

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

ANCORA TECHNOLOGIES, INC.,

Plaintiff,

v.

GOOGLE, LLC,

Defendant.

Civil Action No. 6:21-cv-00735-ADA

JURY TRIAL DEMANDED

CASE READINESS STATUS REPORT

Plaintiff Ancora Technologies, Inc. (“Ancora”) and Defendant Google, LLC (“Google”), hereby provide the following status report in advance of the initial Case Management Conference (CMC).

FILING AND EXTENSIONS

Ancora’s Complaint asserting infringement of U.S. Patent No. 6,411,941 (the ’941 Patent) was filed on July 16, 2021. This Court granted Google’s unopposed motion for a 45-day extension to respond to Ancora’s complaint from August 9, 2021 to September 23, 2021.

RESPONSE TO THE COMPLAINT

On September 23, 2021, Google responded to Ancora’s Complaint by filing an Answer. Dkt. 18. Google did not assert any counterclaims against Ancora.

PENDING MOTIONS

There are no pending motions.

RELATED CASES IN THIS JUDICIAL DISTRICT

Ancora has filed six cases in this Judicial District involving the ’941 Patent as set forth in

the table below. The first two cases listed are cases that were filed against Defendants Samsung Electronics Co., Ltd., et. al (“Samsung”) and LG Electronics, Inc., et al. (“LGE”). Although both cases have been terminated, the Court issued a claim construction order and supplemental claim construction order construing 16 terms of the ’941 Patent. *See Ancora v. LG Elecs. Inc., et al*, Dkts. 69 & 93, No. 1:20-CV-0034 (W.D. Tex. 2020). The parties in these two cases reached settlements prior to trials scheduled in April and June of 2021, respectively.

The remaining four cases against Google, Roku, Nintendo, and Vizio are “CRSR Related Cases” pursuant to the Court’s June 16, 2021, Amended Standing Order Regarding Notice of Readiness for Patent Cases, as all four cases were “filed within thirty (30) days” of each other and “share at least one common asserted patent” (the ’941 Patent).

Parties	Case No.	Date Filed	Status
<i>Ancora v. LG Elecs. Inc. et al.</i>	6:21-CV-00561-ADA, 1:20-CV-00034-ADA	June 21, 2019	Terminated
<i>Ancora v. Samsung Elecs. Co. Ltd. et al.</i>	1:20-CV-00034-ADA	June 21, 2019	Terminated
<i>Ancora v. Google, Inc.</i>	6:21-CV-00735-ADA	July 16, 2021	Pending
<i>Ancora v. Roku, Inc.</i>	6:21-CV-00737-ADA	July 16, 2021	Pending
<i>Ancora v. Nintendo Co. Ltd., et al.</i>	6:21-CV-00738-ADA	July 16, 2021	Pending
<i>Ancora v. Vizio, Inc.</i>	6:21-CV-00739-ADA	July 16, 2021	Pending

IPR, CBM, AND OTHER PGR FILINGS

Nintendo Co. Ltd. and Nintendo of America, Inc., filed a petition for *inter partes* review (IPR) of the ’941 Patent that has been accorded a filing date of August 10, 2021. An institution decision is expected on February 18, 2022. If institution is granted, a final decision is expected on February 18, 2023.

Roku and Vizio filed a petition for IPR based on the same grounds as those presented in the Nintendo IPR that has been accorded a filing date of August 24, 2021. An institution decision is expected on March 17, 2022. If institution is granted, a final decision is expected on March 17,

2023.

NUMBER OF ASSERTED PATENTS AND CLAIMS

Ancora is asserting eight claims of the '941 Patent.

APPOINTMENT OF TECHNICAL ADVISER

Google requests a technical adviser to be appointed to the case because a technical adviser is likely to assist the Court in resolving complex, technical claim construction and noninfringement issues specific to the dozens of accused products in the Complaint.

Ancora does not believe a technical adviser is necessary. Ancora notes that the Court previously construed approximately 16 terms of the '941 Patent in its Final Claim Construction Order in *Ancora Techs., Inc. v. LG Elecs. Inc. et al.*, ECF No. 69, No. 1-20-CV-00034-ADA, 2020 WL 4825716 (W.D. Tex. June 2, 2020), and issued a written Supplemental Claim Construction Order in *Ancora Techs., Inc. v. LG Elecs. Inc.*, No. 1-20-CV-00034-ADA, 2020 WL 4825716 (W.D. Tex. Aug. 19, 2020). The Court has also ruled, in the same case, on Ancora's and LGE's summary judgment and *Daubert* motions, in which defendants sought construction of additional terms. *See Ancora Techs., Inc. v. LG Elecs. Inc.*, ECF No. 270 (W.D. Tex. June 1, 2021) (“ORDER DENYING 199 LGE’s Motion for Summary Judgment; ORDER GRANTING 196 Ancora’s Motion to Exclude Testimony of Alan Ratliff; ORDER DENYING 244 LGE’s Motion to Strike the Supplemental Report of Robert Mills; ORDER DENYING 198 LGE’s Motion to Exclude the Testimony of Robert Mills; ORDER DENYING 194 Ancora’s Motion to Exclude Testimony of Dr. Suzanne Barber; ORDER DENYING 195 Ancora’s Motion to Exclude Testimony of Mr. Regis Bates; ORDER DENYING 197 LGE’s Motion to Exclude Testimony of Dr. David Martin. Signed by Judge Alan D Albright.”).¹

¹ The Court later indicated it had GRANTED Ancora’s Motion to Exclude Testimony of Mr. Regis Bates. *See Ancora Techs., Inc. v. LG Elecs. Inc.*, ECF No. 274 (W.D. Tex. June 4, 2021).

MEET AND CONFER STATUS

Ancora and Google met and conferred telephonically on September 23, 2021. The parties identified the following pre-Markman issues to raise at the CMC:

Ancora requested that Google stipulate to the same requirements Ordered by this Court in its Scheduling Order in *Ancora Techs., Inc. v. LG Elecs. Inc. et al.*, ECF No. 32 (W.D. Tex. Jan. 3, 2020), in which the Court Ordered:

- That the defendant produce quarterly sales and unit count information for the accused products for the full infringement period two weeks before the parties exchange claim terms for construction; and
- That the defendant “identify any third party that it reasonably believes possesses relevant information ... regarding the over-the-air updates as identified in Plaintiff’s infringement contentions.”

Ancora has informed Google that it is willing to produce any and all license agreements on the same date that Google produces its unit count information. Similarly Ancora will identify any relevant third parties on the same date as Google.

Google indicated it would consider Ancora’s requests and respond in due course before the deadline for submitting an agreed Scheduling Order.

Google intends to move to transfer this case to the Northern District of California pursuant to 28 U.S.C. § 1404.

Dated: September 30, 2021

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