IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

SINOTECHNIX LLC	§	
	§	Case No. 2:24-CV-544-JRG-RSP
v.	§	
	§	
SAMSUNG ELECTRONICS AMERICA, INC., ET AL.	§	

DISCOVERY ORDER

After a review of the pleaded claims and defenses in this action, in furtherance of the management of the Court's docket under Federal Rule of Civil Procedure 16, and after receiving the input of the parties to this action, it is ORDERED AS FOLLOWS:

1. **Initial Disclosures.** In lieu of the disclosures required by Federal Rule of Civil Procedure 26(a)(1), each party shall disclose to every other party the following information:

   (a) the correct names of the parties to the lawsuit;

   (b) the name, address, and telephone number of any potential parties;

   (c) the legal theories and, in general, the factual bases of the disclosing party's claims or defenses (the disclosing party need not marshal all evidence that may be offered at trial);

   (d) the name, address, and telephone number of persons having knowledge of relevant facts, a brief statement of each identified person's connection with the case, and a brief, fair summary of the substance of the information known by any such person;

   (e) any indemnity and insuring agreements under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment entered in this action or to indemnify or reimburse for payments made to satisfy the judgment;

(f) any settlement agreements relevant to the subject matter of this action; and

(g) any statement of any party to the litigation.

2. **Disclosure of Expert Testimony.**[1] A party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703 or 705, and:

(a) if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, provide the disclosures required by Federal Rule of Civil Procedure 26(a)(2)(B) and Local Rule CV-26; and

(b) for all other such witnesses, provide the disclosure required by Federal Rule of Civil Procedure 26(a)(2)(C).

3. **Additional Disclosures.** Without awaiting a discovery request,[2] each party will make the following disclosures to every other party:

(a) provide the disclosures required by the Patent Rules for the Eastern District of Texas with the following modifications to P.R. 3-1 and P.R. 3-3:

i. If a party claiming patent infringement asserts that a claim element is a software limitation, the party need not comply with P.R. 3-1 for those claim elements until 30 days after source code for each Accused Instrumentality is produced by the opposing party. Thereafter, the party claiming patent infringement shall identify, on an element-by-element basis for each

[1] All expert reports should be written such that the report is organized with discrete paragraph numbers.

[2] The Court anticipates that this disclosure requirement will obviate the need for requests for production.

asserted claim, what source code of each Accused Instrumentality allegedly satisfies the software limitations of the asserted claim elements.

ii. If a party claiming patent infringement exercises the provisions of Paragraph 3(a)(i) of this Discovery Order, the party opposing a claim of patent infringement may serve, not later than 30 days after receipt of a Paragraph 3(a)(i) disclosure, supplemental "Invalidity Contentions" that amend only those claim elements identified as software limitations by the party claiming patent infringement.

(b) produce or permit the inspection of all documents, electronically stored information, and tangible things in the possession, custody, or control of the party that are relevant to the pleaded claims or defenses involved in this action, except to the extent these disclosures are affected by the time limits set forth in the Patent Rules for the Eastern District of Texas; and

(c) provide a complete computation of any category of damages claimed by any party to the action, and produce or permit the inspection of documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered, except that the disclosure of the computation of damages may be deferred until the time for Expert Disclosures if a party will rely on a damages expert.

4. **Protective Orders.** The Court will enter the parties' Agreed Protective Order.

5. **Discovery Limitations.** The discovery in this cause is limited tothe disclosures described in Paragraphs 1-3 together with:

a) Interrogatories: Defendants are permitted to collectively serve 25 interrogatories and individually serve 5 interrogatories[3] on Plaintiff, and Plaintiff is permitted to serve 25 common interrogatories on Defendants collectively and serve 5 individual interrogatories on each Defendant.

b) Request for Admissions: The parties are limited to forty (40) requests for admission, except there is no limit on the number of requests for admission the parties may serve directed to document authentication. Requests for admission directed to document authentication shall be clearly denoted as such and shall be served separately from any other requests for admission noted above. The parties shall work together in good faith to agree on a stipulation as to the authenticity of their own documents to avoid a large number of requests for admissions relating to authenticity.

c) Depositions:

a. Depositions Generally

i. Except for expert witnesses, all depositions shall be limited to seven (7) hours on the record and shall occur on a single business day, except at the request for a reasonable, necessary accommodation by the deponent, by agreement between the parties, or if the witness testifies in a foreign language (in which case the witness may choose whether to conduct the deposition over the course of one or two days).

