is-suit and the development of the Etherlock ID product
Steven Carlson	High Speed Design, Inc. 11929 N.W. Old Quarry Road Portland, OR 97229	Indefiniteness of the asserted patents; the IEEE's efforts in connection with the standardization of 802.3 and its amendments
Chrimar Systems, Inc. d/b/a/ CMS Technologies	36528 Grand River Ave., Suite A-1 Farmington Hills, Michigan 48335	Purported assignee of the patents-in-suit patent with knowledge regarding the business and licensing practices of the patents-in-suit, as well as the prosecution of the patents-in-suit

Individual	Address & Telephone, if known	Subject
Marshall B. Cummings; Director of Innovation	NEXTEP SYSTEMS 3331 W. Big Beaver Rd. Suite 111, Troy, MI 48084	Named Inventor of the patents-in-suit with knowledge regarding the conception, reduction to practice and inventorship of the patents-in-suit
Steve Dawson; Vice President Sales & Marketing	CMS Technologies 36528 Grand River Ave., Suite A-1 Farmington Hills, Michigan 48335	Knowledge regarding business relations, contracts, marking, licensing, ownership and accounting for CMS as it relates to the patents-in-suit; information related to damages claimed by CMS; and information related to the identification of prior art and the unenforceability of the patents-in-suit
Art Heald	AMX c/o McDermott Will & Emery LLP 227 W. Monroe, Chicago IL 60606 (312) 372-2000	The accused product; Ethernet functionality employed in the accused product; engineering and sales activities at AMX
Harold Hickey; AMX Senior Vice President of Global Operations & Supply Chain	c/o McDermott Will & Emery LLP 227 W. Monroe, Chicago IL 60606 (312) 372-2000	Knowledge regarding business relations, contracts, marketing and sales of the accused product
GT Hill; Director of Corporate Technology Marketing	Ruckus Wireless, Inc. 350 West Java Dr. Sunnyvale, CA 94089	Knowledge regarding the functionality, design, development and sale of the accused product
Darin Milton	Ruckus Wireless, Inc. 350 West Java Dr. Sunnyvale, CA 94089	The accused product; Ethernet functionality employed in the accused product; engineering and sales activities at Ruckus
Robert Noble; AMX Chief Technology Officer	c/o McDermott Will & Emery LLP 227 W. Monroe, Chicago IL 60606 (312) 372-2000	Knowledge regarding business relations, contracts, marketing and sales of the accused product
Jim Pautler; AMX Senior Vice President of Global Product Engineering	c/o McDermott Will & Emery LLP 227 W. Monroe, Chicago IL 60606 (312) 372-2000	Knowledge regarding original source selection of the accused product

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