

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

SABLE NETWORKS, INC. and	§	
SABLE IP, LLC	§	
	§	
Plaintiffs,	§	CIVIL ACTION No. 6:20-cv-00569-ADA
v.	§	
	§	JURY TRIAL DEMANDED
	§	
DELL TECHNOLOGIES INC., DELL INC.,	§	
and EMC CORPORATION,	§	
	§	
Defendants.	§	

**JOINT STIPULATION TO DISMISS PLAINTIFFS' INDUCED AND WILLFUL
INFRINGEMENT ALLEGATIONS**

WHEREAS, the above-captioned action was filed by Plaintiffs Sable Networks, Inc. and Sable IP, LLC (collectively, "Plaintiffs" or "Sable") against Defendants Dell Technologies Inc., Dell Inc., and EMC Corporation (collectively, "Defendants" or "Dell") in the United States District Court for the Western District of Texas, Waco Division on June 26, 2020;

WHEREAS, in the above-captioned action, Sable alleges that: (1) Dell directly infringes four United States patents; (2) Dell induces infringement of the four asserted United States patents; and (3) Plaintiffs are entitled to enhanced damages arising from Dell's willful infringement of the four asserted United States patents;

WHEREAS, Dell indicated its intention to file a motion to dismiss Plaintiffs' allegations that Dell willfully infringes, induces infringement or that Plaintiffs are entitled to enhanced damages;

WHEREAS, Plaintiffs deny that there is any infirmity with any of the allegations in its Complaint, including its allegations of induced and willful patent infringement;

WHEREAS, Plaintiffs acknowledge this Court has a standard practice of dismissing allegations of induced infringement and willful infringement without prejudice to plaintiffs

conducting discovery on both issues and without prejudice to plaintiffs amending the complaint to allege induced infringement and/or willful infringement after fact discovery is open;

WHEREAS, counsel for Plaintiffs and counsel for Defendants have met and conferred and agreed that Plaintiffs will voluntarily dismiss the allegations of induced and willful infringement contained in the Complaint filed in this action; however, counsel for Plaintiffs and counsel for Defendants acknowledge that: (1) this dismissal is pursuant to the Court's standard practice; (2) this Stipulation is not intended to serve as a reflection on the adequacy or inadequacy of any allegations contained in the Complaint; and (3) that the dismissal of Plaintiffs' induced and willful infringement allegations is without prejudice to Plaintiffs seeking discovery on these issues, to which Dell reserves its rights to raise appropriate objections, and without prejudice to Plaintiffs amending the Complaint to allege induced and/or willful infringement after fact discovery in this action is open;

WHEREAS, Dell has requested, and Plaintiffs do not oppose, an extension of its deadline to answer or otherwise respond to the Complaint until 21 days from the date the Court enters an Order dismissing Plaintiffs' induced and willful infringement claims without prejudice pursuant to this Stipulation;

NOW, THEREFORE, Plaintiffs and Defendants, through each party's respective counsel, hereby jointly stipulate to the entry of an Order dismissing Plaintiffs' allegations of induced infringement and willful infringement without prejudice to Plaintiffs seeking discovery relevant to those allegations, to which Dell reserves its rights to raise appropriate objections, and without prejudice to Plaintiffs amending the Complaint to allege induced and/or willful infringement after fact discovery in this action opens. Plaintiffs and Defendants further request an Order

providing Dell with a 21-day extension to answer or otherwise respond to the Complaint, which begins to run upon entry of the Court's dismissal order.

DATED: September 3, 2020

Respectfully Submitted,

By: /s/ Michael J. Newton

Michael John Newton (TX. Bar No. 24003844)

Brady Cox (TX. Bar No. 24074084)

Alston & Bird LLP

2200 Ross Avenue, Suite 2300

Dallas, Texas 75201

Phone: (214) 922-3400

Fax: (214) 922-3899

mike.newton@alston.com

brady.cox@alston.com

Emily Chambers Welch (GA Bar No. 606071)

Alston & Bird LLP

One Atlantic Center

1201 W. Peachtree Street NE, Suite 4900

Atlanta, Georgia 30309

Telephone: (404) 881-7000

emily.welch@alston.com

Lauren N. Griffin (NC Bar No. 54766)

Alston & Bird LLP

101 S. Tryon Street, Suite 4000

Charlotte, North Carolina 28280

Telephone: (704) 444-1000

lauren.griffin@alston.com

**COUNSEL FOR DEFENDANTS
DELL TECHNOLOGIES INC., DELL INC.,
AND EMC CORPORATION**

By: /s/ Dorian Berger

S. Calvin Capshaw

State Bar No. 03783900

Elizabeth L. DeRieux

State Bar No. 05770585

Capshaw DeRieux, LLP
114 E. Commerce Ave.
Gladewater, TX 75647
Telephone: (903) 235-2833
Email: ccapshaw@capshawlaw.com
Email: ederieux@capshawlaw.com

Dorian S. Berger (CA SB No. 264424)
Daniel P. Hipskind (CA SB No. 266763)
BERGER & HIPSKIND LLP
9538 Brighton Way, Ste. 320
Beverly Hills, CA 90210
Telephone: (323) 886-3430
Facsimile: (323) 978-5508
Email: dsb@bergerhipskind.com
Email: dph@bergerhipskind.com

**COUNSEL FOR PLAINTIFFS
SABLE NETWORKS, INC. AND
SABLE IP, LLC**

CERTIFICATE OF CONFERENCE

I hereby certify that the parties conferred via email over September 2-September 3, 2020, and that Sable Networks, Inc., Sable IP, LLC, Dell Technologies Inc., Dell Inc., and EMC Corporation agree to request the relief sought herein.

/s/ Dorian Berger _____

Dorian Berger

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 3rd day of September, 2020 a true and correct copy of the Joint Stipulation to Dismiss Without Prejudice Plaintiffs' Induced and Willful Infringement Allegations was electronically filed with the Clerk of the Court using the CM/ECF system, which sends notifications of such filing to all counsel of record who have consented to accept service by electronic means.

/s/ Dorian Berger _____

Dorian Berger