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

HTC CORPORATION and HTC AMERICA, INC.	§	
	§	
	§	Case No.: 4:20-cv-00180
Plaintiffs	§	
v.	§	
	§	
INNOVATION SCIENCES, LLC,		
Defendant		

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

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Other Authorities

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.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.