

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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

Plaintiff,

v.

SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC,

Defendant.

Civil Action No. 12-cv-02824-JPM-tmp

JURY TRIAL DEMANDED

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

Plaintiff,

v.

SAMSUNG ELECTRONICS AMERICA
INC.,

Defendant.

Civil Action No. 12-cv-02825-JPM-tmp

JURY TRIAL DEMANDED

**MOTION OF DEFENDANTS SAMSUNG TELECOMMUNICATIONS AMERICA, LLC
AND SAMSUNG ELECTRONICS AMERICA INC. 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, AND
MEMORANDUM OF LAW IN SUPPORT THEREOF**

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Defendants Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC (collectively, “Samsung”) respectfully move this Court to (a) compel Plaintiff B.E. Technology, Inc. (“B.E. Tech.” or “Plaintiff”) to serve supplemental infringement contentions that comply with Local Patent Rule (“L.P.R.”) 3.1, and (b) relieve Samsung of certain responsive discovery obligations pending service of compliant contentions.

I. INTRODUCTION

B.E. Tech.’s infringement contentions do not comply with L.P.R. 3.1(c)’s requirement to “identify[] specifically where each limitation of each asserted claim is found within each Accused Instrumentality.” The claim charts accompanying Plaintiff’s contentions provide only a verbatim restatement of the language of the claim limitations with a product advertisement or “screen shot,” leaving Samsung to speculate as to what aspect (if any) within each of its 177 accused products purportedly corresponds to a given limitation. This is plainly insufficient.

The fundamental purpose of L.P.R. 3.1 is to ensure that defendants, like Samsung, are not forced to speculate what it is about their products that a plaintiff contends satisfies each claim limitation. Despite Samsung pointing out these deficiencies, B.E. Tech. has refused to supplement with the requisite specificity. As a result, Samsung has been deprived of adequate notice of the basis for B.E. Tech.’s contentions and prejudiced in its ability to prepare responsive non-infringement contentions and to otherwise defend against B.E. Tech.’s unspecified infringement theories, to properly participate in the claim construction process, and to fairly determine the scope of relevant discovery for this matter. Accordingly, Samsung respectfully requests an order: (1) compelling B.E. Tech. to supplement its infringement contentions to add the requisite specificity; and (2) tolling Samsung’s obligation to serve non-infringement contentions and produce technical documents until 28 days after B.E. Tech.’s service of compliant infringement contentions.

II. FACTUAL BACKGROUND

A. B.E. Tech.'s Deficient Infringement Contentions And Refusal To Supplement

On January 7, 2013, 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.” The ICs also identify 19 separate accused functionalities, one or more of which is alleged to be present or used in each accused product.¹ A exemplary portion of B.E. Tech.’s ICs, relating to the accused Samsung Acclaim smartphone, is attached as Exhibit A to the concurrently filed Declaration of Richard C. Pettus (“Pettus Decl.”).²

For virtually every claim limitation, and each of the 177 accused products, B.E. Tech.’s voluminous ICs provide no more than a verbatim restatement of the language of the claims followed by a series of bare advertisements or “screen shots” of the accused products without any explanation as to where each limitation is allegedly found. Likewise, for virtually every claim limitation and product, B.E. Tech. includes only a boilerplate statement that the limitation is alternatively met under the doctrine of equivalents, without any explanation of the basis for such argument, including identification of the feature(s) alleged to be equivalent.

¹ Based on Samsung’s preliminary investigation, these accused functionalities appear to include both Samsung and third-party technologies: Google software/services (e.g., Android Market, YouTube, and Google Play), Samsung software/services (e.g., Samsung Apps, Smart Hub, Media Hub, Music Hub), Microsoft software/services (e.g., Windows Store, Xbox Video, Xbox Music, Xbox Games, Windows Phone Marketplace, Windows Phone Store), Amazon software/services (e.g., Amazon (Prime) Instant Video, Kindle Store), and miscellaneous other software/services (e.g., Netflix, Hulu Plus, Nook Store (B&N), Kno Textbooks).

² Unless otherwise noted, all Exhibits refer to exhibits to the Declaration of Richard C. Pettus, filed concurrently herewith.

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