

William F Bullard

From: Steve Skelley <steve.skelley@foliolaw.com>
Sent: Tuesday, December 6, 2022 1:34 PM
To: Tara C. Norgard; Joseph Abraham; bcraft@findlaycraft.com; efindlay@findlaycraft.com; Sam A Hamer; William F Bullard
Cc: Dali-VZ-WDTX; Barton, Ross
Subject: Re: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

Tara,

Dali is on board with the joint transfer of CommScope and Verizon to EDTX, subject to review of the joint submission to the Court. Regarding the form of the submission, our experience has been that Judge Albright's clerks tend to be more responsive to joint motions than to stipulations. Please go ahead and circulate a draft if CommScope/Verizon agree to that approach.

Best,
Steve

From: Tara C. Norgard <TNorgard@carlsoncaspers.com>
Date: Monday, December 5, 2022 at 4:49 PM
To: Steve Skelley <steve.skelley@foliolaw.com>, Joseph Abraham <Joseph.abraham@foliolaw.com>, bcraft@findlaycraft.com <bcraft@findlaycraft.com>, efindlay@findlaycraft.com <efindlay@findlaycraft.com>, Sam A Hamer <SHamer@carlsoncaspers.com>, William F Bullard <WBullard@carlsoncaspers.com>
Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>, Barton, Ross <Ross.Barton@alston.com>
Subject: RE: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

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Steve and Joe,

Thank you for the productive meet and confer this afternoon. As discussed, assuming the cases are severed, Verizon consents to the transfer of Dali v. CommScope/Verizon to EDTX. If Dali agrees, we will prepare an Agreed Stipulation to Transfer along with a Proposed Order for your consideration.

Regards,
Tara

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From: Steve Skelley <steve.skelley@foliolaw.com>
Sent: Sunday, December 4, 2022 12:16 PM

To: Tara C. Norgard <TNorgard@carlsoncaspers.com>; Joseph Abraham <Joseph.abraham@foliolaw.com>; bcraft@findlaycraft.com; efindlay@findlaycraft.com; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>
Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>
Subject: Re: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

Tara,

2:30PM Central works for us. I'll circulate an invite a little later today.

Best,
Steve

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From: Tara C. Norgard <TNorgard@carlsoncaspers.com>
Sent: Sunday, December 4, 2022 8:33 AM
To: Steve Skelley <steve.skelley@foliolaw.com>; Joseph Abraham <Joseph.abraham@foliolaw.com>; bcraft@findlaycraft.com <bcraft@findlaycraft.com>; efindlay@findlaycraft.com <efindlay@findlaycraft.com>; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>
Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>
Subject: Re: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

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Steve -- we have not received confirmation from you of a time on Monday. The morning is no longer available. Do you want to talk at 2:30 Central?

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From: Steve Skelley <steve.skelley@foliolaw.com>
Sent: Friday, December 2, 2022 2:36 PM
To: Tara C. Norgard <TNorgard@carlsoncaspers.com>; Joseph Abraham <Joseph.abraham@foliolaw.com>; bcraft@findlaycraft.com <bcraft@findlaycraft.com>; efindlay@findlaycraft.com <efindlay@findlaycraft.com>; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>
Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>
Subject: Re: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

Tara:

Given CommScope's position that Monday's meet-and-confer would be "much more productive if Dali identifies what additional information it believes it needs in advance of the call," we think the simplest way to proceed is via the

attached discovery dispute that we intend to lodge with the Court if CommScope does not supplement its production. Please be prepared to address on Monday whether CommScope is willing to produce:

1. A complete listing of all employees in Texas who are involved with the Accused Instrumentalities, consistent with the format CommScope has already employed for its document production to date; and
2. Documents sufficient to determine the corporate relationship between CommScope and all of the ARRIS Entities, as well as organizational charts or similar CommScope and ARRIS payroll, human resources, or other documentation for employees in Texas.

If CommScope does not agree on Monday to so update its production, please respond with CommScope's 1000-word responsive dispute submission on Wednesday, so that we can submit to chambers per the OGP.

Best,
Steve

From: Tara C. Norgard <TNorgard@carlsoncaspers.com>

Date: Thursday, December 1, 2022 at 9:59 AM

To: Joseph Abraham <Joseph.abraham@foliolaw.com>, Steve Skelley <steve.skelley@foliolaw.com>, bcraft@findlaycraft.com <bcraft@findlaycraft.com>, efindlay@findlaycraft.com <efindlay@findlaycraft.com>, Sam A Hamer <SHamer@carlsoncaspers.com>, William F Bullard <WBullard@carlsoncaspers.com>

Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>

Subject: RE: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

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Hi Joe. Thanks for stepping in. We are not available this afternoon. Dali's request to extend the venue discovery deadline puts the cart before the horse. Let's meet and confer and see where things stand. At this point, there does not appear to be any cause for an extension. Regarding the meet and confer, please advise at your earliest convenience whether Dali plans to narrow its requests and identify with specificity, clarity, and proportionality, precisely what more it seeks within the boundaries of the requests it has served. It will make the discussion much more productive if Dali identifies what additional information it believes it needs in advance of the call.

Regards,
Tara

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From: Joseph Abraham <Joseph.abraham@foliolaw.com>

Sent: Thursday, December 1, 2022 10:57 AM

To: Tara C. Norgard <TNorgard@carlsoncaspers.com>; Steve Skelley <steve.skelley@foliolaw.com>; bcraft@findlaycraft.com; efindlay@findlaycraft.com; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>

Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>

Subject: RE: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

Tara:

Steve has some out-of-office commitments today, so I'm stepping in. We're sorry to hear about your unanticipated conflict, which we will of course accommodate.

As an alternative to Monday, would you be available to meet and confer anytime this afternoon? And if not, is CommScope willing to reconsider its position concerning an extension of the venue discovery deadline, so as to allow for sufficient time to resolve these disputes?

Thanks,
Joe

From: Tara C. Norgard <TNorgard@carlsoncaspers.com>

Sent: Thursday, December 1, 2022 10:35 AM

To: Steve Skelley <steve.skelley@foliolaw.com>; bcraft@findlaycraft.com; efindlay@findlaycraft.com; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>

Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>

Subject: RE: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

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Counsel,

Due to an unanticipated family matter that has come up for me tomorrow, we need to reschedule this meet and confer. We are available Monday (12/5), in these timeframes: 10-11:30 am Central, 2:30-3:00 pm Central. Please let us know what works for you. Thanks in advance for your flexibility.

Regards,
Tara

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From: Steve Skelley <steve.skelley@foliolaw.com>

Sent: Wednesday, November 30, 2022 10:36 PM

To: Tara C. Norgard <TNorgard@carlsoncaspers.com>; bcraft@findlaycraft.com; efindlay@findlaycraft.com; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>

Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>

Subject: Re: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

Counsel,

I've circulated an invite for 1PM Pacific / 3PM Central on Friday, December 2.

4

Best,
Steve

From: Tara C. Norgard <TNorgard@carlsoncaspers.com>
Date: Wednesday, November 30, 2022 at 7:38 AM
To: Steve Skelley <steve.skelley@foliolaw.com>, bcraft@findlaycraft.com <bcraft@findlaycraft.com>, efindlay@findlaycraft.com <efindlay@findlaycraft.com>, Sam A Hamer <SHamer@carlsoncaspers.com>, William F Bullard <WBullard@carlsoncaspers.com>
Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>
Subject: RE: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

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Counsel,

To be clear, CommScope is not willing to provide anything further in response to Dali's overbroad requests. To the extent Dali believes it needs additional information, we have offered Dali the opportunity to narrow its requests and identify with specificity, clarity, and proportionality, precisely what more it seeks within the boundaries of the requests it has served, so that we can consider it. CommScope cannot evaluate whether it will produce any additional information until or unless Dali narrows its requests. As for scheduling a call, we are available at 3 pm Central on Friday, December 2. Please kindly circulate a conference line or link. To make the call productive, we ask that Dali promptly articulate any narrowed specific information it seeks.

Regards,
Tara

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From: Steve Skelley <steve.skelley@foliolaw.com>
Sent: Tuesday, November 29, 2022 5:19 PM
To: Tara C. Norgard <TNorgard@carlsoncaspers.com>; bcraft@findlaycraft.com; efindlay@findlaycraft.com; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>
Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>
Subject: Re: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

Counsel:

Apologies, but I forgot to reply-all on my previous email. The correspondence sent only to Tara is below.

Counsel:

It is unclear from your most recent email what more CommScope is willing to provide in response to Dali's venue discovery requests. Instead of further written correspondence, we think that a meet and confer would be the most efficient way to move the process forward, so that Dali can determine whether Court intervention will be required via a formal discovery dispute. To that end, Dali is available Wednesday, November 30 from 10AM Pacific to 1PM Pacific or Friday, December 2 after 10AM Pacific for a discussion. Please let us know whether CommScope is available during either of those windows.

Best,
Steve

From: Tara C. Norgard <TNorgard@carlsoncaspers.com>
Date: Monday, November 28, 2022 at 2:50 PM
To: Steve Skelley <steve.skelley@foliolaw.com>, bcraft@findlaycraft.com <bcraft@findlaycraft.com>, efindlay@findlaycraft.com <efindlay@findlaycraft.com>, Sam A Hamer <SHamer@carlsoncaspers.com>, William F Bullard <WBullard@carlsoncaspers.com>
Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>
Subject: RE: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

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Counsel,

We write in response to your email below, sent after business hours at the end of the week before the Thanksgiving holiday.

As an initial matter, CommScope timely served complete answers to Dali's venue discovery. Any suggestion to the contrary is not well-founded. Nevertheless, in an effort to move forward, please see our responses to the issues you raise, below.

Interrogatory 1

Please revisit CommScope's objections to Interrogatory 1, which detail the extraordinary overreach and irrelevance of this Interrogatory. CommScope has taken a reasonable approach in responding to this unreasonable venue interrogatory that, to the extent comprehensible, reaches to minute and irrelevant and unbounded detail, such as that about "past and current" employees and "current and past job title(s)" with "knowledge". Although the request is entirely objectionable, CommScope provided the most comprehensive information it could reasonably provide in response. If Dali believes it needs additional information, please narrow the request and we will consider it.

Interrogatory 2

As you know, CommScope's 10-K is dated February 16, 2022. This is already after Dali filed its complaint on January 27, 2022—the relevant date for Dali's burden of establishing proper venue as to CommScope. *See Nat'l Steel Car Ltd. v. Greenbrier Cos.*, No. 6:19-cv-00721-ADA, 2020 U.S. Dist. LEXIS 132270, at *14 (W.D. Tex. July 27, 2020) ("[T]he jurisdiction of the court depends upon the state of things at the time of the action brought." (quoting *Grupo Dataflux v. Atlas Glob. Group, L.P.*, 541 U.S. 567, 570 (2004))). If you have caselaw to the contrary that you believe entitles you to current information, please provide it.

CommScope's document production

We are not aware of a discovery protocol or agreement in this case with respect to metadata. If there is something you believe requires the metadata for CommScope's production to be provided, please provide it. If Dali has a suggestion for the mutual production of Excel spreadsheets, we will consider it. To the extent you believe that CommScope is

required to provide an “indication” of how the documents it produced are relevant to Dali’s document requests, please provide the authority you rely on for that proposition.

Request for Production 1

Here again, please revisit CommScope’s objections. CommScope has taken a reasonable approach in responding to an unreasonable venue document request that, to the extent comprehensible, is grossly overbroad in its reach to “all” employees “presently or formerly involved with the Accused Instrumentalities” and the “office to which each such employee presently is an/or formerly has been geographically assigned for all times during their employment.” Although the request is entirely objectionable, CommScope provided the most comprehensive information it could reasonably provide in response, including documents, as well as the information provided in the declaration of Laura Thomas and in response to interrogatories. We further note that Dali’s request is for “documentation sufficient to identify.” CommScope does not have org charts that would satisfy this request. We therefore provided information sufficient to identify these individuals, their employment status, their seniority date, their job title, their business unit, their division, their supervisor, their job function, and their location. If Dali nevertheless believes it needs additional information, please narrow the request and we will consider it.

Request for Production 2

CommScope’s objections to this request stand. CommScope has taken a reasonable approach in responding to an unbounded venue document request for the “identity, location by city, and job description of each person within Texas in any role relating to the Accused Instrumentalities.” Although the request is entirely objectionable, CommScope provided the most comprehensive information it could reasonably provide in response, including documents, as well as the information provided in the declaration of Laura Thomas and in response to interrogatories. If Dali nevertheless believes it needs additional information, please narrow the request and we will consider it.

Request for Production 3

Please see CommScope’s objections. As you note, CommScope has responded to this request and provided documents “sufficient to determine the corporate relationship” between CommScope and ARRIS Global Services, Inc. and ARRIS Solutions, Inc. Nothing further is required in response to this request.

Request for Production 4

Please see CommScope’s objections, which stand. Please see COMMTX_00391076 identifying all CommScope and ARRIS facilities in Texas, not just those related to the Accused Instrumentalities, including which entity owns which facility. We are unaware of any documents, beyond what we produced, that could be located with a reasonable search showing “the nature of” business operations carried out at these facilities. As to third parties with whom CommScope has contracted with to install ION-E or Era systems in Texas in 2021-22, see COMMTX_00391078-80.

Request for Production 5

Please see response above with regard to Excel spreadsheets.

Regards,
Tara

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From: Tara C. Norgard <TNorgard@carlsoncaspers.com>
Sent: Monday, November 28, 2022 9:50 AM
To: Steve Skelley <steve.skelley@foliolaw.com>; bcraft@findlaycraft.com; efindlay@findlaycraft.com; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>
Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>
Subject: RE: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

Mr. Skelley,

Your suggestion about running out the clock is not well taken. CommScope filed its motion on 9/30. Dali did not serve any discovery requests until **25 days later**. CommScope timely served its responses on 11/14. Dali did not follow up on those until **after business hours at the end of the week before the holiday**.

CommScope will timely respond to your email, but we will not tolerate your ill-founded threats.

Regards,
Tara

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From: Steve Skelley <steve.skelley@foliolaw.com>
Sent: Wednesday, November 23, 2022 5:46 PM
To: Tara C. Norgard <TNorgard@carlsoncaspers.com>; bcraft@findlaycraft.com; efindlay@findlaycraft.com; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>
Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>
Subject: Re: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

Counsel,

Thanks for the response. While we do not intend to interrupt your Thanksgiving holiday, we cannot let CommScope run the clock out on the venue discovery period. To that end, if CommScope does not provide a substantive update next week, we expect that you will agree to a brief extension of the venue discovery and briefing periods to allow for sufficient development of the record.

Have a nice holiday.

Best,
Steve

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From: Tara C. Norgard <TNorgard@carlsoncaspers.com>
Sent: Wednesday, November 23, 2022 7:48:21 AM
To: Steve Skelley <steve.skelley@foliolaw.com>; bcraft@findlaycraft.com <bcraft@findlaycraft.com>; efindlay@findlaycraft.com <efindlay@findlaycraft.com>; Sam A Hamer <SHamer@carlsoncaspers.com>; William F

Bullard <WBullard@carlsoncaspers.com>

Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>

Subject: RE: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

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Counsel,

I write to let you know we have received your correspondence, below. Given the holiday, we plan to respond next week.

Happy Thanksgiving.

--Tara

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From: Steve Skelley <steve.skelley@foliolaw.com>

Sent: Friday, November 18, 2022 5:46 PM

To: bcraft@findlaycraft.com; efindlay@findlaycraft.com; Sam A Hamer <SHamer@carlsoncaspers.com>; William F Bullard <WBullard@carlsoncaspers.com>; Tara C. Norgard <TNorgard@carlsoncaspers.com>

Cc: Dali-VZ-WDTX <dali-vz-wdtx@foliolaw.com>

Subject: Dali Wireless, Inc. v Cellco, et al (WDTX) - Venue Discovery Correspondence

Counsel,

We write in regard to CommScope's venue discovery responses and corresponding document production served on Monday, November 14, 2022. Below, we highlight the deficiencies with CommScope's responses and document production and request that CommScope supplement its interrogatory responses by no later than November 28, 2022 and provide a date certain by which CommScope will supplement its document production.

CommScope's Venue Interrogatory Responses

- **Interrogatory No. 1**

CommScope's response purports to identify "employees who are located in the State of Texas who have (or had) managerial or primary responsibility for core functions related to the ION-E® or Era products." Dali's interrogatory is not limited to employees with "responsibility for core functions" of the ION-E® or Era products." Rather, Dali requests that CommScope identify all employees located in the State of Texas with knowledge of facts relevant to the allegations and/or defenses in this action. Please supplement CommScope's response to include any additional employees with such knowledge or confirm that none exist.

