

Judge Albright Denies Plaintiff VLSI Technology's Motion for Entry of Scheduling Order on Defendant Intel's License Defense

FEBRUARY 21, 2024

The license defense Intel is using involves a contract Intel entered into with Finjan in 2012. Under that contract, Intel purchased from Finjan a license to patents owned and controlled by Finjan and its affiliates, including affiliates it might acquire later. In 2020, Finjan merged with “an affiliate of several Fortress entities.” *VLSI Tech. LLC v. Intel Corp.*, No. 17-cv-05671-BLF, 2023 WL 9052312, at *1 (N.D. Cal. Dec. 20, 2023). Because Fortress owns VLSI, Intel argues VLSI and Finjan are affiliates, and Intel therefore has a license to all VLSI's patents.

In both this case (“*VLSI III*”) and a related case (“*VLSI I*”), in 2020, Judge Albright had prevented Intel from amending its answer to add the license defense. The Federal Circuit reversed that ruling in *VLSI I*, so the parties agreed to allow Intel to add the license defense in *VLSI III* as well. But the parties disagreed as to whether *VLSI III* should be scheduled for trial at this point.

Intel opposed entering a scheduling order because of another concurrent dispute between the parties in the Northern District of California. Intel had been permitted to raise its license defense in that case, which is now scheduled for trial on March 25, 2024. If Intel's defense is successful there, it claims collateral estoppel will obviate the need for a trial in *VLSI I* and *VLSI III*. Accordingly, Intel argued that Judge Albright should not schedule trial in *VLSI III* until after the trial in the Northern District of California.

Judge Albright agreed with Intel. In a short order, he noted the trial date set in the Northern District of California and held that the plaintiff's motion should be denied “in favor of judicial economy.”

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