

**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.

INFINERA CORPORATION,

Defendant.

Case No. 2:22-cv-00306-JRG-RSP

MEMBER CASE

NEXTGEN INNOVATIONS, LLC,

Plaintiff,

v.

AT&T SERVICES, INC. AND AT&T
CORP.,

Defendants.

Case No. 2:22-cv-00308-JRG-RSP

MEMBER CASE

NEXTGEN INNOVATIONS, LLC,

Plaintiff,

v.

NOKIA OF AMERICA CORPORATION,
et al.,

Defendants.

Case No. 2:22-cv-00309-JRG-RSP

MEMBER CASE

**PLAINTIFF NEXTGEN INNOVATIONS, LLC'S RESPONSES TO DEFENDANTS'
FIRST SET OF COMMON INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, NextGen Innovations (“Nextgen” or “Plaintiff”) responds to the First Set of Common Interrogatories (Nos. 1-9) (the “Interrogatories”) served by Defendants Fujitsu Network Communications, Inc., Fujitsu Limited, Fujitsu America, Inc., Fujitsu Optical Components Limited, and Fujitsu Optical Components America, Inc. (collectively “Fujitsu”); Infinera Corporation (“Infinera”); AT&T Services, Inc. and AT&T Corp. (collectively, “AT&T”); and Nokia of America Corporation, Nokia Corporation, Nokia Networks, Nokia Solutions and Networks Oy, Nokia USA Inc., Nokia Networks Inc., and Nokia Solutions and Networks US LLC (collectively “Nokia”) (Fujitsu, Infinera, AT&T, Nokia, collectively, “Defendants”) as follows.

GENERAL OBJECTIONS

1. NextGen objects to these interrogatories because they contain multiple distinct subparts propounded as a single interrogatory. Defendants’ reference to these interrogatories as a singular interrogatory is an impermissible attempt to circumvent the number of interrogatories permitted to be propounded.

2. NextGen objects to these Interrogatories to the extent that they call for the disclosure of information protected by the attorney-client privilege, work-product doctrine, common interest privilege, joint defense privilege, mediation privilege, or any other privilege or immunity. NextGen hereby asserts all such applicable privileges and protections, and will not produce privileged or protected information in response to these Interrogatories. Unless explicitly stated, any production of privileged or protected information is inadvertent and should not be construed as a waiver of the attorney-client privilege, work-product doctrine, or any other applicable privilege, protection, or doctrine.

3. NextGen objects to the Interrogatories to the extent they seek to impose obligations on NextGen beyond the requirements of the Court or the Federal Rules of Civil Procedure.

4. NextGen objects to the Interrogatories to the extent that they are overly broad, or unduly burdensome. NextGen further objects to the Interrogatories to the extent that they seek information that are not relevant to any party's claims or defenses or proportional to the needs of the case.

5. NextGen objects to the Interrogatories as unduly burdensome and oppressive to the extent they purport to require NextGen to search facilities or inquire of employees, other than NextGen's facilities and employees that would reasonably be expected to have responsive information. NextGen's responses are based upon: (1) a reasonable search and investigation of its facilities and files that could reasonably be expected to contain responsive information; and (2) inquiries of NextGen's employees or representatives who could reasonably be expected to possess responsive information.

6. NextGen objects to the Interrogatories to the extent that they call for information which might be obtained only through unreasonable cost or time-consuming search of business and other records, on the grounds that said Interrogatories are unduly burdensome and oppressive.

7. NextGen objects to the Interrogatories to the extent that the burden or expense of responding to them outweighs any likely benefit, considering the needs of this case and the importance of the discovery in resolving the issues to be decided by the Court.

8. NextGen objects to the Interrogatories as overly broad and unduly burdensome to the extent they are not limited in temporal scope.

9. NextGen objects to the Interrogatories as overly broad and unduly burdensome to the extent the geographic scope covered by the Interrogatories is worldwide.

10. NextGen objects to the Interrogatories as overly broad, unduly burdensome, oppressive, improperly duplicative, or cumulative of other discovery, particularly insofar as they contain the terms “all,” “every,” “any,” “each,” “including,” “include,” or similar words.

11. NextGen objects to the Interrogatories as seeking discovery more appropriately sought through other less intrusive means of discovery, such as requests for production or deposition testimony.

12. NextGen objects to the Interrogatories to the extent that they seek information that is not within the possession, custody, or control of NextGen. NextGen will use reasonable diligence to locate information within its possession, custody, or control.

13. Any objection or response by NextGen does not constitute a representation or admission that such information exists or is known to NextGen. Moreover, by stating in these responses that NextGen may produce documents in response to an Interrogatory, NextGen does not represent that any responsive documents actually exist, but rather that NextGen has made and will continue to make a reasonable, good faith search and attempt to ascertain whether responsive documents do in fact exist.

14. NextGen objects to the Interrogatories to the extent they purport to require information that NextGen is prevented from producing pursuant to a court order or an obligation to a third party.

15. NextGen objects to these Interrogatories to the extent that they seek information or documents already in the possession of or more readily available to Defendants, in the public domain, or equally available to Defendants as they are to NextGen.

16. NextGen objects to these Interrogatories to the extent that they are speculative, lack foundation, or improperly assume the existence of hypothetical facts that are incorrect or unknown to NextGen.

17. NextGen objects to these Interrogatories to the extent that they assume facts not in evidence.

18. NextGen objects to the Interrogatories to the extent that they call for a legal conclusion.

19. To the extent these Interrogatories seek discovery of information within the scope of Fed. R. Civ. P. 26(b)(4), NextGen objects to these Interrogatories as premature and improper discovery of expert opinion.

20. NextGen objects to the Instructions and Definitions as unduly burdensome. NextGen will comply with its obligations pursuant to the Federal Rules of Civil Procedure and applicable local rules.

21. Pursuant to Federal Rule of Civil Procedure 26(b)(2)(B), NextGen states that it will not search sources of electronically stored information that are not reasonably accessible regardless of whether those sources may contain electronically stored information responsive to these Interrogatories. However, NextGen reserves the right to supplement its responses as additional information about other potentially responsive information from other sources that are not reasonably accessible becomes known.

22. NextGen objects to these Interrogatories to the extent that they seek information cumulative or duplicative of disclosures already provided by NextGen.

23. By responding to Defendants' Interrogatories, NextGen does not waive any objection that may be applicable to: (a) the use, for any purpose, by Defendants of any

information provided; (b) the admissibility, relevance, or materiality of any such information to any issue in this case; or (c) the competency or authenticity of any such information.

24. NextGen objects to Defendants' definitions of "NextGen," "Plaintiff," "You," and "Your" as vague, ambiguous, overbroad, and unduly burdensome to the extent it seeks to incorporate entities that are outside the custody, control, or possession of NextGen. For example, the definition may include people and entities outside of NextGen's control. In responding to these Interrogatories, NextGen interprets these terms to refer to NextGen Innovations, LLC.

25. NextGen objects to the definition of "Defendants" as vague, ambiguous, overbroad, and unduly burdensome. For example, the definition is non-specific and ambiguous, and could encompass entities and/or people unknown to NextGen. In responding to these Interrogatories, NextGen interprets this term to refer to the parties of this litigation, Fujitsu Network Communications, Inc., Fujitsu Limited, Fujitsu America, Inc., Fujitsu Optical Components Limited, Fujitsu Optical Components America, Inc., Infinera Corporation, AT&T Services, Inc., AT&T Corp., Nokia of America Corporation, Nokia Corporation, Nokia Networks, Nokia Solutions and Networks Oy, Nokia USA Inc., Nokia Networks Inc., and Nokia Solutions and Networks US LLC.

26. NextGen objects to the definition of "Potential Prior Art" to the extent it is overbroad, unduly burdensome, vague, and ambiguous. For example, the phrase "within the broadest meaning" is vague and ambiguous. NextGen further objects to the definition to the extent it calls for expert opinion. NextGen will use a reasonable, common meaning for this term when interpreting an interrogatory that uses this term.

27. NextGen objects to the definition of “License” to the extent it is overbroad, unduly burdensome, vague, and ambiguous. NextGen will use a reasonable, common meaning for this term when interpreting an interrogatory that uses this term.

