

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE: ELONEX PHASE II
POWER MANAGEMENT LITIGATION :
: C.A. Nos.: 01-082 GMS; 01-083 GMS
: 01-084 GMS; 01-085 GMS
: 01-086 GMS; 01-087 GMS
: 01-088 GMS; 01-089 GMS
: 01-090 GMS; 01-091 GMS
: 01-092 GMS; 01-093 GMS
: 01-095 GMS; 01-096 GMS
: 01-097 GMS; 01-098 GMS
: 01-099 GMS; 01-100 GMS
: 01-101 GMS; 01-102 GMS
: 01-103 GMS; 01-104 GMS

MEMORANDUM AND ORDER

I. INTRODUCTION

On February 13, 2001, the plaintiffs, Elonex I.P. Holdings, Ltd. and EIP Licensing, B.V. (collectively “Elonex”), filed this action against certain companies that manufacture and sell computer systems or computer monitors.¹ The complaint alleges infringement of U.S. Patent Numbers 5,389,952 (“ the ‘952 patent”), 5,648,799 (“the ‘799 patent”), and 5,649,719 (“the ‘719 patent”). The lawsuit relates to technology that concerns power management in computer monitors.

Presently before the court is Elonex’s motion seeking to enforce its settlement with Compal Electronics, Inc. (“Compal”). For the following reasons, the court will grant this motion.

II. STANDARD OF REVIEW

A district court has jurisdiction to enforce a settlement agreement entered into by litigants

¹In December 1998, Elonex I.P. Holdings Ltd. and Elonex plc filed a related lawsuit against another group of defendants on substantially the same grounds (“Elonex Phase I litigation”).

in a case pending before it.² *See Hobbs & Co v. American Investors Mgt., Inc.*, 576 F.2d 29, 33 (3d Cir. 1978). Motions for enforcement of settlement agreements resemble motions for summary judgment. *See Tiernan v. Devoe*, 923 F.2d 1024, 1031-32 (3d Cir. 1991). Therefore, the court must employ a similar standard of review. *See id.* The court must treat all the non-movant's assertions as true, and "when these assertions conflict with those of the movant, the former must receive the benefit of the doubt." *Id.* at 1032. Accordingly, "[c]ourts should not summarily enforce purported settlement agreements, in the absence of an evidentiary hearing, where material facts concerning the existence or terms of an agreement to settle are in dispute." *The Intellisource Group, Inc. v. Williams*, 1999 U.S. Dist. LEXIS 12446, at *10 (D. Del. Aug. 11, 1999).

III. BACKGROUND

Elonex and Compal entered into a Settlement Agreement on June 6, 2002. On the same day, Elonex and Compal also entered into a Release Agreement which was attached as Exhibit 1 to the Settlement Agreement. The Settlement Agreement provides that "a material breach of the Release Agreement will constitute a breach of th[e] Settlement Agreement."

The Release Agreement requires Compal to make the following payments: (1) \$600,000 within three days of the date of the Release Agreement; (2) \$500,000 by January 7, 2003; and (3) \$2,000,000 in quarterly \$250,000 product credits (or, in certain circumstances, in cash) between June 2002 and March 2004. According to Annex B of the Release Agreement, however, Compal could reduce the amount of its January 7, 2003 payment by obtaining specifically defined "Release Credits." Release Credits in varying amounts were available to Compal if certain other Taiwanese

²By stipulation entered on August 27, 2002, the court dismissed the case with prejudice, but expressly retained jurisdiction to enforce the settlement.

defendant groups “enter[ed] into a written settlement agreement, making provision for a Stipulation of Dismissal in respect of the actions noted therein, on or before December 31, 2002.” Annex B also provides that Elonex will not “delay or cause to be delayed a written settlement agreement with a company . . . for the purpose of denying Compal entitlement to a Release Credit.”

A. The Acer Defendants’ Settlement

At an October 31, 2002 mediation with Magistrate Judge Thyng, Elonex and the Acer defendants reached a tentative settlement of Civil Action No. 01-96 (GMS). On November 11, 2002, the court approved a Stipulated Order Regarding Pretrial Scheduling. This stipulation stated that the parties had reached a “tentative settlement of their dispute,” but needed “time to draft the precise terms of, and sign, a final written settlement agreement.” The stipulated order extended by twenty-one days the parties’ pretrial submission obligations, but did not affect “the dates for the pretrial conference and the commencement of trial that were set forth in th[e] court’s June 21, 2002 Scheduling Order.”

On November 27 and December 12, 2002, the court approved the parties’ Second and Third Stipulated Orders Regarding Pretrial Scheduling. These orders, which are substantially similar to the November 11, 2002 stipulation, extended pretrial deadlines by fifteen days while still maintaining the 2003 pretrial conference and trial dates. Both orders reiterated that the parties had “reached a tentative settlement” and had been “work[ing] diligently to reach agreement regarding the precise terms of a final written settlement agreement,” but “need[ed] additional time to do so.”

On January 8 and 21, 2003, the court approved the parties’ Fourth and Fifth Stipulated Orders Regarding Pretrial Scheduling. These orders again stated that the parties had “reached a tentative settlement” and were “continuing to work diligently to reach an agreement regarding the precise

terms of a final written settlement agreement, and “need[ed] additional time to do so.”

On January 29, 2003, Elonex and the Acer defendants entered into a written settlement agreement with a draft stipulation of dismissal. On February 12, 2003, the parties filed a Sixth Stipulated Order Regarding Pretrial Scheduling, which confirmed that Elonex and the Acer defendants had “signed a final written settlement agreement.”

B. Compal’s Alleged Breach³

As a result of the Release Credit created by Elonex’s November 14, 2002 written settlement agreement with the Envision Peripherals defendants, the Compal defendants were required under Paragraph 3.1(b) of the Release Agreement to pay Elonex \$250,000 on January 7, 2003. The Compal defendants have failed to make this payment.

On February 25, 2003, Compal’s counsel wrote to Elonex claiming that Compal was entitled to an additional Release Credit of \$250,000 based on Elonex’s filing of “several documents with the court referencing a settlement between Elonex and the Acer/BenQ defendants reached on or before October 31, 2002.” On March 19, 2003, Elonex demanded the \$250,000 payment due under the Release Agreement and noted that requesting “additional time” into January 2003 to finalize a “tentative settlement” did not constitute “enter[ing] into a written settlement agreement” before December 31, 2002, as required by the Settlement and Release Agreements. On April 1, 2003, Compal again refused to pay and accused Elonex of “dragg[ing] out for months the execution of a final settlement agreement so that it might wrongfully deny Compal a Release Credit.”

³Prior to this alleged breach, Elonex was also forced to seek court intervention when Compal failed to make the initial \$600,000 payment due under Paragraph 3.1(a) of the Release Agreement and refused to acknowledge the first \$250,000 product credit due Elonex under Paragraph 3.1(c).

IV. DISCUSSION

A. The Enforceability of the Settlement Agreement

Compal argues that Elonex breached the Settlement Agreement, and its obligation to act in good faith, by wrongfully delaying the written Acer/BenQ settlement agreement. Compal further requests permission to take limited discovery into the issue of what caused the three month delay. For the following reasons, however, the court will deny Compal's discovery request and enforce the Settlement Agreement.

The Elonex/Compal Agreement specifically states that Elonex and Acer must enter into a "written settlement agreement" requiring dismissal of the case prior to December 31, 2002 before the Acer Release Credit is triggered. Because no such agreement existed until January 29, 2003, Annex B to the Release Agreement precludes the use of a Release Credit for the Acer settlement. Compal's refusal to pay Elonex \$250,000 on January 7, 2003 was, therefore, a material breach of Paragraph 3.1(b) of the Release Agreement, and under Paragraph 2 of the Settlement Agreement, "a material breach of the Release Agreement will constitute a breach of this Settlement Agreement."

Although Compal argues that Elonex acted in bad faith by unfairly delaying the documentation of that settlement, it has failed to adduce even a scintilla of evidence in support of this contention. Rather, it argues that "an inference as to Elonex's improper purpose can be drawn solely from the inordinate length of time it took to document the Acer Settlement, particularly in light of its affirmative duty not to delay." Compal's Answering Brief at 12. The court finds, however, that, as a matter of law, taking three months to document a settlement and patent license agreement is not unreasonable on its face. Indeed, it took Elonex and Compal approximately three months from the date of a meeting of the minds to the execution of the written Elonex/Compal

Settlement Agreement.

Accordingly, because Compal has shown no factual basis for its allegations, the court will not permit it to engage in a fishing expedition into sensitive court-mediated settlement negotiations. *See e.g. Zuk v. E. Pennsylvania Psychiatric Inst.*, 103 F.3d 294, 299 (3d Cir. 1996) (noting that the party seeking discovery must have some basis in fact for the action). Thus, the court will deny Compal's motion for additional discovery. It further concludes that Elonex is entitled to the entry of judgment against Compal in the amount of \$250,000, plus interest.

B. Attorneys' Fees

In its motion for enforcement, Elonex requests that the court award it the attorneys' fees it expended as a result of having to bring this motion. For the following reasons, the court will do so.

The court has inherent discretionary power to award attorneys' fees "when a party has acted in bad faith, vexatiously, wantonly, or for oppressive reasons." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45-46 (1991). "[R]efusal to abide by the terms of a settlement agreement can constitute bad faith, entitling the wronged party to attorneys' fees." *Interspiro USA, Inc. v. Figgie Int'l, Inc.*, 815 F. Supp. 1488, 1522 (D. Del. 1993) (citing *Hobbs & Co. v. American Investors Management, Inc.*, 576, F.2d 29, 35-36 (3d Cir. 1978).

In the present case, Compal refused to comply with its initial obligations, specifically the \$600,000 cash payment and the first \$250,000 product credit, until Elonex sought court intervention. Now Compal has refused to comply with another clear settlement obligation, forcing Elonex to seek the court's assistance yet again. As a result, Elonex has had to incur additional legal fees in a case that is ostensibly settled.

As such, the court finds that Compal's repeated attempts "at avoidance of [its] obligations

under the settlement agreement [are] both in bad faith and vexatious.” *Leonard v. University of Delaware*, 204 F. Supp. 2d 784, 789 (D. Del. 2002); *see also Interspiro*, 815 F. Supp. at 1521 (finding bad faith and awarding attorneys’ fees because “Figgie scorned the settlement agreement from the first . . .”). Compal’s reason for refusing to abide by the terms of the Settlement Agreement are frivolous, and there is no justification for its repeated failure to abide by its obligations. An award of attorneys’ fees is eminently reasonable under such circumstances.

V. CONCLUSION

For the foregoing reasons, IT IS HEREBY ORDERED that:

1. Elonex’s Motion to Enforce (D.I. 870) is GRANTED in full;
2. Elonex shall submit a reasonable fee petition within thirty (30) days of the date of this order.
3. Compal’s Motion Seeking Leave to File a Surreply (D.I. 882) is DENIED.

Dated: June 23, 2003

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE