

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

GODO KAISHA IP BRIDGE 1,

Plaintiff,

v.

BROADCOM LIMITED, BROADCOM
CORPORATION, AVAGO
TECHNOLOGIES, LTD., AVAGO
TECHNOLOGIES U.S., INC., and LSI
CORPORATION

Defendant.

Case No. 2:16-cv-134

Hon. Rodney Gilstrap

**BROADCOM LIMITED, BROADCOM CORPORATION,
AVAGO TECHNOLOGIES LTD., AVAGO TECHNOLOGIES U.S., INC.,
AND LSI CORPORATION'S PATENT RULE 3-3 INVALIDITY CONTENTIONS**

Pursuant to Patent Rule 3.3 of the U.S. District Court for the Eastern District of Texas, and the Docket Control Order entered in this case, Defendants Broadcom Corporation, Broadcom Limited, Avago Technologies U.S., Inc., Avago Technologies, Ltd., and LSI Corporation (collectively "Defendants") hereby provides their Invalidity and Unenforceability Contentions ("Invalidity Contentions"). Broadcom Ltd. and Avago Ltd. provide these disclosures subject to and without waiving their Motion to Dismiss under Fed. R. Civ. P 12(b)(2) and 12(b)(6) for Lack of Personal Jurisdiction (Dkt. No. 47). Nothing herein shall be construed as an admission that either defendant Broadcom Ltd. or defendant Avago Ltd. is subject to personal jurisdiction in this Court, or that Plaintiff has stated a claim upon which relief can be granted.

I. GENERAL STATEMENTS AND OBJECTIONS

A. Infringement Contentions and Asserted Claims

Plaintiff Godo Kaisha IP Bridge 1 (“Plaintiff” or “IP Bridge”) has served Defendants with its Disclosure of Asserted Claims and Infringement Contentions¹ (IP Bridge’s “Infringement Contentions”) alleging infringement of the following patents: U.S. Patent No. 6,538,324 (“the ’324 patent”); U.S. Patent No. 6,197,696 (“the ’696 patent”); U.S. Patent No. RE41,980 (“the ’980 patent”); U.S. Patent No. 7,126,174 (“the ’174 patent”); U.S. Patent No. 8,354,726 (“the ’726 patent”); and U.S. Patent No. RE43,729 (“the ’729 patent”) (collectively, the “Asserted Patents”). Based on its Infringement Contentions, IP Bridge asserts infringement of the following claims:

- claims 1, 3, 5, 7 and 9 of the ’324 patent;
- claim 13 of the ’696 patent;
- claims 18, 19, 30-36 and 47-51 of the ’980 patent;
- claims 1, 4, 5, 8-12 and 14 the ’174 patent;
- claims 1, 4, 8-10, 17-24, 26-28, 43, 46, 49, 50 and 52-62 of the ’726 patent; and
- claim 21 of the ’729 patent.

(collectively, the “Asserted Claims”.)

Defendants reserve the right to amend these disclosures and associated document production, should IP Bridge provide any information that it failed to provide in their Infringement Contentions, should IP Bridge amend its Infringement Contentions in any way, or should additional prior art come to light based on any clarification by IP Bridge of its Infringement Contentions. To the extent that IP Bridge’s Infringement Contentions and accompanying claim charts lack the specificity required to inform Defendants of the specifics of

¹ Nothing herein should be construed as a waiver of Defendants’ objections to IP Bridge’s Infringement Contentions for failure to comply with the Local Patent Rules.

certain aspects of IP Bridge's infringement positions, Defendants provide these Invalidity Contentions consistent with the case schedule currently in place but do so without waiving any right to receive from Plaintiffs such full and complete specific infringement disclosures as should have been provided from the outset. Defendants' compliance with the current schedule should not be viewed as a waiver of any rights in regard to IP Bridge's Infringement Contentions, including its claim charts. Furthermore, if IP Bridge revises its Infringement Contentions, including any of its claim charts, to address any deficiencies that have been or may be identified by Defendants, Defendants reserve the right to amend or supplement their Invalidity Contentions.

B. Claim Construction

The Court has not yet construed the disputed terms of the Asserted Claims in the current case. Accordingly, after such constructions are known, and for all other permissible reasons, Defendants reserve the right to identify other art or to supplement their disclosures or contentions in accordance with P. R. 3-6. Defendants' Invalidity Contentions are based, at least in part, on their present understanding of the Asserted Claims in light of the claim constructions IP Bridge appears to be asserting based on IP Bridge's Infringement Contentions (to the extent IP Bridge's assertions can be understood) without regard to whether Defendants agrees with such claim constructions.

Defendants take no position on any matter of claim construction in these Invalidity Contentions. If the Invalidity Contentions are consistent with or implicit in IP Bridge's Infringement Contentions, no inference is intended or should be drawn that Defendants agree with such claim constructions. Any statement herein describing or tending to describe any claim element is provided solely for the purpose of understanding the relevant prior art. Defendants

expressly reserve the right to propose any claim construction it considers appropriate and/or to contest any claim construction they consider inappropriate.

In addition, because the Court has not yet construed the terms of the Asserted Claims, Defendants' Invalidity Contentions are sometimes made in the alternative and are not necessarily intended to be consistent with each other. Further, by including in this disclosure prior art that would be anticipatory or render a claim obvious based on a particular scope or construction of the claims, including constructions applied by IP Bridge in its Infringement Contentions, Defendants' Invalidity Contentions are not, and should in no way be seen as, adoptions or admissions as to the accuracy of such scope or construction. Consistent with the Patent Rules and/or orders of the Court, specifically Patent Rule 3-6, Defendants reserve all rights to further supplement or modify these Invalidity Contentions, including without limitation, the prior art and grounds of invalidity set forth herein, upon the discovery of additional prior art references from any source, after the Court has construed the asserted claims, and if IP Bridge is permitted at any time to amend its contentions—including its final contentions—at any reasonable time thereafter.

C. Ongoing Discovery and Disclosures

Discovery in this case is in its early stages, and Defendants' investigation into the invalidity and unenforceability of the Asserted Patents, including Defendants' search for prior art, is ongoing. Defendants reserve the right to supplement their Invalidity Contentions including, without limitation, adding additional prior art and grounds of invalidity or unenforceability. Defendants' reservation of rights to incorporate additional prior art and invalidity claim charts includes, but is not limited to, claim charts based on materials obtained in response to subpoenas.

Defendants specifically reserve the right to rely on discovery and papers and evidence filed, served, or submitted by IP Bridge in connection with this litigation. Additionally,

Defendants reserve the right to present additional prior art or evidence of prior art located during the course of third-party discovery or further investigation, and to amend or supplement their Invalidity Contentions to the extent that such discovery or investigation yields information forming the basis for such contentions.

D. Other Defenses

These Invalidity Contentions are generally limited to Defendants' current positions regarding the grounds of invalidity specifically called for in Patent Rule 3-3 of the Eastern District of Texas. Defendants reserve the right to assert and pursue all other defenses, including those based on grounds of invalidity, that may be available, including all of the affirmative defenses pled in any of Defendants' answers, or any other grounds.

E. Additional Contentions

Defendants incorporate by reference as if fully set forth herein all grounds of previously asserted against the patents. In particular, Defendants incorporate by reference all prior art references and grounds of invalidity set forth in the invalidity contentions provided in any action against the Asserted Patents, including *Panasonic Corporation v. Freescale Semiconductor, Inc.*, Civil Action No. 2:10-cv-1668 (E.D. Tex.).

II. P. R. 3-3(A) IDENTIFICATION OF PRIOR ART

Each of the Asserted Claims of the Asserted Patents are anticipated and/or rendered obvious by the prior art identified below. Pursuant to P. R. 3-4(b), Defendants are producing herewith a copy or sample of the prior art identified below, to the extent copies of such prior art have not already been produced and to the extent such copies or samples are available to Defendants and can be produced at this time.

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