IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

OCEAN SEMICONDUCTOR LLC, Plaintiff, vs. MEDIATEK INC. AND MEDIATEK USA INC. ("MEDIATEK"), Defendant.	§ § § § § § § § § § §	Case No. 6:20-cv-1210-ADA

MEDIATEK INC.'S AND MEDIATEK USA INC.'S OPPOSITION TO MOTION FOR CONSOLIDATION OF CO-PENDING RELATED CASES

I. INTRODUCTION

Consolidation is only appropriate when it promotes judicial efficiency without prejudicing or unfairly advantaging any party. *Arnold & Co., LLC v. David K. Young Consulting, LLC*, No. SA-13-CV-00146-DAE, 2013 WL 1411773, at *2 (W.D. Tex. Apr. 8, 2013). During the parties' meet and confer, Ocean explained that it seeks consolidation not just to coordinate the schedules and *Markman* proceedings across the seven cases—which the Court routinely accomplishes without formal consolidation—but also to limit the Defendants' ability to individually take discovery and submit briefing. Those limitations would prejudice MediaTek's ability to adequately defend its interests among a group of Defendants with different accused products manufactured by different permutations of foundries who implement different semiconductor-manufacturing tools. And there is no legal basis for such limitations, either. In fact, the Court's Order Governing Proceedings ("OGP") explicitly provides that, even in consolidated cases, defendants shall receive the same number of discovery requests and summary-judgment pages they would receive if the consolidated cases were proceeding individually. OGP Version 3.3, at n.2.

Judicial efficiency can be achieved—without prejudicing MediaTek—by treating this case and the six others Ocean filed in this District just like the Court treats most other related cases: by coordinating the schedules, given that all cases were filed on the same day, and by holding a coordinated *Markman* hearing. There is no need for formal consolidation, and Ocean's request should be denied.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 42(a) gives the district court discretion to consolidate actions if doing so promotes judicial efficiency. *In re Air Crash Disaster at Fla. Everglades*, 549

F.2d 1006, 1012 (5th Cir. 1977).[1] But a district court must weigh its interest in judicial efficiency against the potential for prejudice caused by consolidation. *See Arnold*, 2013 WL 1411773, at *2. Consolidation "does not merge the suits into a single action or change the rights of the parties; rather, consolidation is intended only as a procedural device used to promote judicial efficiency and economy and the actions maintain their separate identities." *Lay v. Spectrum Clubs, Inc.*, No. SA-12-CV- 00754-DAE, 2013 WL 788080, at *2 (W.D. Tex. Mar. 1, 2013) (internal quotations omitted). The party seeking consolidation bears the burden to show it is appropriate in the case at hand. *Certified/LVI Envtl. Servs., Inc. v. PI Constr. Corp.*, No. SA-01-CA-1036-FB-NN, 2003 WL 1798542, at *2 (W.D. Tex. March 3, 2003).

III. FACTUAL BACKGROUND

Ocean's seven cases accuse Defendants' semiconductor products of infringing between seven and nine patents. In this case, Ocean accuses almost 125 MediaTek semiconductor products used in consumer electronics like phones, tablets, and networking devices. *See* Dkt. 1 at ¶¶ 7, 15. Ocean alleges that foundries—in MediaTek's case, Taiwan Semiconductor Manufacturing Company ("TSMC") and United Microelectronics Corporation ("UMC")—use semiconductor-manufacturing tools that perform the patented methods when making the accused semiconductor products. *See id.* at 8.

That pattern—accused devices manufactured by foundries using allegedly infringing tools—is the basis for Ocean's complaints in all seven suits. But the factual allegations diverge in two key ways: (1) the foundries Ocean alleges manufacture the accused products in each case,

[1] Consolidation is a procedural, non-patent issue to which Fifth Circuit law applies. *See DynaEnergetics Eur. GmbH v. Hunting Titan, Inc, KTech*, 6:20-cv-00069-ADA, 2020 WL 3259807, at *1 (W.D. Tex. June 16, 2020) (citing *K-Tech Telecomms., Inc. v. Time Warner Cable, Inc.*, 714 F.3d 1277, 1282 (Fed. Cir. 2013).

and (2) the tools used to do so. While PDF's Exensio, Applied Materials' E3, and ASML's YieldStar and TWINSCAN tools are accused in each case, Ocean also alleges the accused products were made by camLine's LineWorks, Applied Materials' SmartFactory, or both. No two cases have complete overlap between the foundries and tools named in Ocean's complaints, as shown in the table below.

Table 1

		Foundry				
		TSMC	**TSMC, Own Fab**	**TSMC, UMC**	**TSMC, UMC, Own Fab**	**TSMC, Kioxa, Own Fab**
Tool	**camLine**	SiLabs	Renesas		STMicro*	
	Applied Smart Factory			MediaTek	NXP*	Western Digital
	Both			NVIDIA**		

* Ocean also asserts the '097 Patent.
** Ocean also asserts the '170 and '383 Patents.

Notably, Ocean reserves the right in its Motion to assert infringement theories based on additional foundries, importers, or tools leaving open the possibility that the cases will diverge even more. Dkt. 19 at nn. 1, 2.

IV. ARGUMENT

MediaTek does not oppose the judicial-efficiency measures this Court routinely takes in cases asserting the same patents, like entering coordinated schedules and holding coordinated *Markman* proceedings. Ocean filed all seven of its cases on the same day and filed notices of case readiness in all cases within a ten-day span. So, entering similar schedules in each case makes sense and would allow the Court to consider claim construction, discovery disputes, and dispositive motions on similar timelines for each case. Holding a joint *Markman* hearing among all cases also makes sense, so long as each Defendant can reasonably pursue its individual interests.

Ocean's Motion does not explain what consolidation measures it seeks beyond the Court's routine practices or why such measures are required to promote judicial efficiency. But, as Ocean described during the parties' meet-and-confer, it wants the Court to give Ocean substantive and procedural advantages under the guise of judicial efficiency. For example, Ocean wants the Court to limit Defendants' written discovery and require Defendants to file joint briefs, even on dispositive motions.[2] Consolidation, particularly under these terms, would prejudice MediaTek without improving judicial efficiency.

A. Consolidation would prejudice MediaTek.

As explained above in the Factual Background, Ocean's seven cases do not completely overlap. Because Ocean accuses different combinations of foundries and tools in each case, MediaTek's interests are unique. Even where Ocean asserts the same seven patents, each foundry's different implementation of the various tools necessitates different positions on infringement, claim construction, and (potentially) invalidity. Further, MediaTek does not have its own fabrication capabilities[3] and is unlikely to have any relevant technical documents. Therefore, this case may present different discovery issues than those where Ocean accuses the Defendant's own fabrication activities. *See supra*, Table 1 (entries for Renesas, ST Micro, NXP, and Western Digital).

[2] While less specific than Ocean's representations on the parties' meet-and-confer, Ocean's Motion also implies that it wants to limit Defendants' ability to separately brief issues. Dkt. 19 at 4 (complaining that "every defendant has filed a Motion to Dismiss"); 7 (proposing that by consolidating the cases, the Court could "only consider[] a single set of briefs"). Ocean's Motion does not mention discovery limitations.

[3] *See* https://i.mediatek.com/about-mediatek ("MediaTek is the world's 4th largest global fabless semiconductor company and powers more than 2 billion devices a year.")

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