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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SPECTRA LICENSING GROUP, LLC,
Plaintiff,
v.
MARVELL SEMICONDUCTOR INC., et
al.,
Defendants.

Case No. [16-cv-06093-RS](#)

**ORDER DENYING MOTION TO
DISMISS**

Plaintiff Spectra Licensing Group LLC (“Spectra”) initiated this patent infringement lawsuit in April 2016. On January 10, 2017, defendants Marvell Semiconductor Inc. and Marvell Technology Group LTD (collectively “Marvell”) filed an answer and counterclaim. On January 24, 2017, Spectra moved to dismiss the counterclaim and strike the affirmative defenses in the answer pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(f). Rather than respond to the motion, Marvell opted to file an amended answer and counterclaim on February 7, 2017.

Federal Rule of Civil Procedure 15(a) allows a party to amend its pleading 21 days after serving it or, if the pleading is one to which a responsive pleading is required, 21 days after service of a motion under Rule 12(b), (e), or (f). Thus, Marvell’s amended counterclaim was timely filed. Technically, Marvell was required to seek leave to amend its answer. Nevertheless, in light of the lack of prejudice to Spectra, Marvell’s failure to seek leave to amend will be excused and the amended answer will supersede the original answer. Spectra’s motion is therefore moot and denied without prejudice.

IT IS SO ORDERED.

United States District Court
Northern District of California

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Dated: February 9, 2017



RICHARD SEEBORG
United States District Judge