28. NextGen objects to the definitions and instructions in paragraphs 10 through 20 of the Definitions section of the Interrogatories as vague, ambiguous, and confusing. NextGen will interpret each Interrogatory according to its plain meaning, and will provide information consistent with NextGen’s obligations under the Federal Rules of Civil Procedure and any applicable local rules.

29. NextGen objects to Instruction Nos. 1 through 5 of the Instructions section of the Interrogatories to the extent they are inconsistent with NextGen’s obligations under the Federal Rules of Civil Procedure and any applicable local rules. NextGen will comply with its obligations under the Federal Rules of Civil Procedure and any applicable local rules

RESPONSES TO COMMON INTERROGATORIES NOS. 1 THROUGH 9

COMMON INTERROGATORY NO. 1:

For each Asserted Claim, provide a detailed description of the facts and circumstances relating to conception and reduction to practice of each Asserted Claim, including the specific date of such conception, the specific date of actual or constructive reduction to practice, and any Persons with knowledge of the conception and reduction to practice. For clarity, the description should include (on a claim-by-claim basis) an identification of all Documents and things evidencing and Persons knowledgeable about conception, reduction to practice, and diligence.

RESPONSE TO COMMON INTERROGATORY NO. 1:

In addition to the foregoing General Objections, NextGen objects to this interrogatory to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. NextGen further objects to the extent this interrogatory is overly broad, not proportional to the needs of the case, unduly burdensome, vague, ambiguous, undefined, not calculated to lead to the discovery

of admissible evidence. NextGen further objects to this interrogatory to the extent it seeks premature expert discovery. NextGen further objects to this interrogatory to extent it seeks a legal conclusion.

Subject to and without waiving the foregoing objections, NextGen responds as follows: NextGen refers to and incorporates by reference its operative disclosure pursuant to Patent Rule 3-1(e). Additionally, NextGen discloses the following information.

In early 2003, given the fact that many industries were moving projects and offices internationally, Walter and Alexander Soto (the “Sotos”) decided that new and significant innovations were needed in the United States. The Sotos identified passive optical network technologies as a potential growth industry in the coming years, and believed that U.S. innovation in this space would be necessary and valuable. The Sotos therefore sought to find the most difficult and acute problems plaguing the passive optical network industry at the time, and to identify solutions to those problems. The Sotos devoted significant personal resources, including their own time and money, to solving the acute problems they identified. The work done by the Sotos was so novel that it resulted in over 35 patents, including the patents-in-suit.

With respect to the ’181, ’723, and ’795 patents, the claimed inventions were conceived by the Sotos on or about June 10, 2003, when Provisional Application No. 60/477,845 was filed with the United States Patent and Trademark Office (“PTO”). To the extent the provisional application is not considered constructive reduction to practice, the claimed inventions were also constructively reduced to practice in parent applications filed with the PTO beginning on June 10, 2004.

With respect to the ’508 patent, the claimed invention was conceived by the Sotos on or about June 12, 2003, when Provisional Application No. 60/477,860 was filed with the PTO. To

the extent the provisional application is not considered constructive reduction to practice, the claimed inventions were also constructively reduced to practice in parent applications filed with the PTO beginning on June 14, 2004.

With respect to the '754 patent, the claimed invention was conceived by the Sotos on or about July 3, 2003, when Provisional Application No. 60/485,514 was filed with the PTO. To the extent the provisional application is not considered constructive reduction to practice, the claimed inventions were also constructively reduced to practice in parent applications filed with the PTO beginning on July 6, 2004.

The Sotos also tried to reduce certain inventions to practice through the establishment of multiple businesses intended to utilize their inventions, including UBI Systems, Inc., iPON Systems, Inc., and Kairos Express LLC. The first of these business, UBI Systems, Inc., was founded in approximately September 2003.

NextGen identifies the following documents demonstrating the conception and reduction to practice of the patents-in-suit:

'181, '723, and '795 patents: NEXTGEN_0000001-710, NEXTGEN_0000975-2419.

'508 patent: NEXTGEN_0000711-945, NEXTGEN_0007146-7645.

'754 patent: NEXTGEN_0000946-974, NEXTGEN_0004444-5526.

NextGen identifies Walter Soto and Alexander Soto as being most knowledgeable about the conception and reduction to practice of the inventions claimed in the patents-in-suit.