- **Interrogatory No. 2**

CommScope's response points to Exhibit 8 to the Declaration of William Bullard, which is a 5-page excerpt of CommScope Holding Company, Inc.'s 2021 Form 10-K filing, dated December 31, 2021. Please confirm that page 6 of Exhibit 8 to the Declaration of William Bullard, which appears to be Exhibit 21.1 of the Form 10-K filing for CommScope Holding Company, Inc., is currently accurate or supplement CommScope's response to this Interrogatory with current information regarding the corporate structure of the ARRIS Entities.

CommScope's Responses to Dali's Requests for Venue Document Production

At the outset, we note that CommScope's venue document production appears to include only 4 documents without any accompanying metadata. Three of the documents appear to be spreadsheets that were produced in PDF form without any indication of whether the underlying spreadsheets include additional information that is being withheld. The fourth document appears to be a printout of the website for www.optelsol.com/contact_optical_telecom.html, without any indication of how that website is responsive to Dali's requests.

- **Request for Production No. 1**

CommScope agrees to produce a limited set of documents identifying employees either identified in the declaration of Laura Thomas or "current employees who have primary responsibility for managing ION-E® or Era products". Dali's request for production is not so limited, and CommScope has no basis to unilaterally limit its production to a self-serving set of documents. Moreover, Dali's request is not limited to a listing of employees, but also includes "[o]rganizational charts or similar CommScope payroll, human resource, or other documentation sufficient to identify" employees involved in each of the categories identified in Dali's Request for Production No. 1. Please confirm that CommScope will supplement its production to include documents sufficient to identify **all** employees involved with the Accused Instrumentalities with respect to each of the categories identified in Dali's Request for Production No. 1, including organizational charts or similar CommScope payroll, human resource, or other documents.

- **Request for Production No. 2**

CommScope agrees only to produce documents sufficient to identify each location by city and address of any CommScope facility in Texas. But Dali's request is not limited to documents sufficient to identify CommScope facilities in Texas. Rather, Dali's second Request for Production seeks "documents sufficient to show the identity, location by city, and job description of each **Person** within Texas" in roles related to the Accused Instrumentalities. Please confirm that CommScope will supplement its production to include documents sufficient to identify each such Person within the State of Texas.

- **Request for Production No. 3**

CommScope purports to "provided documents sufficient to show the corporate relationship between ARRIS Global Services, Inc. and ARRIS Solutions, Inc. and CommScope in Exhibit 8 to the Declaration of William Bullard dated September 30, 2022." But Exhibit 8 to the Declaration of William Bullard is a brief excerpt from the Form 10-K filing for CommScope Holding Company, Inc., dated December 31, 2021. Please confirm that CommScope will supplement its production to include documents sufficient to determine the current corporate relationship between CommScope and all of the ARRIS entities or confirm that no such documents exist.

- **Request for Production No. 4**

CommScope agrees to produce documents "sufficient to show the locations of third parties CommScope has contracted with to install ION-E® OR ERA system in Texas in 2021-2022." First, Dali's request is not limited to documents "sufficient to show the locations of third parties CommScope has contracted with to install ION-E® OR ERA system in Texas in 2021-2022", but rather requests documents sufficient to show the nature of **any** business operations carried out by CommScope in Texas related to the Accused Instrumentalities. Please confirm that CommScope will supplement its production to include documents related to any business operations carried out by CommScope in Texas related to the

Accused Instrumentalities or confirm that no such documents exist. Second, the only document in CommScope's production that appears related to third parties in Texas is COMMTX_00391078-80, which appears to be a printout of the website www.optelsol.com/contact_optical_telecom.html. Nothing in this document details the nature of CommScope's business with any third party. Please confirm that CommScope will produce documents sufficient to show the nature of any such business carried out with third parties in Texas or confirm that no such documents exist.

- **Request for Production No. 5**

Thank you for agreeing to produce documents sufficient to show all job postings from June 2021 through November 10, 2022, for employment with CommScope or ARRIS in a CommScope or ARRIS owned or leased facility in Texas or for employment with CommScope or ARRIS in virtual jobs in Texas. We note that COMMTX_00391082-97 appears to be a spreadsheet containing the requested job postings that was produced in PDF format. Please produce this document in its native format or confirm that the underlying spreadsheet that appears in the PDF bearing Bates numbers COMMTX_00391082-97 does not contain any additional information beyond what appears in the PDF version.

We remain available to meet and confer regarding the above. We also note that in light of CommScope's deficient responses, Monday's update to the Court will need to make clear that CommScope's motion remains unripe for resolution.

Best,
Steve



Steven Skelley
Partner



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