

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

Stratasys, Inc.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	Case No. 2:24-cv-00644-JRG
Shenzhen Tuozhu Technology Co., Ltd., <i>et</i>	§	(Lead Case)
	§	
<i>al.,</i>	§	
	§	
<i>Defendants.</i>	§	

Stratasys, Inc.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Case No. 2:24-cv-00645-JRG
	§	(Member Case)
Shenzhen Tuozhu Technology Co., Ltd., <i>et</i>	§	
	§	
<i>al.,</i>	§	
	§	
<i>Defendants.</i>	§	

**PLAINTIFF’S UNOPPOSED MOTION TO CONSOLIDATE
CASE NO. 2:25-CV-00465-JRG WITH THE ABOVE-CAPTIONED CASES**

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I. FACTUAL BACKGROUND

On August 8, 2024, Stratasy, Inc. (“Stratasy”) filed the two above-captioned actions in this Court against Shenzhen Tuozhu Technology Co., Ltd., Shanghai Lunkuo Technology Co., Ltd., BambuLab Limited, and Tuozhu Technology Limited (collectively, the “EDTX Defendants”). *See Stratasy, Inc. v. Shenzhen Touzhu Technology Co., Ltd., et al.*, No. 2:24-cv-00644-JRG, Dkt. No. 1 (E.D. Tex. Aug. 8, 2024) (the “’644 Case”); *Stratasy, Inc. v. Shenzhen Touzhu Technology Co., Ltd., et al.*, No. 2:24-cv-00645-JRG, Dkt. No. 1 (E.D. Tex. Aug. 8, 2024) (the “’645 Case”). In the ’644 Case, Stratasy asserts that the EDTX Defendants infringe United States Patent Nos. 9,421,713; 9,592,660; 7,555,357; 9,168,698; and 10,556,381 (collectively, the “’644 Case Patents”). In the ’645 Case, Stratasy asserts that the EDTX Defendants infringe United States Patent Nos. 10,569,466; 11,167,464; 8,747,097; 11,886,774; and 8,562,324 (collectively, the “’645 Case Patents”; together with the ’644 Case Patents, the “Asserted Patents”). On October 22, 2024, this Court consolidated the ’644 Case and the ’645 Case for all pretrial issues. *See* (Dkt. No. 19).

Four months after Stratasy filed the above-captioned cases against the EDTX Defendants, those same entities—along with their wholly-owned U.S. subsidiary, BambuLab USA, Inc., (collectively, “BambuLab”)—filed a suit for declaratory judgment in the Western District of Texas (the “WDTX Case”). *BambuLab USA, Inc. et al v. Stratasy, Inc.*, No. 1:24-cv-01511-ADA, Dkt. No. 1 (W.D. Tex. Dec. 9, 2024). In the WDTX Case, BambuLab sought declaratory judgment of non-infringement of the same ten Asserted Patents brought in the above-captioned cases. *See id.*, ¶¶ 18, 22-69. The same day BambuLab filed the WDTX Case, the EDTX Defendants also moved to dismiss the above-captioned cases on the basis that BambuLab USA is a necessary and indispensable party. (Dkt. No. 38). The Court denied that motion on May 29, 2025. (Dkt. No. 53).

Shortly after the WDTX Case was filed, Stratasys moved to transfer that action to this Court. *See* WDTX Case, Dkt. No. 17 (W.D. Tex. Feb. 18, 2025). On May 2, 2025, the Western District court granted Stratasys’s motion and transferred that action to this Court. *See* WDTX Case, Dkt. No. 41 (W.D. Tex. May 2, 2025) (filed in the above-captioned cases as Dkt. No. 51-1). This transferred action is now before this Court as *BambuLab USA, Inc. et al v. Stratasys, Inc.*, No. 2:25-cv-00465-JRG (E.D. Tex.) (the “’465 Case”).

In the present motion, Stratasys seeks to consolidate the newly transferred ’465 Case with the above-captioned cases. Specifically, Stratasys requests that the Court consolidate the ’465 Case with the above-captioned cases for all purposes, including through trial, in the following manner:

- All claims, counterclaims, defenses, and responses thereto in the ’465 Case related to the ’644 Case Patents shall be consolidated with the ’644 Case.
- All claims, counterclaims, defenses, and responses thereto in the ’465 Case related to the ’645 Case Patents shall be consolidated with the ’645 Case.

The ’644 Case will remain the lead case. Defendants, as well as BambuLab USA, Inc., do not oppose this consolidation.

II. LEGAL STANDARDS

For “any civil action arising under any Act of Congress relating to patents,” 35 U.S.C. § 299(a) provides that “parties that are accused infringers may be joined in one action as defendants or counterclaim defendants, or have their actions consolidated for trial” where:

- (1) any right to relief is asserted against the parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process; and
- (2) questions of fact common to all defendants or counterclaim defendants will arise in the action.

35 U.S.C. § 299(a). The statute further provides that “[a] party that is an accused infringer may waive the limitations set forth in this section with respect to that party.” *Id.* § 299(c).

“Pursuant to Federal Rule of Civil Procedure 42(a), ‘if actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.’” *AGIS Software Dev. LLC v. Samsung Elecs. Co.*, No. 2:19-CV-00362-JRG, 2022 WL 1608045, at *2 (E.D. Tex. May 20, 2022) (quoting Federal Rule of Civil Procedure 42(a)). “This Court has broad discretion to consolidate cases under Rule 42(a).” *Id.* (citing *Luera v. M/V Alberta*, 635 F.3d 181, 194 (5th Cir. 2011); *Gentry v. Smith*, 487 F.2d 571, 581 (5th Cir. 1973)). The Court “may consolidate cases for ‘all purposes,’ including pretrial proceedings [and] trial.” *Marusak v. Sema Constr., Inc.*, No. 4:21-CV-00475-P-BP, 2021 WL 5701495, at *3 (N.D. Tex. Nov. 15, 2021) (quoting *Hall v. Hall*, 584 U.S. 59, 77 (2018)).

“In weighing whether to consolidate two actions, courts consider factors such as whether the actions are pending before the same court; whether the actions involve a common party; any risk of prejudice or confusion from consolidation; the risk of inconsistent adjudications of common factual or legal questions if the matters are tried separately; whether consolidation will reduce the time and cost of trying the cases separately; and whether the cases are at the same stage of preparation for trial.” *Arnold & Co., LLC v. David K. Young Consulting, LLC*, No. SA-13-CV-00146-DAE, 2013 WL 1411773, at *2 (W.D. Tex. Apr. 8, 2013). “In this Circuit, district judges have been urged to make good use of Rule 42(a) . . . in order to expedite the trial and eliminate unnecessary repetition and confusion.” *Gentry*, 487 F.2d at 581 (internal quotations omitted).

III. DISCUSSION

A. The Requirements of 35 U.S.C. § 299 Are Satisfied

The '465 Case is a “civil action arising under [an] Act of Congress relating to patents,” as it is a declaratory judgment action for non-infringement. *See* '465 Case, Dkt. No. 1, ¶¶ 1 (“This is an action for a declaratory judgment of noninfringement arising under the patent laws of the United States.”), 16-17 (further describing how the '465 Case arises “under the Patent Laws” of the United States). Likewise, the above-captioned cases for patent infringement are “civil action[s] arising under [an] Act of Congress relating to patents.” 35 U.S.C. § 299(a).

