

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

XR COMMUNICATIONS, LLC, dba VIVATO  
TECHNOLOGIES,

Plaintiff,

v.

AMAZON.COM, INC., AMAZON.COM  
SERVICES LLC, and EERO LLC.

Defendants.

Case No. 6:21-cv-619-ADA

**JURY TRIAL DEMANDED**

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

AMAZON.COM, INC., et al.  
EXHIBIT 1108

Plaintiff XR Communications, LLC, dba Vivato Technologies (“Vivato”) provides this Disclosure of Asserted Claims and Infringement Contentions to Defendant Amazon.com, Inc., Amazon.com Services LLC, and eero LLC. (collectively “Defendants”) 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 Numbers 10,594,376 (the “’376 Patent”) and 10,715,235 (the “’235 Patent”) (collectively, the “Asserted Patents” or “Patents-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 Defendants under 35 U.S.C. § 271(a) and indirect infringement under 35 U.S.C. § 271(b). More specifically, Defendants have been and are

now actively inducing direct infringement by other persons (*e.g.*, Defendants' customers who use, sell or offer for sale the Accused Products) the following claims (collectively, "Asserted Claims"):

- U.S. Patent No. 10,594,376 (the "'376 Patent"), Claims 1-34; and
- U.S. Patent No. 10,715,235 (the "'235 Patent"), Claims 1, 2, 4, 5, 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 U.S. by Defendants ("Accused Products"):

- Amazon's current, past, and future Wi-Fi access points and routers supporting MU-MIMO, including without limitation access points and routers utilizing the IEEE 802.11ax or "Wi-Fi 6" standard and/or access points and routers utilizing the IEEE 802.11ac wave 2 standard supporting MU-MIMO. For example, Vivato provides the following non-exhaustive list of Amazon's current and past '376 Accused Products: Defendant's eero Pro 6, eero 6, eero Pro, eero, eero 6 extender, and eero Beacon (collectively, the "'376 Accused Products").
- Amazon products supporting MIMO and/or MU-MIMO technologies, including without limitation the Fire TV Stick 4K, Fire TV Stick, Fire TV Stick Lite, Fire TV Cube, Echo Show 10 (2nd-3rd Gen) (collectively the "'235 Accused Products").

Defendants' Accused Products of which Vivato is presently aware are described in more detail in the accompanying preliminary infringement contention charts, Exhibits 1-2.

Vivato reserves the right to accused additional of Defendants' 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 Exhibits 1-2. Each limitation of each asserted claim in the attached charts is alleged to be literally infringed by each Accused Product. Where Vivato anticipates Defendants' arguments against literal infringement for certain limitations, Vivato has included disclosures in the charts alleging infringement under the doctrine of equivalents. To the extent Defendants contend 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 '376 Patent is entitled to a priority date at least as early as November 4, 2002.

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

### **V. Asserted Patents and File Histories**

The '376 Patent is being produced at XR-WDTX-00003686 - XR-WDTX-00003727.

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

The file history for the '376 Patent is being produced at XR-WDTX-00000363 - XR-WDTX-00001646.

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

Dated: December 20, 2021

Respectfully submitted,

/s/ Reza Mirzaie

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