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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

LONGITUDE LICENSING
LIMITED,
Plaintiff,
v.
AMAZON.COM, INC.,
Defendant.

Case No. 8:23-cv-00039-JWH-DFM

**ORDER GRANTING WESTERN
DIGITAL'S MOTION TO
INTERVENE [ECF NO. 30]**

1 Before the Court is the unopposed motion of non-party Western Digital
2 Technologies, Inc. (“WD”) to Intervene as a Defendant in the above-captioned
3 action.¹ Based upon a review of the Motion, the Court determines that the
4 issues presented are appropriate for decision without oral argument. *See*
5 Fed. R. Civ. P. 78, L.R. 7-15. For the reasons stated in this Order, the Court
6 **GRANTS** the Motion.

7 I. BACKGROUND

8 Plaintiff Longitude Licensing Limited filed patent infringement actions
9 against Dell Technologies, Inc., *et al.* (Case No. 8:22-cv-02312); ASUSTek
10 Computer, Inc., *et al.* (Case No. 8:23-cv-00033); Lenovo Group Limited, *et al.*
11 (Case No. 8:23-cv-00035); Acer Inc., *et al.* (Case No. 8:23-cv-00036); HP Inc.
12 (Case No. 8:23-cv-00038); and Amazon.com, Inc. (this action—Case
13 No. 8:23-cv-00039) (collectively, “Defendants”). Longitude alleges that WD
14 supplies each Defendant with solid state drives (“SSDs”) and memory chips
15 and that Defendants incorporate these SSDs and memory chips into the accused
16 products.² In light of this manufacturer-customer relationship, WD moves to
17 intervene as a matter of right pursuant to Rule 24(a)(2) of the Federal Rules of
18 Civil Procedure. Alternatively, WD moves to intervene pursuant to
19 Rule 24(b)—permissive intervention.

20 II. LEGAL STANDARDS

21 Rule 24(a)(2) provides: “[o]n timely motion, the court must permit
22 anyone to intervene who . . . claims an interest relating to the property or
23 transaction that is the subject of the action, and is so situated that disposing of
24 the action may as a practical matter impair or impede the movant’s ability to
25 protect its interest, unless existing parties adequately represent that interest.”
26

27 ¹ WD’s Mot. to Intervene (the “Motion”) [ECF No. 30].

28 ² *See generally* Compl. (the “Complaint”) [ECF No. 1].

1 This provision is construed liberally in favor of potential intervenors. *See*
2 *California ex rel. Lockyer v. U.S.*, 450 F.3d 436, 440 (9th Cir. 2006). In
3 determining whether intervention is appropriate, the Ninth Circuit applies a
4 four-part test:

5 (1) the motion must be timely; (2) the applicant must claim a
6 “significantly protectable” interest relating to the property or
7 transaction which is the subject of the action; (3) the applicant must
8 be so situated that the disposition of the action may as a practical
9 matter impair or impede its ability to protect that interest; and
10 (4) the applicant’s interest must be inadequately represented by the
11 parties to the action.

12 *Id.*

13 Permissive intervention is governed by Rule 24(b), which provides that,
14 on a timely motion, the Court may permit anyone to intervene who “has a claim
15 or defense that shares with the main action a common question of law or fact,”
16 so long as the intervention “will [not] unduly delay or prejudice the adjudication
17 of the original parties’ rights.” Fed. R. Civ. P. 24(b) & (c). In the Ninth
18 Circuit, an applicant seeking permissive intervention must prove that: (1) it
19 shares a common question of law or fact with the main action; (2) its motion is
20 timely; and (3) the Court has an independent basis for jurisdiction over the
21 applicant’s claims. *See Donnelly v. Glickman*, 159 F.3d 405, 412 (9th Cir. 1998).

22 **III. DISCUSSION**

23 Here, intervention is warranted both as a matter of right and under the
24 permissive intervention standard.
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1 **A. Intervention as a Matter of Right**

2 **1. Timeliness**

3 This litigation is in its early stages. Amazon has not yet filed its answer,
4 and the Court has not set a case schedule.³ Accordingly, the Court finds WD's
5 Motion timely.

6 **2. Protectable Interest**

7 To determine whether an applicant has a "significantly protectable"
8 interest necessary for intervention, Courts consider both whether the interest is
9 protectable under some law and whether there is a relationship between the legal
10 protectable interest and the claims at issue. *See Wilderness Soc. v. U.S. Forest*
11 *Service*, 630 F.3d 1173, 1179 (9th Cir. 2006). "Although the intervenor cannot
12 rely on an interest that is wholly remote and speculative, the intervention may be
13 based on an interest that is contingent upon the outcome of the litigation." *City*
14 *of Emeryville v. Robinson*, 621 F.3d 1251, 1259 (9th Cir. 2010) (internal quotations
15 and citations omitted).

16 Here, WD has an interest in preserving its right to continue making its
17 SSDs and memory chips and selling them to customers; Longitude alleges that
18 WD's customers' products infringe its patent rights specifically because those
19 customers incorporate WD's SSDs and memory chips in their products.⁴ To
20 protect its rights, WD seeks declaratory judgment of non-infringement.⁵
21 Typically, this kind of manufacturer-customer relationship supports
22 intervention. *See Nazomi Commc'ns, Inc. v. Nokia Corp.*, 2010 WL 11508956, at
23 *4 (C.D. Cal. June 21, 2010) (finding that the petitioner had a significant
24 protectable interest because its products were embedded in the allegedly
25

26 ³ See Motion 6:22-26.

27 ⁴ See generally Complaint.

28 ⁵ See generally WD's Answer [ECF No. 30-2].

1 infringing consumer electronics sold by the named defendants). Accordingly,
 2 WD meets this requirement.

3 **3. Ability to Protect Interest Impaired or Impeded**

4 As discussed above, a finding that WD's SSDs and memory chips infringe
 5 Longitude's patents would impair WD's ability to continue to sell SSDs and
 6 memory chips to its customers. Accordingly, WD meets this requirement.

7 **4. Not Adequately Represented by Other Parties**

8 Broadly, WD's interests align with those of Amazon, as well as those of
 9 the other Defendants.⁶ However, all infringement allegations depend on WD's
 10 SSDs and memory chips, which Defendants incorporate into the accused
 11 products.⁷ Thus, WD is in the best position to provide technical information
 12 relevant to this threshold issue of infringement.⁸ WD also indicates that,
 13 generally, customers may not adequately represent manufacturer interests in
 14 patent infringement cases for several reasons, including: (1) customer incentives
 15 to disclaim knowledge of whether sub-components in the accused products
 16 infringe; (2) customer incentives to blame the manufacturer for concealing the
 17 alleged infringement; and (3) customer interest in settlement and stipulation to
 18 an infringement finding despite manufacturer loss. *See Nazomi*, 2010 WL
 19 11508956, at *5. Accordingly, WD also meets the fourth requirement.

20 Thus, the Court finds that WD meets all four requirements for
 21 intervention as a matter of right and **GRANTS** WD's motion.

23 ⁶ WD moves to intervene in only this action pending against Amazon.
 24 However, Defendants agree to be bound to infringement and validity findings in
 this action. *See* Reply in Support of Motion to Stay [ECF No. 37] 10:2-4.

25 ⁷ *See generally* Complaint.

26 ⁸ The Court recognizes that even if the SSDs infringe, Defendants may not
 27 infringe depending on the specific factual circumstances surrounding each
 Defendant's allegedly infringing activity. However, if the SSDs do not infringe,
 28 then Defendants' sales of the accused products also do not infringe. Therefore,
 all infringement allegations in this case depend on the technical infringement
 allegations with respect to the SSDs.

B. Permissive Intervention

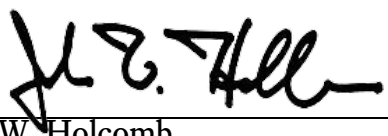
The standard for permissive intervention requires only “(1) an independent ground for jurisdiction; (2) a timely motion; and (3) a common question of law and fact between the movant’s claim or defense and the main action.” *United States v. Washington*, 86 F.3d 1499, 1506-07 (9th Cir. 1996). As discussed above, the Motion is timely. Additionally, there are common questions of law and fact—Longitude alleges that the accused products infringe because they include WD’s SSDs. Therefore, there are common technical questions as to whether the SSDs infringe the asserted patents and there are common questions of patent validity. Finally, there is an independent ground for jurisdiction because WD counterclaims for declaratory judgment of non-infringement.⁹ These counterclaims depend on federal patent law. *See Nikon Corp. v. ASM Lithography B.V.*, 222 F.R.D. 647, 651 (N.D. Cal. 2004). Accordingly, WD meets the standard for permissive intervention.

IV. DISPOSITION

For the foregoing reasons, the Court **GRANTS** WD’s Motion to Intervene.

IT IS SO ORDERED.

Dated: May 16, 2023


 John W. Holcomb
 UNITED STATES DISTRICT JUDGE

⁹ See WD’s Answer.