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May 20, 2026

VIA EMAIL

Gary Sorden
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Dallas, TX 75202
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Re: *Zinser v. Vivint, LLC et al.*, No. 4:25-cv-1030-ALM (E.D. Tex.)

Dear Gary:

This letter responds to your May 8th letter regarding the serious issues that were raised in my May 1st letter regarding Plaintiff's assertion of Claims 2-7, 15-18, and 20 of the '191 Patent (the "Original Dependent Claims").

We appreciate Plaintiff's withdrawal of claims 2-4, 6, and 20 from the litigation, as stated in your May 8th letter. To be clear, we dispute that such a dismissal at this stage of the litigation can be considered as "without prejudice." In any event, because Plaintiff apparently refuses to withdraw his assertion of the other Original Dependent Claims (i.e., claims 5, 7, and 15-18), it is necessary for us to respond to several of the mischaracterizations in your letter.

First, Mr. Zinser's statements to the USPTO in his Request for Reexamination ("Request") filed on June 19, 2024 did not merely state that there was a "substantial new question of patentability" regarding the Original Dependent Claims, as you seem to imply in your May 8th letter. Rather, the Request stated unequivocally that those claims "are invalid." Such an unequivocal statement conclusively shows that Mr. Zinser knows those claims "are invalid," and he is therefore acting in bad faith by attempting to now assert those admittedly invalid claims against Vivint in this litigation.

Second, the USPTO never made a determination in the Reexamination as to the validity of the Original Dependent Claims because Mr. Zinser withdrew those claims from the Reexamination via his Corrected Request for Reexamination filed on August 15, 2024. Your statement that "Mr. Zinser is not required to second guess the USPTO" implies that the validity of the Original Dependent Claims was confirmed in the Reexamination, which is simply false. In

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view of his withdrawal of those claims from the Reexamination, the USPTO never addressed the Original Dependent Claims in the Reexamination, so all we are left with is Mr. Zinser's unequivocal admission in the Request that those claims "are invalid."

Indeed, Mr. Zinser's unequivocal admission in the Request that the Original Dependent Claims are anticipated and/or obvious and therefore "are invalid" is confirmed by the art Mr. Zinser cited in the Request. *See, e.g., Von Bauer* at Abstract, 5:6-17, 6:52-68, 7:15-34, 8:17-40, FIGS. 10-11, 13-16 (disclosing communicated audio/image/visual features of claim 5); *Von Bauer* at Abstract, 5:6-17, 6:28-51, 7:15-34, 8:17-40, 14:1-24, 14:29-39, FIGS. 1a, 1b, 10-16 (disclosing video monitor features of claim 18); *Menard* at pp. 5-6, ll. 25-27; p. 16, ll. 1-12; pp. 16-17, ll. 22-2; p. 17, ll. 3-8; pp. 19-20, ll. 30-12; p. 21, ll. 1-28; p. 22, ll. 14-23; p. 25, ll. 13-19; FIGS. 4, 5, 7-9, 26-27 (disclosing cellular communication features of claims 7, 15, 16); *Klein* at [0039] (same); *Klein* at [0017], [0021], [0023], [0024], [0038], [0042], [0043], FIGS. 1, 2, 4 (disclosing storage features for forwarded visual and audio communications of claim 17).

Third, contrary to the assertions in your letter, there is in fact case law support for sanctioning a plaintiff under Section 285 for asserting a patent claim in litigation after it previously conceded to the USPTO that such claim was invalid. *See, e.g., Extremity Med., LLC v. Nextremity Sols., Inc.*, No. 22-239-GBW, 2024 U.S. Dist. LEXIS 181454 (D. Del. Oct. 3, 2024). In view of this precedent, we strongly encourage Mr. Zinser to reconsider his decision to continue asserting claims 5, 7, and 15-18 in the litigation. Absent withdrawal of those claims, we reiterate that Vivint will be left with no choice but to use all available means to seek the recovery of its legal fees expended in defending the meritless assertion of those claims that Mr. Zinser himself admitted are invalid.

Lastly, if Mr. Zinser refuses to reconsider his decision to continue asserting claims 5, 7, and 15-18, we intend to file a motion to strike those claims from his infringement contentions for all the reasons stated herein. Please send us your availability the week of May 26-29 to meet-and-confer regarding that motion.

Please do not hesitate to contact me if you would like to talk through these issues further. Vivint reserves all rights regarding all other issues and deficiencies we have raised in past correspondence or may raise in future correspondence.

Sincerely yours,



Bert Greene