NextGen reserves its right to supplement its response to this interrogatory in response to further discovery, including through expert opinions to be offered at the appropriate time or any other event that implicates the information provided in this response.

COMMON INTERROGATORY NO. 2:

For each Asserted Claim, state when, where, by whom, to whom, and under what terms the alleged invention, in whole or in part, was first publicly disclosed, demonstrated, used, sold, given away, or offered for sale by an inventor or any other Person. For clarity, this includes (on a claim-by-claim basis) an identification of all Documents and things evidencing and Persons knowledgeable about each such demonstration, use, disclosure, sale, gift, or offer for sale.

RESPONSE TO COMMON INTERROGATORY NO. 2:

In addition to the foregoing General Objections, NextGen objects to this interrogatory to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. NextGen further objects to the extent this interrogatory is overly broad, not proportional to the needs of the case, unduly burdensome, vague, ambiguous, undefined, not calculated to lead to the discovery of admissible evidence. NextGen further objects to this interrogatory to the extent it seeks premature expert discovery. NextGen further objects to this interrogatory to extent it seeks a legal conclusion.

Subject to and without waiving the foregoing objections, NextGen responds as follows: NextGen refers to and incorporates by reference its response to Common Interrogatory No. 1.

Regarding relevant documents and knowledgeable people, NextGen refers to and incorporates by reference its response to Common Interrogatory No. 1.

NextGen reserves its right to supplement its response to this interrogatory in response to further discovery, including through expert opinions to be offered at the appropriate time or any other event that implicates the information provided in this response.

COMMON INTERROGATORY NO. 3:

Identify all Potential Prior Art that was known by You at any time before, during, or after the prosecution of the Asserted Patents and that is not listed in the References Cited section of one or more of the Asserted Patents.

RESPONSE TO COMMON INTERROGATORY NO. 3:

In addition to the foregoing General Objections, NextGen objects to this interrogatory to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. NextGen further objects to the extent this interrogatory is overly broad, not proportional to the needs of the case, unduly burdensome, vague, ambiguous, undefined, not calculated to lead to the discovery of admissible evidence. NextGen further objects to this interrogatory to the extent it seeks premature expert discovery. NextGen further objects to this interrogatory to extent it seeks a legal conclusion.

Subject to and without waiving the foregoing objections, NextGen responds as follows:

All potentially relevant prior art known to NextGen or the inventors has been disclosed to the PTO in the form of an Information Disclosure Statement during the prosecution of one or more of the patent applications filed by the Sotos. NextGen refers to the patents and prosecution histories found at NEXTGEN_0000001-2419, NEXTGEN_0004444-5526, and NEXTGEN_0007146-7645. In addition, NextGen refers to the references disclosed in IPR2022-00085, IPR2021-01495, IPR2021-01494, IPR2021-01361, IPR2021-01359, and IPR2021-01358 (NEXTGEN_0019629 through NEXGEN_0032426). In addition, NextGen expects that Defendants will identify additional alleged prior art in their Invalidity Contentions.

NextGen reserves its right to supplement its response to this interrogatory in response to further discovery, including through expert opinions to be offered at the appropriate time or any other event that implicates the information provided in this response.

COMMON INTERROGATORY NO. 4:

For each Defendant, describe in detail all factual bases for Your contention that each Defendant directly and indirectly infringes the Asserted Patents, including (i) the date(s) on which You contend each Defendant first learned of each of the Asserted Patents; (ii) the identities and actions of each third party that You contend directly infringe the Asserted Patents; (iii) the date(s) on which You contend each Defendant first learned that acts taken by each such third party would allegedly constitute infringement of each of the Asserted Patents; (iv) the conduct of each Defendant that You contend results in indirect infringement; and (v) identification of all Documents and things evidencing and Persons knowledgeable about such actual notice.

