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

WHIRLPOOL CORPORATION,

Plaintiff,

v.

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

Defendants.

Civil Action No. 2:25-cv-01042-JRG-RSP

JURY TRIAL DEMANDED

PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

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Pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiff Whirlpool Corporation ("Whirlpool") respectfully requests that the Court grant Whirlpool leave to file its Second Amended Complaint ("SAC") to assert an additional patent, U.S. Patent No. 12,642,422 (the '422 Patent), issued on June 2, 2026. Pursuant to Local Rule CV-7(k), a copy of Whirlpool's SAC will be filed immediately after this motion. A redline against the First Amended Complaint is filed as Exhibit 1 to this motion. A copy of the '422 Patent is filed as Exhibit 2. Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, "Samsung") do not oppose this motion.

I. FACTUAL BACKGROUND

On October 10, 2025, Whirlpool filed its original complaint, alleging that Samsung infringes U.S. Patent Nos. 12,232,681 ("'681 Patent") and 10,512,385 ("'385 Patent") by making, using, selling, offering to sell, and/or importing into the United States infringing dishwashers modeled after Whirlpool's design that includes an enhanced top rack that can hold both drinkware and utensils and silverware. The original complaint expressly named the Samsung 38 dBA Bespoke Smart Dishwasher with 3rd Rack Washing System, sold with model numbers with prefix DW90F, as an accused product. *See* Dkt. 1 at ¶ 26 & n.4. On February 9, 2026, Whirlpool filed its First Amended Complaint ("FAC"), adding allegations that Samsung, with its DW90F line of dishwashers, also infringes U.S. Patent No. 12,543,922 ("'922 patent"). *See* Dkt. 38. The '922 Patent had been issued on the same date as the FAC's filing. On May 14, 2026, Samsung filed its answer to the FAC as well as amended counterclaims against Whirlpool. *See* Dkt. 68. The parties also exchanged their infringement contentions on the same day. Whirlpool answered Samsung's counterclaims on June 4, 2026. Dkt. 73.

Whirlpool also moved for a preliminary injunction on the same day that it initiated this lawsuit. *See* Dkt. 4. Following a hearing on the motion on April 8, 2026, *see* Dkt. 53, the parties

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completed post-hearing briefing. *See* Dkts. 63 (Whirlpool opening brief), 69 (Samsung opposition brief), 72 (Whirlpool reply brief), 80 (Samsung sur-reply brief).

The case is in its early stages: At the May 28, 2026 scheduling conference, the Court set a trial date in December 2027. The parties filed a joint proposed discovery order on June 11, 2026, and, with the exception of limited discovery in connection with the motion for preliminary injunction, discovery has yet to commence. Pursuant to the Court's June 23, 2026 Order (Dkt. 84), the parties' invalidity contentions are not due until October 1, 2026. The deadline to file amended pleadings is March 23, 2027,[1] the claim construction hearing is not until June 2027, and discovery does not close until August 2027.

In its SAC, Whirlpool seeks to add allegations that Samsung's DW90F line of dishwashers also infringe the '422 Patent, which issued on June 2, 2026. The '422 Patent is a continuation of the (already asserted) '922 Patent, which is, in turn, a continuation of the (already asserted) '681 Patent. The '422 Patent is generally directed to a dishwasher with a third upper rack above first and second lower dish racks, in which the upper dish rack defines a planar portion on a first side of the upper dish rack and a depression on a second side of the upper dish rack. *See* Ex. 2 ('422 Patent) at col. 1. Adding the '422 Patent to this case would result in efficiencies for both the Court and the parties given that it involves technology related to the patents already asserted in the case (and is in fact in the same family as two of the patents already asserted) and is being asserted against the same product (i.e. Samsung's DW90F line of dishwashers).

[1] Notwithstanding this deadline, Whirlpool moves for leave to amend its pleadings because the SAC seeks to assert an additional patent.

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II. LEGAL STANDARD

Rule 15(a) provides that leave to amend shall be "freely given when justice so requires." Fed. R. Civ. P. 15(a). The Supreme Court has reinforced that "this mandate is to be heeded." *Foman v. Davis*, 371 U.S. 178, 182 (1962); *see also Lyn-Lea Travel Corp. v. American Airlines, Inc.*, 283 F.3d 282, 286 (5th Cir. 2002) (Rule 15(a) "evinces a bias in favor of granting leave to amend" (citation omitted))). In considering motions for leave to amend, courts consider five factors: (1) undue delay, (2) bad faith or dilatory motive on the part of the movant, (3) "repeated failure to cure deficiencies by amendments previously allowed," (4) undue prejudice to the opposing party, and (5) futility of the amendment. *Foman*, 371 U.S. at 182.

To the extent that Samsung argues that Rule 16(b) should apply to this Motion, that rule "governs amendment of pleadings after a scheduling order deadline has expired." *S&W Enters., L.L.C. v. SouthTrust Bank of Ala., NA*, 315 F.3d 533, 536 (5th Cir. 2003). In determining whether good cause exists to support an amendment under Rule 16(b)(4), the court considers "(1) the explanation for the failure to [timely move for leave to amend]; (2) the importance of the [amendment]; (3) potential prejudice in allowing the [amendment]; and (4) the availability of a continuance to cure such prejudice." *Id.* at 536.

