

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

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SAMSUNG ELECTRONICS CO., LTD., *et* )  
*al.*, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
NVIDIA CORPORATION, *et al.*, )  
 )  
Defendants. )

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**Civil No. 3:14cv757 (REP)(DJN)**

**JURY TRIAL DEMANDED**

**DEFENDANTS' MOTION IN LIMINE NO. 1 TO PRECLUDE PLAINTIFFS' EXPERT  
DR. MADISSETTI FROM PROVIDING CERTAIN OPINIONS UNDISCLOSED IN HIS  
EXPERT REPORTS**

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## I. INTRODUCTION

Plaintiffs Samsung Electronics Company, Ltd. and Samsung Electronics America, Inc. (collectively “Samsung”), have provided expert reports from their technical expert, Dr. Vijay Madiseti, to support their infringement and invalidity claims as to the ’602 and ’938 patents.

Dr. Madiseti provided three expert reports during this litigation: (1) an opening report on infringement of the ’602 and ’938 patents dated 9/18/2015 (“Madiseti Infringement Rpt.”); (2) a report in support of the damages report of Samsung’s damages expert, Catharine Lawton, dated 10/2/2015 (“Madiseti Damages Rpt.”); and (3) a rebuttal report on validity of the ’602 and ’938 patents dated 10/9/2015 (“Madiseti Rbt. Rpt.”). These reports failed to disclose opinions – or adequate bases for opinions – regarding certain issues in dispute between the parties. Samsung has not disputed – and cannot dispute – that these opinions and their bases are not disclosed in any of Dr. Madiseti’s three expert reports. Nonetheless, Samsung refuses to confirm that Dr. Madiseti will not offer opinions on these issues at trial. Accordingly, Defendants move *in limine* to preclude Dr. Madiseti from offering such testimony at trial.

## II. APPLICABLE LAW

A testifying expert is required to provide an expert report that sets forth “a complete statement of all opinions the witness will express and the basis and reasons for them.” Fed. R. Civ. P. 26(a)(2)(B)(i). “The purpose of this rule is to convey the substance of the expert’s opinion . . . so that the opponent will be ready to rebut, to cross-examine, and to offer a competing expert if necessary.” *Meyer Intellectual Props. Ltd. v. Bodum, Inc.*, 690 F.3d 1354, 1374-75 (Fed. Cir. 2012) (internal quotation marks and citation omitted). Where an expert report fails to disclose an opinion, or the bases and reasons for an opinion, as required by Rule 26(a) of the Federal Rules of Civil Procedure, the expert will be precluded from offering testimony as to that opinion, unless the failure to disclose it was harmless or justified. *See* Fed.

R. Civ. P. 37(c)(1) (“If a party fails to provide information . . . as required by Rule 26(a) or (e), the party is not allowed to use that information . . . at a trial, unless the failure was substantially justified or is harmless.”); *02 Micro Int’l Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355, 1368-69 (Fed. Cir. 2006) (excluding under Fed. R. Civ. P. 37(c) expert testimony on a particular theory where a party “never adequately explained why the . . . theory was not included in the original expert report”).

Infringement under the doctrine of equivalents must be analyzed on an element-by-element basis. *See, e.g., Augme Techs., Inc. v. Yahoo! Inc.*, 755 F.3d 1326, 1336 (Fed. Cir. 2014). The patentee must provide particularized, non-conclusory testimony from an expert or person skilled in the art that explains the insubstantiality of the differences between the patented limitation and the accused product or must analyze individually (1) the function, (2) the way, and (3) the result of the claim limitation versus an element in the accused product. *See, e.g., id.* at 1335-36; *Miken Composites, L.L.C. v. Wilson Sporting Goods Co.*, 515 F.3d 1331, 1341 (Fed. Cir. 2008).

### III. ARGUMENT

#### A. The Court Should Preclude Dr. Madisetti from Offering Testimony Regarding Infringement of Claims 27-29 of the ’602 Patent Under the Doctrine of Equivalents

Dr. Madisetti disclosed no opinions whatsoever regarding the application of the doctrine of equivalents to asserted claims 27-29 of the ’602 patent. Dr. Madisetti’s substantive infringement opinions regarding the ’602 patent are set forth as claim charts in Exhibits B-1, B-2, B-3, and B-4 of his opening expert report. *See* Angle Decl. Ex. A (Madisetti Infringement Rpt.) at ¶¶ 156, 163, 169, 174, and 180. With respect to the elements added by dependent claims 27-29, as discussed in these claim charts, Dr. Madisetti’s report does not say one word about infringement under the doctrine of equivalents. Angle Decl. Ex. I (Madisetti Ex B-1) at 136-60,

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