

MEMO ENDORSED

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August 1, 2022

VIA CM/ECF

Hon. Valerie E. Caproni
United States District Judge
U.S. District Court for the Southern District of New York
40 Foley Square, Room 240
New York, NY 10007

Re: *Haythe, et al. v. Samsung Electronics America, Inc.*, No. 1:22-cv-03509-VEC

Dear Judge Caproni:

We represent Defendant Samsung Electronics America, Inc. (“SEA”) in the above-referenced action. We write to request that the Court grant SEA a stay of its deadline to file a reply in support of its Motion to Compel Arbitration, Dismiss Plaintiffs’ Class Claims, and Stay All Proceedings (ECF No. 20), which reply would otherwise be due August 3, 2022. Plaintiffs do not consent to the requested stay.

The basis for the requested stay is that Plaintiffs have stated that they intend to file an amended complaint on August 3, 2022, the same day that SEA’s reply in support of its arbitration motion is due. *See* ECF No. 23 at 3. Plaintiffs are not entitled to amend as of right, because more than 21 days have passed since service of the complaint and because SEA’s motion to compel arbitration is not a responsive pleading or a Rule 12 motion. *See* Fed. R. Civ. P. 15(a)(1); *Ramasamy v. Essar Glob. Ltd.*, 825 F. Supp. 2d 466, 467 n.1 (S.D.N.Y. 2011). Nor should the Court grant leave to amend, as any amendment would be futile in light of SEA’s pending arbitration motion.

Nonetheless, in light of Plaintiffs’ stated plans, a stay of SEA’s reply would promote the efficient progress of this litigation. If Plaintiffs are permitted to proceed with their new complaint, SEA may wish to address that new complaint in its reply in support of arbitration, or the Court may wish SEA to file a renewed arbitration motion. If the Court denies Plaintiffs’ proposed amendment, SEA would prepare a reply in support of its current arbitration motion on a new schedule set by the Court.

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We thank the Court for its attention in this matter.

Respectfully submitted,

/s Arthur E. Brown

Arthur E. Brown

cc : Neal J. Deckant, Esq.
Frederick J. Klorczyk, Esq.
Max S. Roberts, Esq.

(by CM/ECF)

The deadline for Defendant's reply in support of its motion to compel arbitration is extended to **August 10, 2022**.

SO ORDERED.



Date: 8/2/2022

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE