

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

SIEMENS INDUSTRY SOFTWARE INC.))	
Plaintiff,))	
v.))	C.A. No. 22-1569-CFC
BELL SEMICONDUCTOR, LLC))	DEMAND FOR JURY TRIAL
Defendant.))	

**SIEMENS INDUSTRY SOFTWARE INC.’S
MOTION FOR PRELIMINARY INJUNCTION**

Pending before the Court in a parallel action is a Motion for Preliminary Injunction filed by Synopsys, Inc. (“Synopsys”) and Cadence Design Systems, Inc., (“Cadence”) against Bell Semiconductor LLC (“BSLCC”) to enjoin BSLCC from pursuing litigation in multiple forums against their customers. Case No. 1:22-cv-1512, D.I. 8. Plaintiff Siemens Industry Software Inc. (“Siemens”) is similarly situated to Synopsys and Cadence as BSLCC has sued multiple Siemens customers in several district courts and in the International Trade Commission (ITC) concerning the same BSLCC patents in the subject action. Accordingly, for the same reasons described in Synopsys and Cadence’s Motion for Preliminary Injunction and brief supporting the same¹, as well as the additional reasons set forth herein, Siemens respectfully moves this Court to enter the same relief: a

¹ See Case No. 1:22-cv-1512, D.I. 8, 9.

preliminary injunction under Fed. R. Civ. P. 65 barring BSLCC from proceeding with any U.S. District Court lawsuits and any U.S. International Trade Commission investigations in which BSLCC alleges infringement against Siemens's software tools or Siemens' customers' use of Siemens' software tools (the "Customer Suits").²

Collectively, the Customer Suits allege infringement by Siemens' customers of U.S. Patent Nos. 6,436,807; 7,007,259; 7,149,989; 7,231,626; 7,260,803; and 7,396,760 (collectively, the "Asserted Patents"), the same patents subject of Synopsis and Cadence's Motion. While BSLCC's specific allegations of infringement against Siemens' products lack detail, the Customer Suits allege that Siemens' software tools, and/or Siemens' customers' use of Siemens' software tools infringe the Asserted Patents. The Court can and should enjoin further action by BSLCC in the Customer Suits to effectuate the "customer-suit exception," which favors first resolving Siemens' declaratory judgment case that will dispose of or, at the very least, significantly streamline the Customer Suits.³ See Synopsis

² Pursuant to D. Del. LR 7.1.1, undersigned counsel states that counsel for Plaintiff has conferred with counsel for BSLCC and that BSLCC opposes the relief sought in this motion.

³ Siemens seeks a declaration that use of its software tools does not infringe the Asserted Patents. If Siemens prevails, it will resolve the major issue in all Customer Suits. See, e.g., *Spread Spectrum Screening LLC v. Eastman Kodak Co.*, 657 F.3d 1349, 1358 (Fed. Cir. 2011) ("the manufacturer's case need only have the potential to resolve the 'major issues' concerning the claims against the customer — not every issue — in order to justify a stay of the customer suits.") (citing *Katz v. Lear Siegler, Inc.*, 909 F.2d 1459, 1464 (Fed. Cir. 1990)).

and Cadence Brief in Support of Their Motion for Preliminary Injunction, Case No. 1:22-cv-1512, D.I. 9 at 7–22 (analyzing basis for injunction under the customer suit exception, which is incorporated herein by reference).

The traditional four preliminary injunction factors also support Siemens’ requested relief:

- Siemens is likely to succeed in showing the customer-suit exception gives precedence to its declaratory judgment suit because the customers are the end users of Siemens’ software tools accused by BSLLC. Evans Decl. ¶¶ 3, 5-7; see Case No. 1:22-cv-1512, D.I. 9 at 13–17; *Decapolis Sys., LLC v. Univ. Health Sys. Servs. of Texas, Inc.*, No. 21-1252, 2022 WL 2373705, at *2–3 (W.D. Tex. June 30, 2022) (customer suit exception applies where defendants not involved in the creation or development of the accused technology, but instead use it); *Lighthouse Consulting Grp., LLC v. Trust Bank*, No. 19-340, 2020 WL 6781977, at *2 (E.D. Tex. Apr. 7, 2020) (customers were “equivalent” to resellers where they neither “developed [n]or created the mobile deposit technology at issue” but instead “license[d] that technology” from the developer thereof).
- Absent injunctive relief, Siemens will be irreparably harmed because: 1) Siemens’ customers have requested defense and/or indemnity from

Siemens (Evans Decl. ¶¶ 6-9), and Siemens’ interests’ could be litigated in different lawsuits and in ITC investigations simultaneously across all of the Customer Suits, *see* Case No. 1:22-cv-1512, D.I. 9 at 17–18; *Finisar Corp. v. Cheetah Omni, LLC*, No. 11-cv-15625, 2012 WL 12931575, at *4 (E.D. Mich. Nov. 19, 2012) (“Plaintiff has demonstrated that it has suffered irreparable injury by being forced to indemnify its customers in the [customer suit].”); *Gen. Protecht Grp., Inc. v. Leviton Mfg. Co.*, 651 F.3d 1355, 1363-64 (Fed. Cir. 2011) (recognizing that forcing a party to litigate in the ITC and district courts simultaneously notwithstanding forum-selection clause constituted irreparable harm); and 2) BSLLC’s allegations are causing harm to Siemens’ and its relationships with its customers. Evans Decl. ¶¶ 8-14; *see* Case No. 1:22-cv-1512, D.I. 9 at 18–19; *CogniPower LLC v. Fantasia Trading, LLC*, No. 19-2293, 2021 WL 327389, at *1 (D. Del. Feb. 1, 2021) (allowing manufacturer to intervene in patent suit in part because a “judgment against [manufacturer’s customer] would likely dissuade existing and potential [manufacturer’s] customers from buying [the accused product]”); *Celsis In Vitro, Inc. v. CellzDirect, Inc.*, 664 F.3d 922, 930 (Fed. Cir. 2012) (“loss of goodwill” constitutes irreparable harm);

- Finisar*, 2012 WL 12931575, at *4 (potential disputes with customers over indemnification requests constituted irreparable harm).
- The balance of hardships favors Siemens because BSLLC is a non-practicing entity and can be adequately compensated with money damages if any of the claims of the Asserted Patents are found valid and infringed. *See* Case No. 1:22-cv-1512, D.I. 9 at 20; *ActiveVideo Networks, Inc. v. Verizon Commc 'ns, Inc.*, 694 F.3d 1312, 1338 (Fed. Cir. 2012) (readily quantifiable infringement does not cause irreparable harm); *Cordance Corp. v. Amazon.com, Inc.*, 730 F. Supp. 2d 333, 339–41 (D. Del. 2010) (no irreparable harm where parties were not direct competitors); *Amgen Inc. v. Hospira, Inc.*, No. 20-0561, 2021 WL 65065, at *2 (D. Del. Jan. 7, 2021) (staying co-pending patent case in part because patentee did not demonstrate delay would cause it undue prejudice).
 - Injunctive relief is in the public interest because it will: 1) alleviate the strain on the judicial system caused by BSLLC's Customer Suits, *see* Case No. 1:22-cv-1512, D.I. 9 at 21; *In re Rolls Royce Corp.*, 775 F.3d 671, 679 (5th Cir. 2014) (noting the “valued public interest in judicial economy”); 2) save Siemens' customers litigation and lost productivity costs, which savings can be redirected to employing workers and

investing in technology that benefits the public, *see* Case No. 1:22-cv-1512, D.I. 9 at 21–22; and 3) avoid inconsistent decisions on whether the Asserted Patents are infringed. *See* Case No. 1:22-cv-1512, D.I. 9 at 22; *Lab. Corp. of Am. Holdings v. Chiron Corp.*, 384 F.3d 1326, 1330 (Fed. Cir. 2004) (courts value uniformity in patent law); *Georgine v. Amchem Prods.*, No. 93-0215, 1995 U.S. Dist. LEXIS 13802, at *24 (E.D. Pa. Sep. 18, 1995) (granting injunction based on, *inter alia*, public benefit derived from consistent litigation results).

Accordingly, Siemens respectfully requests that the Court grant a preliminary injunction, and enter an order substantially similar to the proposed order attached hereto, prohibiting BSLLC from proceeding with the Customer Suits pending resolution of this declaratory judgment action.

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CERTIFICATE OF SERVICE

I, Daniel A. O'Brien, hereby certify that on this 29th day of December, 2022, a copy of the foregoing document was electronically filed with the court and served via CM/ECF, on parties with counsel of record identified on the Court's docket.

/s/ Daniel A. O'Brien

Daniel A. O'Brien (No. 4897)