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Richard W. Wieking Clerk, U.S. District Court Northern District of California San Jose



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 $\frac{12}{13}$ In re Ex Parte Application of

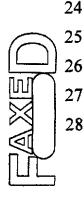
SAMSUNG ELECTRONICS CO., LTD

Applicant,

For an Order Pursuant to 28 U.S.C. § 1782 Granting Leave to Obtain Discovery from Apple Inc. for Use in Foreign Proceedings.

1280275 MISC

[PROPOSED] ORDER GRANTING SAMSUNG ELECTRONICS CO., LTD.'S EX PARTE APPLICATION FOR AN ORDER PURSUANT TO 28 U.S.C. § 1782 GRANTING LEAVE TO OBTAIN DISCOVERY FOR USE IN FOREIGN PROCEEDINGS



This matter comes before the Court on the Ex Parte Application of Samsung Electronics Co. Ltd. ("Samsung") for an Order Pursuant to 28 U.S.C. § 1782 Granting Leave to Obtain Discovery for Use in Foreign Proceedings (the "Application"). The Application seeks documents from Apple Inc. in connection with patent litigation pending between Samsung and Apple, Inc. and its affiliated companies (collectively, "Apple") in Japan. Apple was served with a copy of the Application but has not opposed it.

The Court has fully considered the papers on file. Samsung's application satisfies the three statutory requirements under § 1782. The Application is filed in the "district in which [the] person resides," it seeks discovery "for use in a proceeding in a foreign . . . tribunal," and Samsung is an "interested person[] in the foreign proceeding." Furthermore, Samsung has satisfied the four factors identified by the Supreme Court to guide courts' discretion in analyzing applications under § 1782. Intel Corp. v. Advanced Micro Devices, Inc., 542 U.S. 241, 256 (2004). Apple Inc.'s status as a participant in the Japanese foreign proceedings supports granting Samsung's application. Case law demonstrates the foreign jurisdiction at issue is receptive to the type of discovery sought by Samsung, and there is nothing to indicate the request is made to circumvent limitations on discovery imposed by those foreign courts. Finally, the subpoena appears narrowly tailored such that the documents sought would be relevant to Samsung's invalidity defenses in the Japanese Actions and compliance would not be unduly intrusive or burdensome.

There is nothing at this point that leads the Court to believe Samsung's request is a "fishing expedition" or intended to be a vehicle for harassment.

Therefore, the Court GRANTS Samsung's application.

IT IS HEREBY ORDERED that Samsung is granted leave to issue a subpoena for documents in substantially the form as attached as Exhibit 2 to the Declaration of Hideaki Kobayashi filed in support of the Application, directing

1	Apple Inc. to produce the documents requested in the subpoena at the offices of
2	Steptoe & Johnson LLP, 2121 Avenue of the Stars, Suite 2800, Los Angeles,
3	California 90067, or another location mutually agreeable to Samsung and Apple
4	Inc.
5	It is further ORDERED that copies of the Application and Memorandum in
6	Support thereof and this Order shall be served upon Apple Inc., 1 Infinite Loop,
7	Cupertino, California, 95014.
8	This order is made without prejudice to any motion to quash by Apple Inc.
9	Any motion seeking such relief shall be filed under this case number.
10	IT IS SO ORDERED.
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12	Dated:
13	United States District Court Judge
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[IPROPOSED) ORDER GRANTING SAMSLING'S EX PARTE APPLICATION FOR AN ORDER PURSUANT

TO 28 U.S.C. § 1782