

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

PARKERVISION, INC.,

Plaintiff,

v.

REALTEK SEMICONDUCTOR CORP.,

Defendant.

Case No. 6:22-cv-1162-ADA

DISCOVERY ORDER

On June 6, 2024, counsel for Plaintiff ParkerVision, Inc. (“ParkerVision”) and Defendant Realtek Semiconductor Corp.’s (“Realtek”) submitted to the Court a chart summarizing a discovery dispute.

As to the dispute, ParkerVision requested that Realtek’s attorneys must collect, review, and produce all documents responsive to ParkerVision’s Requests for Production and take responsibility for discovery. Realtek requested that the Court deny ParkerVision’s request.

PARKERVISION’S POSITION

The close of discovery is fast approaching. And despite ParkerVision’s best efforts, Realtek has—yet again—stonewalled all reasonable efforts to obtain document discovery.

As the Court may recall, this is not the first time Realtek has resorted to gamesmanship to block discovery. The Court has ordered Realtek to produce documents *multiple* times in this case. But this has not dissuaded Realtek from continuing its obstructionist conduct. When ParkerVision has sought to obtain additional discovery from Realtek, it has been forced to file a motion to compel.

Realtek's strategy is now clear: run out the clock on discovery, move this case quickly to trial, and have the case decided on a wholly incomplete record.

Realtek is a sophisticated multi-billion-dollar wireless chip company based in Taiwan.

ParkerVision has accused more than 20 Realtek wireless chips of infringement.

Despite the expansive nature of what is being accused and Realtek agreeing to produce documents in response to almost all of ParkerVision's RFPs, Realtek has only produced a *few hundred documents* related to the technology (mostly high-level data sheets given to its customers). It has produced almost nothing (and in some cases, nothing) related to research, chip design and development, specifications, testing, presentations, planning, roadmaps, marketing, competitive analyses, etc.—documents a sophisticated company like Realtek should have plenty of.

Instead, playing a game, Realtek produced over 70,000 Chinese-language purchase orders. Indeed, after ParkerVision's complaints and multiple meet/confers, in early May, Realtek stated that it would substantially complete its production by May 17. But instead of making a significant production as expected, Realtek waited weeks only to produce a handful of additional documents, and then inform ParkerVision that its document production was substantially complete.

Given ParkerVision's experience litigating against large chip companies like Realtek, the complete lack of responsive documents seemed unbelievable. So ParkerVision explored how Realtek's counsel went about collecting and producing documents. Turns out, Realtek's counsel instructed Realtek to search for documents related to the narrow topic of down-conversion. It then became apparent what had occurred—Realtek's counsel left it to Realtek to act as the gatekeeper in determining what is relevant to this case. **It is the fox guarding the hen house.**

Realtek's counsel should have collected all documents falling within the scope of ParkerVision's RFPs and withheld only those for which it had a reasonable objection in the context of the breadth of discovery allowed under Rule 26. Realtek's counsel did not do so.

Instead, Realtek's counsel has repeated its flippant (and irrelevant) response—the down-conversion feature of the accused chips is simply not important to Realtek. But this does not excuse the lack of production or explain why a leading worldwide chip company has almost no documents related to its accused chips.

The missing discovery is critical. ParkerVision cannot depose witnesses (much less determine who to depose) and start preparing expert reports until it has document discovery.

REALTEK'S POSITION

Realtek's technical production has been substantially complete since May 17. Indeed, in response to every specific inquiry from ParkerVision, Realtek searched, collected, and produced documents, including those with no relevance to the accused feature. Now, with nothing specific to complain about, ParkerVision makes the burdensome and costly demand that Realtek collect and review all technical documents related to the accused chips, *even if it has nothing to do with the accused feature*. This is far from proportional to the needs of this case.

Realtek has already exceeded its discovery obligations. Specifically, Realtek has produced SPICE files (including netlists), firmware, GDS files, schematics, datasheets, design changes, validation, and testing documents. Realtek even made its own Cadence environment available, so ParkerVision could view Realtek's SPICE and GDS files in the same environment as Realtek engineers. Notably, this allowed ParkerVision to generate over 500 schematics of Realtek's chips—what ParkerVision told this Court is “the heart of this case.” Ex. E.

ParkerVision's presumption that Realtek has a trove of relevant technical documents is unrealistic. Realtek's Wi-Fi chips are commodity products, and the accused feature (down-conversion) was designed more than a decade ago with very few changes since. ParkerVision's bewilderment over the number of technical documents is akin to bewilderment on the lack of technical documents on automatic car windows at a car manufacturer. There is very little discussion or development internally on this feature, and consequently, a limited number of documents. Indeed, ParkerVision itself has produced only a handful of its own technical documents despite the fact this feature is the focus of its company and products.

Critically, ParkerVision has not identified what technical discovery is "missing." During meet and confers, Realtek requested ParkerVision to identify documents it needed that were not produced. ParkerVision identified datasheets, design change, and testing documents. Realtek collected and produced these documents even though they include no discussion of down-conversion whatsoever. Exs. A, B, C. Realtek remains open to collect and produce additional types of technical documents.

But this dispute is nothing more than retaliation for Realtek's request to compel ParkerVision to produce withheld discovery from prior cases. There is also no truth to ParkerVision's claim that "The Court has ordered Realtek to produce documents *multiple* times in this case." Rather, ParkerVision has moved three times, and each time the Court granted *Realtek's* relief either in whole or in part. Ex. D (allowing representative product agreement instead of production); Ex. E (declining to order Realtek generate schematics); Dkt. 97.

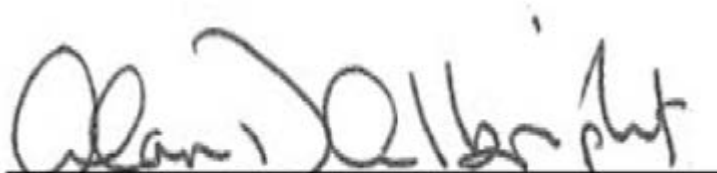
At bottom, ParkerVision's demand is not proportional given the low stakes in this case, and only serves to increase Reatek's costs. Indeed, ParkerVision states in a separate dispute that Realtek's simple request for draft licenses is "not proportional to the needs of this case and the

issues at stake.” Ex. F. Under that standard (indeed, any standard), collecting and reviewing technical documents on unaccused features here (memory, connectivity, peripherals, security, digital processing, bus, etc.) cannot be proportional.

CONCLUSION

The Court, upon consideration of the parties’ respective requests, is of the opinion that Realtek’s counsel shall immediately collect and review all documents related to the accused chips and, within nine days of this Order, produce all responsive, non-privileged documents in response to ParkerVision’s Requests for Production. Accordingly, ParkerVision’s request is GRANTED.

SIGNED this 11th day of June, 2024


ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE