

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-12524

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
JUNE 9, 2008
THOMAS K. KAHN
CLERK

D. C. Docket No. 05-00902-CV-CAP-1

LOCKHEED MARTIN CORPORATION,

Plaintiff-Counter-
Defendant-Appellant,

versus

L-3 COMMUNICATIONS CORPORATION,
L-3 COMMUNICATIONS INTERGRATED SYSTEMS, LP,

Defendants-Counter-
Claimants-Appellees,

Appeal from the United States District Court
for the Northern District of Georgia

(June 9, 2008)

Before EDMONDSON, Chief Judge, BLACK and FARRIS,* Circuit Judges.

*Honorable Jerome Farris, United States Circuit Judge for the Ninth Circuit, sitting by designation.

PER CURIAM:

The district court did not err in concluding that the claims in the second Texas action were not compulsory counterclaims in the Georgia action. See Republic Health Corp. v. Lifemark Hosps. of Fla., Inc., 755 F.2d 1453, 1455 (11th Cir. 1985). The pertinent claims assert some behavior unrelated to the Korea contract and which took place, in large part, after the pleadings were filed in the Georgia case. Lockheed's attempts to characterize the claims in Texas as compulsory because of the claim of sham litigation and the data-rights issue in both cases fail: the sham litigation claim was merely one example of a series of anticompetitive conduct alleged by L-3; and similarity in one issue is not sufficient to rise to the level of a compulsory counterclaim.

In addition, the district court acted within its proper discretion when it did not order the Texas action stayed or dismissed and refiled in Georgia. The overlap is not substantial: the second Texas action alleges behavior that is unrelated to the Korea contract; and the importance of the data rights issue is not clear. Moreover, the district court could have determined that the addition of antitrust claims would have made the case unmanageable given the advanced stage of discovery.

Furthermore, the Texas court's ruling indicates that inconsistent rulings are unlikely.

AFFIRMED.