

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

PARKERVISION, INC.,

Plaintiff,

v.

REALTEK SEMICONDUCTOR CORP.,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

NO. 6:22-cv-01162-ADA

JURY TRIAL DEMANDED

ORDER ON DISCOVERY DISPUTE

On June 18, 2024, Defendant Realtek Semiconductor Corporation (“Realtek”) presented a discovery dispute to the Court regarding Plaintiff ParkerVision, Inc.’s (“ParkerVision”) refusal to confirm whether it would produce marketing, business plans, sales, projections, competitor analysis, and other financial documents. The parties’ positions, requested relief, and the Court’s Orders are as follows:

Realtek’s Position

On June 7, 2024, the Court provided guidance on the scope of discovery, adding “[i]f Realtek believes that additional discovery is now warranted from ParkerVision,” it is “welcome to raise another discovery dispute” if agreement cannot be reached. Ex. C. After repeated meet and confers (Exs. D, E, F), ParkerVision has refused to confirm whether it will produce marketing, business plans, sales projections, competitor analysis, and other financial documents—the very same documents that ParkerVision demanded from Realtek because they “are directly encompassed by the *Georgia Pacific* factors.” Dkt. 104. Instead, ParkerVision continues its delay tactics, obstructing any attempt for discovery relief by

taking weeks (and in some cases, months) to “consider” Realtek’s position, or agreeing to produce and then changing its own self-imposed deadline. Ex. F.

Now, with less than a month until the end of fact discovery (July 2) and exchange of opening expert reports (July 9), ParkerVision has produced almost no financial and marketing documents. Apparently, ParkerVision does not believe that it is required to perform any searches, and can just rely on its old production from the *Qualcomm* case (which closed fact discovery in 2016, before the damages period in this case). ParkerVision asserts that such documents must not exist if not previously produced. Ex. F. ParkerVision’s SEC filings and other public documents establish otherwise.

ParkerVision is publicly traded and required to report its business plans, sales projections, and competitors. *See, e.g.*, Ex. G. The information from its SEC filings was not generated out of thin air, yet the factual basis for its SEC filings has not been produced. Further, investors have previously sued ParkerVision for fraud based in part on false statements ParkerVision made on the power savings benefits of its technology. Ex. H. Yet ParkerVision has failed to produce any marketing documents referenced in that complaint.

Marketing and business plans are explicitly considered under *Georgia-Pacific* factors 4 (“[t]he licensor’s established policy and marketing program”) and 12 (“[t]he nature of the patented invention; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who used the invention.”). Similarly, sales projections, competitor analysis, and other financial information (such as revenue, profit, and costs) are plainly within the scope of *Georgia-Pacific* factors 6 (“[t]he effect of selling the patented specialty in promoting sales of other products”), 8 (“[t]he established profitability of the product made under the patent; its commercial success; and its current popularity”), and 12 (“[t]he portion of the profit or of the selling price that may be customary in the particular

business or in comparable businesses to allow for the use of the invention or analogous inventions.”).

ParkerVision “may not unilaterally decide which document requests it will comply with and when its document production begins and ends.” Dkt. 104. ParkerVision’s continuous failure to produce documents prejudice Realtek’s ability to develop its defenses, particularly here, where ParkerVision has plainly been withholding information and documents to sandbag Realtek days before the end of fact discovery.

Requested Relief: ParkerVision must produce marketing, business plans, sales projections, competitor analysis, and other financial documents in response to Interrogatory Nos. 11 and 12, and Request for Production Nos. 17, 19, 33, 36, and 62 by June 21.

ParkerVision’s Position

Realtek has fabricated a discovery dispute, misrepresenting what ParkerVision has said and what ParkerVision has done.

In the first sentence of Realtek’s position, it notes an important caveat to the Court’s guidance—“if agreement cannot be reached.” There is no impasse or dispute between the parties.

Indeed, Realtek’s counsel has *repeatedly* abused the discovery-dispute email process by sending ParkerVision dispute charts before there is even any impasse or dispute. Realtek then uses the dispute emails as leverage, threatening to file these emails with the Court without giving ParkerVision time to consider Realtek’s requests. And even when ParkerVision inevitably points out that there is no dispute or impasse between the parties, Realtek continues to push forward with filing dispute emails like the present one.

Here, Realtek provided this dispute chart *the day after* the parties’ meet-and-confer on this issue – after ParkerVision agreed to re-visit its investigation into the responsive documents that Realtek is requesting, including documents related to ParkerVisions’ dealings

with IBM, Boeing, Questar, Prairiecomm, and Texas Instruments. To the extent ParkerVision’s follow-on investigation uncovers additional documents, ParkerVision stated that they will be produced. Notably, ParkerVision has already produced documents related to these relationships.

Accordingly, Realtek is just flat wrong when it says that “ParkerVision has refused to confirm whether it will produce marketing, business plans, sales projections, competitor analysis, and other financial documents—the very same documents that ParkerVision demanded from Realtek because they ‘are directly encompassed by the *Georgia Pacific* factors.’”

On the parties’ meet-and-confer call, ParkerVision’s counsel made it clear that ParkerVision already searched for the documents Realtek seeks and produced what it found. This material includes ParkerVision chip data sheets, Board meeting presentations (that include roadmaps, financials, and marketing plans), marketing documents, product webpages, technical papers and presentations that ParkerVision used to explain its technology to third parties, financial documents such as quarterly and annual SEC filings, and agreements with third parties.

Moreover, ParkerVision’s counsel also explained to Realtek’s counsel that ParkerVision never succeeded in becoming a competitive chip company. Thus, certain documents that Realtek is looking for simply do not exist.

Finally, ParkerVision’s counsel explained that it did not simply rely on its old *Qualcomm* production. ParkerVision has conducted additional searches and produced additional documents beyond those from the *Qualcomm* case.

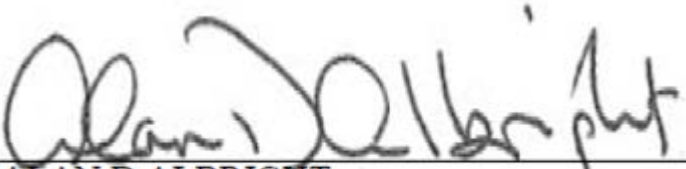
At bottom, there is no discovery dispute between the parties at this time.

Requested Relief: Realtek’s request for relief is denied because any supposed dispute is not ripe for the Court’s consideration.

ORDER

The Court, having considered both Realtek's and ParkerVision's positions on the discovery dispute, as well as other papers and evidence submitted in support and opposition, hereby Orders that Realtek's requested relief is **DENIED**.

SIGNED on this 16th day of July, 2024.


ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE