

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

USTA TECHNOLOGY, LLC,

Plaintiff,

v.

LENOVO GROUP LIMITED,

Defendant.

Civil Action No. 4:24-cv-515

JURY TRIAL DEMANDED

**DEFENDANT LENOVO GROUP LIMITED'S MOTION TO DISMISS AND STRIKE
PLAINTIFF USTA TECHNOLOGY, LLC'S SECOND AMENDED COMPLAINT**

TABLE OF CONTENTS

STATEMENT OF THE ISSUES.....	vii
I. INTRODUCTION	1
II. BACKGROUND	3
A. USTA’s Three Prior Complaints and Latest Amendment	3
B. USTA’s Allegations Directed to Personal Jurisdiction.....	4
C. Allegations Directed to Infringement	5
III. LEGAL STANDARD.....	7
A. Amendments to Complaint	7
B. Lack of Personal Jurisdiction.....	7
C. Failure to Plead Plausible Claims of Infringement	9
IV. ARGUMENT	10
A. USTA’s SAC Failed to Comply with Fed. R. Civ. P. 15.....	10
B. The Court Lacks Personal Jurisdiction Over LGL.....	11
1. There is No Specific Jurisdiction Over LGL	11
2. Rule 4(k)(2) Does Not Provide an Alternate Basis for Personal Jurisdiction.....	26
3. There Is No General Jurisdiction Over LGL	26
C. USTA’s Infringement Allegations Are Not Plausible	28
V. CONCLUSION.....	30

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Aatrix Software, Inc. v. Green Shades Software, Inc.</i> , 890 F.3d 1354 (Fed. Cir. 2018)	9
<i>ACQIS LLC v. Lenovo Grp. Ltd.</i> , 572 F. Supp. 3d 291 (W.D. Tex. 2021)	12, 19, 20, 22
<i>Androphy v. Smith & Nephew, Inc.</i> , 31 F. Supp. 2d 620 (N.D. Ill. 1998)	15
<i>Asahi Metal Industry Co., Ltd. v. Superior Court of California, Solano County</i> , 480 U.S. 102 (1987)	passim
<i>AX Wireless LLC v. Lenovo Grp. Ltd.</i> , No. 2:22-cv-280-RWS-RSP, 2023 WL 7105701 (E.D. Tex. Sept. 6, 2023)	12, 19, 22
<i>B/E Aerospace, Inc. v. Zodiac Aerospace</i> , No. 2:16-cv-01417-JRG-RSP, 2018 WL 7140299 (E.D. Tex. Nov. 30, 2018)	15
<i>Baden Sports, Inc. v. Molten USA, Inc.</i> , 556 F.3d 1300 (Fed. Cir. 2009)	18
<i>Black v. Am Markets, Inc.</i> , 564 F.2d 681 (5th Cir. 1977)	23
<i>Bot M8 LLC v. Sony Corp. of Am.</i> , 4 F.4th 1342 (Fed. Cir. 2021)	9, 30
<i>Bowling v. Dahlheimer</i> , No. 4:18-CV-610, 2019 WL 5880590 (E.D. Tex. Aug. 7, 2019)	11
<i>Brown v. Alixa-Rx</i> , No. 4:21-cv-00284-ALM-CAN, 2022 WL 815021 (E.D. Tex. Feb. 14, 2022)	11
<i>Burger King Corp. v. Rudzewicz</i> , 471 U.S. 462 (1985)	8, 14, 24
<i>CAO Lighting, Inc. v. Signify N.V.</i> , 628 F. Supp. 3d 996 (C.D. Cal. 2022)	15
<i>Carmona v. Leo Ship Mgmt., Inc.</i> , 924 F.3d 190 (5th Cir. 2019)	8
<i>Celgard, LLC v. SK Innovation Co.</i> , 792 F.3d 1373 (Fed. Cir. 2015)	17

<i>Cellport Sys., Inc. et al v. Harman Inter'l Indus. Inc. et al.,</i> No. 4:22-cv-00808-SDJ, Dkt. 44 (E.D. Tex. March 28, 2024)	15, 16
<i>Certain Mobile Phones, Components Thereof, & Prods. Containing the Same,</i> Inv. No. 337-TA-1375, Order No. 30 (June 3, 2024)	12
<i>Chapterhouse, LLC v. Shopify, Inc.,</i> No. 2:18-CV-00300-JRG, 2018 WL 6981828 (E.D. Tex. Dec. 11, 2018)	9
<i>In re Chinese-Manufactured Drywall Prod. Liab. Litig.,</i> 753 F.3d 521 (5th Cir. 2014)	13
<i>In re Cray,</i> 871 F.3d 1355 (Fed. Cir. 2017)	28
<i>Daimler AG v. Bauman,</i> 571 U.S. 117 (2014)	13, 27
<i>Dickson Marine Inc. v. Panalpina, Inc.,</i> 179 F.3d 331 (5th Cir. 1999)	13
<i>Eireog Innovations Ltd v. Lenovo Grp. Ltd.,</i> No. 2:24-CV-00239-JRG, 2024 WL 4519763 (E.D. Tex. Oct. 17, 2024)	12, 22, 23
<i>Quimbey ex rel. Faure v. Cmty. Health Sys., Inc.,</i> No. 14-559 KG/KBM, 2015 WL 13651236 (D.N.M. Sept. 22, 2015)	15
<i>Fellowship Filtering Tchs, LLC v. Alibaba.com, Inc.,</i> No. 2:15-cv-2049-JRG, 2016 WL 6917272 (E.D. Tex. Sept 1, 2016)	17
<i>Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.,</i> 592 U.S. 351 (2021)	<i>passim</i>
<i>Fujitsu Ltd. v. Netgear Inc.,</i> 620 F.3d 1321 (Fed. Cir. 2010)	28
<i>Hargrave v. Fibreboard Corp.,</i> 710 F.2d 1154 (5th Cir. 1983)	17, 20
<i>Insituform Techs., Inc. v. CAT Contracting, Inc.,</i> 385 F.3d 1360 (Fed. Cir. 2004)	25
<i>Int'l Shoe Co. v. Washington,</i> 326 U.S. 310 (1945)	8
<i>In re Lenovo Grp. Ltd.,</i> No. 2025-111, 2025 WL 685914 (Fed. Cir. Mar. 4, 2025)	13
<i>In re: Lenovo Grp. Ltd.,</i> No. 24-106, Dkt. No. 17 (Fed. Cir. June 4, 2024)	12

<i>Licea v. Curacao Drydock Co., Inc.</i> , 952 F.3d 207 (5th Cir. 2015)	17
<i>Merial Ltd. v. Cipla Ltd.</i> , 681 F.3d 1283 (Fed. Cir. 2012)	26
<i>Nazomi Commc'ns, Inc. v. Nokia Corp.</i> , 739 F.3d 1339 (Fed. Cir. 2014)	29
<i>NexLearn, LLC v. Allen Interactions, Inc.</i> , 859 F.3d 1371 (Fed. Cir. 2017)	7, 8
<i>In re Norplant Contraceptive Prods. Liab. Litig.</i> , 899 F.Supp. 315 (E.D. Tex. 1995)	15, 22
<i>Nu-You Techs, LLC v. Beauty Town Int'l Inc.</i> , No. 3:15-cv-03433-N, 2016 WL 4717991 (N.D. Tex. Jul. 7, 2016)	9, 28
<i>Orange Elec. Co. Ltd. v. Autel Intelligent Tech. Corp. Ltd.</i> , No. 2:21-cv-240-JRG, Dkt. No. 217-1 (E.D. Tex. Apr. 19, 2024)	25
<i>Pat. Rts. Prot. Grp., LLC v. Video Gaming Techs., Inc.</i> , 603 F.3d 1364 (Fed. Cir. 2010)	23
<i>Polar Electro Oy v. Suunto Oy</i> , 829 F.3d 1343 (Fed. Cir. 2016)	21
<i>Pop Top Corp. v. Nook Digital, LLC</i> , No. 20-CV-6598 (VSB), 2022 WL 193064 (S.D.N.Y. Jan. 21, 2022)	9
<i>Salas v. City of Galena Park</i> , No. 21-20170, 2022 WL 1487024 (5th Cir. May 11, 2022)	10
<i>In re Samsung Elecs. Co., Ltd.</i> , 2 F.4th 1371 (Fed. Cir. 2021)	2
<i>Secured Mail Sols., LLC v. Universal Wilde, Inc.</i> , 873 F.3d 905 (Fed. Cir. 2017)	10
<i>Soar Tools, LLC v. Mesquite Oil Tools, Inc.</i> , No. 5:19-cv-243-H, 2021 WL 3030066 (N.D. Tex. Jul 2, 2021)	9
<i>Stellar Restoration Servs., LLC v. James Christopher Courtney</i> , 533 F. Supp. 3d 394 (E.D. Tex. 2021)	23
<i>Theta IP, LLC v. Motorola Mobility LLC</i> , No. 1:22-cv-3441, Dkt. No. 94 (N.D. Ill. Mar. 25, 2024)	<i>passim</i>

Tolliver v. Bank of New York Mellon as Tr. for Certificate Holders of CWABS Inc., Asset Backed Certificates, Series 2007-3, No. 4:18-CV-00977-O-BP, 2019 WL 3937341 (N.D. Tex. Aug. 5, 2019)..... 10

Travelers Indem. Co. v. Calvert Fire Ins. Co., 798 F.2d 826 (5th Cir. 1986) 15, 22

Universal Connectivity Techs. Inc. v. Lenovo Grp. Ltd., No. 2:23-CV-00449-JRG, 2024 WL 4519760 (E.D. Tex. Oct. 17, 2024) 12, 22

USTA Tech., LLC v. Motorola Mobility LLC, No. 3:24-cv-02659-L-BW, Dkt. 1 (N. D. Tex. Oct. 23, 2024)..... 1

USTA Tech., LLC v. Motorola Mobility LLC, No. 3:24-cv-02659-L-BW, Dkt. 10 (N. D. Tex. Dec. 4, 2024) 4

United States ex rel. Willard v. Humana Health Plan of Texas Inc., 336 F.3d 375 (5th Cir. 2003) 11

World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980) 9

In re Wright, 568 B.R. 770 (2017) 7

Other Authorities

Fed. R. Civ. P. 4(k)(2)..... 26

Fed. R. Civ. P. 12(b) 7, 10

Fed. R. Civ. P. 15 *passim*

STATEMENT OF THE ISSUES

- (1) Whether the Court should strike USTA Technology, LLC's Second Amended Complaint which was filed in violation of Fed. R. Civ. P. 15(a).
- (2) Whether the Court should dismiss USTA Technology, LLC's Second Amended Complaint for lack of personal jurisdiction over Defendant Lenovo Group Limited.
- (3) Whether the Court should dismiss USTA Technology, LLC's Second Amended Complaint for failure to state a claim under Fed. R. Civ. P. 12(b)(6) because USTA Technology, LLC fails to plausibly allege infringement of any asserted claim.

I. INTRODUCTION

Plaintiff USTA Technology, LLC (“USTA”) first sued Defendant Lenovo Group Limited (“LGL”), along with former Defendants Lenovo (United States) Inc. (“Lenovo US”), and Lenovo Global Technology (United States) Inc. (“Lenovo Global Tech”), nearly nine months ago, on June 7, 2024. Dkt. 1. USTA **dismissed** LGL on September 3, 2024, via stipulation, because it recognized the other U.S.-based named parties “are the legal entities responsible for any sale, offer to sell, United States testing, or importation into the United States of the Accused Instrumentalities.” Dkt. 13, ¶ 2. After dismissing LGL, USTA filed a First Amended Complaint (“FAC”) against only Lenovo US and Lenovo Global Tech on October 7, 2024, to assert a different independent claim of the asserted patent. Dkt. 19. In parallel, USTA filed a **third** complaint against Motorola Mobility LLC in the Northern District of Texas. *USTA Tech., LLC v. Motorola Mobility LLC*, No. 3:24-cv-02659-L-BW, Dkt. 1 (N. D. Tex. Oct. 23, 2024), Ex. 1.¹

The then-remaining Defendants—Lenovo US and Lenovo Global Tech—moved to dismiss the FAC for lack of venue on November 6. Rather than responding, USTA once again filed an amended complaint—its **fourth** involving not only an ever-evolving set of Lenovo products but including the exact same products at issue in the case against Motorola Mobility—without seeking leave of Court or consent of the parties.

USTA’s shifting allegations against an ever-changing set of products—accusing four different parties, asserting different claims, made across two separate venues—confirm that USTA has no meritorious claim. The Second Amended Complaint (“SAC”) should be dismissed: (1) because USTA filed the SAC in violation of Rule 15(a); (2) for lack of personal jurisdiction;

¹ USTA subsequently dismissed that action on February 3, 2025, the day Motorola Mobility LLC’s motion to dismiss was due and over a month after filing the SAC in this case. *Id.* at Dkt. 16.

and (3) for failure to plausibly allege infringement.

First, USTA filed the SAC more than 21 days after the First Amended Complaint without obtaining the Court’s leave or written consent from Defendants, in violation of Rule 15(a)(2).

Second, LGL is a Hong Kong holding entity that makes no products, sells no products, and does not avail itself of the laws of Texas. Chim Decl. ¶¶ 3-5.² In fact, LGL has not made, used, sold, offered for sale, or imported anything accused of infringement, anywhere. *Id.* LGL has no physical locations in, and does not employ any personnel in, Texas or the United States. *Id.*, ¶ 4.

As evidenced by USTA’s shifting sands approach to naming defendants, USTA appears to be attempting to manipulate venue to stay in this district. USTA had dropped LGL from this case in acknowledgement of the fact the other U.S.-based named parties were the proper defendants. Dkt. 13. Importantly, the relevant facts ***have not changed*** since that stipulation. Yet, when faced with a motion to dismiss because venue in this District would be improper over Lenovo US and Lenovo Global Tech, USTA filed its improper fourth complaint. USTA is now attempting to use the contacts of the very entities it ***dropped*** to allege jurisdiction over the foreign holding company, LGL.³

Finally, the SAC should be dismissed because the infringement allegations against LGL remain fatally flawed. Critically, USTA’s infringement allegations fail to address elements of the Asserted Claims⁴ and are too generalized to establish plausibility. By way of example only, the claims require at least three distinct “nodes” (e.g., devices like radios or routers) transmitting and

² The Declaration of Adrian Chim (“Chim Decl.”) has been filed concurrently herewith.

³ *Cf. In re Samsung Elecs. Co., Ltd.*, 2 F.4th 1371, 1377 (Fed. Cir. 2021) (“[W]e are not bound by a plaintiff’s efforts to manipulate venue.”); *id.* at 1379 (“[D]isregarding this manipulation,” plaintiff “could have filed suit in the Northern District of California”).

⁴ USTA asserts method claims 53 and 95. SAC, ¶ 60. These claims are referred to herein as the “Asserted Claims.”

receiving various information. USTA's SAC does not identify which accused products correspond to each of the required three nodes but instead groups almost 60 products generally as "Accused Instrumentalities" and alleges infringement collectively. USTA thus does not plausibly allege LGL performed each step of the specifically claimed three-node network so as to maintain a claim for direct infringement.

Given USTA's repeated pleading deficiencies and improper amendments, LGL respectfully requests that the Second Amended Complaint be dismissed with prejudice.

II. BACKGROUND

A. USTA's Three Prior Complaints and Latest Amendment

USTA filed its original complaint on June 7, 2024, asserting direct and indirect infringement of at least claim 53 of U.S. Patent No. RE47,720 (the "'720 patent") against LGL, Lenovo US, and Lenovo Global Tech. Dkt. 1, ¶¶ 2–8, 33–44. On August 30, 2024, the parties jointly stipulated to dismissal of LGL because Lenovo US and Lenovo Global Tech "are the legal entities responsible for any sale, offer to sell, United States testing, or importation into the United States" of the accused products. Dkt. 13, ¶ 2; Dkt. 14 (Court's Notice of Dismissal of LGL). On October 7, 2024, USTA filed its FAC against Lenovo (US) and Lenovo Global Tech. Dkt. 19. In its FAC, USTA dropped claim 53, and instead asserted claim 95. *Id.*

On October 23, 2024, USTA filed a separate lawsuit against Motorola Mobility LLC alleging infringement of claims 53 and 95 of the '720 patent. Ex. 1.

On November 6, 2024, Lenovo US and Lenovo Global Tech moved to dismiss USTA's FAC for lack of venue, or in the alternative, to transfer venue. Dkt. 21.

After negotiating several extensions of time to respond to that motion, and without seeking leave or consent, USTA filed a SAC on December 20, 2024, 44 days after the motion to dismiss.

In the SAC, USTA dropped Lenovo US and Lenovo Global Tech as Defendants, re-asserted claim 53, and added additional products, including those at issue in USTA's lawsuit against Motorola Mobility LLC. Dkt. 34.

USTA dismissed its lawsuit against Motorola Mobility on February 3, 2025, the day Motorola Mobility was due to file its response in that matter. *USTA Tech., LLC v. Motorola Mobility LLC*, No. 3:24-cv-02659-L-BW, Dkt. 10 (N. D. Tex. Dec. 4, 2024) (granting "Motorola's Motion for Extension of Time to File Answer. Motorola Mobility LLC answer due 2/3/2025").

