

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NEXTGEN INNOVATIONS, LLC, Plaintiff, v. FUJITSU NETWORK COMMUNICATIONS, INC., ET AL., Defendants.	Case No. 2:22-cv-00307-JRG-RSP LEAD CASE
NEXTGEN INNOVATIONS, LLC, Plaintiff, v. NOKIA OF AMERICA CORPORATION, ET AL., Defendants.	Case No. 2:22-CV-00309-JRG-RSP MEMBER CASE

**JOINT MOTION TO CONSOLIDATE CASE NO. 2:22-CV-00309-JRG-RSP WITH
CASE NO. 2:23-CV-00637-JRG-RSP AND DECONSOLIDATE FROM 2:22-CV-00307-
JRG-RSP**

I. INTRODUCTION

Plaintiff NextGen Innovations, LLC (“NextGen”) and Defendants Nokia of America Corporation, Nokia Corporation, and Nokia Solutions and Networks OY (collectively “Nokia” or “Defendants”), hereby file this joint motion to consolidate this case (“*NextGen-Nokia I*”) with a co-pending case, *NextGen Innovations, LLC v. Nokia of America Corporation, et. al.*, 2:23-cv-00637 (“*NextGen-Nokia II*”), and to de-consolidate *NextGen-Nokia I* from the current lead case *NextGen Innovations, LLC v. Fujitsu Network Communications, Inc., et al.*, 2:22-cv-00307 (Lead) (“*NextGen-Fujitsu*”) under which *NextGen-Nokia I* is a member.

Both *NextGen-Nokia I* and *NextGen-Nokia II* involve the same parties. The parties have met and conferred and agreed that consolidation of these two cases for all purposes, including trial pursuant to Federal Rule of Civil Procedure 42(a), would be most efficient for the parties and the Court.

II. FACTUAL BACKGROUND

NextGen filed *NextGen-Nokia I* against Defendants on August 9, 2022, alleging infringement of four patents. *NextGen-Nokia I*, Dkt. 1. The Court consolidated *NextGen-Nokia I* for all pretrial issues with *NextGen-Fujitsu* on October 21, 2022. *NextGen-Fujitsu*, Dkt. 22. Trial in *NextGen-Nokia I* is currently scheduled for May 6, 2024. *NextGen-Fujitsu*, Dkt. 234.

NextGen filed *NextGen-Nokia II* on December 29, 2023, alleging infringement of three patents, each of which is related to and claims priority through the patents already asserted in *NextGen-Nokia II*. *NextGen-Nokia II*, Dkt. 1. In *NextGen-Nokia II*, Defendants have not yet been served, but the parties have been meeting and conferring about service issues.

As noted above, the parties in both *NextGen-Nokia I* and *NextGen-Nokia II* are identical. NextGen asserts infringement of different patents in *NextGen-Nokia I* and *NextGen-Nokia II* and accuses different products. However, one of the asserted patents in *NextGen-Nokia II* involves a similar family of products (*i.e.*, pluggable optical transceiver modules) as those accused of infringing three asserted patents in *NextGen-Nokia I*, and all of the patents in *NextGen-Nokia II* have familial relationships with the patents asserted in *NextGen-Nokia I*.

After *NextGen-Nokia II* was filed, the parties met and conferred, and determined it would be most efficient if all the products accused of infringement were dealt with in one trial, which would be possible if the cases were consolidated into the schedule for *NextGen-Nokia II*.

III. ARGUMENT

Rule 42(a) authorizes the Court to consolidate actions that involve a “common question of law or fact,” including “join[ing] for hearing or trial any or all matters at issue in the actions.” Fed. R. Civ. P. 42(a). Here, the parties agree to consolidation and agree that the two cases present questions of law and fact that can be litigated most efficiently together.

As detailed above, while the two cases involve different patents, they involve the same parties, and involve one similar family of products (e.g., pluggable optical transceiver modules). In addition, both cases are likely to involve trial testimony from many of the same fact witnesses regarding the technical features, products, marketing, and financials; from the same inventors; and from the same experts.

NextGen-Nokia I is nearing the deadline for rebuttal expert witness disclosures on January 16, 2024, and the deadline to complete expert discovery on January 24, 2024, while *NextGen-Nokia II* is in its early stages and will require significant additional fact discovery to address the different accused products. To streamline the cases for the parties and the Court, the parties agree and jointly propose that *NextGen-Nokia I* and *NextGen-Nokia II* be consolidated into the schedule for *NextGen-Nokia II*.

Consolidation for all purposes, including trial, will avoid a potentially significant duplication of activities by both the parties and the Court, unnecessary travel and burdens on the witnesses, and allow the parties’ disputes to be resolved in a much more efficient manner than if the cases were to allowed to go forward separately.

IV. CONCLUSION

To avoid the unnecessary duplicate efforts and costs that would result from proceeding with separate cases, the parties respectfully ask the Court to consolidate *NextGen-Nokia I* and

NextGen-Nokia II for all purposes, including trial, into the schedule for *NextGen-Nokia II*.

Dated: January 15, 2024

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

Counsel for Defendants met and conferred with Counsel for Plaintiff on January 15, 2024.

Counsel for Defendants join this Motion.

/s/ Benjamin T. Wang

Benjamin T. Wang

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document is being served through CM/ECF
on January 15, 2024.

/s/ Benjamin T. Wang

Benjamin T. Wang