IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CHARGE LION, LLC,	§	
	§	
Plaintiff,	§	
	§	**CASE NO. 6:12-CV-769-LED-JDL**
	§	
v.	§	
	§	**JURY TRIAL DEMANDED**
SEMTECH CORPORATION	§	
	§	
Defendant.	§	
	§	

ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. The Report and Recommendation of the Magistrate Judge (Doc. No. 83) has been presented for consideration. The Magistrate Judge recommends denying Plaintiff Charge Lion, LLC's ("Charge Lion") Opposed Motion to Dismiss Defendant Linear Technology Corporation ("Linear") (Doc. No. 80). Charge Lion has filed objections (Doc. No. 85), arguing that the "Court [] lost its subject matter jurisdiction [because] any actual controversy has been vacated by Plaintiff Charge Lion's covenant not to sue for patent infringement." Doc. No. 85 at 1.

Charge Lion has apparently overlooked Linear's counterclaims for declaratory judgment of noninfringement and invalidity. *See* Doc. No. 46, Doc. No. 84 at 7 (seeking summary judgment on its counterclaim for declaratory judgment of noninfringment). Moreover, the mere fact Linear filed a Motion seeking summary judgment of noninfringement as to ***all*** of Charge Lion's claims (Doc. No. 84), including "the unspecified acts contained within the 'by, among other things' language in the Amended Complaint," on the same day Charge Lion filed its

Objections (Doc. No. 83) belies Charge Lion's position that the Court now somehow lacks subject matter jurisdiction. *See* Doc. No. 84 at 6.

The Court encourages Charge Lion and Linear to pursue development of settlement language that will finally resolve this dispute via mediation, however, in the absence of a finding of fact or law there is nothing for the Court to enforce. Having carefully considered the Parties' arguments, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court adopts the Report and Recommendation of the United States Magistrate Judge as the findings of this Court.

Accordingly, it is hereby **ORDERED** that Plaintiff's Opposed Motion to Dismiss be **DENIED**.

So ORDERED and SIGNED this 27th day of November, 2013.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE