

**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:20-cv-01233-CFC-JLH**

WSOU Investments, LLC v. Xilinx, Inc.

Assigned to: Judge Colm F. Connolly

Referred to: Judge Jennifer L. Hall

Related Cases: [1:20-cv-01228-CFC-JLH](#)

[1:20-cv-01229-CFC-JLH](#)

[1:20-cv-01231-CFC-JLH](#)

[1:20-cv-01232-CFC-JLH](#)

Date Filed: 09/16/2020

Jury Demand: Plaintiff

Nature of Suit: 830 Patent

Jurisdiction: Federal Question

Cause: 35:271 Patent Infringement

Date Filed	#	Docket Text
05/18/2021	32	<p>ORAL ORDER: (1) Having been referred by Judge Connolly Defendant's motions to dismiss Plaintiff's indirect infringement claims (No. 20-1228, D.I. 12; No. 20-1229, D.I. 12; No. 20-1231, D.I. 12; No. 20-1232, D.I. 12; No. 20-1233, D.I. 11) for a report and recommendation regarding the appropriate dispositions; (2) having reviewed the briefs filed in connection with those motions prior to the oral argument scheduled for May 21, 2021; (3) having been made aware of Judge Connolly's recent opinion in <i>Zapfraud, Inc. v. Barracuda Networks, Inc.</i>, No. 19-1687-CFC-CJB, 2021 WL 1134687, at *4 (D. Del. Mar. 24, 2021), in which he stated that he "will adopt the rule that the operative complaint in a lawsuit fails to state a claim for indirect patent infringement where the defendant's alleged knowledge of the asserted patents is based solely on the content of that complaint or a prior version of the complaint filed in the same lawsuit"; (4) in view of this judicial officer's inclination to recommend to Judge Connolly that, if he intends to follow his rule set forth in <i>Zapfraud</i>, Defendant's motions to dismiss Plaintiff's indirect infringement claims should be granted; and (5) in the interest of avoiding unnecessary objections made solely with an eye towards preserving appeal rights; it is HEREBY ORDERED as follows: On or before May 20, 2021, the parties shall meet and confer and file a letter indicating whether they agree that, if <i>Zapfraud</i> correctly sets forth the law, Defendant's motions to dismiss should be granted. If the parties do so agree, the letter shall be accompanied by a stipulation providing, in substance, that Plaintiff's indirect infringement claims may be dismissed without prejudice to Plaintiff's future ability to appeal their dismissal to the appropriate Court of Appeals. ORDERED by Judge Jennifer L. Hall on 5/18/2021. Associated Cases: 1:20-cv-01228-CFC-JLH, 1:20-cv-01229-CFC-JLH, 1:20-cv-01231-CFC-JLH, 1:20-cv-01232-CFC-JLH, 1:20-cv-01233-CFC-JLH(ceg) (Entered: 05/18/2021)</p>