

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ELM 3DS INNOVATIONS, LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD., et  
al.,

Defendants.

C.A. No. 14-cv-1430-LPS

JURY TRIAL DEMANDED

**FILED UNDER SEAL**

**DECLARATION OF NOSSON D. KNOBLOCH IN SUPPORT OF MOTION TO  
COMPEL**

I, Nossion D. Knobloch, declare as follows:

1. I am a partner with the law firm Bartlit Beck LLP and am admitted to practice *pro hac vice* before this Court. I submit this declaration in support of Plaintiff's Motion to Compel.

The facts set forth in this declaration are known to me personally. If called as a witness, I could and would testify competently concerning these matters.

2. On June 3, 2016, Elm served Interrogatory No. 4 on Samsung, seeking a list of all "Stacked Integrated Circuit Products" that Samsung sells "directly to an affiliate or third party" or incorporates "in products that you subsequently sell to an affiliate or a third party." Ex. 1 at 3. The request defined "Stacked Integrated Circuit Products" as "an integrated circuit product where multiple silicon die are vertically stacked in a single chip package and at least one silicon die is less than 150 microns in thickness." *Id.* at 2.

3. On July 11, 2016, this case was stayed pending Defendants' IPRs regarding the patents in suit. *See* July 11, 2016 docket text.

4. On February 26, 2018, the stay was lifted following the PTAB's denial of nearly all of the IPR challenges. D.I. 170.

5. On May 24, 2018, I sent a letter to Samsung concerning, among other things, Samsung's identification of relevant products. *See* Ex. 2. In that letter, I asked Samsung to "update its identification of its stacked memory products and propose a subset of those products that Samsung would agree to treat as representative products for purposes of Elm's infringement proof in this case." *Id.* at 2.

6. Since sending that letter to Samsung, I have sent well over a hundred emails to Samsung's counsel, the vast majority of which have addressed issues related to Samsung's identification of its relevant products or its production of technical and sales data about those products. I have also participated in more than twenty calls with Samsung's counsel during which these issues have been discussed.

7. On August 9, 2018, Samsung supplemented its response to Interrogatory No. 4, and attached an Appendix listing more than 2000 products that Samsung identified as "having two or more vertically stacked die that have been sold in the United States in the period between 2007 to present...." Ex. 3 at 7.

8. The following day, I wrote a letter to Samsung's counsel noting Elm's understanding that Samsung's response to interrogatory number 4 "now includes all stacked IC products (including stacked IC products incorporated into downstream Samsung products) that Samsung has sold in the United States." Ex. 4 at 1.

9. On August 31, 2018, Samsung's counsel responded to my letter. Samsung's response did not correct Elm's understanding that—as described in my August 10 letter—Samsung had identified all "stacked IC products incorporated into downstream Samsung products." Ex. 5.

10. On November 13, 2018, Samsung's counsel sent me an email noting that

“Samsung is currently addressing some discrepancies in the information it compiled on the products listed in response to ROG 4.” Ex. 6 at 1.

11. On February 2, 2019, I emailed Samsung concerning a number of discovery-related matters. Among other things, I noted that “[o]n January 23rd, you wrote in an email that ‘Samsung recently provided more information on the stacked die products. We are currently reviewing and plan to produce this to you soon, assuming no unforeseen issues.’ It is now more than a week later, and we have not received that information. With the claim construction hearing coming up in just over a month, we cannot keep waiting for Samsung to produce this long-awaited information.” Ex. 7 at 6.

12. On February 25, 2019, I emailed Samsung concerning a number of discovery-related matters. Among other things, I asked as follows: “What is the status of the stacked-die info addressed in your email, below? After numerous delays, you indicated that you believed you could provide it last week, but we did not receive it. Will you be providing that information this week?” *Id.* at 1.

