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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

APPLE INC.,

Plaintiff,

vs.

WI-LAN INC.,

Defendant.

WI-LAN INC.,

Plaintiff,

vs.

APPLE INC.,

Defendant.

No. 3:14-cv-2235-DMS-BLM (Lead Case); Consolidated with 3:14-cv-01507-DMS-BLM
DEMAND FOR JURY TRIAL

DEFENDANT WI-LAN INC.'S OPPOSITION TO APPLE INC.'S MOTION FOR PARTIAL RECONSIDERATION AND CLARIFICATION OF ORDER STRIKING APPLE'S AMENDED INVALIDITY CONTENTIONS [DKT. NO. 306]

Date: May 25, 2018
Time: 1:30 p.m.
Department: 13A
Judge: Hon. Dana M. Sabraw
Magistrate: Hon. Barbara L. Major

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I. INTRODUCTION

In this duplicative motion, Apple yet again attempts to assert prior art and obviousness combinations that the Court has already ordered stricken. First, relying on a single, distinguishable decision, Apple asks the Court to reverse its prior decision striking Apple's amended invalidity contentions. Apple, however, fails to provide any reason to warrant the extraordinary remedy of reconsideration of the Court's prior order. Second, Apple attempts to rely on its original invalidity contentions to support the new arguments the Court already ordered stricken. But as the Court already observed in its order striking Apple's amended invalidity contentions, these were in fact new combinations that Apple sought to add through its amended invalidity contentions. (ECF No. 297 at 3.) Apple should not be allowed to circumvent this Court's order striking Apple's amended invalidity contentions by merely citing its original invalidity contentions that do not adequately disclose Apple's new combinations.

II. STATEMENT OF RELEVANT FACTS

On June 19, 2014, Apple filed this declaratory judgment action against Wi-LAN. The patents in suit are U.S. Patent No. 8,537,757 (the "'757 patent"), U.S. Patent No. 8,311,040 (the "'040 patent"), U.S. Patent No. 8,457,145 (the "'145 patent"), U.S. Patent No. 8,462,723 (the "'723 patent"), U.S. Patent No. 8,462,761 (the "'761 patent"), and U.S. Patent No. 8,615,020 (the "'020 patent"). On June 29, 2017, Apple served its Invalidity Contentions on Wi-LAN.

On January 2, 2018, ten days prior to the close of fact discovery and without asking the Court for leave to amend, Apple served Amended Invalidity Contentions on Wi-LAN, adding 29 newly alleged prior art references, plus new combinations and new Section 112 invalidity theories that were not disclosed in

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