IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

COLLEGE PRODUCTS, INC.	§	
	§	
Plaintiffs,	§	
	§	
vs.	§	CIVIL ACTION NO. 5:23-cv-4002-KEM
	§	
INTIRION CORPORATION	§	
	§	
Defendant.	§	

JOINT MOTION TO CONSOLIDATE ACTIONS

Plaintiff, College Products, Inc. ("College Products") and Defendant Intirion Corporation ("Intirion") jointly move the Court to i) consolidate this action into Intirion's transfer action, *Intirion Corporation v. College Products*, Case No. 5:23-cv-04023-KEM ("Transfer Action") with Intirion listed as Plaintiff, ii) in consolidating this action into the Transfer Action, enter College Products' Answer and Counterclaims into the Transfer Action, which is attached hereto as Exhibit 1,[1] and iii) administratively close this action without prejudice for the following reasons:

1. On January 5, 2023, College Products filed its Complaint for Declaratory Judgment in the above captioned case. Dkt. 1. College Products amended its complaint on April 25, 2023.

2. Prior to that time, on May 6, 2022, Intirion filed suit against College Products in the United States District Court for the Western District of Texas, at Case No. 6:22-cv-00459-ADA (the "Texas Action"). On April 10, 2023, the Honorable Alan Albright of the Waco Division transferred the Texas Action to this Court. Memorandum Opinion & Order on Defendant's Motion to Dismiss Plaintiff's Complaint for Improper Venue under Fed. R. Civ. P. 12(b)(3), *Intirion Corp.*

[1] Intirion reserves the right to move to dismiss and/or strike College Products' Defenses and Counterclaims, including pursuant to Rule 12(b)(6).

Intirion Corporation Exhibit 2011
College Products, Inc. v. Intirion Corporation
IPR 2023-01043

v. College Products, Inc., No. 6:22-cv-00459-ADA (W.D. Tex. Sept. 27, 2022), ECF No. 33 (sealed), ECF No. 35 (redacted).

3. Pursuant to Rule 42(a), a court may consolidate separate actions provided that they "involve a common question of law or fact." Fed. R. Civ. P. 42(a); *see also Enter. Bank v. Saettele*, 21 F.3d 233, 235 (8th Cir. 1994). "District courts enjoy substantial discretion in deciding whether and to what extent to consolidate cases." *Hall v. Hall*, 138 S. Ct. 1118, 1131 (2018). Where there is a common issue of law or fact, Rule 42(a) permits consolidation "as a matter of convenience and economy in administration." *Ackelson v. Aquawood, LLC*, No. 4:19-cv-00135, 2020 WL 1809708, at *2 (S.D. Iowa Feb. 3, 2020) (quoting *Enterprise Bank v. Saettele*, 21 F.3d 233, 235 (8th Cir. 1994) (internal quotations omitted).

4. Both this action and the Transfer Action involve common parties, common issues of fact and law, and common counsel. For example, both this action and the Transfer Action claims related to infringement/non-infringement of various claims in U.S. Patent Nos. 9,657,974, 9,791,206, and 10,495,374. The parties therefore request the Court consolidate the two actions. *See e.g.*, *Ackelson*, 2020 WL 1809708, at *2.

5. Consolidation would benefit judicial economy in administration as well as the parties.

6. For the foregoing reasons, College Products and Intirion respectfully jointly request the Court consolidate this action into the Transfer Action, pursuant to the proposed order attached hereto.

Dated: May 22, 2023

Respectfully submitted,

GOOSMANN LAW FIRM, PLC

/s/ Jeana L. Goosmann

Jeana L. Goosmann, AT0002984
William J. Hale, AT0013065
410 5th Street
Sioux City, IA 51101
Tel.: (712) 226-4000
Fax: (712) 224-4517
GoosmannJ@Goosmannlaw.com
HaleW@goosmannlaw.com

BLANK ROME LLP

Domingo M. LLagostera
(admitted pro hac vice)
Texas State Bar No. 24070157
DLLagostera@BlankRome.com
Tel.: (713) 632-8682
Fax: (713) 228-6605
717 Texas Avenue, Suite 1400
Houston, TX 77002

Megan R. Wood
(admitted pro hac vice)
DC Bar No. 1024203
MWood@blankrome.com
Tel.: (202) 420-2753
Fax: (202) 420-2201
1825 Eye Street NW
Washington, DC 20006

ATTORNEYS FOR PLAINTIFF COLLEGE PRODUCTS, INC.

Respectfully submitted,

FREDRIKSON & BYRON, P.A.

/s/ R. Scott Johnson

R. Scott Johnson (#AT0004007)
Thomas M. Patton (#AT0014768)
Cara S. Donels (#AT0014198)
111 East Grand Avenue, Suite 301
Des Moines, IA 50309-1977
Telephone: (515) 242-8900
Facsimile: (515) 242-8950
Email: rsjohnson@fredlaw.com
tpatton@fredlaw.com
cdonels@fredlaw.com

ATTORNEYS FOR DEFENDANT INTIRION CORPORATION

CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record were electronically served with a copy of the foregoing on May 22, 2023, via the Court's ECF system.

/s/ Jeana L. Goosmann
Jeana L. Goosmann, AT0002984