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

CLEAR IMAGING RESEARCH, LLC,

Plaintiff,

V.

CIVIL ACTION NO. 2:19-CV-00326-JRG

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC.,

Defendants.

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Defendants.

ORDER

Before the Court is the Joint Motion for Order Focusing Patent Claims and Prior Art (the "Motion"). (Dkt. No. 79.) Having considered the Motion, the Court is of the opinion that it should be **GRANTED-IN-PART**. As such, it is therefore **ORDERED** that:

No later than twenty-eight (28) days before the service of expert reports by the party with the burden of proof on an issue, Plaintiff shall serve an Election of Asserted Claims, which shall identify no more than five (5) asserted claims per patent and no more than a total of sixteen (16) claims. By the date set for the service of expert reports by the party with the burden of proof on an issue, Defendants shall serve an Election of Asserted Prior Art, which shall identify no more than six (6) asserted prior art references per patent and no more than a total of twenty (20) references.

For clarity, just as Plaintiff must narrow its asserted claims, Defendants must narrow their asserted prior art challenges, and each anticipation challenge and each obviousness combination or assertion shall count as a separate prior art reference for purposes of each election. Once an obviousness combination is elected, it cannot later be modified. For example, if A + B + C is elected, that combination cannot later be modified to be A + B, which would be a different



combination. Further, a prior art instrumentality (such as a device or process) and its associated references that describe that instrumentality shall count as one reference, as shall the closely related work of a single prior artist.

So ORDERED and SIGNED this 28th day of September, 2020.

RODNEY GILSTRAP

UNITED STATES DISTRICT JUDGE