The claims across the cases “aris[e] out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process.” 35 U.S.C. § 299(a)(1). Specifically, the claims in all cases relate to Stratasys’s allegations of infringement against the BambuLab entities. As discussed in depth in Stratasys’s transfer motion in the '465 Case, there is nearly complete overlap between the cases. *See* '465 Case, Dkt. No. 17. For example, the '465 Case: (1) includes the exact same ten patents that are in dispute in the above-captioned cases; (2) the cases will involve the same technology, the same inventors, the same witnesses, and overlapping issues in claim construction; (3) five out of the six parties are identical across the cases; (5) the only different party (BambuLab USA) is the wholly-owned subsidiary of the EDTX Defendants; (6) the declaratory judgment claims brought by BambuLab in the '465 Case (save BambuLab USA) are the mirror images of Stratasys’s infringement claims in the above-captioned cases; and (7) much of the proof adduced in the cases will likely be identical. *See* '465 Case, Dkt. No. 30 at 2. Put simply, the cases “share an aggregate of operative facts.” *In re EMC Corp.*, 677 F.3d 1351, 1359 (Fed. Cir. 2012) (discussing joinder under Federal Rule of Civil Procedure 20).

BambuLab has also represented that the claims in the '465 Case arise out of the same transactions and occurrences as the claims in the above-captioned cases. Specifically, in the above-captioned cases, the EDTX Defendants filed a motion representing that BambuLab USA is a necessary and indispensable party to the claims brought by Stratasy's against the EDTX Defendants. (Dkt. No. 38). In the '465 Case, BambuLab further represented that "BambuLab USA is responsible for importing and selling the BambuLab line of products in the United States." '465 Case, Dkt. No. 1, ¶5.

Upon review of the parties' arguments, the Western District Court found that "the claims proceeding in [the '465 Case] and those in the EDTX case are the same" and that "the EDTX case and the ['465 Case] will involve the same technology, inventors, witnesses, and overlapping issues in claim construction, as well as substantial overlap in the parties and remedies." '465 Case, Dkt. No. 41 at 4. In short, the claims across the cases arise "out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process." 35 U.S.C. § 299(a)(1). For these same reasons, "questions of fact common to all defendants or counterclaim defendants will arise in the action." 35 U.S.C. § 299(a)(2). Thus, the requirements of 35 U.S.C. § 299 are satisfied.¹

B. The Factors Weigh in Favor of Consolidation

With 35 U.S.C. § 299 satisfied, it is in the Court's "very broad discretion" to "decid[e] whether or not to consolidate." *Core Wireless Licensing S.A.R.L. v. LG Elecs. Inc.*, No. 2:14-CV-911-JRG-RSP, 2015 WL 11120719, at *1 (E.D. Tex. July 1, 2015) (quoting *Frazier v. Garrison I.S.D.*, 980 F.2d 1514, 1532 (5th Cir. 1993)). Consolidation for all purposes is warranted in these

¹ As an independent basis, BambuLab's non-opposition to this motion functions as "waive[r] [of] the limitations set forth in [Section 299]." 35 U.S.C. § 299(c).

circumstances to “avoid unnecessary costs [and] delay” and “to promote the administration of justice.” *Gentry*, 487 F.2d at 581 (internal quotation omitted).

“In weighing whether to consolidate two actions, courts consider factors such as [1] whether the actions are pending before the same court; [2] whether the actions involve a common party; [3] any risk of prejudice or confusion from consolidation; [4] the risk of inconsistent adjudications of common factual or legal questions if the matters are tried separately; [5] whether consolidation will reduce the time and cost of trying the cases separately; and [6] whether the cases are at the same stage of preparation for trial.” *Arnold & Co.*, 2013 WL 1411773, at *2. Here, all six factors weigh in favor of consolidation.

First, the above-captioned cases and the ’465 Case are all pending before this Court. Thus, this factor favors consolidation.

