

**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.

§
§ **Civil Action No.: 6:21-cv-00622-ADA**
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§
§ **JURY TRIAL DEMANDED**
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**DEFENDANT ASUSTEK COMPUTER INC.’S
AMENDED ANSWER TO PLAINTIFF’S COMPLAINT**

Defendant, ASUSTeK Computer Inc. (“ASUSTeK” or “Defendant”), hereby submits its Amended Answer to Plaintiff XR Communications, LLC d.b.a. Vivato Technologies’ (“Vivato” or “Plaintiff”) Complaint for Patent Infringement (“Complaint”; Dkt. 1). Except as otherwise admitted in this Answer, ASUSTeK denies each and every allegation in the Complaint.

INTRODUCTION

1. ASUSTeK denies the allegation set forth in ¶1 of the Complaint.
2. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶2 of the Complaint, and therefore denies them.
3. Defendant admits that Guglielmo Maconi won the Nobel Prize in Physics in 1909. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the rest of the allegations set forth in ¶3 of the Complaint, and therefore denies them.
4. ASUSTeK admits that Karl Ferdinand Braun was a contemporary of Marconi and shared the 1909 Nobel Prize in Physics with Guglielmo Marconi. ASUSTeK lacks sufficient knowledge and

information on which to form an admission or a denial regarding the rest of the allegations set forth in ¶4 of the Complaint, and therefore denies them.

5. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶5 of the Complaint, and therefore denies them.

6. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶6 of the Complaint, and therefore denies them.

7. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶7 of the Complaint, and therefore denies them.

8. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶8 of the Complaint, and therefore denies them.

9. Defendant denies that it has committed any patent infringement and, specifically denies that the alleged patented innovations are infringed by Defendant's accused products. Further, ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the rest of the allegations set forth in ¶9 of the Complaint, and therefore denies them.

PARTIES¹

10. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶10 of the Complaint, and therefore denies them.

11. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶11 of the Complaint, and therefore denies them.

12. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶12 of the Complaint, and therefore denies them.

¹ For ease of reference, Defendant follows the outline headings used in the Complaint. To the extent that such headings are deemed to make factual allegations, Defendant does not adopt or admit such allegations.

13. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶13 of the Complaint, and therefore denies them.

14. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶14 of the Complaint, and therefore denies them.

15. ASUSTeK lacks sufficient knowledge and information on which to form an admission or a denial regarding the allegations set forth in ¶15 of the Complaint, and therefore denies them.

16. ASUSTeK admits that Paragraph 16 contains its full name, that it is a publicly-owned corporation organized under the laws of Taiwan, and that their principal place of business at No. 15, Li-Teh Rd., Beitou District, Taipei City 112, Taiwan. ASUSTeK denies the rest of the allegations set forth in ¶16 of the Complaint.

JURISDICTION AND VENUE

17. ASUSTeK admits that this action purports to arise under the Patent Laws of the United States, Title 35, United States Code. ASUSTeK specifically denies that it is liable for patent infringement under the patent laws of the United States. ASUSTeK does admit that this Court has subject matter jurisdiction 28 U.S.C. §§ 1331 and 1338(a), subject to its affirmative defenses below. Except as expressly admitted herein, ASUSTek denies the allegations in ¶17.

18. ASUSTeK denies the allegations set forth in ¶18 of the Complaint.

19. ASUSTeK admits that venue is proper for purposes of this action only. Defendant also admits that it is a foreign corporation organized under the laws of Taiwan, with a principal place of business in Taiwan. Except as expressly admitted herein, ASUSTek denies the factual allegations in ¶19.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,729,728

20. ASUSTeK realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

21. ASUSTeK admits that the first page of U.S. Patent No. 7,729,728 appears to identify its date of issuance as June 1, 2010, and that the invention is entitled “Forced Beam Switching in Wireless Communication Systems Having Smart Antennas.” ASUSTeK admits that what appears to be a copy of the ‘728 Patent is attached to the Complaint as Exhibit A. ASUSTeK denies the remaining allegations of ¶21.

22. ASUSTeK denies the allegations set forth in ¶22 of the Complaint.

23. ASUSTeK denies the allegations set forth in ¶23 of the Complaint.

24. The cited documentation speaks for themselves. ASUSTeK denies the allegations in ¶ 24 of the Complaint.

25. The cited documentation speaks for itself. Further, Paragraph 25 contains legal conclusions to which ASUSTeK is not required to answer. To the extent an answer is required, ASUSTeK denies the allegations in ¶25.

26. The cited documentation speaks for itself. Further, Paragraph 26 contains legal conclusions to which ASUSTeK is not required to answer. To the extent an answer is required, ASUSTeK denies the allegations in ¶26.

27. The cited documentation speaks for itself. Further, Paragraph 27 contains legal conclusions to which ASUSTeK is not required to answer. To the extent an answer is required, ASUSTeK denies the allegations in ¶27.

28. The cited documentation speaks for itself. Further, Paragraph 28 contains legal conclusions

to which ASUSTeK is not required to answer. To the extent an answer is required, ASUSTeK denies the allegations in ¶28.

29. The cited documentation speaks for itself. Further, Paragraph 29 contains legal conclusions to which ASUSTeK is not required to answer. To the extent an answer is required, ASUSTeK denies the allegations in ¶29.

30. The cited documentation speaks for itself. Further, Paragraph 30 contains legal conclusions to which ASUSTeK is not required to answer. To the extent an answer is required, ASUSTeK denies the allegations in ¶30.

31. The allegations in Paragraph 31 have been dismissed by plaintiff per stipulation, and as such, no response is required by ASUSTeK. To the extent an answer is required, ASUSTeK denies the allegations in ¶31.

32. The allegations in Paragraph 32 have been dismissed by plaintiff per stipulation, and as such, no response is required by ASUSTeK. To the extent an answer is required, ASUSTeK denies the allegations in ¶32.

33. The allegations in Paragraph 33 have been dismissed by plaintiff per stipulation, and as such, no response is required by ASUSTeK. To the extent an answer is required, ASUSTeK denies the allegations in ¶33.

34. ASUSTeK denies the allegations set forth in ¶34 of the Complaint.

35. ASUSTeK denies the allegations set forth in ¶35 of the Complaint.

36. ASUSTeK denies the allegations set forth in ¶36 of the Complaint.

37. ASUSTeK denies the allegations set forth in ¶37 of the Complaint.

38. ASUSTeK denies the allegations set forth in ¶35 of the Complaint.

39. The allegations in Paragraph 39 have been dismissed by plaintiff per stipulation, and as

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