

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

**JAPAN DISPLAY INC., PANASONIC
LIQUID CRYSTAL DISPLAY CO.,
LTD.,**

Plaintiffs,

v.

**TIANMA MICROELECTRONICS CO.
LTD.**

Defendant.

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**C.A. 2:20-cv-00283-JRG
[LEAD CASE]**

**C.A. 2:20-cv-00284-JRG
C.A. 2:20-cv-00285-JRG**

JURY TRIAL DEMANDED

**PLAINTIFFS' OPPOSED MOTION TO EXCLUDE
CERTAIN EXPERT OPINIONS OF DR. E. FRED SCHUBERT**



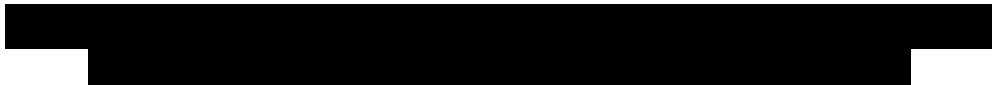
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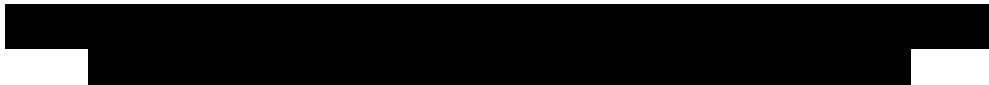
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I. INTRODUCTION

Plaintiffs Japan Display Inc. (“JDI”) and Panasonic Liquid Display Co., Ltd. (“PLD”) (collectively, “Plaintiffs”), move to exclude certain expert opinions of Dr. E. Fred Schubert that assert improper claim construction opinions and depend on inconsistent and unreliable statements of Tianma Microelectronics Co. Ltd.’s (“TMC”) corporate representative, Ms. Yinghua Mo, containing information not previously disclosed to Plaintiffs.

On October 15, 2021, TMC served the rebuttal expert report from Dr. Schubert, *see* Ex. 1, regarding claimed non-infringement of certain Asserted Patents. In his report, Dr. Schubert inappropriately assert opinions regarding how certain claims should be construed, which should be excluded as either conflicting with the court’s Claim Construction Memorandum and Order (“Claim Construction Order,” Dkt. No. 123) or as presenting new, untimely proposals for construction. Further, Dr. Schubert relies on statements regarding technical aspects of TMC’s products provided to him by TMC’s corporate representative, Ms. Yinghua Mo, which should be excluded as being inconsistent with prior testimony and the record, and presenting technical information that was never disclosed to Plaintiffs during the discovery process, despite discovery requests specifically seeking such technical information. Plaintiffs respectfully assert that these opinions are inappropriate and should be excluded.

II. LEGAL STANDARDS

A. *Daubert* Standard

Under Federal Rule of Evidence 702, an expert witness with “scientific, technical, or other specialized knowledge” may provide opinion testimony only if “(a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case.” Fed. R. Evid. 702; *see also Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 592-93, 597 (1993). The court’s role in applying Rule 702 “is limited to that of a gatekeeper,” ensuring that an expert’s testimony rests on a reliable foundation

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