



OBJECTIVE ANALYSIS

Semiconductor Market Research

OBJECTIVE ANALYSIS ALERT!

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SPANSION SETTLES WITH SAMSUNG

On Tuesday, April 7, Spansion announced that it has settled its patent litigation lawsuits with Samsung Electronics. The settlement ends all patent disputes between the two companies. All actions are to be dismissed pursuant to the settlement agreement with neither side admitting liability.

In settlement, Samsung will pay Spansion \$70 million and the two companies have exchanged licenses to each others' patent portfolios.

The agreement is subject to approval by the bankruptcy court.

A Shot in the Arm for Spansion

The infusion of \$70 million in cash couldn't come at a better time for Spansion. The company is in a very difficult position which forced it to file for bankruptcy protection, and is still suffering from extremely slow sales in the fourth quarter and the beginning of the first quarter. Executives have explained to us that they are starting to regain visibility into Q2 now that OEMs have burned off their inventory and are again placing orders.

The settlement is probably also a really good deal for Samsung's semiconductor business, since they will only make a one-time payment for Spansion's key charge trapping technology instead of an ongoing royalty stream which would most likely have been a percentage of sales, payments that could rise to considerably more than this one-time payment. Meanwhile, Samsung's cell phone group, who has awarded Spansion with vendor awards for a number of years, can feel more comfortable about the future of a valued supplier.

For those who don't remember how this situation started, Spansion filed two patent infringement complaints against Samsung last November, one with the International Trade Commission and the other in the U.S. District Court in Delaware. Spansion sought to bar MP3 players, cell phones, digital cameras and other consumer electronic devices that contain Samsung flash chips from being sold in the U.S. The Delaware District Court complaint also sought an injunction and treble damages based on Samsung's sale of flash memory.

Samsung responded with a counterclaim in the District Court against Spansion for infringement of its own patents seeking damages and an injunction. In January Samsung filed a further patent infringement complaint in Japan against Spansion Japan Limited seeking both injunctive relief and damages based upon Japanese patents owned by Samsung.

Our understanding is that Spansion's original lawsuit stemmed from the company's inability to successfully open negotiations with Samsung to license Spansion's charge trapping technology. Charge trapping, the basis for Spansion's MirrorBit technology, is likely to be used by all flash manufacturers starting with the 25nm process node. Spansion, through its own patents and those it gained in its Saifun acquisition, controls a dominant share of existing charge-trapping intellectual property.

In an attempt to bring Samsung to the negotiating table, Spansion filed a lawsuit based on other patents that were not even a part of the proposed negotiation.

The agreement strengthens Spansion's cash position and management hopes it will: "help Spansion emerge from the Chapter 11 process a stronger and more focused company."

Spansion's suit against Samsung was a nervy move, but it has paid off!

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