

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

DODOTS LICENSING SOLUTIONS  
LLC,

*Plaintiff*

-vs-

SAMSUNG ELECTRONICS CO.,  
LTD., SAMSUNG ELECTRONICS  
AMERICA, INC., BEST BUY STORES,  
L.P., BESTBUY.COM, LLC, and BEST  
BUY TEXAS.COM, LLC,

*Defendants.*

6:22-CV-00535-ADA

**ORDER GRANTING DEFENDANTS' MOTION TO SEVER AND STAY**

Before the Court is Defendants' Motion to Sever and Stay Claims Under the Customer-Suit Exception filed on October 24, 2022. ECF No. 45. Plaintiff DoDots Licensing Solutions LLC ("DoDots") filed its response on November 14, 2022. ECF No. 51. Defendants filed a reply in support of their motion on November 21, 2022. ECF No. 53. After considering the parties' briefing, the relevant facts, and the applicable law, the Court **GRANTS** Defendants' Motion to Sever and Stay Under the Customer-Suit Exception.

**I. BACKGROUND**

On May 24, 2022, DoDots filed this action against Best Buy Stores, L.P., BestBuy.com, LLC, Best Buy Texas.com, LLC (collectively, "Best Buy" or the "Best Buy Defendants"), Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, "Samsung"). ECF No. 1. The amended complaint alleges that Samsung infringes of U.S. Patent Nos. 9,369,545 ("545 patent"), 8,020,083 ("083 patent"), and 8,510,407 ("407 patent") (collectively, the "asserted patents"). ECF No. 29 at 1, 49. The amended complaint alleges that Best Buy infringes the '083 and '407 patents. ECF No. 29 at 49.

For Defendant Samsung, the amended complaint alleges that “Samsung directly and indirectly infringes [the ’083 and 407 patents] . . . by, at least, making, using, supplying, distributing, importing, exporting, selling, and/or offering for sale in the United States the Accused Samsung Devices and/or Accused Samsung Devices together with the Accused Samsung Software in the United States.” *Id.* ¶¶ 126, 133. DoDots accuses Samsung of “directly infring[ing] one or more claims of the ’545 patent . . . by, at least, implementing, operating, executing and using in the United States, the Accused Samsung Software in each Accused Samsung Device.” *Id.* ¶ 117. For the Best Buy Defendants, DoDots claims that Best Buy “directly infringes [the ’083 and ’407 patents] . . . by supplying, distributing, importing, exporting, selling and/or offering for sale in the United States the Accused Samsung Devices.” *Id.* ¶¶ 140, 146.

Defendants filed this motion to sever DoDots’ claims against Best Buy and to stay those claims pending the resolution of DoDots’ claims against Samsung. ECF No. 45.

## II. LEGAL STANDARD

A trial court has broad discretion to stay an action against a party to promote judicial economy. *Anderson v. Red River Waterway Comm’n*, 231 F.3d 211, 214 (5th Cir. 2000); *see also Landis v. N. Am. Co.*, 299 U.S. 248, 254–55, (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”). Where suit is brought against a manufacturer and its customers, the action against the customers should be stayed pending resolution of the case against the manufacturer to promote judicial economy. *See In re Nintendo of Am., Inc.*, 756 F.3d 1363, 1365–66 (Fed. Cir. 2014).

The “customer-suit exception” to the first-filed rule provides that “litigation against or brought by the manufacturer of infringing goods takes precedence over a suit by the patent owner

against customers of the manufacturer.” *Katz v. Lear Siegler, Inc.*, 909 F.2d 1459, 1464 (Fed. Cir. 1990). This exception “exists to avoid, if possible, imposing the burdens of trial on the customer, for it is the manufacturer who is generally the ‘true defendant’ in the dispute.” *Nintendo*, 756 F.3d at 1365 (citation omitted). “[C]ourts apply the customer suit exception to stay earlier-filed litigation against a customer while a later-filed case involving the manufacturer proceeds in another forum.” *Spread Spectrum Screening LLC v. Eastman Kodak Co.*, 657 F.3d 1349, 1357 (Fed. Cir. 2011). The Federal Circuit has applied the customer-suit exception to cases in which the supplier and customer are named as defendants in the same case. *Nintendo*, 756 F.3d at 1365.

To warrant a stay of the customer suit, the case involving the manufacturer “need only have the potential to resolve the ‘major issues’ concerning the claims against the customer—not every issue.” *Spread Spectrum*, 657 F.3d at 1358 (citing *Katz*, 909 F.2d at 1464). Courts are instructed to use a “flexible approach” to avoid wasteful expenditure of resources, and therefore “stay[] proceedings if the other suit is so closely related that substantial savings of litigation resources can be expected.” *In re Google Inc.*, 588 F. App’x 988, 991 (Fed. Cir. 2014); *see also Nintendo*, 756 F.3d at 1365–66 (determining that the customer-suit exception is “designed to facilitate just, convenient, efficient, and less expensive determination” (citations omitted)).

In determining whether the customer suit exception applies, courts analyzes three factors: “(1) whether the customer-defendant in the earlier-filed case is merely a reseller; (2) whether the customer-defendant agrees to be bound by any decision in the later-filed case that is in favor of the patent owner; and (3) whether the manufacturer is the only source of the infringing product.” *CyWee Grp. Ltd. v. Huawei Device Co.*, No. 2:17-CV-495-WCB, 2018 U.S. Dist. LEXIS 142173, at \*14 (E.D. Tex. Aug. 22, 2018) (quoting *Vantage Point Tech., Inc. v. Amazon.com, Inc.*, No. 2:13-CV-909, 2015 U.S. Dist. LEXIS 675, 2015 WL 123593, at \*2 (E.D. Tex. Jan. 6, 2015)). The

“guiding principles in the customer suit exception cases are efficiency and judicial economy.” *Spread Spectrum*, 657 F.3d at 1357 (citation omitted).

The factors courts typically consider when determining whether to grant a stay include: “(1) whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party; (2) whether a stay will simplify the issues and trial of the case; (3) whether discovery is completed; and (4) whether a trial date has been set.” *In re Trustees of Bos. Univ. Patent Cases*, No. CV 13-12327-PBS, 2014 WL 12576638, at \*2 (D. Mass. May 16, 2014).

### III. ANALYSIS

#### A. Customer-Suit Exception

The Court holds that the customer-suit exception applies because: (1) DoDots’ claims of infringement against Best Buy hinge on Best Buy’s sale of Samsung’s products; (2) the Best Buy Defendants have agreed to be bound by the outcomes of the claims against Samsung; and (3) Samsung is the only source of the accused products.

##### 1. Whether the Best Buy Defendants Are Merely Resellers

Defendants argue that the Best Buy Defendants are merely resellers of the accused products because the amended complaint only accuses Best Buy of selling and offering for sale the accused Samsung devices. ECF No. 45 at 7. Defendants argue that DoDots’ infringement claims against Best Buy rely on Best Buy’s activities as a reseller. *Id.* Defendants note that DoDots’ complaint identifies only Samsung hardware and Android software of infringing the asserted patents. *Id.* Defendants claim that because Best Buy only resells the accused Samsung devices, DoDots’ case against Best Buy is duplicative of its case against Samsung. *Id.* at 8. Defendants argue that DoDots’ infringement claims will be exhausted if DoDots prevails against Samsung. *Id.* Further, Defendants

argue that the amended complaint does not show that the technical infringement and validity analysis will differ for Best Buy. *Id.*

DoDots argues that the customer-suit exception does not apply to a single action against a customer and manufacturer where there should not be a separate action against only the customer. ECF No 51 at 1. DoDots cites *In re Dell Inc.*, 600 Fed. Appx. 728, 730 (Fed. Cir. 2015) for this proposition. *Id.* at 2. In *Dell*, the Federal Circuit declined to grant a petition for mandamus on a district court's denial of a motion to stay claims against a customer-defendant. *Dell*, 600 Fed. Appx. at 728, 730. The Federal Circuit explained that "the claims here are related, and the complexity of the case could perhaps be simplified by a stay of some aspects of the proceedings while others go forward." *Id.* at 730. But the court noted that it was unaware of any case "that sets forth the proposition that a district court must stay proceedings against a customer in the very same litigation that will, regardless of the requested stay, go forward against the supplier." *Id.* Therefore, the Federal Circuit determined that the district court's ruling was not outside of that court's discretion in managing its docket. *Id.*

DoDots also argues that the customer-suit exception does not apply here because this is a single action in which the customer directly infringes and the manufacturer indirectly infringes. ECF No. 51 at 3. DoDots cites *Erfindergemeinschaft UroPep GbR v. Eli Lilly & Co.*, No. 2:15-cv-1202, 2016 U.S. Dist. LEXIS 55205 (E.D. Tex. Apr. 2, 2016). *Id.* In *UroPep*, a district court declined to sever and stay the claims against the customer-defendants because plaintiff needed to show that the customer-defendants directly infringed to prove that the manufacturer-defendant indirectly infringed. *UroPep*, 2016 U.S. Dist. LEXIS 55205, at \*8. The court noted that the issue of infringement was not entirely common to the customer and manufacturer in that case because even if the manufacturer were found to induce infringement, that did not necessarily mean that the

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