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 FLEX LOGIX TECHNOLOGIES, INC.

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.  
 18

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

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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 Authorities<sup>1</sup>; 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            
10 GREGORY P. STONE

11 Attorneys for Defendant FLEX LOGIX  
12 TECHNOLOGIES, INC.  
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28 <sup>1</sup> Defined terms in this Motion are also used in the accompanying Memorandum of Points and

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