

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

XR COMMUNICATIONS, LLC, dba VIVATO
TECHNOLOGIES,

Plaintiff,

v.

APPLE INC.

Defendant.

Case No. 6:21-cv-620-ADA

JURY TRIAL DEMANDED

**PLAINTIFF XR COMMUNICATIONS, LLC'S SECOND SUPPLEMENTAL
DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS**

Plaintiff XR Communications, LLC, dba Vivato Technologies (“Vivato”) provides this Second Supplemental Disclosure of Asserted Claims and Infringement Contentions to Defendant Apple Inc. (“Defendant” or “Apple”), in accordance with the Court’s Order Governing Proceedings. This disclosure is based on the information available to Vivato as of the date of this disclosure, and Vivato reserves the right to amend this disclosure to the full extent consistent with the Court’s Rules and Orders.

Discovery is at a very early stage. There have been no deposition testimony or discovery responses in this action related to technical matters. Vivato’s investigation regarding the asserted claims and infringement contentions in this disclosure is ongoing, and its investigation of other potential grounds of infringement is ongoing. This disclosure is based upon information that Vivato has been able to obtain publicly, together with Vivato’s current good faith beliefs and information regarding the Accused Products. This disclosure is provided without prejudice to Vivato’s right to supplement or amend its disclosure as additional facts are discovered, documents and source code are obtained, analyses are made, and research is completed.

Further, this disclosure is based upon Vivato’s present understanding of the meaning and scope of the claims of United States Patent Number 10,715,235 (the “235 Patent”) (the “Asserted Patent” or “Patent-in-Suit”) in the absence of claim construction proceedings in this action. Vivato reserves the right to supplement or amend these disclosures if its understanding of the claims changes, including when the Court construes them in this action.

I. Asserted Claims

Vivato asserts direct infringement against Defendant under 35 U.S.C. § 271(a) and indirect infringement under 35 U.S.C. § 271(b). More specifically, Defendant has been and are now

actively inducing direct infringement by other persons (*e.g.*, Defendant’s customers who use, sell or offer for sale the Accused Products) the following claims (collectively, “Asserted Claims”):

- U.S. Patent No. 10,715,235 (the “235 Patent”), Claims 1, 2, 4, 8, 9, 11, 12, 15, 16.

II. Accused Products

Vivato asserts that the Asserted Claims are infringed by various products used, made, sold, offered for sale, or imported into the United States by Defendant (“Accused Products”), including Apple products supporting MIMO and/or MU-MIMO technologies, including without limitation the iPhone 12 Pro Max, iPhone 12 Pro, iPhone 12, iPhone 12 mini, iPhone SE (2nd Generation), iPhone 11 Pro Max, iPhone 11 Pro, iPhone 11, , iPhone XS, XR, iPhone X, iPhone 8 Plus, iPhone 8, iPhone 7 Plus, iPhone 7, iPhone 6s Plus, iPhone 6s; iPad Pro 12.9-in (5th generation), iPad Pro 12.9-in (4th generation), iPad Pro 12.9-in (3rd generation), iPad Pro 12.9-in (2nd generation), iPad Pro 12.9-in (1st generation), iPad Pro 11-in (2nd generation), iPad Pro 11-in (3rd generation), iPad Pro 11-in (1st generation), iPad Air (4th generation), iPad (8th generation), iPad mini (5th generation), iPad Pro 10.5-in, iPad Pro 9.7-in, iPad Air (3rd generation), iPad Air 2, iPad Air (1st generation), iPad (7th generation), iPad (6th generation), iPad (5th generation), iPad mini 4, iPad mini 3, iPad mini 2; MacBook Air (M1, 2020), MacBook Pro 13-in (M1, 2020), iMac 24-in (M1, Two ports, 2021), iMac 24-in (M1, Four ports, 2021), Mac mini (M1, 2020); MacBook Pro 16-in, MacBook Air (Retina, 2020), MacBook Air (2017), MacBook Pro 13-in (Two Thunderbolt 2020), MacBook Pro 13-in (Four Thunderbolt 2020), MacBook Pro 13-in (Two Thunderbolt 2016), iMac 21.5-in, iMac 21.5-in (4K Retina), iMac 27-in (5K Retina), iMac Pro, Mac mini (2018), Mac Pro. Defendant’s Accused Products of which Vivato is presently aware are described in more detail in the accompanying preliminary infringement contention charts, Exhibit 1. Vivato reserves the right to accused additional of Defendant’s products to the extent Vivato becomes aware of additional products during the discovery process. Unless otherwise stated,

Vivato's assertions of infringement apply to all variations, versions, and applications of each of the Accused Products, on information and belief, that different variations, versions, and applications of each of the Accused Products are substantially the same for purposes of infringement of the Asserted Claims.

III. Claim Charts

A chart identifying specifically where each limitation of each asserted claim is found within each Accused Product is attached to this disclosure as Exhibit 1. Each limitation of each asserted claim in the attached charts is alleged to be literally infringed by each Accused Product. Where Vivato anticipates Defendant's arguments against literal infringement for certain limitations, Vivato has included disclosures in the charts alleging infringement under the doctrine of equivalents. To the extent Defendant contends that other limitations are not literally infringed, Vivato asserts that the limitation is infringed under the doctrine of equivalents.

IV. Priority Dates of the Asserted Patents

Each asserted claim of the '235 Patent is entitled to a priority date at least as early as November 4, 2002.

Further, XR contends that the priority date for the '235 patent is at least as early as February 1, 2002, at least because conception and reduction to practice was complete as of that date.

V. Asserted Patents and File Histories

The '235 Patent is being produced at XR-WDTX-00003728 - XR-WDTX-00003768.

The file history for the '235 Patent is being produced at XR-WDTX-00001647 - XR-WDTX-00002862.

Dated: August 26, 2022

Respectfully submitted,

/s/ Reza Mirzaie

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