13. On March 14, 2019, Samsung served a supplemental response to Elm’s Interrogatory No. 4. Ex. 8. In its supplemental response, Samsung referred “Elm to the documents bearing bates numbers SAMSUNG-ELM-000058542 – SAMSUNG-ELM-000058543, wherein information responsive to this interrogatory may be found.” *Id.* at 7-8. Samsung further stated that “[t]hese documents provide a revised list of all stacked silicon die packages having two or more vertically stacked die that have been sold in the United States in the period between 2007 to the present and that are not included in the Second Amended Accused Product List served on June 3, 2016. . . . These documents include certain information regarding the identified packages, including the number of stacked chips . . . and die thickness.”

*Id.* at 8.

14. The spreadsheets Samsung identified in Ex. 8 identified numerous products not listed in Appendix A to Samsung's prior response, and omitted hundreds of the products previously included in Appendix A.<sup>1</sup>

15. On March 19, 2019, I participated in a meet and confer with Samsung on a number of issues, including its March 14 supplemental interrogatory response. Afterwards I emailed Samsung's counsel summarizing the parties' meet and confer, including the following: "We discussed Elm's concerns that, given the gaps in Samsung's understanding of its products, there may be other stacked-die products that have been omitted from the -42 and/or -43 spreadsheets. You stated that these concerns were unfounded, and that you believed that all the Samsung stacked products had been identified and included in these lists." Ex. 9 at 1.

16. On June 12, 2019, the Federal Circuit affirmed the PTAB's denial of the Defendants' IPRs, and adopted a construction of the "substantially flexible" claim terms that limits them to semiconductors that have been thinned to 50 microns or less. *See Samsung Elecs. Co., Ltd. v. Elm 3DS Innovations, LLC*, 925 F.3d 1373, 1380 (Fed. Cir. 2019).

17. On June 20, 2019, I emailed Samsung's counsel. I made clear that, "[i]n light of the Federal Circuit's recent decision, Elm currently intends to accuse of infringement all Samsung semiconductor products that contain more than one circuit layer, where at least one circuit layer is stacked above or below another circuit layer, and where at least one of the layers has a thickness of 50 microns or less." Ex. 10 at 6. I asked "[w]hether Samsung has already identified all products sold between 2008 and 2018 that meet [these] criteria." *Id.* My email also

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<sup>1</sup> The produced spreadsheets referenced in this declaration are in native Excel format and may be difficult to print to PDF. Elm would be happy to lodge native version of these documents upon the Court's request.

asked for a meet and confer about the selection of representative products. Ex. 10 at 6.

18. On June 24, 2019, I emailed Samsung's counsel and identified 50 products which—based on the spreadsheets Samsung identified in its March 14, 2019 Second Supplemental Response to Elm's Interrogatory No. 4—Elm had determined included at least one die that was 50 microns or less. *Id.* at 4-5. My email also identified approximately 700 products for which Samsung had not yet identified die thickness. Finally, my email requested that Samsung confirm that Elm's list of 50 products included “every Samsung semiconductor product sold from 2008 to the present that Samsung knows to contain more than one circuit layer, where at least one circuit layer is stacked above or below another circuit layer, and where at least one of the layers has a thickness of 50 $\mu$ m or less.” *Id.* at 5.

19. On June 24, 2019, Samsung's counsel responded to my email and confirmed that “Samsung has identified all products that you have asked about based on a reasonable search.” *Id.* at 4. Samsung's counsel further stated: “You have not given any basis for your suspicion that the list of products that Samsung has identified is incomplete.” *Id.*

20. Later that same day, I responded and asked as follows: “When will Samsung provide a complete list of all stacked semiconductor products sold from 2008 to the present that Samsung knows to contain more than one circuit layer, where at least one circuit layer is stacked above or below another circuit layer, and where at least one of the layers has a thickness of 50 $\mu$ m or less?” *Id.* at 3.

21. On June 24, 2019, Elm served its Third Set of Common Interrogatories. These interrogatories sought sales data concerning “any Product made or sold by you that contains a semiconductor layer that is 50 microns or less.” Ex. 11 at 3.

22. On July 10, 2019, Samsung's counsel responded to my June 24 email and once

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