

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

XR COMMUNICATIONS, LLC dba
VIVATO TECHNOLOGIES,

Plaintiff,

v.

ASUSTeK COMPUTER INC.,

Defendant.

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Civil Action No.: 6:21-cv-00622-ADA

JURY TRIAL DEMANDED

**JOINT STIPULATION TO DISMISS PLAINTIFF’S INDUCED AND CONTRIBUTORY
INFRINGEMENT ALLEGATIONS AND REQUESTS FOR ENHANCED DAMAGES
AND PERMANENT INJUNCTIVE RELIEF**

WHEREAS, the above-captioned action was filed by Plaintiff XR Communications, LLC, d/b/a Vivato Technologies (“Plaintiff”) against ASUSTeK Computer Inc. (“Defendant”) in the United States District Court for the Western District of Texas, Waco Division, on June 16, 2021;

WHEREAS, in the above-captioned action, Plaintiff alleges that: (1) Defendant directly infringes United States Patent Nos. 7,729,728, 10,594,376, and 10,715,235 (collectively, the “Asserted Patents”); (2) Defendant induces infringement of each of the Asserted Patents; (3) Defendant contributes to infringement of each of the Asserted Patents; (4) Plaintiff is entitled to enhanced damages; and (5) Plaintiff is entitled to permanent injunctive relief;

WHEREAS, Defendant indicated its intention to file a motion to dismiss Plaintiff’s allegations that Defendant induces infringement, contributes to infringement, that Plaintiff is entitled to enhanced damages; or that Plaintiff is entitled to permanent injunctive relief;

WHEREAS, Plaintiff denies that there is any infirmity with any of the allegations in its Complaint, including its allegations of induced and contributory patent infringement;

WHEREAS, Plaintiff acknowledges this Court has a standard practice of dismissing allegations of induced infringement, contributory infringement, requests for enhanced damages, and requests for permanent injunctive relief without prejudice to plaintiffs conducting discovery on the issues and without prejudice to Plaintiff amending the complaint to allege induced infringement, contributory infringement, request enhanced damages, and/or request permanent injunctive relief after fact discovery is open;

WHEREAS, counsel for Plaintiff and counsel for Defendant have met and conferred and agree that Plaintiff will voluntarily dismiss the allegations of induced infringement, contributory infringement, request for enhanced damages, and request for permanent injunctive relief contained in the Complaint filed in this action; however, counsel for Plaintiff and counsel for Defendant acknowledge that: (1) the 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 Plaintiff's induced infringement, contributory infringement, request for enhanced damages, and request for permanent injunctive relief is without prejudice to Plaintiff seeking discovery on these issues, to which Defendant reserves its right to raise appropriate objections, and without prejudice to Plaintiff amending the Complaint to allege such after fact discovery in this action is open;

NOW, THEREFORE, Plaintiff and Defendant, through each party's respective counsel, hereby jointly stipulate to the entry of an Order dismissing Plaintiff's allegations of induced infringement and contributory infringement, request for enhanced damages, and request for permanent injunctive relief without prejudice to Plaintiff seeking discovery relevant to those

allegations, to which Defendant reserves its right to raise appropriate objections, and without prejudice to Plaintiff amending the Complaint to allege induced infringement, contributory infringement, make a request for enhanced damages, and/or make a request for permanent injunctive relief after fact discovery in this action opens.

Dated: November 23, 2021

RESPECTFULLY SUBMITTED,

By: /s/ Christian W. Conkle

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 23, 2021, a true and correct copy of the foregoing document was electronically filed with the Clerk of 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/ Jonathan K. Waldrop
Jonathan K. Waldrop