

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-01023-REB-KMT

KW-2, LLC,

Plaintiff,

v.

ASUS COMPUTER INTERNATIONAL, and
ASUSTEK COMPUTER, INC.,

Defendants.

Civil Action No. 15-cv-01024-WJM-MJW

KW-2, LLC,

Plaintiff,

v.

HEWLETT-PACKARD COMPANY,

Defendant.

Civil Action No. 1:15-cv-01025-RM-CBS

KW-2, LLC,

Plaintiff,

v.

DELL INC.,

Defendant.

ORDER GRANTING MOTION TO CONSOLIDATE

Blackburn, J.

This matter is before me on the parties' **Joint Motion To Consolidate Cases**

[#30],¹ filed August 6, 2015. The parties seek to consolidate Civil Action No. 15-cv-01024-WJM-MJW and Civil Action No. 15-cv-01025-RM-CBS with Civil Action No. 15-cv-01203-REB-KMT for the purpose of pretrial proceedings only. As the district judge to whom the oldest numbered case involved in the proposed consolidation is assigned for trial, the issue whether to consolidate these matters falls to me for determination. **See D.C.COLO.LCivR 42.1.** I grant the motion and consolidate these cases for pretrial management.

The determination whether to consolidate cases is governed by Rule 42(a) of the Federal Rules of Civil Procedure, which provides, pertinently:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

FED. R. Civ. P. 42(a).² This rule allows the court "to decide how cases on its docket are to be tried so that the business of the court may be dispatched with expedition and economy while providing justice to the parties." ***Breaux v. American Family Mutual Insurance Co.***, 220 F.R.D. 366, 367 (D. Colo. 2004) (quoting 9 C. WRIGHT & A. MILLER, **FEDERAL PRACTICE AND PROCEDURE** § 2381 at 427 (2nd ed. 1995)). The decision

¹ "[#30]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

² As the district judge to whom the oldest numbered case involved in the proposed consolidation is assigned for trial, the question whether to consolidate these matters falls to me for determination. **See D.C.COLO.LCivR 42.1.**

whether to consolidate cases is committed to my sound discretion. *Shump v. Balka*, 574 F.2d 1341, 1344 (10th Cir. 1978).

As appears from the joint motion, the three cases involve common issues of law and fact related to the underlying patents-in-suit, including enforceability, validity, and claims construction. Likewise, defendants suggest they will raise a common challenge to plaintiff's standing to bring suit on the patent. In addition, all three cases are in the early stages of litigation, and consolidation for pretrial management can reasonably be anticipated to allow the parties to coordinate their efforts and achieve some economies in the prosecution of their claims and defenses. To the extent issues unique to an individual case may arise, proceedings can be adjusted readily to address those unique issues.

THEREFORE, IT IS ORDERED as follows:

1. That the parties' **Joint Motion To Consolidate Cases** [#30], filed August 6, 2015, is granted;
2. That under Fed. R. Civ. P. 42(a)(2), and D.C.COLO.LCivR 42.1, Civil Action No. 15-cv-01024-WJM-MJW and Civil Action No. 15-cv-01025-RM-CBS are consolidated with Civil Action No. 15-cv-01203-REB-KMT for the purpose of pretrial management only;
3. That under D.C.COLO.LCivR 42.1, Civil Action No. 15-cv-01024-WJM-MJW and Civil Action No. 15-cv-01025-RM-CBS are reassigned to this court and to Magistrate Judge Tafoya for the purpose of pretrial management only;

4. That the three consolidated actions shall be captioned as shown below:

Civil Action No. 15-cv-01023-REB-KMT
(Consolidated with Civil Action Nos. 15-cv-01024-REB-KMT and 15-cv-01025-
REB-KMT)

KW-2, LLC,

Plaintiff,

v.

ASUS COMPUTER INTERNATIONAL, et al.

Defendants.

Dated August 17, 2015, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge