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8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

13 KONDA TECHNOLOGIES, INC., a
California corporation,

14 Plaintiff,

15 vs.

16 FLEX LOGIX TECHNOLOGIES, INC.,

17 Defendant.
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Case No. 5:18-cv-07581-LHK

**NOTICE OF MOTION AND MOTION TO
DISMISS COMPLAINT PURSUANT TO
FED. R. CIV. P. 12(b)(6) AND TO STRIKE
PORTIONS OF COMPLAINT
PURSUANT TO FED. R. CIV. P. 12(f);
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: May 9, 2019
Time: 1:30 p.m.
Judge: Lucy H. Koh
Ctrm.: 8, 4th Floor

Case No. 5:18-cv-07581-LHK

MOTION TO DISMISS AND MOTION TO STRIKE

FLEX LOGIX EXHIBIT 1056

1 **NOTICE OF MOTION AND MOTION TO DISMISS AND TO STRIKE**

2 To Plaintiff Konda Technologies, Inc., and its counsel of record:

3 PLEASE TAKE NOTICE that on May 9, 2019, at 1:30 p.m., or as soon thereafter as the
4 matter may be heard, in Courtroom No. 8 of the above-captioned Court, located at 4th Floor, 280
5 South 1st Street, San Jose, CA 95113, Defendant Flex Logix Technologies, Inc. (“Flex Logix”)
6 hereby does move the Court for an Order dismissing with prejudice in its entirety Konda
7 Technologies, Inc.’s (“Konda Tech”) complaint in this action pursuant to Federal Rule of Civil
8 Procedure 12(b)(6) and/or for an Order striking or dismissing certain portions of Konda’s
9 Complaint under Federal Rule of Civil Procedure 12(f) and/or 12(b)(6).

10 Specifically, Flex Logix moves for an Order dismissing with prejudice:

11 [1] Konda Tech’s Third, Fourth, and Sixth Causes of Action because those Causes of
12 Action fail to state a claim for patent infringement due to the invalidity of each of the patents
13 under 35 U.S.C. § 102.

14 [2] Konda Tech’s Second, Third, Fourth, Fifth, and Sixth Causes of Action because
15 those Causes of Action do not plead facts sufficient to state a plausible claim for patent
16 infringement.

17 [3] Konda Tech’s First Cause of Action for Unfair Business Practices pursuant to
18 California Business & Professions Code Section 17200 et seq. as preempted by federal patent law
19 and as barred by the statute of limitations.

20 In the event that Konda Tech’s complaint is not dismissed in its entirety, Flex Logix also
21 moves for an Order striking and/or dismissing Konda Tech’s complaint’s references to “fraud”
22 due to the fact that the complaint’s references to fraud are immaterial and impertinent with respect
23 to the claims pled and scandalous and in view of the complaint’s failure to plead any alleged fraud
24 with particularity.

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1 This motion is based upon this Notice of Motion and Motion; the attached Memorandum
2 of Points and Authorities¹; all other materials supporting this Motion or the Reply brief filed in
3 support thereof; all pleadings on file in this matter; and any other materials or arguments the Court
4 may receive at or before the hearing on this Motion.

5
6 DATED: January 24, 2019

MUNGER, TOLLES & OLSON LLP

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9 By: /s/ Gregory P. Stone

GREGORY P. STONE

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11 Attorneys for Defendant FLEX LOGIX
12 TECHNOLOGIES, INC.

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28 ¹ Defined terms in this Motion are also used in the accompanying Memorandum of Points and Authorities.

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