[3] For clarity, SEC may serve 5 individual interrogatories, SEA may serve 5 individual interrogatories, and SDC may serve 5 individual interrogatories.

ii. If any deposition witness testifies in a foreign language and such deposition must be translated, then the time counted against the limits in this section shall be two-thirds (2/3) of the time the witness was on the record.

iii. Any party may later move to modify these limitations for good cause.

b. Party Depositions

i. Limits on Party Fact Depositions: Each side shall be allowed up to 55 hours (on the record) of fact discovery deposition time (including 30(b)(6) and 30(b)(1) depositions) for party witnesses. Depositions of experts do not count against these limits. Further, to the extent there are depositions relating solely to venue issues, they do not count against these limits.

c. Non-Party Depositions

i. Limits on Non-Party Depositions: Each side may take no more than 55 hours of non-party depositions.

ii. Depositions on written questions of third parties do not count against these limits.

d. Expert Depositions

i. Each expert may be deposed for one day of up to 7 hours (on the record) for each declaration or report the expert has submitted. However, to the extent an expert submits multiple declarations or reports, unless otherwise agreed to by the parties, each side is entitled to one deposition per declaration or report. Experts shall not be deposed for more than 7 hours in one day as set forth in Rule 30(d)(1) unless otherwise agreed to

by the parties. The parties shall meet and confer in good faith concerning this paragraph, including to determine whether multiple days of depositions are necessary and to determine how to most efficiently complete expert depositions.

Any party may later move to modify these limitations for good cause.

6. **Privileged Information.** There is no duty to disclose privileged documents or information. However, the parties are directed to meet and confer concerning privileged documents or information after the Status Conference. By the deadline set in the Docket Control Order, the parties shall exchange privilege logs identifying the documents or information and the basis for any disputed claim of privilege in a manner that, without revealing information itself privileged or protected, will enable the other parties to assess the applicability of the privilege or protection. Any party may move the Court for an order compelling the production of any documents or information identified on any other party's privilege log. If such a motion is made, the party asserting privilege shall respond to the motion within the time period provided by Local Rule CV-7. The party asserting privilege shall then file with the Court within 30 days of the filing of the motion to compel any proof in the form of declarations or affidavits to support their assertions of privilege, along with the documents over which privilege is asserted for *in camera* inspection. However, if the party asserting privilege seeks an *in camera* review by the Court, such party shall first obtain leave from the Court prior to delivery of documents to the Court.

7. **Signature.** The disclosures required by this Order shall be made in writing and signed by the party or counsel and shall constitute a certification that, to the best of the signer's knowledge, information and belief, such disclosure is complete and correct as of the time it is made. If feasible, counsel shall meet to exchange disclosures required by this Order; otherwise, such disclosures shall be served as provided by Federal Rule of Civil Procedure

5. The parties shall promptly file a notice with the Court that the disclosures required under this Order have taken place.

8. Duty to Supplement. After disclosure is made pursuant to this Order, each party is under a duty to supplement or correct its disclosures **immediately** if the party obtains information on the basis of which it knows that the information disclosed was either incomplete or incorrect when made, or is no longer complete or true.

9. Discovery Disputes.

(a) Except in cases involving claims of privilege, any party entitled to receive disclosures ("Requesting Party") may, after the deadline for making disclosures, serve upon a party required to make disclosures ("Responding Party") a written statement, in letter form or otherwise, of any reason why the Requesting Party believes that the Responding Party's disclosures are insufficient. The written statement shall list, by category, the items the Requesting Party contends should be produced. The parties shall promptly meet and confer. If the parties are unable to resolve their dispute, then the Responding Party shall, within 14 days after service of the written statement upon it, serve upon the Requesting Party a written statement, in letter form or otherwise, which identifies (1) the requested items that will be disclosed, if any, and (2) the reasons why any requested items will not be disclosed. The Requesting Party may thereafter file a motion to compel.

(b) An opposed discovery related motion, or any response thereto, shall not exceed 7 pages. Attachments to a discovery related motion, or a response thereto, shall not exceed 5 pages. No further briefing is allowed absent a request or order from the Court.

(c) Prior to filing any discovery related motion, the parties must fully comply with the substantive and procedural conference requirements of Local Rule CV-7(h) and (i).

Within 72 hours of the Court setting any discovery motion for a hearing, each party's lead attorney (*see* Local Rule CV-11(a)) and local counsel shall meet and confer in person or by telephone, without the involvement or participation of other attorneys, in an effort to resolve the dispute without Court intervention.

(d) Counsel shall promptly notify the Court of the results of that meeting by filing a joint report of no more than two pages. Unless excused by the Court, each party's lead attorney shall attend any discovery motion hearing set by the Court (though the lead attorney is not required to argue the motion).

(e) Any change to a party's lead attorney designation must be accomplished by motion and order.

(f) Counsel are directed to contact the chambers of the undersigned for any "hot-line" disputes before contacting the Discovery Hotline provided by Local Rule CV-26(e). If the undersigned is not available, the parties shall proceed in accordance with Local Rule CV-26(e).

10. **No Excuses.** A party is not excused from the requirements of this Discovery Order because it has not fully completed its investigation of the case, or because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures. Absent court order to the contrary, a party is not excused from disclosure because there are pending motions to dismiss, to remand or to change venue.

11. **Filings.** Only upon request from chambers shall counsel submit to the court courtesy copies of any filings.

12. **Proposed Stipulations by the Parties Regarding Discovery.**

The parties make the following stipulations:

(a) Service: The Parties agree to electronic service (including by email or via secure FTP sites) of all correspondence, documents filed under seal, document production, written

discovery requests, and responses to written discovery requests. Documents filed under seal will be immediately served on all counsel of record by email or other electronic means. The Parties agree that electronic service shall be subject to Local Rule CV-5(a)(3)(C)-(D).

(b) Expert Reports and Discovery: Pursuant to Fed. R. Civ. P. 26(b)(4), draft expert reports, notes, outlines, and any other writings precipitating final expert reports or expert declarations are exempt from discovery, and testifying experts shall not be subject to discovery thereon. Further, all communications to and from any testifying expert, and all materials generated by a testifying expert with respect to that person's work in this case, are exempt from discovery unless relied upon by the expert in forming any of his or her opinions. If an expert produces a report, the expert must also affirmatively produce all materials upon which the expert relied. No discovery can be taken from any consulting expert except to the extent that the consulting expert provided information, opinions, or other materials to a testifying expert who then relies upon such information, opinions, or other materials in forming his or her final report, declaration, trial or deposition testimony, or any opinion in this case. Materials, communications, and other information exempt from discovery under this Paragraph shall be treated as attorney work product for purposes of this litigation.

(c) Privilege Logs: Neither party is required to log, except as provided under Local Patent Rule 3-7, privileged materials dated after July 17, 2024 (the filing date of the Complaint) that are protected by the attorney-client privilege or work product doctrine. The parties reserve the right to request logs of specific kinds of privileged materials otherwise excluded by the foregoing where good cause exists.

(d) Representative Products: The parties shall discuss in good faith the feasibility of a

stipulation as to representative products in order to streamline the case for discovery and trial.

(e) Production of Privileged or Restricted Materials: The Parties' agreement regarding production of privileged or restricted materials is included in the Parties' Proposed Protective Order.

(f) Third Party Discovery: The parties agree that they will serve each other with copies of any subpoena or deposition notice directed to a third-party. A party receiving documents from a third party will provide copies of those documents to all other parties within five (5) business days. Where reproduction of documents within five business days is not possible, the Party who received the documents will provide prompt notice to the other parties and will work in good faith to resolve the issue on a case-by-case basis. This section does not change the existing obligations and requirements set forth in Fed. R. Civ. P. 45, or other Federal Rules of Civil Procedure. A party scheduling a deposition of a third party shall provide reasonable advance notice of the scheduling party and third party's agreement on the date of deposition.

(g) Document Production:

a. Documents shall be produced in one of the following forms at the option of the producing party: (1) native files; (2) single-page Tagged Image File Format ("TIFF") format; or (3) searchable multi-page PDF files. For documents produced as TIFF files, these files shall be single page and shall be named with a unique production number followed by the appropriate file extension. Load files shall be provided to indicate the location and unitization of the TIFF files. If a document is more than one page, the unitization of the document and any attachments and/or affixed notes shall be maintained as they existed in the

original document. Each document image shall contain a footer with a sequentially ascending production number.

b. No party has an obligation to make its production text-searchable; however, if a party's documents already exist in text-searchable format independent of this litigation, or are converted to text-searchable format for use in this litigation, including for use by the producing party's counsel, then such documents shall be produced in the same text-searchable format at no cost to the receiving party.

c. Documents shall be produced in color to the extent they include colored text or images as maintained in the ordinary course of business.

d. A party that receives a document produced in a format specified above may make a reasonable request to receive the document in its native format, and upon receipt of such a request, the producing party shall produce the document in its native format.

e. Absent a showing of good cause, voice-mails, PDAs, mobile phones, and communications on chat services (e.g., Skype, WhatsApp, iMessage, Snapchat, Facebook) are deemed not reasonably accessible and need not be collected and preserved.

f. Absent a showing of good cause, production requests under Federal Rules of Civil Procedure 34 and 45 or compliance with a mandatory disclosure ordered by this Court shall not include email or other forms of electronic correspondence. Notwithstanding the foregoing, documents known to be responsive to a discovery request and saved only as attachments to email or

other form of electronic correspondence shall be produced as part of the producing party's primary document production.

13. **Standing Orders.** The parties and counsel are charged with notice of and are required to fully comply with each of the Standing Orders of this Court. Such are posted on the Court's website at http://www.txed.uscourts.gov/?q=court-annexed-mediation-plan. The substance of some such orders may be included expressly within this Discovery Order, while others (including the Court's Standing Order Regarding Protection of Proprietary and/or Confidential Information to Be Presented to the Court During Motion and Trial Practice) are incorporated herein by reference. All such standing orders shall be binding on the parties and counsel, regardless of whether they are expressly included herein or made a part hereof by reference.

SIGNED this 12th day of December, 2024.

ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE