

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

CM HK LIMITED,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.
AND SAMSUNG ELECTRONICS
AMERICA, INC.,

Defendants.

Case No. 2:24-cv-0880-JRG

JURY TRIAL DEMANDED

**PLAINTIFF, CM HK LTD.'S OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS, TRANSFER, OR STAY**

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	PERTINENT FACTS	1
	A. All claims have been dismissed and the schedule vacated in the NDCA Case.	1
III.	ARGUMENT	3
	A. Samsung’s original motion to stay is moot so it cannot be renewed.	4
	B. The First-to-File Rule is irrelevant because there are no claims pending in the NDCA Case.	4
	C. Samsung’s requested stay should be denied.	5
	i. A stay will not simplify the issues.	5
	ii. A stay will prejudice CM HK.	6
	iii. The Eastern District of Texas is the most convenient and efficient forum.	7
IV.	CONCLUSION	8

TABLE OF AUTHORITIES

CASES

<i>Cerence Operating Co. v. Samsung Elecs. Co.</i> , No. 2:23-CV-0482-JRG-RSP, 2025 WL 755219 (E.D. Tex. Mar. 10, 2025).....	8
<i>Convergence Techs. (USA), LLC v. Microloops Corp.</i> , 711 F. Supp. 2d 626 (E.D. Va. 2010)	5
<i>Dexon Computer, Inc. v. Cisco Sys., Inc.</i> , No. 5:22-CV-53-RWS-JBB, 2022 WL 22277529 (E.D. Tex. Dec. 22, 2022)	4
<i>Force Mos Tech., Co. v. ASUSTek Computer, Inc.</i> , No. 2:22-CV-00460-JRG, 2024 WL 1586266 (E.D. Tex. Apr. 11, 2024)	7
<i>Nanoco Techs. Ltd. v. Samsung Elecs. Co.</i> , No. 2:20-CV-00038-JRG, 2021 WL 3027335 (E.D. Tex. Jan. 8, 2021).....	7
<i>Solas OLED Ltd. v. Samsung Display Co.</i> , No. 2:19-CV-00152-JRG, 2020 WL 4040716 (E.D. Tex. July 17, 2020).....	6
<i>Zurich Am. Ins. Co. v. Carter & Carter Constr., LLC</i> , No. 4:22-CV-00196, 2022 WL 17330463 (E.D. Tex. Nov. 29, 2022).....	4

RULES:

FED. R. EVID. 201.....	1
------------------------	---

I. INTRODUCTION

Samsung's Renewed Motion to stay rests on a fiction of judicial efficiency. But there are no claims currently pending in the Northern District of California, which has **dismissed Samsung's declaratory judgment action** for lack of personal jurisdiction over CM HK.¹ And it was Samsung that created duplicative proceedings by racing to California and filing a complaint with no factual basis for jurisdiction, and strategically omitting any invalidity claims to allow it to later file multiple IPRs.

With the NDCA Case² dismissed and the schedule vacated, the premise of Samsung's stay request is gone. This Court, by contrast, has clear jurisdiction, an established schedule, and an efficient path to resolution. A stay will not simplify issues. It would only delay adjudication and prejudice CM HK. Therefore, the Court should deny Samsung's Renewed Motion.

II. PERTINENT FACTS

A. All claims have been dismissed and the schedule vacated in the NDCA Case.

On September 18, 2024, Samsung filed a declaratory judgment against CM HK and CyWee in the Northern District of California seeking an Order that Samsung does not infringe certain claims of U.S. Patent Nos. 10,275,038 (the "'038 Patent"), 10,817,072 (the "'072 Patent"), 10,852,846 (the "'846 Patent"), and 11,698,687 (the "'678 Patent"). After receiving a Rule 11 Safe Harbor letter, Samsung dismissed CyWee.³ CM HK requests that the Court take judicial notice under FED. R. EVID. 201 of all pleadings cited herein from the NDCA Case: *Samsung Electronics Co. Ltd. et al v. CM HK, Ltd et al*, No. 4:24-cv-06567-JST

¹ Dkt. 43.

² NDCA Case refers to the case styled *Samsung Electronics Co. Ltd. et al v. CM HK, Ltd et al*, No. 4:24-cv-06567-JST (N.D. Cal.).

³ Dkt. 35-4.

(N.D. Cal.).

On January 28, 2025, CM HK filed a Motion to Dismiss based on lack of subject matter jurisdiction, lack of personal jurisdiction, Samsung's failure to state a claim, and as an improper anticipatory lawsuit under the First-To-File Rule and Declaratory Judgment Act. *Samsung Electronics Co. Ltd. et al v. CM HK, Ltd et al*, No. 4:24-cv-06567-JST, Dkt. 51 (N.D. Cal. Jan. 28, 2025).

On May 15, 2025, the court in California granted CM HK's Motion to Dismiss finding that "the only connection to California is that Samsung's counsel happens to be located there" so "Samsung has not shown that CM HK 'purposely directed its activities' at California residents." Dkt. 41 at 13. But the Court granted Samsung leave to conduct jurisdictional discovery and amend its complaint. *Id.* at 18-21.

On June 3, 2025, the parties filed a joint stipulation asking the court to remove all deadlines from the calendar because "the parties understand the May 15 Order to take the deadlines in the January 15, 2025 Scheduling Order off calendar until Samsung files its amended complaint." Ex. 12 at 2. The Court granted this request on June 10, 2025. Ex. 13.

On June 9, 2025, Samsung finally served jurisdictional discovery requests that consisted of 27 requests for production, 18 interrogatories, and 13 requests for admission. Exs. 9, 10 and 11. Samsung then proposed the following schedule:

Subject: RE: CM HK: Jurisdictional Discovery
Date: Tuesday, June 17, 2025 at 12:35:16 PM Eastern Daylight Time
From: Bratton, Ariell
To: Chris Evans, Michael Shore
CC: zdellaporta@shorefirm.com, Caroline Johnson, Chijioke Offor, Andrew Huffstetler, Team Samsung CyWee
Attachments: image001.png

Counsel,

Ahead of our meet and confer today, we wanted to send along the below, counter-proposal for the schedule. In our view, the parties' proposals are not far off and ours essentially just builds in a briefing schedule. Hopefully we can reach an agreement. Please note that this proposed schedule assumes we receive complete responses.

Original Proposed Date	New Proposed Date	NDCA Event
Monday, June 9	N/A	Samsung serves first round of discovery requests
Wednesday, July 9		CM HK serves responses to discovery requests, including document production
~~Wednesday, July 23~~		~~Samsung serves second round of discovery requests~~
~~Friday, August 22~~		~~CM HK serves responses to second round of discovery requests~~
Friday, August 29	~~Wednesday, July 23~~	Deadline to serve deposition notices
Monday, September 29	~~Wednesday, August 6~~	Close of jurisdictional discovery
Monday, October 13	~~Wednesday, August 27~~	Samsung files amended complaint
Monday, October 27	~~Wednesday, September 10~~	CM HK files MTD, if desired
Monday, November 10	~~Wednesday, September 24~~	Opposition to MTD
Monday, November 17	~~Wednesday, October 1~~	Reply to MTD
Monday, December 1	~~Monday, October 7~~	Earliest Date for Hearing on MTD

Thanks,
Ariell

Ex. 8.

III. ARGUMENT

Samsung's Renewed Motion to Stay should be denied because the original motion is moot and a stay will not simplify the issues for trial and will prejudice CM HK.

A. Samsung's original motion to stay is moot so it cannot be renewed.

Rather than file a new motion to stay, Samsung filed what it styled a “Renewed Motion to Stay Pending Resolution of any Motion to Dismiss the NDCA Action” (the “Renewed Motion”). Samsung’s original motion asked the Court to stay this case “while the first-filed NDCA court decides CM HK and CyWee’s co-pending motions to dismiss the First-Filed Action.” Dkt. 28 at 4; *See also* Dkt. 37 at 2 (“Here, the Court should stay this action pending the Northern District of California’s decision on CM HK’s motion to dismiss for judicial efficiency and to avoid duplicative litigation and inconsistent rulings.”). But CM HK’s motion to dismiss was then granted on May 15, 2025. Dkt. 40. Therefore, Samsung’s original motion is moot and cannot be renewed.

B. The First-to-File Rule is irrelevant because there are no claims pending in the NDCA Case.

Additionally, the First-to-File Rule is no longer relevant because there are no longer any substantially overlapping, co-pending claims in the NDCA Case. “Under the first-to-file rule, when related cases are pending before two federal courts, the court in which the case was last filed may refuse to hear it if the issues raised by the cases substantially overlap.” *Zurich Am. Ins. Co. v. Carter & Carter Constr., LLC*, No. 4:22-CV-00196, 2022 WL 17330463, at *3 (E.D. Tex. Nov. 29, 2022). To determine if there is a substantial overlap, “the relevant focus is on the *currently pending claims* in the first-filed case.” *Dexon Computer, Inc. v. Cisco Sys., Inc.*, No. 5:22-CV-53-RWS-JBB, 2022 WL 22277529, at *6 (E.D. Tex. Dec. 22, 2022) (Baxter, M.J.) (emphasis added). There are no currently pending claims in the NDCA Case. Dkt. 41.

The First-to-File Rule does not apply when the overlapping claims have been dismissed from the first-filed case. *See Dexon Computer, Inc.*, 2022 WL 22277529, at *6. That is exactly the situation here.

C. Samsung's requested stay should be denied.

The Court should also deny Samsung's Renewed Motion because a stay would prejudice CM HK and would not simplify the issues.

i. A stay will not simplify the issues.

First, Samsung's argument for simplification is that the NDCA Case "has advanced ahead of the instant case." Dkt. 46 at 11. But Samsung acknowledges that this case will proceed to the merits faster: "permitting this case to proceed in this Court would risk the occurrence of claim construction proceedings, such as briefing and potentially the hearing, here *before they occur in the judicially acknowledge first-filed NDCA Action.*" *Id.* at 11 (emphasis added).

Moreover, the California court granted Samsung leave to take jurisdictional discovery to try and prove that CM HK is an alter ego of CyWee Group so CyWee Group's contacts with California can be attributed to CM HK and sufficient to establish jurisdiction. *Id.* at 18-20. But Samsung waited 25 days⁴ to serve its voluminous jurisdictional discovery requests and then proposed a schedule that requires the remainder of the year to resolve the issue. Ex. 8. Based on Samsung's proposed schedule, the NDCA Case will take the rest of 2025 to determine if the court can exercise jurisdiction over CM HK, which has nothing to do with the merits of the patent infringement dispute in front of this Court and "is expensive and time-consuming." *Convergence Techs. (USA), LLC v. Microloops Corp.*, 711 F. Supp. 2d 626, 643 (E.D. Va. 2010).

Importantly, Samsung has not asserted any alter ego allegations in this case and jurisdiction is not disputed. As a result, neither the Court nor the parties have to spend time

⁴ See Ex. 9-11 (discovery requests served on June 9, 2025).

and resources on those issues. Litigation in this Court prevents anyone from spending significant time and money on jurisdictional discovery. Samsung served 18 interrogatories, 27 requests for production, and 13 requests for admission exclusively for jurisdictional discovery. Exs. 9, 10 and 11. In this case, the parties are limited to 25 interrogatories and 40 requests for admissions. Dkt. 23 at 4. This means Samsung's jurisdictional discovery requests in the NDCA Case represent approximately half of the fact discovery authorized for this case.

As a result, this Court will be the far more efficient forum. The parties are currently engaging in discovery on the merits of CM HK's patent infringement claims and the Court has set the *Markman* Hearing for January 15, 2026, and trial for July 6, 2026. Dkt. 36 at 1-3. Further, multiple witnesses reside in in the Eastern District of Texas. Exs. 1, 2, 3, 4, 5, 6, and 7. Samsung's claims that the NDCA Case will simplify the issues is specious, even risible at this point.

To summarize, Samsung must concede this case will progress faster. The California case is frozen pending a renewed jurisdictional showing. The discovery underway there relates solely to Samsung's alter ego theory—not the merits of patent infringement or validity. By contrast, this case is post-Rule 26(f), with active fact discovery underway and a trial date set.

Accordingly, no simplification would result from a stay.

ii. A stay will prejudice CM HK.

Second, a stay will prejudice CM HK because it will delay its day in court, risks loss of documentary evidence, and fading memories of witnesses. Samsung argues that CM HK will not be prejudiced because it “does not make products that practice its patents and thus will not be harmed by the stay.” Dkt. 46 at 8. But this argument has been repeatedly rejected by this Court. *Solas OLED Ltd. v. Samsung Display Co.*, No. 2:19-CV-00152-JRG, 2020 WL

4040716, at *2 (E.D. Tex. July 17, 2020) (“The Court is not persuaded by Samsung’s argument that because Solas’ is not a competitor of Samsung, a delay to this litigation will result in no prejudice to Solas.”); *Force Mos Tech., Co. v. ASUSTek Computer, Inc.*, No. 2:22-CV-00460-JRG, 2024 WL 1586266, at *2 (E.D. Tex. Apr. 11, 2024) (same). CM HK will be prejudiced by the indefinite stay proposed by Samsung because it has the right to timely enforce its patent rights. And a stay creates a risk of loss of documentary evidence, the fading memories of witnesses, and may result in a loss of other licensing opportunities for CM HK, all of which are prejudicial.⁵

iii. The Eastern District of Texas is the most convenient and efficient forum.

Finally, proceeding in this Court is more convenient and efficient because this Court has significant ties to the parties, multiple witnesses live or work in this District, and it would promote judicial economy since this Court would not have to resolve any jurisdictional issues and can get right to the merits.⁶ *Id.* at 4-8. Specifically, Samsung’s campus at 6625 Excellence Way, Plano, Texas 75023 “is home to Samsung Electronics America’s second biggest employee population in the US.” Ex. 1. Samsung has identified two of its employees that work in this District that have relevant knowledge (Guy Waitley and Sean Diaz). Exs. 2, 3 and 4. And CM HK has identified two additional Samsung employees in the District that also have relevant knowledge and could be witnesses at trial (Drew Blackard and Joe Repice). Exs. 5, 6 and 7. While neither party has identified any witnesses located in the Northern District

⁵ A stay pending the institution decisions of the two petitions for *inter partes* review filed by Samsung will also not simplify the issues and will prejudice CM HK for the same reasons. And this Court “has a consistent practice of denying motions to stay when the PTAB has yet to institute post-grant proceedings.” *Nanoco Techs. Ltd. v. Samsung Elecs. Co.*, No. 2:20-CV-00038-JRG, 2021 WL 3027335, at *1 (E.D. Tex. Jan. 8, 2021) (Gilstrap, J).

⁶ CM HK has filed a motion to transfer the NDCA Case here under § 1404(a), which is set for hearing on July 31, 2025. Ex. 13.

of California. So, the convenience factors also favor proceeding here, which is why CM HK filed a motion to transfer the NDCA Case here. Ex. 14.

To summarize, this Court is the most efficient and convenient forum because:

- It is undisputed that this Court has jurisdiction over the parties and claims. The Northern District of California does not.
- This Court has a schedule with trial set for July 2026. The Northern District of California does not.
- Multiple witnesses are located in or near the Eastern District of Texas.⁷ No witnesses are in the Northern District of California.
- Samsung has an enormous campus in this district that performs the sales, marketing, and commercialization for the accused products.⁸
- This Court can reach the merits without first spending time and resources on jurisdictional discovery.
- This Court is the only forum ready to decide the actual patent infringement dispute.

Therefore, the Court should deny Samsung's Renewed Motion to Stay.

IV. CONCLUSION

Samsung's request for a stay is based on a case that no longer exists in any meaningful way. The Northern District of California has dismissed all claims and vacated its schedule. Meanwhile, this Court has jurisdiction, a live case schedule, and parties ready to litigate the merits. A stay will not simplify the issues. It will only delay CM HK's day in court. Accordingly, Samsung's Renewed Motion should be denied.

⁷ Exs. 1-7.

⁸ Ex. 1; *see also Cerence Operating Co. v. Samsung Elecs. Co.*, No. 2:23-CV-0482-JRG-RSP, 2025 WL 755219, at *5 (E.D. Tex. Mar. 10, 2025) ("Samsung admits it maintains an office in TX but that personnel there are focused on activities such as 'sales, marketing, and commercialization for Samsung devices.'").

Dated: July 9, 2025

Respectfully Submitted,

/s/ Michael W. Shore
Michael W. Shore
Texas State Bar No. 18294915
Zachary R. Della Porta
Texas State Bar No. 24134899
Kenneth E. Shore
Texas State Bar No. 24027972
THE SHORE FIRM LLP
5646 Milton Street, Suite 423
Dallas, Texas 75206
mshore@shorefirm.com
zdellaporta@shorefirm.com
kshore@shorefirm.com
Tel: (214) 593-9110

Christopher L. Evans
Texas State Bar No. 24058901
Chijioke E. Offor
Texas State Bar No. 24065840
OFFOR EVANS PLLC 1122
Jackson Street, No. 901
Dallas, Texas 75202
chris@offorevans.com
chiji@offorevans.com
Tel: (214) 593-9121

***Attorneys for Plaintiff
CM HK Ltd.***

CERTIFICATE OF SERVICE

The undersigned certifies that, on July 9, 2025, a true and correct copy of this filing was served, via ECF, upon counsel for Defendants.

/s/ Michael W. Shore
Michael W. Shore