IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

3SHAPE A/S Plaintiff, v. MEDIT CORP., Defendant.	C.A. No. 6:22-CV-00443-ADA-DTG

ORDER SEVERING CLAIMS RELATED TO COUNTERCLAIM PATENTS

3Shape filed its complaint against Medit on May 2, 2022, asserting infringement of five patents. The Court held a claim construction hearing and construed disputed terms for the five 3Shape patents on May 2, 2023. Fact discovery is set to close November 6, 2023.

On August 18, 2023, Medit filed its answer and included, among others, counterclaims asserting infringement of four patents.

3Shape asked the Court to strike Medit's counterclaims asserting infringement of the 4 Medit patents because it would disrupt the schedule for bringing the 3Shape patents to trial, and because a trial on nine patents would not be workable. Medit opposed that relief because it contended a motion to strike was procedurally and substantively improper and because the schedule could be adjusted and all nine patents could be litigated as part of the same case.

Having reviewed the dispute chart submitted by the parties and oral argument by the parties at the hearing held on August 29, 2023, the Court, under its inherent power to manage its docket, and also on its own initiative under Fed. R. Civ. P. 21, the Court hereby finds that the four Medit counterclaim patents should be severed from this action into a separate action.

IT IS THEREFORE ORDERED that Medit's four affirmative counterclaims for patent infringement against 3Shape are SEVERED from this case.

IT IS FURTHER ORDERED that the Clerk of the Court shall sever all claims brought by Defendant Medit for patent infringement against Plaintiff 3Shape into a new case number on the docket of U.S. District Court Judge Alan Albright, and enter a copy of this Order in the new, severed case. In the new, severed case, Medit Corp. will be designated as the Plaintiff and 3Shape A/S will be designated as the Defendant.

IT IS FURTHER ORDERED that the Clerk of the Court shall enter in the severed case copies of ECF Nos. 3, 36, 85, 87, and 88, and 3Shape shall answer Medit's four affirmative claims of patent infringement in the severed case.

IT IS FURTHER ORDERED that, based on a stipulation by the parties, 3Shape's responses to Medit's remaining counterclaims in this case and Medit's affirmative claims of patent infringement in the severed case are due on October 9, 2023.

SIGNED this 8th day of September 2023.

DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE