

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

SAMSUNG ELECTRONICS CO., LTD., and
SAMSUNG ELECTRONICS AMERICA,
INC.,

Plaintiffs,

v.

NVIDIA CORPORATION, OLD MICRO,
INC. F/K/A VELOCITY MICRO, INC. AND
VELOCITY HOLDINGS, LLC

Defendants.

CIVIL ACTION NO. 3:14-CV-00757-REP

JURY TRIAL DEMANDED

**MEMORANDUM IN SUPPORT OF SAMSUNG'S MOTION
TO SEVER NVIDIA'S PATENT INFRINGEMENT COUNTERCLAIMS**

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Plaintiffs Samsung Electronics Company, Ltd. (“SEC”) and Samsung Electronics America, Inc. (“SEA”) (collectively, “Samsung”) move the Court to sever the counterclaims asserting patent infringement filed by Defendant NVIDIA Corporation (“NVIDIA”).

I. INTRODUCTION

Samsung filed this action in November 2014. NVIDIA’s literally eleventh-hour counterclaims are a transparent attempt to manipulate the schedule in this case. NVIDIA waited over a year after alleging that Samsung infringed the patents before bringing these patent infringement claims in any court. During that year, NVIDIA even filed three separate answers in this case. Then, it included counterclaims for the first time in its third amended Answer filed the night before the April 15, 2015 pretrial conference. Now that the Court has set the case for trial, NVIDIA seeks to complicate it and confuse the jury by inserting its unrelated patents into the scheduled trial on Samsung’s claims. Apparently assuming that this motion to sever will be denied, NVIDIA has already publicly boasted that the January 11, 2016 trial in this action “will focus on Samsung’s asserted six patents against NVIDIA, and two patents against our customer Velocity Micro, *as well as on our four patents asserted against Samsung.*” (Ex. 1,¹ <http://blogs.nvidia.com/blog/2015/04/16/update-patent-samsung> (emphasis added).)

The Court should exercise its discretion under Rule 21 to sever NVIDIA’s patent counterclaims. NVIDIA’s counterclaims are based on different patents, in a different technical area, and implicate different products and different issues of validity and infringement. In addressing NVIDIA’s 47 asserted patent claims that are allegedly infringed by 284 different Samsung products, the Court will be presented with different claim construction issues, different prior art, different damages theories, and different documents and witnesses. NVIDIA’s patent

¹ All exhibits refer to exhibits to the Declaration of Sarah K. McConaughy in Support of Samsung’s Motion to Sever NVIDIA’s Patent Infringement Counterclaims.

counterclaims are entirely peripheral to the claims that have been the subject of this case for the past five months. And NVIDIA seeks to impose an abbreviated schedule on the Court and Samsung that is designed to get to trial in fewer than eight months from filing. Had NVIDIA been genuinely interested in seeking relief for alleged infringement of the four asserted patents, it could have brought those claims months ago in this or another case. In the administration of justice, they should be severed.

II. STATEMENT OF FACTS

A. Procedural History

On April 15, 2015, NVIDIA filed its third amended Answer and Counterclaims asserting for the first time in this case infringement of four patents, U.S. Patent No. 7,339,590 (“’590 Patent”), U.S. Patent No. 7,095,414 (“’414 Patent”), U.S. Patent No. 8,174,531 (“’531 Patent”), and U.S. Patent No. 6,532,013 (“’013 Patent”) (the “NVIDIA Counterclaim Patents” or “NVIDIA’s Counterclaim Patents”).

Before filing these counterclaims, NVIDIA appeared to have abandoned its contention that Samsung infringed valid claims of these four patents. NVIDIA admits it notified Samsung about the NVIDIA Counterclaim Patents on January 6, 2014 (the ’590, ’414, and ’531 Patents) and March 8, 2014 (the ’013 Patent). (Dkt. No. 84 at 4.) Indeed, NVIDIA gave formal presentations to Samsung during which NVIDIA disclosed its infringement theories for more than 40 patents, including the NVIDIA Counterclaim Patents. Samsung provided responses regarding NVIDIA’s presentations, and NVIDIA appeared to abandon its claims. (*Id.*) For more than a year NVIDIA gave no sign that it continued to believe Samsung infringed valid claims of the NVIDIA Counterclaim Patents despite asserting several other patents against Samsung in other proceedings.

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