

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

PARKERVISION, INC.,

Plaintiff,

v.

ZYXEL COMMUNICATIONS
CORPORATION,

Defendant.

Case No. 6:20-cv-01010-ADA

JURY TRIAL DEMANDED

**PARKERVISION, INC.'S DISCLOSURE OF
PRELIMINARY INFRINGEMENT CONTENTIONS**

Plaintiff ParkerVision, Inc. (“ParkerVision”) hereby makes the following disclosure of asserted claims, infringement contentions, and document production to Defendant ZyXEL Communications Corporation (“ZyXEL” or “Defendant”).

These infringement contentions (“ICs”) are based on ParkerVision’s current interpretation of U.S. Patent Nos. 6,049,706 (the “’706 patent”); 6,266,518 (the “’518 patent”); 6,580,902 (the “’902 patent”); 7,110,444 (the “’444 patent”); 7,292,835 (the “’835 patent”); 8,588,725 (the “’725 patent”); 8,660,513 (the “’513 patent”); 9,118,528 (the “’528 patent”); 9,246,736 (the “’736 patent”); and 9,444,673 (the “’673 patent”) (collectively, the “patents-in-suit”), teardowns, circuit extractions, and public information describing ZyXEL’s products. ParkerVision reserves the right to amend its ICs and the asserted claims based on claim construction proceedings and this Court’s claim construction rulings or rulings by other courts in related cases, information obtained through discovery and/or otherwise as this case progresses. ParkerVision reserves the right to amend its infringement contentions and asserted claims based

on any proceedings before the United States Patent and Trademark Office in connection with ParkerVision's patents.

A. Identification of infringed claims.

The asserted claims of the patents-in-suit include those claims identified in the attached claim charts. ParkerVision identified these asserted claims based on its current and preliminary understanding and reserves the right to supplement its identification of infringed claims as discovery proceeds, including identifying additional claims.

ParkerVision accuses ZyXEL of directly infringing the following claims of the patents-in-suit:

- At a minimum, claims 1, 2, 6, 7, 28, 34, 101, 102, 103, 105, 106, 107, 108, 109, 111, 114, 115, 116, 117, 118, 123, 125, 127, 128, 129, 134, 135, 136, 137, 138, 139, 152, 162, 164, 165, 166, 168, 172, 173, 175, 176, 179, 183, 184, 186, 187, 190, and 194 of the '706.
- At a minimum, claims 50 and 67 of the '518 patent.
- At a minimum, claims 1, 2, 4, and 5 of the '902 patent.
- At a minimum, claims 2, 3, and 4 of the '444 patent.
- At a minimum, claims 1, 12, 13, 14, 15, and 17 of the '835 patent.
- At a minimum, claims 1, 6, 7, 13, 14, and 16-19 of the '725 patent.
- At a minimum, claims 19, 24, 27, and 28 of the '513 patent.
- At a minimum, claims 1, 5, 9, 14, 15, and 17 of the '528 patent.
- At a minimum, claims 1, 11, 15, 19, 21, 26, and 27 of the '736 patent.
- At a minimum, claims 1, 2, 5, 6, 7, 13, 16, 17, 18, and 19 of the '673 patent.

ZyXEL directly infringes one or more claims of the asserted patents by making, using, offering for sale, selling, and/or importing in or into the United States products covered (either literally or under the doctrine of equivalents) one or more claims of the patents-in-suit (including, but not limited to, the ZyXEL's products identified in the attached claim charts).

B. Identification of accused instrumentalities.

ParkerVision identifies the accused instrumentalities based on its preliminary understanding of information currently available to ParkerVision. This preliminary understanding is obtained at least through ParkerVision's independent investigation of ZyXEL's networking products, examination of teardowns and circuit extractions, and review of relevant literature and manuals.

ParkerVision reserves the right to supplement its infringement contentions as discovery proceeds and ZyXEL produces documents/information that are either required under the Court's local rules or responsive to ParkerVision's discovery requests, including identifying additional accused instrumentalities, which have features similar to the products set forth below. In due course, after receiving discovery of products made, used, sold, offered for sale and/or imported by ZyXEL in the United States, ParkerVision will supplement these IC's as applicable.

In addition to the ZyXEL products specifically charted, the accused instrumentalities include ZyXEL products that operate and/or are structurally the same as the products identified in the attached claim charts. ZyXEL products that operate and/or are structurally the same as the products in the attached claim charts infringe for the same reasons as those charted products.

The accused instrumentalities also include ZyXEL products that are considered sold in the United States according to the Federal Circuit's decision in *Carnegie Mellon Univ. v. Marvell Tech. Group. Ltd.*, No. 2014-1492 (Aug. 4, 2015).

Subject to the foregoing and based on the information currently available, ParkerVision identifies the following accused instrumentalities, including all reasonably similar variants or improvements, as the accused instrumentalities. Specifically, ParkerVision identifies that the manufacture, use, sale, offer for sale, and/or importation in or into the United States by ZyXEL

of products including or embodying at least the following ZyXEL products directly infringe each of the asserted claims of the patents-in-suit:

- ZyXEL networking products containing wireless module FCC ID: 88NBG6604; and
- ZyXEL networking products containing wireless module FCC ID: I88WAP6804.

C. Chart identifying accused instrumentalities.

ParkerVision provides the attached claim charts, which identify where to find each element of each asserted claim within the accused instrumentalities. These claim charts provide ZyXEL with the requisite notice by identifying instrumentalities that incorporate or reflect the recited claim elements. As such, these charts serve a notice function, and they do not present every possible permutation or theory of ParkerVision's case.

The claim charts are not intended to be an expert report on infringement or provide detailed analysis of the claim terms or infringement. ParkerVision will disclose and produce an expert report regarding infringement with appropriate analysis pursuant to the Court's Scheduling Order. These charts include infringement by ZyXEL, including diagrams, teardowns, circuit extractions, and images of the accused products, and other publicly available documentary evidence by way of example and not limitation.

The asserted claims include elements that are implemented, at least in part, by ZyXEL confidential information. In some instances, the information used in them are, at least in part, not publicly available. An analysis of ZyXEL (or other third parties') technical information may be necessary to more fully identify all infringing features and functionality. Accordingly, pursuant to the Court's Scheduling Order, ParkerVision reserves the right to supplement these charts once such information is made available to ParkerVision.

Furthermore, ParkerVision reserves the right to revise these charts, as appropriate, upon issuance of the Court's Claim Construction Order, including the identification of whether any such differences between the accused instrumentalities and the claims are insubstantial and whether the accused instrumentalities read on the claim elements under the doctrine of equivalents.

D. Literal infringement and infringement under the doctrine of equivalents.

ParkerVision presently contends that the accused instrumentalities literally infringe the above-asserted claims of the patents-in-suit as more specifically explained in the attached claim charts. Further, ParkerVision asserts infringement under the doctrine of equivalents, to the extent that the difference between any component of any product and any claim element is insubstantial. In other words, to the extent literal infringement is purportedly absent, ZyXEL products identified in the attached claim charts perform substantially the same function of the invention recited in the claims, in substantially the same way to achieve substantially the same result. ParkerVision reserves the right to add allegations of infringement under the doctrine of equivalents or amend its doctrine of equivalents allegations to change in response to discovery, ZyXEL's claim construction and non-infringement positions, claim construction proceedings, this Court's claim construction rulings, rulings by other courts in related cases or any proceedings before the United States Patent and Trademark Office regarding ParkerVision's patents.

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