

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

B.E. TECHNOLOGY, L.L.C.,

Plaintiff,

v.

SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC,

Defendant.

No. 12-cv-02824-JPM-tmp

JURY TRIAL DEMANDED

B.E. TECHNOLOGY, L.L.C.,

Plaintiff,

v.

SAMSUNG ELECTRONICS AMERICA,
INC.,

Defendant.

No. 12-cv-02825-JPM-tmp

JURY TRIAL DEMANDED

ORDER GRANTING DEFENDANTS' MOTIONS TO COMPEL

Before the Court is Defendants Samsung Telecommunications America, LLC, and Samsung Electronics America, Inc.'s (collectively, "Samsung") Motion to (a) Compel Supplemental Infringement Contentions that Comply with Local Patent Rule 3.1, and (b) Relieve Defendants of Certain Responsive Discovery Obligations Pending Service of Compliant Contentions, filed on

July 23, 2013. (B.E. Tech., L.L.C. v. Samsung Telecomms. Am., LLC, No. 12-cv-02824-JPM-tmp, ECF No. 46; B.E. Tech., L.L.C. v. Samsung Elecs. Am., Inc., No. 12-cv-02825-JPM-tmp, ECF No. 50.)¹ Samsung requests that the Court order Plaintiff B.E. Technology, LLC ("Plaintiff" or "B.E."), "to supplement its infringement contentions to add the requisite specificity," and to "toll[] Samsung's obligation to serve non-infringement contentions and produce technical documents until 28 days after B.E.[']s service of compliant infringement contentions." (ECF No. 46 at 1.) As the Court decided the timing of Samsung serving its non-infringement contentions in its August 19, 2013, Order (see ECF No. 57), the only issue before the Court is whether B.E.'s initial infringement contentions comply with this Court's Local Patent Rules.

Plaintiff responded in opposition on August 9, 2013. (ECF No. 53.)

With leave of Court, Samsung filed its Reply in support on August 19, 2013. (ECF No. 58.)

For the following reasons, Samsung's Motions are GRANTED.

¹ All documents relating to the instant Motions were filed in both the No. 12-cv-02824 docket and the No. 12-cv-02825 docket. The Court will cite the documents filed in the No. 12-cv-02824 docket for ease of reference.

I. BACKGROUND

A. Procedural Background

This case concerns Samsung's alleged infringement of United States Patent No. 6,771,290 (the "'290 patent"). (ECF No. 1.) B.E. is the assignee of the '290 patent (Hoyle Decl. ¶ 7, ECF No. 34-1), currently owning "all right, title, and interest in the '290 patent, and has owned all right, title, and interest throughout the period" of the alleged infringement (ECF No. 1 ¶ 10).

Pursuant to the Local Patent Rules, B.E. served its initial infringement contentions on January 7, 2013. (ECF No. 46 at 2.) According to Samsung,

B.E. Tech. served more than 10,000 pages of Infringement Contentions ("ICs") which ballooned the number of accused products from the 23 identified in the Complaints against the Samsung defendants to 177 products in at least 8 distinct product categories, including televisions, cameras, Blu-Ray Players, home theater systems, media players, personal computers, phones and tablets, along with "all reasonably similar products and/or services."

(Id.)²

On January 18, 2013, Samsung sent a letter to B.E. stating its belief that B.E.'s initial infringement contentions lacked specificity and necessary information such that it was "difficult to impossible for Samsung to prepare its Initial Non-

² In its Response, B.E. states that it accused 178 Samsung products in its initial infringement contentions. (ECF No. 53 at 1-2.)

infringement Contentions and produce the accompanying documents required by [the Local Patent Rules.]” (ECF No. 53 at 2 (quoting ECF No. 53-2 at PageID 625).) Samsung requested B.E. “supplement[] its contentions to address the issues” raised “and otherwise comply with Rule 3.1.” (ECF No. 53-2 at PageID 625.)

On January 30, 2013, B.E. responded explaining that it believed that it had complied with the Local Patent Rules and had provided compliant initial infringement contentions in the first instance. (See ECF No. 53-3.) In the letter, B.E. also explained how it believed its contentions were sufficiently specific to each claim element alleged to infringe and how the included images of Samsung products complied with the Local Patent Rules. (See id. at PageID 628-29.)

After the Court lifted the stays in the Samsung cases on July 12, 2013 (see Samsung Telecomms. Am., LLC, No. 12-cv-2824-JPM-tmp, ECF No. 43; Samsung Elecs. Am., Inc., No. 12-cv-2825-JPM-tmp, ECF No. 47), the parties resumed discussion of the initial infringement contentions. On July 17, 2013, B.E. proposed a division of products “to facilitate a representative[-]products stipulation narrowing the number of charts required for infringement and non-infringement contentions.” (Email from Dan Weinberg to Richard Pettus, ECF No. 53-5 at PageID 636.) The proposal divided the accused products into six categories: tablets, smart televisions, smart

Blu-Ray players, smart home theater systems, smart phones/media players, and "PC[s]/Notebook[s]/Ultrabook[s]." (Id. at PageID 637-40.) On July 18, 2013, Samsung responded that B.E. did not identify the specific representative product for each category of accused products, and that Samsung could not stipulate to any product representing a category without supplemented infringement contentions because "it [was] simply not possible to determine whether any products [were] actually representative of a category." (Email from Joshua Raskin to Dan Weinberg, ECF No. 53-8 at PageID 695-96.) Samsung requested B.E. supplement its contentions "as to the products . . . believe[d to be] representative of a given category," and stated that after receiving the supplemented contentions and serving its own non-infringement contentions, it would "re-evaluate [B.E.'s] representative product list." (Id. at PageID 696.)

On July 23, 2013, B.E. responded naming the following products as representative products in each of the categories of accused products:

Samsung Galaxy Note 10.1, Wi-Fi (Tablets) [;]
 Samsung LED 5300 Series Smart TV 32["] (Smart TVs) [;]
 Samsung Smart Blu-ray Player BD-E5700 (Smart Blu-Rays) [;]
 Samsung Smart Home Theater HT-E3500 (Smart Home Theater Systems) [;]
 Samsung Acclaim (Smart Phones/Media Players/Cameras) [; and]
 Samsung ATIV Smart PC, XE500T1C(PC/Notebook/Ultrabook)

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