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E-filed: 9/5/2008

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RAMBUS INC.,  
Plaintiff,  
v.

HYNIX SEMICONDUCTOR INC., HYNIX  
SEMICONDUCTOR AMERICA INC.,  
HYNIX SEMICONDUCTOR  
MANUFACTURING AMERICA INC.,  
SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA,  
INC., SAMSUNG SEMICONDUCTOR, INC.,  
SAMSUNG AUSTIN SEMICONDUCTOR,  
L.P.,  
NANYA TECHNOLOGY CORPORATION,  
NANYA TECHNOLOGY CORPORATION  
U.S.A.,  
Defendants.

No. C-05-00334 RMW

ORDER GRANTING SAMSUNG'S MOTION  
TO SHORTEN TIME AND DENYING  
SAMSUNG'S MOTION TO DISMISS

[Re Docket No. 2119, 2121]

RAMBUS INC.,  
Plaintiff,  
v.

SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA,  
INC., SAMSUNG SEMICONDUCTOR, INC.,  
SAMSUNG AUSTIN SEMICONDUCTOR,  
L.P.,  
Defendants.

No. C-05-02298 RMW

[Re Docket No. 1068, 1070]

ORDER GRANTING SAMSUNG'S MOTION TO SHORTEN TIME REGARDING SAMSUNG'S MOTION TO DISMISS AND  
DENYING SAMSUNG'S MOTION TO DISMISS — C-05-00334 RMW; C-05-02298 RMW  
TSF


1 On September 2, 2008, Samsung moved pursuant to Civil Local Rule 6-3 to shorten time on  
2 its motion to voluntarily dismiss certain claims and defenses scheduled to be tried on September 22.  
3 Prior to the court ruling on the motion to shorten time, Rambus filed its opposition to the underlying  
4 motion to dismiss. The court therefore grants Samsung's motion to shorten time.

5 The court has reviewed the moving and opposing papers with regard to the motion to  
6 dismiss. The court deems the matter appropriate for submission on the papers. See Civ. L.R. 7-1(b).

7 Samsung moves to voluntarily dismiss some of its claims and defenses pursuant to Rule  
8 41(a)(2). "As its title, 'Dismissal of Actions,' suggests, Rule 41, or at least Rule 41(a), governs  
9 dismissals of *entire actions*, not of individual claims." *Hells Canyon Preservation Council v. U.S.*  
10 *Forest Service*, 403 F.3d 683, 687 (9th Cir. 2005) (emphasis in original). "[T]he Rule does not  
11 allow for piecemeal dismissals." *Id.* Where a plaintiff wishes to withdraw individual claims, it must  
12 do so pursuant to Rule 15. *Id.*

13 In determining whether to permit a plaintiff leave to amend under Rule 15, "[p]rejudice to  
14 the opposing party is the most important factor." *Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387  
15 (9th Cir. 1990). Such prejudice exists here. Samsung's motion comes with less than a month until  
16 trial. It is enormously prejudicial to Rambus to allow Samsung to dismiss its claims now and permit  
17 it to move this trial to state court and without the existing record already developed in the almost  
18 eight weeks of trial that occurred before this court in January. This will impose both an undue delay  
19 and substantial additional costs on Rambus. *Accord AmerisourceBergen Corp. v. Dialysist West,*  
20 *Inc.*, 465 F.3d 946, 951 (9th Cir. 2006). Because the ample prejudice to Rambus justifies denying  
21 Samsung's motion to amend its complaint, the court does not reach the close questions of whether  
22 Samsung's motion is made in bad faith or with dilatory motive, which would provide separate  
23 grounds for denying a motion to amend a complaint. *See, e.g., Moore v. Kayport Package Exp.,*  
24 *Inc.*, 885 F.2d 531, 538 (9th Cir. 1989).

25 DATED: 9/5/2008

  
\_\_\_\_\_  
RONALD M. WHYTE  
United States District Judge

1 **Notice of this document has been electronically sent to counsel in: C-05-00334 and C-05-02298:**

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Counsel are responsible for distributing copies of this document to co-counsel that have not registered for e-filing under the court's CM/ECF program in each action.

**Dated:** 9/5/2008 TSF  
**Chambers of Judge Whyte**