III. ARGUMENT

A. The Court Should Grant Whirlpool's Motion Under Rule 15(a).

Rule 15(a) applies to this Motion because the deadline to amend pleadings has not yet passed and is, in fact, nine months away. In *OnPoint Systems, LLC v. Protect Animals with Satellites, LLC*, 2021 WL 3140562, at *2 (E.D. Tex. July 26, 2021), this court applied Rule 15(a) to grant plaintiff leave to amend its complaint to add two more asserted patents even when the plaintiff moved on "the same day as the court-ordered deadline to amend." *Id.* at *2; *see also TXI Operations, LP v. City of McKinney, Texas*, 2021 WL 5834436, at *2 (E.D. Tex. Dec. 9, 2021)

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(granting motion for leave to file consolidated amended complaint under Rule 15(a) "[b]ecause TXI moved to amend before the deadline set forth in the Scheduling Order").[2] Applying Rule 15(a), the Court should grant Whirlpool's motion because (1) Samsung does not face undue prejudice from Whirlpool's proposed amendment at this early stage of the case, (2) there is no undue delay, bad faith or dilatory motive, or repeated failure to cure deficiencies by amendments on Whirlpool's part, and (3) amendment would not be futile.

No Prejudice to Samsung: This case is still in early stages. Samsung did not file its amended answer and counterclaims until last month. *See* Dkt. 68. The Court did not enter the docket control order until June 12, 2026. The parties' invalidity contentions are not due until October 1, 2026. Dkt. 84. Given the amount of time between the deadline to disclose invalidity contentions (October 1, 2026) and the claim construction hearing (June 2027), the addition of the '422 Patent should have no impact on the remainder of the schedule. Whirlpool will timely supplement its infringement contentions to include the '422 Patent if and when this Motion is granted.

No Undue Delay, Bad Faith, Repeated Failure to Cure Deficiencies: There is no evidence of undue delay, bad faith, dilatory motive behind Whirlpool's proposed amendment. Whirlpool files this Motion shortly after the '422 Patent was issued on June 2, 2026. Given that the '422 Patent and the current patents-in-suit involve the same technology and are asserted against the same Samsung products, allowing Whirlpool to add the '422 Patent to this case would obviate

[2] In two other cases, this Court declined to rule whether Rule 15 or Rule 16 applies in analogous circumstances because "either standard would be met under these circumstances." *Netlist, Inc. v. Samsung Elecs. Co., Ltd.*, 2023 WL 5532133, at *3 (E.D. Tex. Aug. 28, 2023) (granting Netlist's motion for leave to amend to add a new patent notwithstanding Samsung's argument that doing so would "necessarily require supplemental infringement contentions, which in turn requires an amendment to the scheduling order"); *Hillman Grp., Inc. v. Keyme, LLC*, 2020 WL 6938441, at *2 (E.D. Tex. Oct. 23, 2020) (concluding that "either standard would be met under these circumstances" and observing that plaintiff, like Whirlpool here, "filed its Motion for Leave shortly after the [] Patent issued; it could not have so moved any sooner").

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the need for Whirlpool to file a new case, allow the parties to adjudicate Whirlpool's infringement claims against the DW90F line in an efficient manner, and conserve both party and judicial resources by proceeding with one consolidated claim construction, discovery, and trial schedule. There is likewise no repeated failure to cure deficiencies by amendments on Whirlpool's part. The FAC was filed to add the '922 Patent. The proposed SAC seeks to add a different patent, the '422 Patent.

No Futility: The proposed amendment is not futile. "Futility is determined under Rule 12(b)(6) standards, meaning an amendment is considered futile if it would fail to state a claim upon which relief could be granted." *Wiggins v. La. State Univ.-Health Care Servs. Div.*, 710 F. App'x 625, 628 (5th Cir. 2017). The SAC pleads sufficiently specific facts to state a claim under Rule 12(b)(6)'s standards, including the patents that Whirlpool alleges are infringed and the specific Samsung products alleged to infringe.

B. In the Alternative, Whirlpool's Amendment Is Supported by Good Cause Under Rule 16(b).

Even if the Court determined that Rule 16(b) should apply, Whirlpool's amendment is supported by good cause. The first factor, the explanation for the failure to timely move for leave to amend, does not apply here because the deadline to file amended pleadings has not yet passed and because Whirlpool files this Motion shortly after the issuance of the '422 Patent. Second, the proposed amendment is important because Whirlpool seeks to vindicate its patent rights against Samsung with respect to the '422 Patent. As explained above, doing so as part of this case would conserve both party and judicial resources given the similarity of the technology between the '422 Patent and the current patents-in-suit, the commonality of Samsung's accused products (i.e. the DW90F line of dishwashers), and the early stage of the instant case that allows the '422 Patent to be added without any alteration to the claim construction, discovery, and trial schedule.

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Third, as discussed above, *see supra* at Sec. III.A, Samsung would suffer minimal-to-no prejudice with the addition of the '422 Patent. Finally, while Samsung would not require a continuance to cure any theoretical prejudice it may suffer from the addition of the '422 Patent, such a continuance is available. "Given the factual overlap previously noted and the significant period of time before either the *Markman* hearing or trial, any prejudice Defendant may suffer from the addition of the ['422] patent to the instant action can be alleviated by modifying the Court's DCO to ensure that the parties have sufficient time to complete discovery on the ['422] patent and prepare for upcoming court dates." *H&R Block Tax Servs., Inc. v. Jackson Hewitt Tax Serv., Inc.*, 2008 WL 11265109, at *4 (E.D. Tex. Dec. 23, 2008).

IV. CONCLUSION

For the foregoing reasons, Whirlpool respectfully requests that the Court grant its motion for leave to file its Second Amended Complaint.

DATED: June 26, 2026

Respectfully submitted,

By: /s/ Joseph S. Grinstein

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CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with counsel for Defendants, and counsel for Defendants indicated that they do not oppose the relief sought herein.

/s/ Joseph S. Grinstein
Joseph S. Grinstein

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on June 26, 2026.

/s/ Joseph S. Grinstein
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