RESPONSE TO COMMON INTERROGATORY NO. 4:

In addition to the foregoing General Objections, NextGen objects to this interrogatory to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. NextGen further objects to the extent this interrogatory is overly broad, not proportional to the needs of the case, unduly burdensome, vague, ambiguous, undefined, not calculated to lead to the discovery of admissible evidence. NextGen further objects to this interrogatory to the extent it seeks premature expert discovery. NextGen further objects to this interrogatory as premature given the current, early state of discovery. NextGen further objects to this interrogatory because much of the information sought is in Defendants' possession, custody, or control. NextGen further objects to this interrogatory as not being a "common" interrogatory, as evidenced by the fact that this interrogatory seeks information about each defendant separately. Defendants' reference to this interrogatory as a common interrogatory is an impermissible attempt to circumvent the number of individual interrogatories permitted to be propounded.

NextGen further objects to this interrogatory to the extent it contains multiple subparts asserted as a single interrogatory, each of which counts toward the limit on interrogatories that Defendants are permitted to propound. For example, this interrogatory contains at the following subparts: Direct infringement; Inducing conduct by each Related Defendant Group; and Conduct

by third parties to result in direct infringement. Defendants' reference to this interrogatory as a singular interrogatory is an impermissible attempt to circumvent the number of interrogatories permitted to be propounded. Defendants' interrogatories with distinct subparts exceed the number of interrogatories permitted to be propounded by the Discovery Order. Rather than respond to only the first fifteen (15) properly drafted common interrogatories, NextGen will not respond to these interrogatories at this time. NextGen will respond to a permissible number of interrogatories if Defendants choose to propound a proper number of interrogatories.

COMMON INTERROGATORY NO. 5:

Identify any products, methods, or systems identified as a non-infringing alternative to any of the Asserted Patents by any entity, any Defendant in this litigation or any other litigation involving the Asserted Patents, or any other third party, and for each alternative identified, state Your contention as to whether such alternative is or is not an acceptable non-infringing alternative, including whether NextGen contends the alternative infringes any claim of any Asserted Patent and, if so, stating the complete legal and factual bases for such contention, and Your contention as to the acceptability or reasonableness of any such non-infringing alternative.

RESPONSE TO COMMON INTERROGATORY NO. 5:

In addition to the foregoing General Objections, NextGen objects to this interrogatory to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. NextGen further objects to the extent this interrogatory is vague, ambiguous, undefined, and not calculated to lead to the discovery of admissible evidence. NextGen further objects to this interrogatory to the extent it seeks premature expert discovery. NextGen further objects to this interrogatory because it calls for a legal conclusion. NextGen objects to this interrogatory to the extent it seeks to reverse the burden regarding non-infringing alternatives. It is each Related Defendant Group's burden to identify and prove purported non-infringing alternatives for their own case with respect to their own infringement. NextGen objects that this interrogatory is not a proper common interrogatory because a response may differ from one defendant to another and a

response may be based on, or include, highly confidential information of one defendant that cannot be divulged to another.

NextGen further objects to this interrogatory to the extent it contains multiple subparts asserted as a single interrogatory, each of which counts toward the limit on interrogatories that Defendants are permitted to propound. For example, this interrogatory contains at least the following subparts: Identification of non-infringing alternatives; NextGen's contentions regarding infringement of each non-infringing alternatives; and NextGen's contentions regarding the commercial acceptability of each non-infringing alternative. Defendants' reference to this interrogatory as a singular interrogatory is an impermissible attempt to circumvent the number of interrogatories permitted to be propounded. Defendants' interrogatories with distinct subparts exceed the number of interrogatories permitted to be propounded by the Discovery Order. Rather than respond to only the first fifteen (15) properly drafted common interrogatories, NextGen will not respond to these interrogatories at this time. NextGen will respond to a permissible number of interrogatories if Defendants choose to propound a proper number of interrogatories.

COMMON INTERROGATORY NO. 6:

Describe with particularity all factual and legal bases for Your claim for damages to which You contend You are entitled against each Defendant, including identifying: the amount that You claim separately for each Defendant based on each alleged infringement; whether Your damages claims are based on lost profits, a reasonable royalty, cost savings, or other damages theory; any royalty rate, royalty base, lost profits, disgorgements, conveyed sales, enhanced damages, attorney's fees, or costs that You contend are appropriate; whether You contend any license or agreement is relevant to the determination of any damages in this litigation, and if so the identity of such license or agreement and basis for such contention; the date You contend the hypothetical negotiation should commence with respect to each Defendant and the participants in that hypothetical negotiation; the time period for which You contend You are entitled to collect damages from each Defendant due to any alleged infringement of the Asserted Patents, including whether you seek pre-suit and/or post-suit damages for each Defendant; the portion of cost savings You attribute to each Defendant, individually, if any; and all facts and Documents on which You rely to support Your allegations.

RESPONSE TO COMMON INTERROGATORY NO. 6:

In addition to the foregoing General Objections, NextGen objects to this interrogatory to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. NextGen further objects to the extent this interrogatory is overly broad, not proportional to the needs of the case, unduly burdensome, vague, ambiguous, undefined, not calculated to lead to the discovery of admissible evidence. NextGen further objects to this interrogatory to the extent it seeks premature expert discovery. NextGen further objects to this interrogatory to extent it seeks a legal conclusion. NextGen objects that this interrogatory is not a proper common interrogatory because a response may differ from one Related Defendant Group to another and a response may be based on, or include, highly confidential information of one Related Defendant Group that cannot be divulged to another.

NextGen further objects to this interrogatory to the extent it contains multiple subparts asserted as a single interrogatory, each of which counts toward the limit on interrogatories that Defendants are permitted to propound. For example, this interrogatory contains at least the following subparts: NextGen's damages theory; Contentions related to relevant licenses; Date and participants in a hypothetical negotiation; Damages period; and Cost savings attributed to each Defendant. Defendants' reference to this interrogatory as a singular interrogatory is an impermissible attempt to circumvent the number of interrogatories permitted to be propounded. Defendants' interrogatories with distinct subparts exceed the number of interrogatories permitted to be propounded by the Discovery Order. Rather than respond to only the first fifteen (15) properly drafted common interrogatories, NextGen will not respond to these interrogatories at

this time. NextGen will respond to a permissible number of interrogatories if Defendants choose to propound a proper number of interrogatories.

COMMON INTERROGATORY NO. 7:

Identify each person having a legal right to or financial interest in the outcome of this Action, the Asserted Patents, or NextGen, including a right to determine how the Asserted Patents can or cannot be asserted, including: the person's identity, address, and contact information; the nature of the person's right or interest in the outcome of this Action, the Asserted Patents, or NextGen; and when and how the person acquired their right or interest in the outcome of this Action, the Asserted Patents, or NextGen.

RESPONSE TO COMMON INTERROGATORY NO. 7:

In addition to the foregoing General Objections, NextGen objects to this interrogatory to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. NextGen further objects to the extent this interrogatory is overly broad, not proportional to the needs of the case, unduly burdensome, vague, ambiguous, undefined, not calculated to lead to the discovery of admissible evidence. For example, the phrase "legal right or financial interest" is vague and ambiguous in the context of this interrogatory. NextGen will interpret this phrase according to its plain and ordinary meaning, seeking information about "legal rights" and "financial rights."

NextGen further objects to this interrogatory to the extent it contains multiple subparts asserted as a single interrogatory, each of which counts toward the limit on interrogatories that Defendants are permitted to propound. For example, this interrogatory contains at least the following subparts: Identification of each person with a "legal right" and "financial right" in this Action; Identification of each person with a "legal right" and "financial right" in the Asserted Patents; Identification of each person with a "legal right" and "financial right" in NextGen; and Circumstances of the acquisition by each person with a "legal right" or "financial right" in this Action, Asserted Patents, or NextGen. Defendants' reference to this interrogatory as a singular

interrogatory is an impermissible attempt to circumvent the number of interrogatories permitted to be propounded. Defendants' interrogatories with distinct subparts exceed the number of interrogatories permitted to be propounded by the Discovery Order. Rather than respond to only the first fifteen (15) properly drafted common interrogatories, NextGen will not respond to these interrogatories at this time. NextGen will respond to a permissible number of interrogatories if Defendants choose to propound a proper number of interrogatories.

COMMON INTERROGATORY NO. 8:

Identify all agreements, assignments, licenses, purchases, sales or other grants of rights ("Agreement") that You allege are comparable for purposes of determining a reasonable royalty in this Action, including the parties to each identified Agreement, an identification by Bates number of the produced copy of each identified Agreement, the date each Agreement was entered into, and a detailed description of all consideration exchanged in connection with each Agreement.