B. USTA's Allegations Directed to Personal Jurisdiction

The SAC pleads boilerplate theories that contradict the Stipulated Dismissal it entered. USTA alleges, without support, that LGL "regularly conducts and transacts business, including infringing acts described herein, in this District." Dkt. 34, ¶ 16. USTA similarly speculates that LGL is engaged in "regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in the State of Texas and in this District." Dkt. 34, ¶ 19. In sum, USTA's allegations can be grouped into two major categories:

- Imputing actions of LGL's subsidiaries or affiliated entities and descriptions of Lenovo as a group, rather than individual corporations, to LGL. Dkt. 34, ¶ 4-5, 21-26.
- Imputing actions of third-party retailers or manufacturers onto LGL. *Id.*, ¶ 22; 25-26.

The facts, however, are clear: LGL conducts no activities in or directed to this forum. LGL is a holding company based in Hong Kong that serves as a parent company for its direct and indirect subsidiaries. Chim Decl. ¶¶ 2-3. LGL does not manufacture, sell, offer for sale, export,

import, or otherwise distribute any products, including the accused products in the SAC. *Id.*, ¶ 3. Moreover, LGL does not operate in Texas, nor does it make products for or offer services to customers in Texas. *Id.*, ¶ 4. LGL has no employees in the United States, including those listed in paragraph 6 of the SAC. *Id.*, ¶ 4. LGL has no involvement in, or control of, the daily business activities and decisions of those subsidiaries that pertain to the use, sale, offering for sale, marketing, distribution, or importation of Lenovo-branded products in the United States. *Id.*, ¶ 7. This includes making sales or representations through any Lenovo website, as LGL does not own or operate, www.lenovo.com/us/en. *Id.*, ¶ 13. LGL’s indirect subsidiaries Lenovo US and Motorola Mobility—which are separate corporations—sell the products accused in this case. *Id.*, ¶ 6. Lenovo US, Motorola Mobility, and LGL each file separate tax returns and maintain separate properties. *Id.*, ¶¶ 10–11. For LGL, this activity takes place entirely outside the United States, as LGL files tax returns in Hong Kong and maintains property solely in Hong Kong. *Id.* LGL does not own, lease, operate, control, or direct the activities of any office in Plano, Texas. *Id.*, ¶¶ 4, 7; Dkt. 34, ¶ 24. LGL does not own, lease, operate, control, or direct the activities or offices of third-party entities, including authorized resellers. Dkt. 34, ¶¶ 22; 25–26.

C. Allegations Directed to Infringement

USTA alleges that LGL directly infringes “at least” one claim of the ’720 patent but merely provides generic allegations that consist of nothing more than regurgitated claim language for claims 53 and 95 of the ’720 patent (the “Asserted Claims”). Dkt. 34, ¶¶ 39, 44–47, 96–97.

USTA alleges the ’720 patent is necessary to practice the 802.11ac standard. Dkt. 34, ¶ 62. USTA then alleges LGL “has and continues to directly infringe one or more claims of the ’720 patent by using and causing to be used 802.11ac-compliant products.” *Id.*, ¶ 63. These products, according to USTA, include over 35 third-party TP-Link access points and Motorola modems

and/or routers, which are grouped together as the “Accused Access Points,” and over 20 Lenovo tablets and Motorola smartphones, which are grouped together as the “Accused Stations.” *Id.*, ¶¶ 64, 80. The Accused Access Points and Accused Stations are collectively referred to in the SAC as the “Accused Instrumentalities.” Dkt. 34-2.

Claims 53 and 95 require, among other elements, at least three nodes (*e.g.*, a software radio or a router) in a radio communications network, that perform the transmission of compressed signals, receiving of feedback, and transmission and receiving of instructions. Dkt. 34-1 (’720 patent) at 8:1–4, 35:9–42 (claim 53) (“receiving at a **first node** in the radio communications network an instruction transmitted from a **second node** ...; transmitting the filtered transmission signal to the **second node**; receiving a compressed first feedback from the **second node** ...; receiving a compressed second feedback from a **third node** ...; transmitting, using the 802.11-based OFDM protocol, a filtered second transmission signal, simultaneously with the filtered first transmission signal, to the **third node**”); 40:57–42:2 (claim 95) (“receiving at a **first node** in the radio communications network an instruction transmitted from a **second node** ...; transmitting the filtered transmission signal to the **second node**; separately from the receipt of the instruction, receiving a particular signal at the **first node** that is transmitted from the **second node**; ... transmitting the compressed feedback from the **first node** to the **second node**, for use by the **second node** in determining a transmit power with which the **second node** transmits to the **first node** via at least one antenna of a plurality of antennas, while simultaneously transmitting to **one or more other nodes**”).

USTA includes a claim chart that USTA alleges is an “[e]xemplary infringement analysis showing infringement of claims 53 and 95 of the ’720 patent.” Dkt. 34, ¶ 97. Though USTA purports to compare the asserted claims to the “Accused Instrumentalities,” the claim chart instead

points only to portions of the 802.11ac standard as allegedly satisfying the elements of the asserted claims. *See generally* Dkt. 34-2.

In addition, as to claim 53, USTA alleges in the claim chart that a “first AP” (or first “access point”) performs the role of the claimed “first node,” while a “second AP” fills the role of the claimed “second node.” *See, e.g.*, Dkt. 34-2 at 4 (defining “AP” as “access point”), 29–30. USTA does not identify which of the Accused Instrumentalities it alleges is the “first AP” or the “second AP.” The claim chart also does not identify what device purportedly functions as the claimed “third node” necessary to any alleged infringement. *See, e.g., id.* at 51.

Similarly, as to claim 95, USTA alleges in the claim chart that a “first STA” (or first “station”) performs the role of the claimed “first node,” while a “second STA” fills the role of the claimed “second node.” *Id.* at 73. USTA does not identify which of the Accused Instrumentalities is purportedly the “first STA” or the “second STA.” USTA also does not identify what device(s) function as the claimed “one or more other nodes.” *Id.* at 100–01.

III. LEGAL STANDARD

A. Amendments to Complaint

Federal Rule of Civil Procedure 15(a)(1) allows a party to amend its pleading once as a matter of course within 21 days after service of a motion under Rule 12(b). After this period, any further amendments require either the opposing party’s written consent or the court’s leave. Fed. R. Civ. P. 15(a)(2); *In re Wright*, 568 B.R. 770 (2017).

B. Lack of Personal Jurisdiction

The existence of personal jurisdiction is evaluated under Federal Circuit law. *NexLearn, LLC v. Allen Interactions, Inc.*, 859 F.3d 1371, 1375 (Fed. Cir. 2017). The Federal Circuit’s inquiry asks, “whether a forum state’s long-arm statute permits service of process and whether assertion

of personal jurisdiction violates due process.” *Id.* (quoting *Autogenomics, Inc. v. Oxford Gene Tech. Ltd.*, 566 F.3d 1012, 1017 (Fed. Cir. 2009)). “Because Texas’s long-arm statute is coextensive with the Due Process Clause of the Fourteenth Amendment, the two inquiries merge.” *Carmona v. Leo Ship Mgmt., Inc.*, 924 F.3d 190, 193 (5th Cir. 2019) (citations omitted).

Under the Due Process Clause, a defendant may be subject to either general or specific jurisdiction. *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 592 U.S. 351, 358 (2021). General jurisdiction extends to any and all claims against a defendant, but “only when a defendant is ‘essentially at home’ in the [forum] State.” *Id.* (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011)). For a corporation, general jurisdiction typically lies in its “place of incorporation and principal place of business.” *Id.* at 359.

Specific jurisdiction, by contrast, “covers defendants less intimately connected with a State, but only as to a narrower class of claims.” *Id.* For the exercise of specific jurisdiction to be proper, “there must be an affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State’s regulation.” *Id.* (alteration in original) (quoting *Bristol-Myers Squibb Co. v. Super. Ct. of Cal., San Francisco Cnty.*, 582 U.S. 255, 262 (2017)). The Due Process Clause permits the exercise of specific jurisdiction if there are sufficient “minimum contacts” between the defendant and the forum state “such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) (citation omitted). Such contacts exist if the defendant has “‘purposefully directed’ [its] activities at residents of the forum” and “the litigation results from alleged injuries that ‘arise out of or relate to’ those activities.” *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985) (citations omitted). A defendant is subject to jurisdiction only if it conducted activity in the forum

such that it should “reasonably anticipate being haled into court” there. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980).

C. Failure to Plead Plausible Claims of Infringement

Determining plausibility in patent infringement cases requires courts to apply judicial experience and common sense, considering factors like the complexity of the technology, the materiality of specific claim elements, and the nature of the accused device. *See Bot M8 LLC v. Sony Corp. of Am.*, 4 F.4th 1342, 1353 (Fed. Cir. 2021) (quotation omitted) (Plausibility is a “context-specific task that requires the reviewing court to draw on its judicial experience and common sense.”). For method claims, plaintiffs must plausibly allege that the defendant performed every step of the asserted claim. *Chapterhouse, LLC v. Shopify, Inc.*, No. 2:18-CV-00300-JRG, 2018 WL 6981828, at *4 (E.D. Tex. Dec. 11, 2018) (finding claims not plausibly pled when no allegation that a single entity performed every step of the asserted method claim); *Nu-You Techs, LLC v. Beauty Town Int’l Inc.*, No. 3:15-cv-034330N 2016 WL 4717991, at *2 (N.D. Tex. Jul. 7, 2016); *Pop Top Corp. v. Nook Digital, LLC*, 2022 WL 193064, at *3 (S.D.N.Y. Jan. 21, 2022) (“[A] plaintiff alleging infringement of a method patent must plausibly allege that a defendant has ‘performed or used each and every step or element of a claimed method.’” (citation omitted)). Dismissal is warranted if the plaintiff “merely recites that the defendant infringes a claim limitation but fails to identify the parts of the allegedly infringing instrumentality that perform the limitation or allege how the identified parts meet the text of the limitation.” *Soar Tools, LLC v. Mesquite Oil Tools, Inc.*, 2021 WL 3030066, at *4 (N.D. Tex. Jul 2, 2021). When allegations of infringement are “actually inconsistent with and contradict” the asserted patent, the allegations are “insufficient to state a plausible claim.” *Bot M8*, 4 F.4th at 1354; *see also Aatrix Software, Inc. v. Green Shades Software, Inc.*, 890 F.3d 1354, 1358 (Fed. Cir. 2018) (“In ruling on a 12(b)(6) motion, a court need

not ‘accept as true allegations that contradict matters properly subject to judicial notice or by exhibit,’ such as the claims and the patent specification.” (quoting *Secured Mail Sols., LLC v. Universal Wilde, Inc.*, 873 F.3d 905, 913 (Fed. Cir. 2017))).

IV. ARGUMENT

A. USTA’s SAC Failed to Comply with Fed. R. Civ. P. 15

USTA’s SAC was filed more than 21 days after Lenovo US’s and Lenovo Global Tech’s Rule 12(b) motion without leave of the Court or the written consent of defendants, in violation of Rule 15(a) and this Court’s model scheduling order requiring a party to move for leave to amend any pleading. Dkt. 24 at 14 (“A motion for leave is required.”). It is therefore untimely and improper and should be stricken on this basis alone.

USTA cannot argue the SAC was permitted by Rule 15(a)(1). Under Rule 15, a party may amend its pleading only once as a matter of course, and because this is the SAC, leave of the court or consent from the opposing party is required. USTA filed the SAC on December 20—far more than 21 days after the November 6 Rule 12(b) motion. Fed. R. Civ. P. 15(a)(1). USTA cannot rely on its extensions to respond to the Rule 12(b) motion to extend the time to amend a complaint as a matter of course under Rule 15(a)(1). The Fifth Circuit acknowledged only two possible outcomes to such an argument: (1) that such an extension would never apply to Rule 15(a)(1) deadline; or (2) that it must be “clear from the motion for an extension that the plaintiff intends to ... [file] an amended complaint.” *Salas v. City of Galena Park*, No. 21-20170, 2022 WL 1487024, at *6 (5th Cir. May 11, 2022).⁵ USTA’s amendment fails under either test. None of USTA’s

⁵ Other courts in this the Fifth Circuit have endorsed the notice approach. *See, e.g., Tolliver v. Bank of New York Mellon as Tr. for Certificate Holders of CWABS Inc., Asset Backed Certificates, Series 2007-3*, No. 4:18-CV-00977-O-BP, 2019 WL 3937341, at *6 (N.D. Tex. Aug. 5, 2019).

motions for extension put the parties or the Court on notice that USTA would be filing an amended complaint. In fact, one motion affirmatively suggested that USTA would be filing a responsive motion because it also requested extending the reply brief deadlines. Dkt. 26, 32. USTA's SAC was therefore filed in violation of Rule 15(a).

The Court need not consider whether leave should be granted under Rule 15(a)(2). Courts in this district routinely strike complaints for failure to comply with Rule 15(a). *See, e.g., Bowling v. Dahlheimer*, No. 4:18-CV-610, 2019 WL 5880590, at *2 (E.D. Tex. Aug. 7, 2019) (striking complaint for failure to seek leave of the court); *Brown v. Alixa-Rx*, No. 4:21-cv-00284-ALM-CAN, 2022 WL 815021, at *9 (E.D. Tex. Feb. 14, 2022) (same), report and recommendation adopted sub nom. 2022 WL 811054 (E.D. Tex. Mar. 16, 2022), *aff'd* sub nom. No. 22-40160, 2022 WL 4594188 (5th Cir. Sept. 30, 2022). Even if USTA had sought leave to amend, striking would still be appropriate because any amendment would be futile, as USTA has repeatedly failed to cure deficiencies in prior pleadings. *See United States ex rel. Willard v. Humana Health Plan of Texas Inc.*, 336 F.3d 375, 387–88 (5th Cir. 2003).

B. The Court Lacks Personal Jurisdiction Over LGL

1. There is No Specific Jurisdiction Over LGL

Any assertion that LGL is subject to specific jurisdiction in Texas fails. Specific jurisdiction requires “an affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State and is therefore subject to the State’s regulation.” *Ford Motor Co.*, 592 U.S. at 359 (citation omitted). USTA’s baseless allegations that LGL purportedly does business in Texas, engages in persistent conduct in Texas, or derives substantial revenue from its contacts with Texas, are specifically refuted by evidence set forth below. Furthermore, exercise of jurisdiction under either an alternative “alter-ego” or a

“stream of commerce” theory would be improper.

This Court is not the first to address the issue of personal jurisdiction over LGL. Courts in the District of Delaware and the Northern District of Illinois have held that LGL is not subject to personal jurisdiction in those districts under either an agency⁶ or a stream of commerce theory. *3G Licensing, S.A. v. Lenovo Grp. Ltd.*, No. 17-84-LPS, 2019 WL 3974539, at *4–9 (D. Del. Aug. 22, 2019), *report and recommendation adopted*, No. 17-84-LPS, 2019 WL 7635823 (D. Del. Sept. 19, 2019); *Theta IP, LLC v. Motorola Mobility LLC*, No. 1:22-cv-3441, Dkt. No. 94 at 4–12 (N.D. Ill. Mar. 25, 2024), Ex. 2; *see also Certain Mobile Phones, Components Thereof, & Prods. Containing the Same*, Inv. No. 337-TA-1375, Order No. 30 at 1 (June 3, 2024) (terminating LGL from the Investigation, holding that “LGL does not import into the United States, sell for importation, or sell within the United States.”), Ex. 3; Dkt. 13 (joint motion dismissing LGL).

As USTA will likely argue, courts in the Eastern and Western Districts of Texas have denied motions to dismiss LGL for lack of personal jurisdiction. *See, e.g., AX Wireless LLC v. Lenovo Grp. Ltd.*, No. 2:22-cv-280-RWS-RSP, 2023 WL 7105701, at *1–6 (E.D. Tex. Sept. 6, 2023) (report and recommendation)⁷; *ACQIS LLC v. Lenovo Grp. Ltd.*, 572 F. Supp. 3d 291, 305–07 (W.D. Tex. 2021).⁸ However, and respectfully, there are significant legal flaws in those opinions. *ACQIS* relies on a lower agency test specifically rejected by the Fifth Circuit. *ACQIS*, 572 F. Supp. 3d at 307. Instead, the Fifth Circuit recognized that agency alone does not mandate a

⁶ As discussed below, the Fifth Circuit requires a showing *higher* than agency for finding personal jurisdiction.

⁷ The *AX Wireless* decision was the subject of a petition for writ of mandamus. However, the parties negotiated a settlement of the underlying action, and the petition was therefore dismissed. *In re: Lenovo Grp. Ltd.*, No. 24-106, Dkt. No. 17 (Fed. Cir. June 4, 2024).

⁸ LGL also addresses the *Universal Connectivity Techs. Inc. v. Lenovo Grp. Ltd.* and *Eireog Innovations Ltd v. Lenovo Grp. Ltd.* opinion below.

finding of personal jurisdiction. *In re Chinese-Manufactured Drywall Prod. Liab. Litig.*, 753 F.3d 521, 531 (5th Cir. 2014) (finding agency relationships “may not be dispositive[,]” but only “may be relevant to the existence of specific jurisdiction” (discussing *Daimler AG v. Bauman*, 571 U.S. 117, 135 n. 13 (2014))). The Fifth Circuit rejects a separate, and less rigorous “agency test” for personal jurisdiction as a substitute for alter ego theory. *Id.* at 531 n.7 (distinguishing Ninth Circuit’s “less rigorous” agency test from the Eleventh and Fifth Circuit approach); *Dickson Marine Inc. v. Panalpina, Inc.*, 179 F.3d 331, 338–39 (5th Cir. 1999) (applying the same test of “sufficient control to establish” under the “agency/alter ego theory”).

Moreover, the Federal Circuit’s recent ruling on a mandamus petition filed by LGL has no bearing on the current jurisdictional issue. *In re Lenovo Grp. Ltd.*, No. 2025-111, 2025 WL 685914 (Fed. Cir. Mar. 4, 2025). The Federal Circuit only declined LGL’s petition for mandamus on procedural grounds, emphasizing that the district court’s preliminary assessment of facts regarding jurisdiction was not ripe for appellate intervention. *Id.* Importantly, the Federal Circuit did not address the substantive merits of whether LGL’s alleged contacts with Texas were sufficient to establish jurisdiction, nor did it make any findings that LGL directed or controlled its subsidiaries to place products into the stream of commerce in Texas.

For these reasons and for the reasons explained below, this Court should adopt the reasoning of the *3G Licensing* and *Theta IP* cases.

1. LGL Has Not Directed Any Activities at Texas

First, LGL has not directed any activities at Texas that relate to USTA’s allegations of patent infringement. LGL is a holding company that conducts no activity in the United States or in Texas. Chim Decl. ¶¶ 3–5. Specifically, LGL does not manufacture, sell, offer for sale, export, import, or otherwise distribute any products. *Id.*, ¶ 3. It does not make products for the United

States market or offer services to customers in the United States, nor does it have any presence (physical or otherwise) in Texas or any other state. *Id.*, ¶¶ 4–5. LGL does not have employees in the United States or Texas (including those individuals listed in Paragraph 6 of the SAC). *Id.*, ¶ 4. Nor does LGL control the activities of its subsidiaries with respect to any accused products, in the United States generally or Texas specifically. *Id.*, ¶¶ 7–12. And even if the availability of a website in Texas could convey jurisdiction as USTA suggests, the www.lenovo.com/ and www.motorola.com websites referenced throughout the SAC are not owned or operated by LGL. *Id.*, ¶ 13.

USTA’s allegations regarding the Lenovo Certification Program are even less relevant because they are completely untethered to any accused acts of infringement. USTA points to a “Lenovo Certified Data Center Sales Professional” certification for Lenovo Global Tech’s server, storage, and SDI portfolios. Dkt. 34, ¶ 28. None of the accused products are server, storage, or SDI products. Dkt. 34, ¶¶ 64 (“802.11ac-compliance access points”); ¶ 80 (phones and tablets); Dkt. 34-2 at 1 (“access points” and “stations”). They are therefore irrelevant to personal jurisdiction. *Burger King*, 471 U.S. at 472 (requiring that “the litigation results from alleged injuries that ‘arise out of or relate to’ those activities”).

LGL’s lack of contacts with Texas is fatal because, to be subject to specific jurisdiction, the defendant “must take ‘some act by which [it] **purposefully avails** itself of the privilege of conducting activities within the forum State.’” *Ford Motor Co.*, 592 U.S. at 359 (emphasis added) (quoting *Hanson v. Denckla*, 357 U.S. 235, 253 (1958)). Defendants must be able to “structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit.” *Burger King*, 471 U.S. at 472 (citation omitted).

By refraining from engaging in ongoing contacts with Texas, LGL reasonably expects that

it should not be rendered liable to suit here. That is a choice LGL is entitled to make and one that is acknowledged as permissible by the U.S. legal system. Courts, including this Court, regularly hold that a parent holding company is not subject to suit when the plaintiff's allegations are principally directed to the actions of a subsidiary. *See, e.g., B/E Aerospace, Inc. v. Zodiac Aerospace*, No. 2:16-cv-01417-JRG-RSP, 2018 WL 7140299, at *5 (E.D. Tex. Nov. 30, 2018), *report and recommendation adopted*, 2019 WL 354883 (E.D. Tex. Jan. 28, 2019) (dismissing “holding companies” that “do not make or sell anything”); *CAO Lighting, Inc. v. Signify N.V.*, 628 F. Supp. 3d 996, 1004 (C.D. Cal. 2022) (“Plaintiff does not establish that Defendant [a holding company] itself places any product in the stream of commerce....”); *Quimbey ex rel. Faure v. Cmty. Health Sys., Inc.*, No. 14-559 KG/KBM, 2015 WL 13651236, at *7–8 (D.N.M. Sept. 22, 2015) (finding no specific jurisdiction where “[u]ncontroverted evidence establishe[d] that [the defendant was] a holding company” that did not operate the hospital where the alleged events occurred); *Androphy v. Smith & Nephew, Inc.*, 31 F. Supp. 2d 620, 622 (N.D. Ill. 1998) (finding no jurisdiction over “a holding company which neither transacts business nor contracts to provide products or services in Illinois”); *Cellport Sys., Inc. et al v. Harman Inter’l Indus. Inc. et al.*, No. 4:22-cv-00808-SDJ, Dkt. 44 (E.D. Tex. March 28, 2024), Ex. 4.

This Court’s opinion in *Cellport* is instructive here. In *Cellport*, defendant submitted a sworn declaration that confirmed that defendant did not conduct business in Texas and had not designed, manufactured, sold, or offered for sale any accused products in Texas. *Id.* at 8–9. This Court acknowledged that, “[W]hen unsubstantiated allegations are controverted by affidavit or declaration, the affidavit or declaration trumps the allegations.” *In re Norplant Contraceptive Prods. Liab. Litig.*, 899 F.Supp. 315, 317 (E.D. Tex. 1995); *see also Travelers Indem. Co. v. Calvert Fire Ins. Co.*, 798 F.2d 826, 831 (5th Cir. 1986) (“[T]he allegations of the complaint are

taken as true except as controverted by the defendant’s affidavits.”). The *Cellport* plaintiff’s only other evidence was unrelated to the accused products, unrelated to defendant, and/or unrelated to Texas. Ex. 4 at 9. This Court rightly pointed out that plaintiff’s allegations related to the actions of defendant’s affiliates and third parties were insufficient to show personal jurisdiction, including under the stream of commerce theory. *Id.* at 9–10.

The same is true here. As discussed below, Mr. Chim’s sworn declaration is consistent with LGL’s Annual Report and contradicts USTA’s bare allegations. Further, the vast majority of USTA’s allegations are about other Lenovo entities—including the U.S. Lenovo entities that USTA previously accused but then dismissed. USTA attempts to conflate these entities into a single “Lenovo Group” without meeting the high standard of showing that LGL is the alter ego of these U.S. entities. As in *Cellport*, the contacts of LGL’s subsidiaries are insufficient to confer jurisdiction.

Accordingly, there can be no specific jurisdiction over LGL on the basis that LGL itself conducts any activity in Texas.

2. Specific Jurisdiction Does Not Lie Under Alter Ego Theory

USTA’s allegation that specific jurisdiction arises under an alter ego theory fails. Most of the SAC broadly accuses LGL of coordination and concerted action with its U.S.-based subsidiaries without any support. *See, e.g.*, Dkt. 34, ¶¶ 6 (“the Lenovo Group”); 10 (“Lenovo and its subsidiaries operate as a unitary business venture.”); 16 (“Lenovo and its subsidiaries are part of the same corporate structure”); 22 (“Lenovo has authorized sellers and sales representatives”); 23 (“through its subsidiaries including Motorola”); 29 (discussing “Authorized Service Providers”); 30–32 (“Lenovo Agents”). Essentially, USTA asks this Court to ignore the corporate form and treat all Lenovo entities as a monolith, imputing to LGL the activities of the U.S.-based

Lenovo entities that USTA already dismissed. *See, e.g.*, Dkt. 34, ¶¶ 4–10, 13. However, the Fifth Circuit has explained, “a foreign parent corporation is not subject to the jurisdiction of a forum state merely because its subsidiary is present or doing business there; the mere existence of a parent-subsidiary relationship is not sufficient to warrant the assertion of jurisdiction over the foreign parent.” *Hargrave v. Fibreboard Corp.*, 710 F.2d 1154, 1159 (5th Cir. 1983). For the actions of a subsidiary to be imputed to the foreign parent, the parent must “exert[] such domination and control over its subsidiary ‘that they do not in reality constitute separate and distinct corporate entities’” but are instead “one and the same corporation for purposes of jurisdiction.” *Id.* (citation omitted); *see also Fellowship Filtering Tchrs, LLC v. Alibaba.com, Inc.*, No. 2:15-cv-2049-JRG, 2016 WL 6917272 at *2 (E.D. Tex. Sept 1, 2016) (finding, to impute the contacts of a third party to the defendant under an alter ego theory, “the lines between the defendant and the third party must become ‘so blurred that the two become one’” (citation omitted)).

LGL is a publicly traded Hong Kong company, subject to strict audit and regulatory requirements; any implication that LGL operates as mere alter ego of its subsidiaries would not stand scrutiny under these circumstances. Likewise, as the Federal Circuit explained in *Celgard, LLC v. SK Innovation Co.*, to establish jurisdiction under an agency theory, “the plaintiff must show that the defendant exercises control over the activities of [a] third-party.” 792 F.3d 1373, 1379 (Fed. Cir. 2015). The degree of exercised control needed to establish jurisdiction must be “greater than that normally associated with common ownership and directorship; the evidence must show that the two entities cease to be separate so that the corporate fiction should be disregarded to prevent fraud or injustice.” *Licea v. Curacao Drydock Co., Inc.*, 952 F.3d 207, 213 (5th Cir. 2015) (quoting *PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 175 (Tex.

2007)).⁹ LGL exercises no such control over its U.S.-based subsidiaries or any subsidiaries relevant to USTA’s claims. *See, e.g.,* Chim Decl., ¶¶ 7–12.

Agency theory is not sufficient to establish jurisdiction under Fifth Circuit law, but other courts have addressed when complaints fail even the lower standard of agency. The *3G Licensing* decision is instructive with respect to the alter ego theory. In that case, in support of its argument that LGL exercised control over its subsidiaries, plaintiff cherry-picked excerpts from an LGL annual report (which USTA has likewise done here) to make several conclusory allegations about the relationship between LGL and its subsidiaries. *3G Licensing*, 2019 WL 3974539, at *4–5, *7. In response, LGL submitted a declaration, not unlike the Chim Declaration here, which detailed LGL’s activities and relationship with its subsidiaries. *Id.* at *6. In view of the complete record, the Delaware court found the allegations in the complaint to be “entirely conclusory,” and explained that the excerpts of the annual report “d[id] not refer to the statements or acts of Lenovo Group, a holding company, but instead to those of its operating subsidiaries.” *Id.* at *7. Accordingly, the Delaware court found personal jurisdiction to be lacking under an agency theory. *Id.* at *7–8. USTA attempts the same rejected tactic here, imputing every statement made in any Lenovo-branded document (including the annual report) that references “Lenovo,” “Motorola,” or “Lenovo Group” to LGL. *See* Dkt. 34, ¶¶ 4, 6–7, 10, 12. This ignores the plain language of the annual report, which states:

“Lenovo or ‘Lenovo Group’ or the ‘Group’ refers to Lenovo Group Limited together with its subsidiaries. Lenovo Group Limited (‘The Company’) is the ultimate holding company of Lenovo Group. As a holding company, it does not design, develop, manufacture, or distribute products or services, or control any

⁹ To the extent that Federal Circuit law and Fifth Circuit law may differ on the question of whether LGL’s subsidiaries are its agents or alter egos, Fifth Circuit law controls because those issues are not unique to patent law. *See Baden Sports, Inc. v. Molten USA, Inc.*, 556 F.3d 1300, 1304 (Fed. Cir. 2009) (“We apply the law of the regional circuit on non-patent issues.”).

activities of the Company’s subsidiaries in the design, development, manufacture, or distribution of products or services.”

See Lenovo Group Ltd. 2024/2025 Annual Report at 2 n. 1, available at: <https://investor.lenovo.com/en/publications/reports.php>, Ex. 5. Other Lenovo public reports similarly state “Lenovo Group Limited is the ultimate holding company of Lenovo Group. As a holding company, it does not design, develop, manufacture, or distribute products or services, or control any activities of the Company’s subsidiaries in the design, development, manufacture, or distribution of products or services.” See Lenovo Group Ltd. 2023/2024 Environmental, Social, and Governance Report, <https://investor.lenovo.com/en/sustainability/reports/FY2024-lenovo-sustainability-report.pdf> at 10 n.1, Ex. 6. Accordingly, as in *3G Licensing*, this Court should treat only those statements in the annual report specifically attributed to “The Company” as fairly attributable to LGL. Tellingly, not **one** of USTA’s factual allegations relates to “The Company,” or LGL specifically.

In *Theta IP*, the court found personal jurisdiction to be lacking under the less burdensome agency theory on similar facts. As in *3G Licensing*, the plaintiff relied on general excerpts of an LGL annual report, while LGL submitted a declaration explaining details of its activities and subsidiary relationships. Ex. 2 at 7–8. The *Theta IP* court found the plaintiff did not “provide[] sufficient evidence that LGL controls” its subsidiaries such that it could be subject to personal jurisdiction under an agency theory. *Id.* at 10.

While the Western District of Texas reached the opposite conclusion in *ACQIS*, its reasoning was based on unsound and unsupported allegations.¹⁰ In finding personal jurisdiction

¹⁰ The court in *AX Wireless* did not reach the parties’ arguments about the agency or alter ego theories of jurisdiction. *AX Wireless*, 2023 WL 7105701, at *3.

under an agency theory, the *ACQIS* court relied principally on two unsupported allegations, ***neither of which USTA advances here***: (1) that “LGL created an entire subsidiary—Lenovo US—to distribute products in the United States”; and (2) that LGL’s treasurer allegedly executed one contract on behalf of a Hong Kong-based LGL subsidiary. *ACQIS*, 572 F. Supp. 3d at 307.

The first allegation, which USTA has not advanced here, cannot, by itself, support jurisdiction, as it would swallow the general rule that the “mere existence of a parent-subsiary relationship is not sufficient to warrant the assertion of jurisdiction over the foreign parent.” See *Hargrave*, 710 F.2d at 1159. And the second allegation, which related to a single contract involving a non-U.S.-based subsidiary, is simply too attenuated to support the exercise of specific jurisdiction. *ACQIS*, 572 F. Supp. 3d at 307. Even if that allegation were true (it is not), LGL’s alleged involvement with a single subsidiary contract does not “rise to the level of intermingling that would pull LGL into this Court’s jurisdiction.” See Ex. 2 at 9. As the *Theta IP* court explained, the performance of “standard administrative service[s]” by a parent company for its subsidiaries does not create sufficient minimum contacts to support personal jurisdiction. *Id.* (citation omitted). For those reasons, LGL respectfully submits that the plaintiff in *ACQIS* did not establish personal jurisdiction, and the Western District of Texas misapplied the allegations to the law in that case.¹¹

USTA’s only other evidence that Lenovo “controls” any alleged “Lenovo Agent” (as defined by USTA) is based on agreements provided on the lenovopartnerhub.com webpage that are with “Lenovo (United States) Inc.”—not LGL. Compare Dkt. 36, ¶¶ 29–33, with Exs. 7–8.

Accordingly, the Court cannot exercise personal jurisdiction over LGL on an agency theory. See *3G Licensing*, 2019 WL 3974539, at *7–8; see also Ex. 2 at 7–10.

¹¹ Notably, the court in *ACQIS* did not address or even acknowledge the conflicting *3G Licensing* opinion, which issued prior to the *ACQIS* decision.

3. Specific Jurisdiction Does Not Lie Under a Stream of Commerce Theory

USTA's allegations are insufficient to establish jurisdiction over LGL under a "stream of commerce theory." The Supreme Court's case law regarding the "stream of commerce" theory is split between two tests. *Polar Electro Oy v. Suunto Oy*, 829 F.3d 1343, 1348–49 (Fed. Cir. 2016). The narrower theory, articulated by Justice O'Connor in *Asahi Metal Industry Co., Ltd. v. Superior Court of California, Solano County*, requires that there be more than the mere "placement of a product into the stream of commerce" to establish jurisdiction; that is, jurisdiction "must come about by *an action of the defendant purposefully directed toward the forum State*." 480 U.S. 102, 112 (1987) (emphasis in original). The broader theory, articulated in Justice Brennan's concurrence in *Asahi*, requires only that the defendant be aware that placing the product in the stream of commerce could result in the product reaching the forum state. *Id.* at 116–17 (Brennan, J., concurring in part and concurring in the judgment). The Federal Circuit has frequently declined to resolve this split, generally holding that the outcome "would be the same under either test." *Polar Electro Oy*, 829 F.3d at 1349–50 (collecting cases); *see also* Ex. 2 at 11.

The same is true here: LGL is not subject to personal jurisdiction under either test. Both approaches require that the defendant place a product into the stream of commerce. *See Polar Electro Oy*, 829 F.3d at 1348–50. But USTA does not and cannot dispute that LGL does not place **anything** into the stream of commerce. *See* Chim Decl. ¶¶ 3–12. LGL is "a holding company that does not produce goods or services itself," nor does it "place the accused products into the United States (and [Texas]) markets." *See 3G Licensing*, 2019 WL 3974539, at *6; Chim Decl. ¶¶ 3–5; Ex. 6. The *Theta IP* decision is directly on point. The court observed that the plaintiff's evidence—which included LGL's annual report and various agreements between LGL subsidiaries (similar

to those identified by USTA)—did not “speak to [the subsidiaries’] relationship with LGL or LGL’s role in manufacturing, selling, or marketing the Accused Products, or any other products for that matter.” Ex. 2 at 11. The court explained that “at best,” plaintiff’s evidence established that Lenovo’s U.S.-based subsidiaries “partner with foreign LGL subsidiaries.” *Id.*

The decisions in *AX Wireless* and *ACQIS* do not compel a different result. In *AX Wireless*, the court accepted the plaintiff’s bare allegation that “LGL purposefully ships Accused Products into the forum state through an established distribution channel,” but failed to credit clear contradictory evidence that LGL is a holding company that conducts no activity in Texas or elsewhere in the United States. *See AX Wireless*, 2023 WL 7105701, at *4; *but see Norplant Contraceptive Prods.*, 899 F.Supp. at 317 (“[W]hen unsubstantiated allegations are controverted by affidavit or declaration, the affidavit or declaration trumps the allegations.”); *see also Travelers Indem.*, 798 F.2d at 831. Similarly, the court in *ACQIS* erroneously found that “LGL acts in consort with [its subsidiaries] under a stream of commerce theory” based on attenuated evidence, as discussed above. *ACQIS*, 572 F. Supp. 3d at 305–07.

Moreover, these decisions and similar decisions in *Eireog* and *UCT* can be distinguished for the same and additional reasons. *See Universal Connectivity Techs. Inc. v. Lenovo Grp. Ltd.*, No. 2:23-CV-00449-JRG, 2024 WL 4519760 (E.D. Tex. Oct. 17, 2024); *Eireog Innovations Ltd v. Lenovo Grp. Ltd.*, No. 2:24-CV-00239-JRG, 2024 WL 4519763 (E.D. Tex. Oct. 17, 2024)). For example, in *Eireog*, the Court opined that “[t]he fact that Mr. Chim opines on the relationship between LGL and its subsidiaries as an employee of an LGL subsidiary indicates that there is at least some degree of lack of separateness between LGL and its subsidiaries.” *Id.* at *4. But even assuming this indicates “some degree of lack of separateness,” this does not mean that LGL is acting in concert with any subsidiary (let alone the specific subsidiaries in this case) or confer

jurisdiction under an alter ego theory. Indeed, “under Texas law, there is ‘a presumption of legal separateness with regard to a corporation and its officers.’” *Stellar Restoration Servs., LLC v. James Christopher Courtney*, 533 F. Supp. 3d 394, 415 (E.D. Tex. 2021) (quotation omitted). The “some degree of lack of separateness” discussed by the *Eireog* court is not “such unity” that “the separateness of the corporation has ceased.” *Id.* (quotation omitted). Instead, under this presumption, LGL is separated from its U.S.-based subsidiaries and not subject to specific jurisdiction in this Court. And LGL’s affidavit from Mr. Chim explaining the separateness should be afforded appropriate weight. *Black v. Am Markets, Inc.*, 564 F.2d 681, 683 n.3 (5th Cir. 1977) (“In ruling on a motion to dismiss for lack of personal jurisdiction, the allegations of the complaint, except insofar as controverted by the defendant’s affidavit, must be taken as true.”).

As the courts in *3G Licensing* and *Theta IP* recognized, the relevant facts are clear: LGL is a holding company that conducts no ongoing business activity in the United States, conducts no activities anywhere related to the allegedly infringing acts, and does not control its U.S.-based subsidiaries. *3G Licensing*, 2019 WL 3974539, at *6–8; Ex. 2 at 8–10. Here, USTA has failed to set forth even a prima facie showing of personal jurisdiction. Even setting aside the legal insufficiency of USTA’s conclusory allegations in the SAC, LGL has presented sworn evidence that directly contradicts those allegations: LGL has affirmatively demonstrated that it is not subject to personal jurisdiction in Texas or anywhere in the United States.

4. Exercising Specific Jurisdiction Over LGL Would Be Unreasonable

The Court should also grant LGL’s motion because exercising personal jurisdiction over LGL would be entirely unreasonable. *See Pat. Rts. Prot. Grp., LLC v. Video Gaming Techs., Inc.*, 603 F.3d 1364, 1369 (Fed. Cir. 2010) (finding, even where minimum contacts are present, a court

may consider “whether the assertion of personal jurisdiction would comport with ‘fair play and substantial justice,’ i.e., whether exercising jurisdiction would be reasonable” (citation omitted)). As Justice O’Connor explained in *Asahi*, “[t]he unique burdens placed upon one who must defend oneself in a foreign legal system should have significant weight in assessing the reasonableness of stretching the long arm of personal jurisdiction over national borders.” 480 U.S. at 114.

The Supreme Court has outlined a series of factors that bear on whether the exercise of personal jurisdiction is reasonable in a particular case: (1) the burden on the defendant; (2) the forum state’s interest in adjudicating the dispute; (3) the plaintiff’s interest in obtaining convenient and effective relief; (4) the interstate judicial systems’ interest in obtaining the most efficient resolution of controversies; and (5) the shared interest of the several States in furthering fundamental substantive social policies. *Burger King*, 471 U.S. at 476–77. Those factors do not support exercising jurisdiction over LGL in this case.

As to the first factor, the burden of requiring LGL to litigate in Texas would be severe and unreasonable. LGL is a holding company that does not make or sell any products (much less the accused products), does not conduct business in Texas, and maintains its headquarters and principal place of business thousands of miles away in Hong Kong. Chim Decl. ¶¶ 2–3. USTA attempts to force LGL to litigate in Texas when there is absolutely no reason for it to have “foreseen” that it would be haled into court here. This is particularly inappropriate given USTA’s prior acknowledgement that Lenovo US and Motorola Mobility LLC perform the accused acts, can satisfy any judgement, and will provide relevant discovery. *See Burger King*, 471 U.S. at 474; Dkt. 13, ¶¶ 2–3. The Supreme Court has cautioned that “[g]reat care and reserve should be exercised when extending our notions of personal jurisdiction into the international field.” *Asahi*, 480 U.S. at 114–15 (citation omitted). Accordingly, the first factor weighs against exercising

personal jurisdiction over LGL.

As to the second factor, Texas has no particularized interest in resolving the present dispute. There is no evidence that USTA conducts **any** non-litigation business in Texas. USTA's allegations of U.S. activity should be directed at Lenovo US and/or Motorola Mobility LLC, as it already acknowledged, which are subject to suit in other U.S. venues that would have a more particularized local interest in deciding this case. Chim Decl. ¶ 6; Dkt. 13, ¶¶ 2–3.

As to the remaining factors, there is no efficiency to be gained or interest to be served by exercising jurisdiction over LGL, a Hong Kong-based holding corporation. USTA has no foreseeable path to convenient and effective relief against LGL because its claims are not viable. For example, as set forth below, USTA's infringement case has fatal flaws. In addition, there are no fundamental substantive social policies to be served by requiring a foreign holding corporation with no contacts in Texas to litigate thousands of miles from home. Instead, efficiency would dictate USTA suing the entities actually responsible for the allegedly infringing activity in the venue proper for suing those entities. Failing that, the parties—and the Court—run the risk of investing the considerable resources needed to prepare this case for trial, only to reach a pyrrhic result, where LGL would legally not be culpable for any alleged liability because it does not engage in any Section 271 activities (and its conduct is extraterritorial). *See Orange Elec. Co. Ltd. v. Autel Intelligent Tech. Corp. Ltd.*, No. 2:21-cv-240-JRG, Dkt. No. 217-1, at 15–21 (E.D. Tex. Apr. 19, 2024) (no Section 271 infringement by a foreign parent company where the parent sold the accused products to its U.S. subsidiary in China), Ex. 9. Indeed, no Court has found personal jurisdiction over LGL under the high standard of *alto ego* theory necessary to pierce the corporate veil for liability and attribute LGL's U.S.-based subsidiaries allegedly infringing conduct to LGL. *See Insituform Techs., Inc. v. CAT Contracting, Inc.*, 385 F.3d 1360, 1381 (Fed. Cir. 2004). LGL

conducts no activity with respect to the manufacturing, sale, or distribution of the accused products. Those activities are all conducted by LGL’s U.S.-based subsidiaries, which were named as defendants but were voluntarily dismissed.

For the above reasons, exercising personal jurisdiction over LGL would be unreasonable.

2. Rule 4(k)(2) Does Not Provide an Alternate Basis for Personal Jurisdiction.

Federal Rule of Civil Procedure 4(k)(2) does not provide an alternate basis for personal jurisdiction. If a plaintiff’s claim arises under federal law, the court may exercise jurisdiction if (1) the defendant is not subject to jurisdiction in any state’s courts of general jurisdiction; and (2) exercising jurisdiction is consistent with the United States Constitution and laws. Fed. R. Civ. P. 4(k)(2). Ultimately, the inquiry under the second prong is the same as that under the Due Process Clause, with one exception—LGL’s contacts are evaluated with respect to the United States as a whole rather than Texas specifically. *See Merial Ltd. v. Cipla Ltd.*, 681 F.3d 1283, 1293–94 (Fed. Cir. 2012). Because LGL conducts no regular business activity in the United States, there is no difference between the result under Rule 4(k)(2) and the result under the Due Process Clause. Accordingly, the facts of this case demand a finding of no personal jurisdiction under Rule 4(k)(2).

