

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

COMMISSARIAT A L'ENERGIE)	
ATOMIQUE,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 03-484-KAJ
)	
DELL COMPUTER CORPORATION;)	
SAMSUNG ELECTRONICS CO., LTD.;)	
SAMSUNG ELECTRONICS AMERICA,)	
INC.; SAMSUNG ELECTRONICS)	
CANADA, INC.; SAMSUNG)	
INTERNATIONAL, INC.; SUN)	
MICROSYSTEMS, INC.; and VIEWSONIC)	
CORPORATION,)	
)	
Defendants.)	
)	

MEMORANDUM ORDER

Presently before me is a Motion for Limited Expedited Discovery filed by plaintiff Commissariat À L'Energie Atomique ("CEA") on February 2, 2004. (Docket Item ["D.I."] 103; the "Discovery Motion".) CEA filed a Motion for Preliminary Injunction (D.I. 58; the "P.I. Motion") against defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Samsung Electronics Canada, Inc. and Samsung International, Inc. (collectively, "Samsung") on September 28, 2003, which Samsung opposed by filing an Answering Brief on January 9, 2004 (D.I. 86). CEA's Reply Brief on the P.I. Motion is due on March 19, 2004.

CEA argues that Samsung has failed to provide substantive information to support claim construction arguments advanced in its opposition to the P.I. Motion. Consequently, says CEA, limited expedited discovery is needed in order for CEA to

obtain all of the information necessary to describe how to “properly decide which of [the] competing infringement rationales is correct in law and in fact.” (D.I. 104 at 8.) CEA’s proposed written discovery consists of three interrogatories and eight document requests. (D.I. 104, Exs. A, B.) Samsung argues, *inter alia*, that the requested discovery is untimely and overbroad, especially since CEA seeks to depose two of Samsung’s technical experts, one of whom is in Korea. (D.I. 123 at 12 n.11.)

CEA’s Discovery Motion will be granted, as the limited discovery sought by CEA appears to be appropriately tailored to the issues raised by the P.I. Motion and Samsung’s response. Samsung has not shown that it will be unduly prejudiced by providing the requested discovery, and CEA has shown good cause exists to allow the discovery so that CEA can fully respond to Samsung’s opposition brief. See *Philadelphia Newspapers v. Gannett Satellite Information Network, Inc.*, 1998 U.S. Dist. LEXIS 10511 at *4 (E.D. Pa. July 15, 1998) (citing *Edudata Corp. v. Scientific Computers, Inc.*, 599 F. Supp. 1084, 1088 (D. Minn. 1984), *aff’d in part, rev’d in part on other grounds*, 746 F.2d 429 (8th Cir. 1985) (“Expedited discovery has been ordered where it would ‘better enable the court to judge the parties’ interests and respective chances for success on the merits’ at a preliminary injunction hearing.”)). I recognize the likelihood that Samsung will seek an opportunity to respond to CEA’s Reply Brief, if that brief relies on Samsung’s responses to the expedited discovery. Thus, I direct the parties to discuss an appropriate schedule for supplemental briefing, following the discovery, and to advise me of the same. To the extent that CEA wishes to depose a witness who is located overseas, CEA will be permitted to do so only if proper and

lawful arrangements for the deposition can be made within the compressed time frame required to keep this case on schedule.

Accordingly, it is hereby ORDERED that Plaintiff's Motion for Expedited Discovery (D.I. 103) is GRANTED and answers to Plaintiff's discovery requests shall be served by April 2, 2004. It is further ORDERED that the parties shall provide the court with an amended and supplemental briefing schedule immediately thereafter. The Reply Brief on the P.I. Motion need not be filed until after the answers to the expedited discovery have been served.

Kent A. Jordan
UNITED STATES DISTRICT JUDGE

March 3, 2004
Wilmington, Delaware