

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

PACT XPP SCHWEIZ AG

Plaintiff,

v.

INTEL CORPORATION

Defendant.

Case No. 6:19-cv-00273-ADA

JURY TRIAL DEMANDED

**PACT XPP SCHWEIZ AG'S AND INTEL CORPORATION'S CORRECTED
STIPULATION TO DISMISS WITHOUT PREJUDICE**

Whereas Plaintiff PACT XPP Schweiz AG (“PACT”) filed a complaint in Delaware on February 7, 2019 styled *PACT XPP Schweiz AG v. Intel Corporation*, Case No. 19-cv-00267 (D. Del. Feb. 7, 2019) (the “Delaware Case”), alleging that Intel Corporation (“Intel”) infringed twelve patents assigned to Plaintiff;

Whereas PACT understood that Intel and PACT stipulated that in return for a second extension to answer or otherwise respond to the complaint in the Delaware Case, Intel would waive its right to file any motion in response to said complaint, including a motion to transfer venue;

Whereas Intel understood that Intel was only waiving its right to file a motion to dismiss in the Delaware Case in return for such extension, and that Intel was not waiving its right to file a motion to transfer;

Whereas during the second extension period, Intel informed PACT that, although it would answer the complaint in the Delaware Case, it would also in response to the Delaware complaint file a motion to transfer venue to the District of Oregon;

Whereas PACT thereafter refiled its complaint in the Western District of Texas on April 23, 2019 (the “Texas Case”) asserting the same twelve patents and dismissed the Delaware Case without prejudice;

Whereas Intel then filed a declaratory action in the Northern District of California on April 25, 2019, (the “California Case”), asking the court to declare that it did not infringe any valid claim of any of the twelve patents asserted in both the Texas Case and the Delaware Case and alleging a breach of contract;

Whereas PACT and Intel are desirous of putting their dispute as to venue behind them by having their case venued in the District of Delaware; and

Whereas Intel has agreed to waive (i) any right in this case to challenge venue in the District of Delaware; (ii) the provisions of Fed. R. Civ. P. 41(a)(1)(B) to assert that PACT's dismissal of the Texas Case operates as an adjudication on the merits; and (iii) any rights to costs or attorney's fees under Fed. R. Civ. P. 41(d) resulting from the parties' venue dispute and the dismissal of either the Original Delaware case, the California Case, or the Texas case;

NOW THEREFORE IT IS HEREBY STIPULATED THAT IN ACCORDANCE WITH THE ABOVE AGREEMENT AND STIPULATION OF THE PARTIES:

1. Intel shall dismiss its California Case against PACT filed in the Northern District of California without prejudice;

2. PACT and Intel shall file a stipulation of dismissal signed by both parties to dismiss the Texas Case against Intel without prejudice, and that same day Intel shall dismiss its California action without prejudice and PACT shall simultaneously refile its previously dismissed action in Delaware in a form identical to that contained in its Texas complaint except for allegations relating to the venue related allegation concerning Texas, and the parties agree that the new case will be marked related to the prior case on the civil cover sheet;

3. Neither PACT's nor Intel's dismissal of their respective Texas Case and California Case shall be deemed an adjudication on the merits of any claim, nor shall it give rise to any right to costs or fees resulting from the venue dispute under Fed. R. Civ. P. 41;

4. Within 5 days of the refile of the complaint in Delaware, Intel shall file its answer to the Delaware complaint, and the parties will hold the Fed. R. Civ. P. Rule 26 conference by June 14, 2019; and

5. Either party may file this stipulation if needed in the Delaware, California, or Texas Cases.

Dated: May 30, 2019

/s/ J. Stephen Ravel

J. Stephen Ravel
Texas State Bar No. 16584975
KELLY HART & HALLMAN LLP
303 Colorado, Suite 2000
Austin, Texas 78701
Tel: (512) 495-6429
Fax: (512) 495-6401
Email: steve.ravel@kellyhart.com

James E. Wren
Texas State Bar No. 22018200
1 Bear Place, Unit 97288
Waco, Texas 76798
Tel: (254) 710-7670
james_wren@baylor.edu

Gregory S. Arovas (*Pro Hac Vice*)
New York State Bar No. 2553782
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022
Tel: (212) 446-4766
Email: greg.arovas@kirkland.com

Adam R. Alper (*Pro Hac Vice*)
California State Bar No. 196834
KIRKLAND & ELLIS LLP
555 California Street
San Francisco, CA 94104
Tel: (415) 439-1400
Email: adam.alper@kirkland.com

Michael W. De Vries (*Pro Hac Vice*)
California State Bar No. 211001
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, CA 90071
Tel: (213) 680-8400
Email: michael.devries@kirkland.com

Attorneys for Defendant Intel Corporation

/s/ Frederick A. Lorig

Frederick A. Lorig (SBN 057645)
fredlorig@quinnemanuel.com
**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Telephone: +1 213 443 3047

Craig D. Cherry
State Bar No. 24012419
ccherry@haleyolson.com
HALEY & OLSON, P.C.
100 N. Ritchie Road, Suite 200
Waco, Texas 76712
913 Franklin Ave., Suite 201
Waco, Texas 76701
Telephone: (254) 776-3336
Facsimile: (254) 776-6823

J. Mark Mann
State Bar No. 12926150
mark@themannfirm.com
G. Blake Thompson
State Bar No. 24042033
blake@themannfirm.com
MANN | TINDEL | THOMPSON
300 West Main St.
Henderson, Texas 75652
913 Franklin Ave., Suite 201
Waco, Texas 76701
Telephone: (903) 657-8540
Facsimile: (903) 657-6003

*Attorneys for Plaintiff PACT XPP SCHWEIZ
AG*