3. There Is No General Jurisdiction Over LGL¹²

There can be no serious contention LGL is subject to general jurisdiction in this District. General jurisdiction is proper **only** when the defendant is “essentially at home” in the forum state; for corporations, this is typically a defendant’s place of incorporation or principal place of business. *Ford Motor Co.*, 592 U.S. at 358. USTA admits LGL is not “essentially at home” here

¹² USTA does not explicitly allege in its SAC that LGL is subject to general jurisdiction in this district. However, because USTA alleges that LGL “regularly do[es] or solicit[s] business,” “engag[es] in other persistent courses of conduct,” and attempts to impute the locations of unrelated third parties to LGL (Dkt. 34, ¶¶ 19, 22, 32), LGL addresses this issue for completeness.

because LGL is a foreign company incorporated in Hong Kong with its principal place of business in Hong Kong. Dkt. 34, ¶ 2; *see also* Chim Decl. ¶ 2; *Ford Motor Co.*, 592 U.S. at 358. USTA further fails to allege LGL’s affiliations with Texas are “so ‘continuous and systematic’ as to render [it] essentially at home in the forum State.” *Daimler AG v. Bauman*, 571 U.S. 117, 139 (2014) (quoting *Goodyear*, 564 U.S. at 919). At best, USTA speculates that LGL “regularly do[es] or solicit[s] business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in the State of Texas and in this District.” Dkt. 34, ¶ 19. But LGL is not registered to do business in Texas; does not maintain accounts, assets, or property in Texas; has no employees in Texas; and does not engage in sales or marketing in Texas. Chim Decl. ¶¶ 3–5. Even if LGL conducted such activities in Texas (it does not), and those contacts were held to be sufficient to support the exercise of general jurisdiction (which they are not), LGL would presumably be subject to general jurisdiction in all 50 states—as Lenovo-branded products are sold nationwide. *See Daimler*, 571 U.S. at 139 (“[T]he same global reach would presumably be available in every other State in which [the defendant’s subsidiary’s] sales are sizable.”); *see also* Decl. ¶¶ 3–9. But the Supreme Court explained that exercising jurisdiction in that scenario is “exorbitant” and would prevent defendants from “structur[ing] their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit.” *Daimler*, 571 U.S. at 139 (quoting *Burger King*, 471 U.S. at 472).

USTA attempts to attribute actions and locations of third parties to LGL to allege that Lenovo “has regular, physical presences” in this district through alleged “Lenovo Agents.” *See* Dkt. 34, ¶¶ 14–16, 21–22, 24–26, 28–31, 64. To the extent USTA attempts to rely on these allegations to support general jurisdiction, the purported Lenovo authorized resellers and ASPs, however, do not meet any of the *Cray* requirements to be considered LGL’s places of business. ,

871 F.3d 1355, 1363 (Fed. Cir. 2017) (holding that there are three requirements for a defendant to have a regular and established place of business in a district.”). LGL does not own, lease, operate, control, or have contracts with these entities. Chim Decl. ¶ 12. And LGL has no contracts with those facilities and thus cannot condition their employees’ employment on residence in this District. Chim Decl. ¶ 12. Indeed, any contracts USTA identifies are with Lenovo US—not LGL. Dkt. 34, ¶ 30 n.61–64. Thus, these locations cannot be considered places “of LGL” under *Cray*.

C. USTA’s Infringement Allegations Are Not Plausible

USTA’s sole claim should be dismissed because the SAC fails to plausibly allege that any Accused Instrumentality performed each and every step of the asserted method claims. *Nu-You Techs, LLC v. Beauty Town Int’l Inc.*, 2016 WL 4717991, at *2 (N.D. Tex. Jul. 7, 2016).

Claims 53 and 95 each require a communications network comprised of at least three nodes, but despite this, USTA does not identify which of the lumped-together 60+ Accused Instrumentalities allegedly have these claim elements and/or form such a network. USTA fails to allege that every possible implementation of the 802.11ac standard requires a network comprised of at least three nodes that communicate in the specific ways of the asserted claims. *Fujitsu Ltd. v. Netgear Inc.*, 620 F.3d 1321, 1327-28 (Fed. Cir. 2010) (“Only in the situation where a patent covers every possibly implementation of a standard will it be enough to provide infringement by showing standard compliance.”) Rather, it, merely alleges that if any given product is compliant with the 802.11ac Wi-Fi standard, it necessarily infringes claims 53 and 95 of the ’720 patent. Dkt. 34, ¶ 62. But this infringement theory is inconsistent with, and indeed contradicts, the asserted method claims—which require multiple devices to work in concert to perform specific steps.

Specifically, Claims 53 and 95 each recite “[a] method for managing interference in a radio communications network,” requiring, *inter alia*, at least three nodes transmitting and receiving

various types of information. Dkt. 36-1 at 35:9–42, 40:57–42:2. And according to USTA, each node is a separate device, like a “software radio or a router.” *Id.* at 8:1–4. Because claims 53 and 95 require information to be sent to or received from at least three nodes, it is implausible that every step of claims 53 and 95 can be performed by a one node (*i.e.*, a single Accused Instrumentality). Indeed, these multiple nodes are not inconsequential; they are required elements recited throughout the claims that perform separate and distinct steps of the claimed methods. *See, e.g., Nazomi Commc'ns, Inc. v. Nokia Corp.*, 739 F.3d 1339, 1345 (Fed. Cir. 2014).

For example, the following method steps of claim 53 requires at least three nodes—separate devices—for the transmission and receiving of certain information:

- ***receiving at a first node*** in the radio communications network ***an instruction transmitted from a second node***;
- ***transmitting the filtered transmission signal to the second node***;
- ***receiving a compressed first feedback from the second node***;
- ***receiving a compressed second feedback from a third node***;
- ***the filtered transmission signal is a filtered first transmission signal that is transmitted to the second node*** using an 802.11-based ... (OFDM) protocol ...;
- ***transmitting, using the 802.11-based OFDM protocol, a filtered second transmission signal, simultaneously with the filtered first transmission signal, to the third node***;

Dkt. 34, Ex. 1 ('720 patent) at 35:9–42 (emphasis added). Claim 95 similarly requires at least three separate nodes sending and receiving specific types of information:

- ***receiving at a first node*** in the radio communications network ***an instruction transmitted from a second node***;
- ***transmitting the filtered transmission signal to the second node***;
- ***receiving a particular signal at the first node that is transmitted from the second node***;
- ***transmitting the compressed feedback from the first node to the second node***, for use by the second node in determining a transmit power ..., ***while simultaneously transmitting to one or more other nodes***

- ***wherein the filtered transmission signal is transmitted to the second node***

Dkt. 34, Ex. 1 ('720 patent) at 40:57–42:2 (emphasis added). As shown above, USTA's theory that a single 802.11ac-compliant device can infringe claims 53 and 95—which require at least three devices to perform the claimed method steps—is inconsistent with and contradicts the '720 patent. USTA's infringement theory is therefore implausible.

This situation parallels *Bot M8*, where the Federal Circuit affirmed dismissal of a patent infringement claim that was inconsistent with and contradicted the asserted patent. In *Bot M8*, the plaintiff alleged that the accused product infringed an asserted patent in part because the product stored an alleged “authentication program” on a motherboard. *Bot M8*, 4 F.4th at 1354. The court found the infringement claim “not even possible, much less plausible,” because the asserted patent required the “authentication program” to be stored *separate* from the motherboard, not *on* the motherboard as alleged in the infringement theory. *Id.* Here, USTA's infringement theory alleges that *one* accused 802.11ac-compliant device can infringe claims 53 and 95 of the '720 patent, but these claims require at least *three* devices to perform the claimed method steps. As in *Bot M8*, USTA's infringement theory is therefore not plausible because one device cannot perform all of the steps. Despite this requirement, USTA does not attempt to compare these elements to any specific alleged Lenovo product or identify which three accused devices perform the claimed method steps. Rather, USTA groups numerous Lenovo products together as the “Accused Instrumentalities” and alleges they all satisfy each element of claims 53 and 95, thus emphasizing the implausibility of the SAC.

V. CONCLUSION

For the reasons set forth above, USTA's SAC should be dismissed with prejudice.

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Respectfully Submitted,

/s/ Melissa R. Smith

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CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 18th day of March, 2025.

/s/ Melissa R. Smith
Melissa R. Smith