

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

Ocean Semiconductor LLC,

Plaintiff,

v.

NVIDIA Corporation (“NVIDIA”),

Defendant.

C.A. No. 6:20-cv-1211-ADA

JURY TRIAL DEMANDED

PATENT CASE

**PLAINTIFF’S OPPOSITION TO NVIDIA’S MOTION TO DISMISS CLAIMS UNDER
THE ’538, ’305, AND ’248 PATENTS BECAUSE THEY ARE NOT COGNIZABLE
UNDER 35 U.S.C. § 271(g)**

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I. INTRODUCTION

NVIDIA Corporation’s (“NVIDIA”) Rule 12(b)(6) Motion to Dismiss Claims Under the ’538, ’305, and ’248 Patents Because They Are Not Cognizable under 35 U.S.C. § 271(g) (Dkt. 13 - “Motion”) misconstrues both the nature of the patents at issue and applicable law. Each of the patents that NVIDIA seeks to dismiss—U.S. Patent Nos. 8,676,538 (the “’538 patent”), 6,907,305 (the “’305 patent”) and 6,968,248 (the “’248 patent”) (collectively “Asserted Patents”)—describes the manufacture of semiconductors in excruciating detail and claims methods used for, and during, the manufacture of semiconductors including semiconductor wafers, which are physical products falling squarely within the scope of § 271(g). NVIDIA’s barebones motion with little factual or legal argument, coupled with its artificial attempt to limit the Court’s analysis to isolated claimed features and its misapplication of the relevant law, falls far short of the high bar necessary to obtain dismissal. The Motion should be denied.

II. LEGAL STANDARD

A. The High Bar for a Motion to Dismiss

Under Federal Rule of Civil Procedure 12(b)(6), dismissal of a complaint or cause of action is appropriate if it fails to state a claim for relief that is “plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). When considering a motion to dismiss under Rule 12(b)(6), “[t]he court **must** accept all well-pleaded facts as true and **must** draw all reasonable inferences in favor of the plaintiff.” *Frye v. Anadarko Petro. Corp.*, 953 F.3d 285, 290-91 (5th Cir. 2019) (citing *Lormand v. US Unwired, Inc.*, 565 F.3d 228, 232 (5th Cir. 2009)) *Lormand v. US Unwired, Inc.*, 565 F.3d 228, 232 (5th Cir. 2009);¹ *see also Bustos v. Martini Club, Inc.*, 599 F.3d 458, 461 (5th Cir. 2010) (internal quotations omitted); *see also Bell Atl. Corp.*, 550 U.S. at 570. The question resolved is “whether

¹ *U.S. v. ...*

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