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

OCEAN SEMICONDUCTOR LLC,	§	
	§	
***Plaintiff*,**	§	
	§	
vs.	§	**NO. 6:20-cv-01215-ADA**
	§	
STMICROELECTRONICS, INC.,	§	
	§	
Defendant.	§	
	§	
	§	

STMICROELECTRONICS, INC.'S OPPOSITION TO OCEAN SEMICONDUCTOR'S MOTION FOR PRE-TRIAL CONSOLIDATION

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I. INTRODUCTION

STMicroelectronics, Inc. ("ST Inc.") opposes Ocean Semiconductor LLC's ("Ocean") Motion for Pre-Trial Consolidation (Dkt. 26) ("Motion") of seven cases against disparate defendants ("Defendants"). The Motion is premised on Ocean's assertion that there are common questions of fact and law because the seven cases against Defendants allegedly implicate overlapping patents, foundry partners, manufacturing tools, and tool suppliers. But that premise is faulty. Ocean's allegations are directed to seven distinctly-situated defendants, some of whom fabricate their own semiconductor products and some of whom are "fabless" and use contract manufacturers to make their products. Ocean's allegations also involve distinct accused products; distinct and non-overlapping relationships between each Defendant, the various foundries, and tool or software suppliers; and distinct facts with regard to direct infringement, indirect infringement, damages, and willful infringement. In short, the various cases involve ***very different*** questions of fact and law for each of the seven Defendants. Moreover, discovery is likely to yield even more divergence among the cases, as Ocean has yet to serve its infringement contentions and admits that its current list of foundries and tool or software suppliers may be incomplete. Ocean's Motion is thus premature.

But even based on the current record, no efficiencies would be gained from consolidation. The Court routinely coordinates schedules and *Markman* hearings and streamlines discovery where plaintiffs have asserted the same patents, without the need for formal consolidation. The primary efficiency sought by Ocean—an extraordinary request for "consolidated briefing," including consolidated summary judgment briefing—is inconsistent with the Court's procedures. Indeed, Ocean can point to no other case where the Court has ever implemented that requested approach in other consolidated matters. Granting Ocean's request would significantly prejudice Defendants and hamper ST Inc.'s ability to defend itself among six other Defendants who

manufacture different products in different ways with different tools and software to make different accused products. On the other hand, denying consolidation would not prejudice Ocean. Ocean cannot reasonably complain about the work required to prosecute these matters when any alleged "harm" results entirely from its tactical decision to sue seven Defendants in this Court at the same time. There is no need for formal consolidation, and Ocean's request should be denied.

II. LEGAL STANDARD

In weighing whether to consolidate actions under Federal Rule of Civil Procedure 42(a), courts consider factors such as whether the actions are pending before the same court; whether the actions involve a common party; whether there is any risk of prejudice or confusion; whether there might be inconsistent adjudications of common factual or legal questions if the matters are tried separately; whether there is risk of cost or delay in trying the cases separately; and whether the cases are at the same stage of preparation for trial. *YETI Coolers, LLC v. RTIC Coolers, LLC*, No. 1:16-CV-909-RP, 2017 WL 5505325, at *2 (W.D. Tex. Jan. 18, 2017) (citations omitted). However, "the mere presence of a common question of law or fact does not require consolidation" but must be balanced against "inconvenience, delay and confusion that might result." *Cont'l Bank & Trust Co. v. Platzer*, 304 F. Supp. 228, 229 (S.D. Tex. 1969). Ocean bears the burden to show that consolidation is warranted. *See Certified/LVI Envtl. Servs., Inc. v. PI Constr. Corp.*, No. SA-01-CA-1036, 2003 WL 1798542, *2 (W.D. Tex. Mar. 3, 2003).

III. ARGUMENT

The Court should deny Ocean's request for consolidation because (1) Ocean cannot meet the threshold requirement to show common questions of law and fact; (2) pre-trial consolidation would lead to confusion and prejudice Defendants; and (3) consolidation would not significantly reduce the time or cost of litigating the cases.

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