

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

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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.

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Civil Action No. 3:14-cv-757-REP

**MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION *IN LIMINE* NO. 4: TO  
PRECLUDE IMPROPER FINANCIAL COMPARISON BETWEEN NVIDIA'S SIZE,  
WEALTH, OR REVENUES AND SAMSUNG'S DAMAGES CLAIMS**

**TABLE OF AUTHORITIES**

**CASES**

*Cooper Tire and Rubber Co. v. Farese*,  
2008 WL 5382416 (N.D. Miss. Dec. 19, 2008) ..... 1

*Igo v. Coachmen Industries, Inc.*,  
938 F.2d 650 (6th Cir. 1991) ..... 1

*LaserDynamics, Inc. v. Quanta Comp., Inc.*,  
694 F.3d 51, 68 (Fed. Cir. 2012) ..... 1, 2

*Uniloc USA, Inc. v. Microsoft Corp.*,  
632 F.3d 1292 (Fed. Cir. 2011) ..... 1

**OTHER AUTHORITIES**

Fed. R. Evid. 403 ..... 2

Defendants NVIDIA Corporation (“NVIDIA”), Velocity Micro, Inc. d/b/a Velocity Micro, and Velocity Holdings, LLC (“Defendants”) respectfully move the Court *in limine* to preclude Plaintiffs Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. (“Samsung”) from eliciting testimony or presenting argument at trial improperly comparing NVIDIA’s size, wealth, or overall revenues to Samsung’s damages demand. Any such comparison would be improper and would only serve to make Samsung’s proffered damages claim to appear modest by comparison, and to prejudice NVIDIA by artificially inflating the jury’s damages calculation.

The Federal Circuit has confirmed that “disclosure to the jury of the overall product revenues cannot help but skew the damages horizon for the jury, regardless of the contribution of the patented component to this revenue.” *LaserDynamics, Inc. v. Quanta Comp., Inc.*, 694 F.3d 51, 68 (Fed. Cir. 2012) (citing *Uniloc USA, Inc. v. Microsoft Corp.*, 632 F.3d 1292, 1320 (Fed. Cir. 2011)). Comparisons between product revenues and damages claims “only serve to make a patentee’s proffered damages amount appear modest by comparison, and to artificially inflate the jury’s damages calculation beyond that which is ‘adequate to compensate for the infringement.’” *Id.*; see also *Uniloc*, 632 F.3d at 1320 (holding that comparisons between defendant’s \$20 billion in sales of the infringing product to plaintiff’s \$500 million damages claim to be improper).

References to a party as a “wealthy, thriving, large company” and references to a company’s finances and size absent appropriate context are irrelevant and regularly excluded. See, e.g., *Cooper Tire and Rubber Co. v. Farese*, 2008 WL 5382416, at \*3 (N.D. Miss. Dec. 19, 2008); *Igo v. Coachmen Industries, Inc.*, 938 F.2d 650, 653 (6th Cir. 1991) (granting new trial based in part on counsel’s reference to defendant’s wealth, “obviously to demonstrate that [defendant] could pay a big verdict”). Such irrelevant comparisons could also lead to jury

confusion regarding the appropriate revenue base for any damages analysis. Fed. R. Evid. 403.

It is anticipated that the parties may reference each parties' respective revenues, product margins, or other financial data, but this is permissible only in relation to a hypothetical negotiation for determining Samsung's alleged damages in this case (*See, e.g.*, Ex. 1, Oct. 23 Expert Report of Dr. Putnam ¶¶ 111-113). Controlling Federal Circuit precedent confirms, however, that Samsung may not make irrelevant and prejudicial comparisons between NVIDIA's size, wealth, or overall revenues and Samsung's damages demand. Such comparisons would only serve to improperly suggest that Samsung's damages demand appears modest by comparison to NVIDIA's overall revenues, and to artificially inflate the jury's damages calculation beyond that which is adequate to compensate for the infringement. *LaserDynamics, Inc.*, 694 F.3d at 68.

For the foregoing reasons, and consistent with controlling Federal Circuit precedent, Defendants respectfully request that this Court exclude any testimony or argument at trial comparing NVIDIA's size, wealth, or overall revenues to Samsung's damages demand.

Dated: November 10, 2015

Respectfully submitted,

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