

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

ADVANCED SILICON
TECHNOLOGIES LLC,

Plaintiff,

v.

NXP SEMICONDUCTORS N.V.,
NXP B.V., and
NXP USA, INC.,

Defendants.

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Case No. 1:22-CV-0466-ADA-DTG

DEFENDANT'S MOTION TO DISMISS UNDER RULE 12(b)(6)

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I. INTRODUCTION

Defendant NXP USA, Inc.¹ (“Defendant” or “NXP”) moves to dismiss Plaintiff Advanced Silicon Technologies LLC’s (“AST”) claims for pre-suit damages and injunctive relief pursuant to Rule 12(b)(6). AST fails to plead or otherwise establish facts that plausibly support constructive or actual pre-suit notice of alleged infringement necessary to support a claim for pre-suit damages under 35 U.S.C. § 287. AST further fails to plead all elements—let alone facts that plausibly support—irreparable harm and the additional elements required to sustain a claim for injunctive relief.

II. AST’S CLAIMS SEEKING PRE-SUIT DAMAGES AND INJUNCTIVE RELIEF SHOULD BE DISMISSED

A. Rule 12(b)(6) Standard

To survive a motion to dismiss, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to 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)). The plausibility standard is not met unless the “plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* Courts “are not bound to accept as true a legal conclusion couched as a factual allegation.” *Id.* Thus, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.*

“When presented with a Rule 12(b)(6) motion, a court conducts a two-part analysis. First, the court separates the factual and legal elements, accepting all of the complaint’s well-pleaded facts as true, [while] ... disregard[ing] any legal conclusions. Second, the court determines whether

¹ The parties have filed a Stipulation of Dismissal Without Prejudice of Defendants NXP Semiconductors N.V. and NXP B.V. Dkt. 34. Thus, the remaining defendant is NXP USA, Inc.

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