

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CARNEGIE MELLON UNIVERSITY,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 09-290
)	Judge Nora Barry Fischer
MARVELL TECHNOLOGY GROUP, LTD.,)	
and MARVELL SEMICONDUCTOR, INC.,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, this 6th day of June, 2012, upon consideration of Plaintiff’s “Motion for Partial Summary Judgment Dismissing Defendants’ Affirmative Defense and Counterclaims of Unenforceability Due to Inequitable Conduct” (Docket No. [347]) and the accompanying papers (Docket Nos. [348]-[351]), Defendants’ response (Docket No. [387]) and accompanying motion (Docket No. [388]), wherein Defendants seek to withdraw their Sixth Affirmative Defense and Fifth and Sixth Counterclaims in the face of Plaintiff’s summary judgment motion, and Plaintiff’s response to Defendants’ motion for leave to amend (Docket No. [408]),

IT IS HEREBY ORDERED that Plaintiff’s motion for partial summary judgment [347] is GRANTED, with prejudice, because the motion is unopposed given Defendants’ intent to withdraw their affirmative defense and counterclaims and because Defendants have not placed on the record any facts that contradict Plaintiff’s proposed facts. *See* LCvR 56(e); *see also* *Friedman v. Bethel Park Police Dept.*, No. 09-711, 2010 WL 1714036, *2 n.6 (W.D.Pa. April 6, 2010); *Ferace v. Hawley*, Civ. No. 05-1259, 2007 WL 2823477, *1 (W.D.Pa. Sept. 26, 2007) (Plaintiff “failed to respond to [the concise] statements in accordance with LR 56.1(C)(1), and consequently, the facts set forth in the concise statement of material facts submitted by

Defendants are deemed to be admitted by the Plaintiff for the purpose of the instant motion, in accordance with LR 56.1(E).”). Summary judgment is, therefore, entered in favor of Plaintiff and against Defendants as to Defendants’ Sixth Affirmative Defense and Fifth and Sixth Counterclaims.

IT IS FURTHER ORDERED that, because the Court has granted summary judgment as to the Defendants’ Sixth Affirmative Defense and Fifth and Sixth Counterclaims, paragraphs 31-44 (Sixth Affirmative Defense) and 73-85 (Fifth and Sixth Counterclaims) of the Defendants’ Amended Answer and Counterclaims (Docket No. [116]) shall be stricken.

Finally, IT IS FURTHER ORDERED that Marvell’s motion to amend (Docket No. [388]) is DENIED, as moot.

s/ Nora Barry Fischer
Nora Barry Fischer
United States District Judge

cc/ecf: All counsel of record.