

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

EXXON MOBIL CORPORATION, )  
 ) Civil Action No. 08-5652-BHS  
Plaintiff, )  
 )  
v. )  
 )  
X ON WIRELESS CORPORATION, )  
 )  
Defendant. )

**CONSENT JUDGMENT**

The parties having agreed to the entry of this Consent Judgment finally disposing of this action, the Court hereby enters the following findings of fact, conclusions of law, and Order as agreed by the parties:

1. Plaintiff Exxon Mobil Corporation ("Exxon") is a New Jersey corporation having a business address of 5959 Las Colinas Boulevard, Irving, Texas 75039.

2. Defendant X On Wireless Corporation ("X On Wireless") is a Washington corporation having a business address of 3500 SE 175<sup>th</sup> Avenue, Vancouver, Washington 98683.

1           3. This Court has jurisdiction over this action under 15 U.S.C. § 1121 and 28 U.S.C.  
2 §§ 1331, 1338(a) and 1338(b), and has supplemental jurisdiction under 28 U.S.C. § 1367(a) over  
3 the claims under Washington law.

4           4. Each party has had the full opportunity to confer with counsel about this dispute and  
5 the terms of this Final Judgment, and is entering into this Final Judgment without relying on any  
6 statements or representations by the other party or its attorneys.

7           5. Exxon owns the marks EXXON and EXXONMOBIL (which, including design  
8 forms of those marks, are hereinafter referred to collectively as the “EXXON Marks”) and  
9 numerous valid and subsisting United States Trademark Registrations for its EXXON marks,  
10 including Reg. Nos. 902044, 968512, 2791743, and others.

11           6. X On Wireless registered and owned the United States Trademark Registration for  
12 its mark X ON (Registration No. 3395882, issued March 11, 2008). X On Wireless had also  
13 applied for registration of the marks X ON WIRELESS (Application Serial No. 78542894, filed  
14 January 6, 2005) and X ON CORPORATION (Application Serial No. 78613719, filed on April  
15 21, 2005), each on an intent-to-use basis.

16           7. Exxon filed with the United States Patent and Trademark Office (“USPTO”) a  
17 petition to cancel the registration and a consolidated opposition against the applications.

18           8. In its complaint, Exxon objected to X On Wireless’s registration and use of various  
19 marks and names (including domain names) incorporating the term “X On” or “xon.”

20           9. In its answer, X On Wireless denied all accusations made by Exxon and claimed it  
21 had a legitimate right to use the X ON trademark that was duly registered and approved by the  
22 USPTO.

23           10. X On Wireless further stated in its answer that it was already contemplating  
24 changing its business activities to focus on new areas. X On Wireless alleges that it recently  
25 finalized this change and that due to this major shift in its business activities, it decided to  
26 abandon its existing registered and unregistered marks, business/brand names, and domain  
27 names that each contained “xon” as a part thereof.

1 11. In a filing with the USPTO, X On Wireless voluntarily cancelled Registration No.  
2 3395882 and abandoned Applications 78542894 and 78613719. On February 2, 2009, the  
3 USPTO issued judgment resulting in cancellation of the registration and abandonment of the  
4 applications, and on February 10, 2009 issued an order formally cancelling Registration No.  
5 3395882.

6 12. Recently, X On Wireless voluntarily filed formal papers with certain state authorities  
7 on its new business/brand names to reflect its new business activities, and X On Wireless has  
8 represented that it has cancelled all its existing business/brand names and domain names that  
9 incorporate "X On" or "xon."

10 13. As the Defendant's alleged marks in question under this lawsuit were expressly  
11 abandoned by Defendant due to aforesaid reasons, the parties have concluded that this case  
12 should be settled, and have requested entry of this consent judgment.

13  
14 **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:**  
15

16 (a) X On Wireless will not resume any use of any abandoned mark, name, or domain  
17 name that incorporates "X On" or "xon" (in any combination of uppercase or lowercase letters).  
18

19 (b) X On Wireless and its owners, officers, directors, agents, employees, and all those  
20 persons in active concert or participation with them, are permanently enjoined from using or  
21 registering, or maintaining registration of, any mark, name, word, term, or domain name that  
22 incorporates "X On" or "xon" (in any combination of uppercase or lowercase letters).  
23

24 (c) X On Wireless will fulfill all its obligations under this Judgment, including  
25 completion of changing its corporate name to comply with paragraph (b) above, within 60 days  
26 after entry of this consented Judgment.  
27  
28



(d) Each party shall bear its own costs and attorney fees incurred in this action.


(e) This is a Final Judgment, and each party hereby waives all right to appeal from such Final Judgment.


(f) The Court shall retain jurisdiction over this Consent Judgment for the purpose of resolving any disputes arising from or under the terms of this Consent Judgment, and any violation of this Order shall be punishable as a contempt of Court, in addition to any and all other remedies available at law or in equity.

SIGNED and ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
United States District Judge

**AGREED AND ENTRY REQUESTED:**

  
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