

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

MUSIC CHOICE,

*Plaintiff,*

v.

STINGRAY DIGITAL GROUP INC. and  
STINGRAY MUSIC, USA, INC.,

*Defendants.*

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Case No. 2:16-cv-00586-JRG-RSP  
**LEAD CASE**

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STINGRAY MUSIC, USA, INC,

*Plaintiff,*

v.

MUSIC CHOICE,

*Defendant.*

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Case No. 2:16-cv-00964-JRG-RSP  
**CONSOLIDATED CASE**

**ORDER**

Before the Court is the Joint Motion to Dismiss Stingray’s Affirmative Defense and Counterclaim of Inequitable Conduct and the Corresponding Aspects of Music Choice’s Motion for Partial Summary Judgment with Respect to Certain of Defendants’ Affirmative Defenses (“Joint Motion to Dismiss”), which was filed by Defendants Stingray Digital Group Inc. and Stingray Music, USA, Inc. (collectively “Stingray”) and Plaintiff Music Choice (referred to alongside Stingray entities as “the Parties”). (Dkt. No. 299.) In this Joint Motion to Dismiss, Stingray indicates that it seeks to dismiss its affirmative defenses and counterclaims relating to inequitable conduct concerning the ’245 patent with prejudice. (*Id.* at 2.) Music Choice represents that it “will withdraw the aspects of its Affirmative Defenses MSJ that relate to those allegations of inequitable conduct.” (*Id.* (referring to Dkt. No. 189).)

After consideration, the Court **GRANTS** the Parties’ Joint Motion to Dismiss. It is therefore **ORDERED** that

1. Stingray Defendants' affirmative defenses and counterclaims relating to allegations of inequitable conduct concerning U.S. Patent No. 9,357,245 (Dkt. 97 at 35-41 (¶¶ 96-114) (Tenth Counterclaim); Dkt. 98 at 26 (¶ (d)) (affirmative defense as to '245 patent), 46-53 (¶¶ 96-114) (Tenth Counterclaim)) are **DISMISSED WITH PREJUDICE**;
2. Music Choice's Motion for Partial Summary Judgment with Respect to Certain of Defendants' Affirmative Defenses, with respect to the arguments raised relating to the Stingray Defendants' allegations of inequitable conduct (Dkt. 189 at 5-6 (¶¶ 16-17), 12-13), is **DENIED AS MOOT**;
3. Each party will bear its own costs, expenses, and attorneys' fees.

The Court notes that this is only a partial motion to dismiss, so the case should remain open.

**SIGNED this 7th day of November, 2019.**

  
ROY S. PAYNE  
UNITED STATES MAGISTRATE JUDGE