Second, the actions involve not only “a common party” but almost identical parties, with the only difference being that the ’465 Case also includes BambuLab USA—the wholly-owned subsidiary of defendant Shenzhen Tuozhu Technology Co., Ltd. *See* (Dkt. No. 38 at 2); *MSPBO, LLC v. Adidas N. Am., Inc.*, No. 13-CV-02287-PAB-KMT, 2014 WL 349102, at *1-2 (D. Colo. Jan. 30, 2014) (granting unopposed motion to consolidate for “all purposes” two infringement actions concerning the same patent, where the defendant in one of the actions supplied the main accused infringing component used by the defendant in the second action—further noting that “Defendants in both cases are represented by several of the same attorneys,” as is the case here). Thus, this factor also favors consolidation.

Third, there is no risk of prejudice or confusion from consolidation. The consolidation of the ’465 Case with the above-captioned cases will place it on the already existing case schedule of those cases, eliminating any potential prejudice or confusion that might occur if it proceeded on a

separate track. Furthermore, BambuLab does not oppose this consolidation. Thus, this factor also favors consolidation.

Fourth, given that the cases involve the exact same accused products and Asserted Patents, there is a high risk for inconsistent adjudications of common factual or legal questions if the matters are tried separately. *See, e.g., Marusak*, 2021 WL 5701495, at *4 (“separate trials could entail separate juries making inconsistent findings related to the common questions”). Thus, this factor also favors consolidation.

Fifth, consolidation will greatly reduce the time and cost of trying the cases separately, as it will eliminate duplicative discovery, duplicative Markman briefing and adjudication, duplicative pretrial efforts by both the parties and the Court, as well as the time and monetary expenditures involved with a second trial. Thus, this factor also favors consolidation.

Sixth, the cases are both at roughly the same stage of preparation for trial (i.e., fact discovery prior to claim construction). *See Marusak*, 2021 WL 5701495, at *4 (finding that “both [cases] are in the pre-trial stages” where discovery had not yet been completed, even though one case was subject to a scheduling order but the other was not). Thus, this factor also favors consolidation.

All the factors considered by courts weigh in favor of consolidation. As many courts have found under similar circumstances, consolidation of the cases is warranted. *See, e.g., Innovative Automation, LLC v. Audio Video & Video Labs, Inc.*, No. 6:11-CV-234-LED-JDL, 2012 WL 10816848, at *14 (E.D. Tex. May 30, 2012) (consolidating cases involving the same plaintiff, same patent, and overlapping products); *Innovation Scis., LLC v. HTC Corp.*, No. 4:19-CV-00752, 2020 WL 2320056, at *5 (E.D. Tex. May 11, 2020) (finding that “consolidation of these two actions—both involving alleged infringement of the same three patents—will avoid the

unnecessary cost of empaneling two juries and requiring both juries to learn the technology at issue without prejudicing either party”); *Online Res. Corp. v. Joao Bock Transaction Sys., LLC*, No. 8:13-CV-231, 2013 WL 5815775, at *2 (D. Neb. Oct. 29, 2013) (granting accused infringer’s motion to consolidate transferred infringement suit and declaratory judgment action for “all purposes”); *Ho Keung Tse v. Apple, Inc.*, No. C 12-02653 SBA, 2013 WL 451639, at *4 (N.D. Cal. Feb. 5, 2013) (granting accused infringer’s motion to consolidate a transferred case with an infringement case pending in the forum because the two actions involved one of the same accused infringers, the same patentee, the same patent, and the same underlying accused technology); *Lincoln Nat. Life Ins. Co. v. Transamerica Fin. Life Ins. Co.*, No. 1:04-CV-396-TS, 2007 WL 2029354, at *3 (N.D. Ind. July 9, 2007) (granting patentee’s motion to consolidate two infringement actions asserting the same patent against sister corporations); *Ovadia v. Top Ten Jewelry Corp.*, No. 04-CIV-2690-RJH-MHD, 2005 WL 1337792, at *1 (S.D.N.Y. June 6, 2005) (ordering consolidation for all purposes of two infringement actions asserting the same five patents in each action where, although the actions involved different defendant corporations, each defendant corporation was owned by the same entities—further concluding that “[c]onsolidation is particularly appropriate where, as in this case, the complaints contain nearly identical allegations, involve many of the same parties, and would not prejudice the plaintiff(s)”).

IV. CONCLUSION

Stratasys respectfully requests that the Court grant this unopposed motion and consolidate the ’465 Case with the above-captioned cases for all purposes, including through trial, in the following manner: (1) all claims, counterclaims, defenses, and responses thereto in the ’465 Case related to the ’644 Case Patents shall be consolidated with the ’644 Case; (2) all claims, counterclaims, defenses, and responses thereto in the ’465 Case related to the ’645 Case Patents shall be consolidated with the ’645 Case.

Dated: May 30, 2025

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I hereby certify that, pursuant to Local Rule CV-7, Kevin Meek, counsel for Plaintiff, has met and conferred with David Barkan, counsel for Defendants, regarding the above motion in a call on May 29, 2025. During that call, it was confirmed that Defendants would not oppose the motion.

/s/ Kevin J. Meek

Kevin J. Meek

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed with the Clerk of Court using the CM/ECF filing system, which will generate and send an e-mail notification of said filing to all counsel of record, on this the 30th day of May, 2025.

/s/ Kevin J. Meek

Kevin J. Meek

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

Stratasys, Inc.,	§	
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<i>Plaintiff,</i>	§	
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v.	§	
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Shenzhen Tuozhu Technology Co., Ltd., <i>et</i>	§	(Lead Case)
	§	
<i>al.,</i>	§	
	§	
<i>Defendants.</i>	§	

Stratasys, Inc.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Case No. 2:24-cv-00645-JRG
	§	(Member Case)
Shenzhen Tuozhu Technology Co., Ltd., <i>et</i>	§	
	§	
<i>al.,</i>	§	
	§	
<i>Defendants.</i>	§	

ORDER

Before the Court is Plaintiff Stratasys Inc.’s (“Plaintiff”) Unopposed Motion to Consolidate Case No. 2:25-cv-00465-JRG with the Above-Captioned Cases (the “Unopposed Motion”). (Dkt. No. 54). In the Unopposed Motion, Plaintiff seeks to consolidate Case No. 2:25-cv-00465-JRG (the “’465 Case”) with the above-captioned cases. (*Id.* at 2, 8). Specifically, Plaintiff requests that the Court consolidate the ’465 Case with the above-captioned cases for all purposes, including through trial, in the following manner:

- All claims, counterclaims, defenses, and responses thereto in the '465 Case related to the United States Patent Nos. 9,421,713; 9,592,660; 7,555,357; 9,168,698; and 10,556,381 (collectively, the "'644 Case Patents") shall be consolidated with Case No. 2:24-cv-00644-JRG.
- All claims, counterclaims, defenses, and responses thereto in the '465 Case related to the United States Patent Nos. 10,569,466; 11,167,464; 8,747,097; 11,886,774; and 8,562,324 (collectively, the "'645 Case Patents") shall be consolidated with Case No. 2:24-cv-00645-JRG.

(*Id.* at 2). Plaintiff further informs the Court that Defendants Shenzhen Tuozhu Technology Co., Ltd., Shanghai Lunkuo Technology Co., Ltd., Bambulab Limited, and Tuozhu Technology Limited, as well as BambuLab USA, Inc., (collectively, "BambuLab") do not oppose the requested relief. (*Id.*).

Having considered the Unopposed Motion, the Court finds that it should be and hereby is **GRANTED**. It is therefore **ORDERED** that all claims, counterclaims, defenses, and responses thereto in the '465 Case related to the '644 Case Patents shall be consolidated with Case No. 2:24-cv-00644-JRG for all purposes, including through trial. It is further **ORDERED** that all claims, counterclaims, defenses, and responses thereto in the '465 Case related to the '645 Case Patents shall be consolidated with Case No. 2:24-cv-00645-JRG for all purposes, including through trial.