

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

SAMSUNG ELECTRONICS CO., LTD. : CIVIL ACTION  
:   
v. :   
: No. 15-1059  
IMPERIUM IP HOLDINGS :   
(CAYMAN), LTD. :

ORDER

AND NOW, this 14<sup>th</sup> day of November 2017, upon considering Defendant’s Motion for attorney’s fees (ECF Doc. No. 46), Plaintiff’s Reply (ECF Doc. No. 54), Plaintiff’s timely appeal of the October 10, 2017 Order providing the alleged basis for the motion for attorney’s fees, and finding the motion for fees under 35 U.S.C. §285, 28 U.S.C. § 1927 and our inherent authority is timely but it is inappropriate and inefficient for us to rule upon the exceptional nature of this case or find unreasonable conduct while the issues are before our court of appeals and we should effectively use this District’s limited judicial resources to promote finality, it is **ORDERED** the Defendant’s Motion (ECF Doc. No. 46) is **DENIED without prejudice** to be renewed in good faith within thirty (30) days of the filing of the Court of Appeals for the Third Circuit’s mandate in No. 17-3445.<sup>1</sup>

  
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KEARNEY, J.

<sup>1</sup> As Judge Andrews found in *Sprint Communications, LP v. Comcast Cable Communications, LLC*, 201 F. Supp. 3d 564, 566 (D. Del. 2016), the appropriateness of fee shifting is also not clear here. We carefully analyzed difficult and evolving venue and first-filed issues as affected by forum selection clauses to reach our decision based on a balancing of factors after evaluating well-presented arguments from both sides. We saw no misleading conduct. We do not see, subject to possible further review, the Plaintiff and its counsel acting in a vexatious manner or in bad faith. Our holding clarified the Plaintiff simply cannot litigate the same issue in two places. We did not intend to amplify a contested proceeding and trust experienced counsel will understand their success on one day on a contested issue is not a warrant for fee-shifting. Before spending more of its litigation budget, we urge Defendant to thoughtfully frame a renewed motion.