

Dated: November 3, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 3rd day of November, 2014, with a copy of this document via electronic mail pursuant to Local Rule CV-5(d).

/s/ T. William Kennedy _____

EXHIBIT 1



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November 3, 2014

VIA ELECTRONIC COURT FILING (ECF)

The Honorable Rodney Gilstrap
District Judge for the Eastern District of Texas – Marshall Division
Sam B. Hall Jr. Federal Building and United States Courthouse
101 East Houston Street
Marshall, Texas 75670

Re: Response Request for Leave to File Motion for Summary Judgment of Invalidity Pursuant to 35 U.S.C. § 112 in *Innovative Display Technologies LLC v. Acer Inc., et al*; No. 2:13-cv-00522-JRG (consolidated lead case)

Dear Judge Gilstrap:

Plaintiff Innovative Display Technologies LLC (“IDT”) respectfully submits that the Court should deny the October 20, 2014, request (the “Letter Brief”) from Defendants Dell Inc. (“Dell”) and Hewlett-Packard Company (“HP”) (collectively, “Defendants”) for permission to file a motion for summary judgment of invalidity pursuant to 35 U.S.C. § 112. Generally, Defendants’ brief addresses two particular terms in specific claims that it believes are invalid for lack of written description and then addresses indefiniteness arguments that it has made four times already, and that have been rejected by Judge Payne. Notably, Dell submitted to Magistrate Judge Payne, yet it is attempting to piggy-back on HP’s objections to his ruling, and Dell is now filing this letter brief in contradiction to Judge Payne’s clear ruling and in contradiction to the Court’s standing order.¹ This response discusses the indefiniteness arguments first and then addresses the written description issues.

The Alleged Indefinite Terms

Defendants again attempt to revive their dead indefiniteness arguments. This will mark at least the fifth time that the Court has heard these arguments – (response to claim construction brief, *Markman* hearing, Objections, and Reply to Objections being the preceding four). As before, the Letter Brief contends that three groups of terms are indefinite: (1) “pass through a liquid crystal display with low loss”; (2) the “well defined optical elements or deformities” terms; and (3) the “to [suit/fit] a particular application” terms. Considering the same arguments that Defendants make in the Letter Brief, Magistrate Judge Payne found that none of those terms are indefinite.²

¹ See Standing Order Regarding Submission of Letter Briefs (“The letter brief should be addressed to either United States District Judge Rodney Gilstrap or United States Magistrate Judge Roy S. Payne, as appropriate.”).

² Dkt. No. 101 at 47 (“well defined”), 54 (“low loss”), and 56 (“to [suit/fit] a particular application”).

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