RESPONSE TO COMMON INTERROGATORY NO. 8:

In addition to the foregoing General Objections, NextGen objects to this interrogatory to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. NextGen further objects to the extent this interrogatory is overly broad, not proportional to the needs of the case, unduly burdensome, vague, ambiguous, undefined, not calculated to lead to the discovery of admissible evidence. NextGen further objects to this interrogatory to the extent it seeks premature expert discovery. NextGen further objects to this interrogatory to extent it seeks a legal conclusion. NextGen objects that this interrogatory is not a proper common interrogatory because a response may differ from one Related Defendant Group to another and a response may be based on, or include, highly confidential information of one Related Defendant Group that cannot be divulged to another.

Subject to and without waiving the foregoing objections, NextGen responds as follows: NextGen expects the determination of comparable licenses will be the subject of expert testimony. Notwithstanding, and without prejudice to NextGen's ability to disclose additional expert opinion on the subject, pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, NextGen identifies NEXTGEN_0032943 through NEXTGEN_0032954 (Confidential Settlement Agreement and Release between NextGen, and II-VI, Inc.). In addition, NextGen identifies NEXTGEN_0019622 through NEXTGEN_0019628, and NEXTGEN 0059487 through NEXTGEN_0059491 (Exclusive Patent License Agreements between NextGen and the Sotos) as potentially relevant.

NextGen reserves its right to supplement its response to this interrogatory in response to further discovery, including through expert opinions to be offered at the appropriate time or any other event that implicates the information provided in this response.

COMMON INTERROGATORY NO. 9:

Describe in detail any valuation of any of the Asserted Patents or of any portfolio that includes any of the Asserted Patents, including for purposes of tax assessment, and describe the relative weight given to a particular Asserted Patent versus other patents in the portfolio. Such a response should identify any validity or invalidity analysis(-es), any enforceability or unenforceability analysis(-es), any infringement or non-infringement analysis(-es), any Essentiality or non-Essentiality analysis(-es), and any analysis(-es) or statement(s) related to patent value (or lack thereof) that You are aware of, including those brought to Your attention by a third party, and a description of the circumstances under which You acquired this knowledge.

RESPONSE TO COMMON INTERROGATORY NO. 9:

In addition to the foregoing General Objections, NextGen objects to this interrogatory to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. NextGen further objects to the extent this interrogatory is overly broad, not proportional to the needs of the case, unduly burdensome, vague, ambiguous, undefined, not calculated to lead to the discovery

of admissible evidence. For example, many terms used in this interrogatory are vague and ambiguous as used in this interrogatory, including “relative weight,” “portfolio,” “Essentiality or non-Essentiality,” and “any analysis(-es) or statement(s) related to patent value (or lack thereof) that You are aware of.” NextGen will interpret these phrases to the best of its ability based on its understanding of information relevant to this litigation. NextGen further objects to this interrogatory to the extent it seeks premature expert discovery.

NextGen further objects to this interrogatory to the extent it contains multiple subparts asserted as a single interrogatory, each of which counts toward the limit on interrogatories that Defendants are permitted to propound. For example, this interrogatory contains at least the following subparts: Describe financial analyses; Describe validity analyses; Describe enforceability analyses; Describe infringement analyses; Describe “essentiality” analyses; Describe statement(s) related to patent value; and Circumstances regarding the acquisition of each analysis or statement. Defendants’ reference to this interrogatory as a singular interrogatory is an impermissible attempt to circumvent the number of interrogatories permitted to be propounded. Defendants’ interrogatories with distinct subparts exceed the number of interrogatories permitted to be propounded by the Discovery Order. Rather than respond to only the first fifteen (15) properly drafted common interrogatories, NextGen will not respond to these interrogatories at this time. NextGen will respond to a permissible number of interrogatories if Defendants choose to propound a proper number of interrogatories.

Dated: January 27, 2023

Respectfully submitted,

/s/ Benjamin T. Wang
Benjamin T. Wang

Benjamin T. Wang

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Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I hereby certify that the counsel of record who are deemed to have consented to electronic service are being served on January 27, 2023 with a copy of this document.

DATED: January 27, 2023

Respectfully submitted,

By: /s/ Benjamin T. Wang
Benjamin T. Wang