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 11 dba VIVATO TECHNOLOGIES

12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA**
 14 **SOUTHERN DIVISION**

15 XR COMMUNICATIONS, LLC, dba
 16 VIVATO TECHNOLOGIES,

17 *Plaintiff,*

18 *v.*

19 D-LINK SYSTEMS, INC.,

20 *Defendant.*

Case No. 8:17-cv-0596-DOC (LEAD)

22 XR COMMUNICATIONS, LLC, dba
 23 VIVATO TECHNOLOGIES,

24 *Plaintiff,*

25 *v.*

26 ASUS COMPUTER INTERNATIONAL,
 ASUSTeK Computer, Inc.

27 *Defendant.*

Case No. 8:17-CV-02948-DOC

NOTICE OF APPEAL

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1 Civil Action No. 2:17-CV-02948-DOC(JDEx) is a patent infringement action brought
2 by Plaintiff XR Communications, LLC, dba Vivato Technologies (“Vivato”) against
3 Defendant ASUS Computer International and ASUSTeK Computer, Inc. (“ASUS”). This case
4 was consolidated with *XR Communications, LLC v. D-Link Systems, Inc. et al.*, Case No. 8:17-
5 CV-00596-DOC(JDEx) (lead).

6 XR Communications, LLC, dba Vivato Technologies, plaintiff in the above-captioned
7 consolidated cases, hereby appeals to the United States Court of Appeals for the Federal Circuit
8 from the Final Judgment issued on April 15, 2022 and entered as Dkt. No. 46 in Civil Action
9 No. 2:17-CV-02948-DOC(JDEx) and as Dkt. No. 309 in Civil Action No. 8:17-CV-00596-
10 DOC(JDEx) (Lead case), along with any and all adverse judgments, orders, opinions, findings,
11 holdings, rulings, conclusions, claim constructions, and determinations underlying, pertinent
12 to, or ancillary to that Judgment or leading thereto or merged therein, whether entered in Civil
13 Action No. 2:17-CV-02948-DOC(JDEx) or Civil Action No. 8:17-CV-00596-DOC(JDEx), or
14 otherwise, including, for example without limitation, the Order issued on January 4, 2022 and
15 entered as Dkt. No. 274 in *XR Communications, LLC v. D-Link Systems, Inc. et al.*, Case No.
16 8:17-CV-00596-DOC-JDE (Lead Case)) granting ASUS’s motion for judgment on the
17 pleadings as to all claims relating to the ’231 patent based on collateral estoppel arising from
18 final judgment of indefiniteness from the Northern District of California (*see* Dkt. Nos. 191,
19 193, 194, *XR Communications, LLC v. Ruckus Wireless*, 3:18-CV-01992-WHO (N.D. Cal.)).

20 This Notice of Appeal should be deemed filed in both Civil Action No. 2:17-CV-
21 02948-DOC(JDEx) and Civil Action No. 8:17-CV-00596-DOC(JDEx) (Lead case); however,
22 to avoid any ambiguity, this Notice of Appeal will be filed in identical form in both actions.
23 The related final judgment in Civil Action No. 3:18-CV-01992-WHO (N.D. Cal.) that gave
24 rise to the collateral estoppel underlying the final judgments on appeal here is currently at issue
25 in pending Case No. 22-1125 at the United States Court of Appeals for the Federal Circuit.

26 Included herewith is payment of \$505 (filing fee, \$5.00; docketing fee, \$500.00) as
27 required by 28 U.S.C. §§ 1913, 1917, Federal Rule of Appellate Procedure 3(e), Federal
28

1 Circuit Rule 52(a)(2), and the Court Fee Schedule for the United States District Court for the
2 Central District of California.

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4
5 DATE: May 9, 2022

Respectfully submitted,

6 **RUSS AUGUST & KABAT**

7
8 By: /s/ Reza Mirzaie
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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 May 9, 2022 with a copy of this document via the Court’s ECF system.

/s/ Reza Mirzaie
Reza Mirzaie

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