

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

XR COMMUNICATIONS, LLC, dba)	
VIVATO TECHNOLOGIES,)	
)	
Plaintiff,)	The Honorable
)	Alan D. Albright
-vs.-)	
)	No.: 6:21-cv-00619-ADA
AMAZON.COM, INC., AMAZON.COM)	
SERVICES LLC, and EERO LLC,)	JURY TRIAL DEMANDED
)	
Defendants.)	

**DEFENDANT EERO LLC'S MOTION TO
DISMISS FOR IMPROPER VENUE OR, ALTERNATIVELY,
TO TRANSFER TO THE NORTHERN DISTRICT OF CALIFORNIA**

AMAZON.COM, INC., et al.
EXHIBIT 1102

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INTRODUCTION

Defendant eero LLC (“eero”) respectfully moves to dismiss for improper venue under Rule 12(b)(3) and 28 U.S.C. § 1406(a), or, alternatively, to transfer venue to the Northern District of California. Proper venue in a patent infringement suit is “in the judicial district where the defendant resides” or “where the defendant has committed acts of infringement and has a regular and established place of business.” 28 U.S.C. § 1400(b). Under either part of the statute, venue in the Western District of Texas is improper as to eero.

FACTUAL BACKGROUND

I. THE COMPLAINT’S VENUE ALLEGATIONS

Plaintiff XR Communications LLC d/b/a Vivato Technologies (“plaintiff” or “Vivato”) filed its complaint in this Court on June 16, 2021, against defendants Amazon.com, Inc., Amazon.com Services LLC (collectively, the “Amazon defendants”), and eero, alleging infringement of United States Patent Nos. 10,594,376 and 10,715,235. (D.I. 1, Compl. ¶¶ 16-18, 23-26, 44-46.) Vivato’s complaint states that venue is proper against all three defendants in the Western District of Texas because:

Defendants have a permanent and continuous presence in, have committed acts of infringement in, and maintain regular and established places of business in this district. Defendants have committed acts of direct and indirect infringement in this judicial district including using and purposefully transacting business involving the Accused Products in this judicial district such as by sales to one or more customers in the State of Texas including in the Western District of Texas, and maintaining regular and established places of business in this district, including, for example, their Amazon Tech Hub located at 11501 Alterra Parkway, Austin, TX.

(*Id.* ¶ 23.)

Specific to eero, Vivato’s complaint alleges that eero has a principal place of business in California and is incorporated in Delaware. (D.I. 1, Compl. ¶ 18.) Vivato’s complaint further

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