

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

HTC CORPORATION and  
HTC AMERICA, INC.

Plaintiffs

v.

INNOVATION SCIENCES, LLC,

Defendant

§  
§  
§  
§  
§  
§

Case No.: 4:20-cv-00180

**PLAINTIFF HTC CORPORATION’S OPPOSITION TO DEFENDANT INNOVATION  
SCIENCES, LLC’S MOTION TO STRIKE OR FOR ALTERNATE RELIEF**

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## I. INTRODUCTION

Defendant Innovation Sciences, LLC (“Patentee”) misstates both the facts and the law. Patentee represents to this Court that Plaintiff HTC America, Inc. deliberately consented to jurisdiction and venue in this District. In support of this representation, Patentee quotes two sentences from earlier meet and confer correspondence out of context. The full correspondence makes clear that HTC America, Inc. disputed proper venue and an amended complaint was being drafted to remove HTC America, Inc. as a declaratory judgment plaintiff. Upon learning that such an amended complaint was forthcoming, Patentee immediately filed its untimely answer without leave of court, claiming that HTC America, Inc. “consented to jurisdiction and venue in this District . . . .”

When the amended complaint was filed, Patentee filed the instant Motion to Strike or for Alternate Relief (Dkt. 48) (“Motion”), arguing that Plaintiffs HTC America, Inc. and HTC Corporation (“HTC”) could not drop a party through amendment of pleadings under Rule 15(a)—and that HTC should instead have filed a request for dismissal under Rule 41(a)(2). But Patentee’s motion conspicuously fails to cite a single case supporting this argument. Even cursory legal research shows that a “party may amend a pleading in order to add or drop parties.” 3 Moore’s Federal Practice - Civil § 15.16 (2020). Moreover, the Fifth Circuit noted less than a month ago in an en banc opinion that plaintiffs: “could have amended their complaint to excise any remaining claims *or parties* under Rule 15(a).” *Williams v. Taylor Seidenbach, Inc.*, 958 F.3d 341, 2020 U.S. App. LEXIS 14214, at \*8 (5th Cir. 2020) (en banc) (emphasis added). In short, the argument at the center of Patentee’s Motion—that parties may not be dropped under Rule 15(a)—is a failing argument. Patentee’s Motion should be denied.

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