

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

PHILLIP M. ADAMS & ASSOCIATES,
LLC, a Utah Limited Liability Company,

Plaintiff,

vs.

WINBOND ELECTRONICS
CORPORATION, ASUS COMPUTER
INTERNATIONAL, MICRO-STAR
INTERNATIONAL CORP., LTD, AND
MSI COMPUTER CORP., et al.,

Defendants.

MEMORANDUM DECISION AND
ORDER GRANTING ASUS'
MOTION TO BIFURCATE ITE-
RELATED CLAIMS AND DENYING
PENDING MOTIONS WITHOUT
PREJUDICE

Case No. 1:05-CV-64 TS

ASUS moves to bifurcate Plaintiff's ITE-related claims until the issues relating to ITE's default are resolved. Because ITE did not move to set aside its default until fairly recently, if its default is set aside it will not participate in the September trial. If the default is not set aside, the issue of damages may require further proceedings. ASUS argues that Plaintiff's claims against it based on the ITE chips should also be bifurcated because it has not had an opportunity to conduct discovery with ITE.

Plaintiff does not object to the bifurcation of its ITE-related claims but clarifies that

its acquiescence to bifurcation in no way affects its position that ITE's default should not be set aside, that it is entitled to a default judgment against ITE, or any of Plaintiff's rights, claims, or defenses. MSI, the other party affected by Plaintiff's ITE-related claims, has not responded in the time set by the Court.¹

Pursuant to the Court's direction, ASUS submitted a list of pending matters that would be affected by bifurcation.² Plaintiff does not object to that list.

Pursuant to Fed. R. Civ. P. 42(b), the Court finds that a separate trial of Plaintiff's ITE-related claims is in the interest of avoiding delay and expense. The Court further finds that it is appropriate to deny Defendants' Motion for Summary Judgment of Noninfringement for Use of ITE Chips without prejudice at this time. The Motion was filed by Sony, and joined without a substantive brief by MSI. MSI may renew the Motion in the context of its own position prior to the bifurcated trial. It is therefore

ORDERED that ASUS' Unopposed Motion to Bifurcate Trials (Docket No. 1437) is GRANTED. It is further


¹Docket No. 1433 (setting time for any responses to ASUS' Motion to Bifurcate).

²Docket No. 1531.

ORDERED that Defendant's Motion for Summary Judgment of Noninfringement for Use of ITE Chips (Docket No. 1064) and MSI's joinder (Docket No. 1078) are DENIED without prejudice.

DATED August 16, 2010.

BY THE COURT:



TED STEWART
United States District Judge