

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:22-cv-22706-RNS

BELL NORTHERN RESEARCH, LLC,

Plaintiff

v.

JURY TRIAL DEMANDED

HMD AMERICA, INC.; HMD GLOBAL OY;
SHENZHEN CHINO-E COMMUNICATION
CO., LTD.; HON HAI PRECISION
INDUSTRY CO., LTD; TINNO MOBILE
TECHNOLOGY CORP.; SHENZHEN
TINNO MOBILE CO., LTD.; TINNO USA,
INC.; UNISOC TECHNOLOGIES CO., LTD.;
SPREADTRUM COMMUNICATIONS USA,
INC.; WINGTECH TECHNOLOGY CO.;
LTD.; WINGTECH INTERNATIONAL,
INC.; BEST BUY CO., INC.; BEST BUY
STORES L.P.; TARGET CORP.; WALMART
INC.

Defendants.

PLAINTIFF BELL NORTHERN RESEARCH LLC'S
MEMORANDUM OF LAW

I. INTRODUCTION

Plaintiff Bell Northern Research, LLC (“BNR” or “Plaintiff”) submits this Memorandum of Law pursuant to this Court’s Order of March 9, 2023. (Dkt. 152.) BNR’s Disclosure of Asserted Claims and Infringement Contentions pursuant to P.R. 3-1 (the “initial infringement contentions”) that was served on Defendants complies with the Patent Rules governing this case. Certain Defendants’ arguments to the contrary should be rejected for the foregoing reasons.

II. LEGAL STANDARDS

The Patent Rules that govern this case were entered by the Court on January 25, 2023. (Dkt. 125 at 9–18 (Patent Rules 1–4.8).) P.R. 3-1 provides for the Disclosure of Asserted Claims and Infringement Contentions and contains subsections (a) through (h), as shown below:

(a) Identification of each claim of each patent in suit that is allegedly infringed by each opposing party, including for each claim the applicable statutory subsections of 37 U.S.C. § 271 asserted;

(b) Separately, for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality”) of each opposing party of which the party is aware. This identification must be as specific as possible. Each product, device, and apparatus must be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process;

(c) A chart identifying specifically where each limitation of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function;

(d) For each claim that is alleged to have been indirectly infringed, an identification of any direct infringement and a description of the acts of the alleged indirect infringer that contribute to or are inducing that direct infringement. If alleged direct infringement is based on joint acts of multiple parties, the role of each such party in the direct infringement must be described.

(e) Whether each limitation of each asserted claim is alleged to be literally present or present under the doctrine of equivalents in the Accused Instrumentality. For any claim under the doctrine of equivalents, the Initial Infringement Contentions must include an explanation of each function, way, and result that is equivalent [and] why any differences are not substantial;

(f) For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled;

(g) If a party claiming patent infringement wishes to preserve the right to rely, or any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim; and

(h) If a party claiming infringement alleges willful infringement, the basis for such allegation.

(P.R. 3-1(a)–(h).) “These Patent Rules are taken largely from the Local Patent Rules in the Northern District of California and the Northern District of Illinois.” (P.R. n.1.)

“The purpose of infringement contentions is to provide notice of the plaintiff’s theories of infringement early in the case.” *Lecat’s Ventriloscope v. MT Tool & Mfg.*, No. 16-C-5298, 2017 U.S. Dist. LEXIS 16477, at *4 (N.D. Ill. Feb. 6, 2017) (quotation omitted) (finding plaintiff’s infringement contentions were generally sufficient with one exception relating to indirect infringement). Initial infringement contentions “must meet a notice pleading standard which is meant to prevent ‘shifting sands’ gamesmanship in claim construction.” *Stored Energy Sys., LLC v. Brunswick Corp.*, No. 20-cv-06389, 2021 U.S. Dist. LEXIS 209722, at *4 (N.D. Ill Aug. 19, 2021) (quotation omitted) (denying defendant’s motion to strike infringement contentions). The notice pleading bar is low. *Stored Energy Sys.*, 2021 U.S. Dist. LEXIS 209722, at *4. Initial infringement contentions are sufficient if they provide defendants with “notice of

infringement” beyond “the mere language of the patents themselves.” *Lecat’s*, 2017 U.S. Dist. LEXIS 16477, at *4 (quotation omitted).

III. ARGUMENT

Plaintiff’s initial infringement contentions meet the requirements of P.R. 3-1, providing 12 pages of contentions and 71 claim charts for 71 accused products. Specifically, these contentions:

- provide the identification of the claims of each patent in suit that is infringed (*see* P.R. 3-1(a));
- provide the identification of the products (the “Accused Instrumentalities”) expressly by name for each claim that is infringed (*see* P.R. 3-1(b));
- provide detailed claim charts evidencing infringement by the Accused Instrumentalities for each limitation of each claim that is infringed (*see* P.R. 3-1(c));
- provide the identification of indirect infringement (*see* P.R. 3-1(d)); and
- provide BNR’s contention that each limitation of each claim is literally present (*see* P.R. 3-1(e)).

BNR’s initial infringement contentions, that include the express identification of products and detailed claim charts for each claim limitation of each patent in suit, provide Defendants with more than sufficient “notice” of BNR’s infringement theories. *See Lecat’s*, 2017 U.S. Dist. LEXIS 16477, at *4. BNR’s contentions easily satisfy the low bar required by P.R. 3-1, and are not transformed into insufficient contentions simply because Defendants disagree with them. *See Lecat’s*, 2017 U.S. Dist. LEXIS 16477, at *13–14 (“While Defendant’s motion professes to argue that the [initial infringement contentions] insufficiently disclose Plaintiff’s infringement

theory, in reality the motion simply reflects disagreement with the infringement theory Plaintiff has disclosed.”)

IV. CONCLUSION

The Court should deny Defendants’ motion to strike Plaintiff’s initial infringement contentions and should deny Defendants’ request to deem the initial infringement contentions as limited to cover only the devices charted and only the acts of direct and literal infringement of system claims identified by Plaintiff.

Dated: March 14, 2023

Respectfully submitted,

/s/ Paul Richter

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