

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

OPTIS WIRELESS TECH., LLC, ET AL.,

Plaintiffs,

v.

HUAWEI TECHS. CO. LTD., ET AL.,

Defendants.

CIVIL ACTION NO.

2:17-cv-123-JRG-RSP

JURY TRIAL REQUESTED

JOINT FINAL PRE-TRIAL ORDER

This cause came before the Court at a pre-trial management conference held on July 27, 2018, pursuant to Local Rule CV-16 and Rule 16 of the Federal Rules of Civil Procedure.

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B. STATEMENT OF JURISDICTION

This Court has exclusive subject matter jurisdiction over this case under 28 U.S.C. §§ 1331, 1338, and 1367. Jurisdiction is not disputed except to the extent addressed in the briefing on Huawei’s Motion for Dismissal of Count IX of the Complaint (FRAND) to the Extent It Relates to Non-U.S. Patents (Dkt. 145, 160, 171, and 189), which is a subject of Dkt. 214.

C. NATURE OF ACTION

This is an action for patent infringement and declaratory judgment of no breach of FRAND. PanOptis asserts that Huawei infringes claims from U.S. Patent Nos. 7,769,238 (“the ’238 patent”), 6,604,216 (“the ’216 patent”), 8,385,284 (“the ’284 patent”), 8,208,569 (“the ’569 patent”), 8,102,833 (“the ’833 patent”), and 8,437,293 (“the ’293 patent”). PanOptis seeks at least a reasonable royalty for Huawei’s infringement. PanOptis additionally seeks a declaratory judgment that it has complied with its contractual commitment to the European Telecommunications Standards Institute (“ETSI”) arising from its licensing declarations to ETSI, and any applicable laws, during its negotiations with Huawei concerning a worldwide license to the standard essential patents in the Optis Wireless and Optis Cellular portfolios. (PanOptis’ declaratory judgment claim is the subject of a Report and Recommendation by Magistrate Judge Payne that Huawei’s motion to dismiss as to non-U.S. patents be granted. Dkt. 214 at 14-16.)

D. CONTENTIONS OF THE PARTIES

1. **PanOptis’ Contentions**

Plaintiffs Optis Wireless Technology, LLC, Optis Cellular Technology, LLC, and PanOptis Patent Management, LLC (collectively, “PanOptis”) own and have the right to enforce patents in two relevant portfolios, the Optis Wireless portfolio and the Optis Cellular portfolio. The Optis Wireless portfolio includes patents from Telefonaktiebolaget LM Ericsson (“Ericsson”) and Panasonic Corporation (“Panasonic”), and the Optis Cellular portfolio includes

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