

**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

**DEFENDANTS SAMSUNG TELECOMMUNICATIONS AMERICA, LLC'S AND
SAMSUNG ELECTRONICS AMERICA INC.'S MOTION FOR EXTENSION OF TIME**

Defendants Samsung Electronics America, Inc. ("SEA") and Samsung Telecommunications America, LLC ("STA", collectively, with SEA, "Samsung") respectfully move this Court to extend the deadline for Samsung to comply with Local Patent Rules 3.3 and 3.4 pending the Court's ruling on Samsung's Motions 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 ("Motion to Compel"). (No. 12-cv-02824-JPM-tmp (Doc. 46); No. 12-cv-02825-JPM-tmp (Doc. 50)). Specifically, Samsung requests that its deadline to comply with Local Patent Rules 3.3 and 3.4 be extended from August 19, 2013 to twenty-eight (28) days after Plaintiff serves its

supplemented Infringement Contentions.¹ Alternatively, should the Court deny Samsung's Motion to Compel, Samsung requests that it have until twenty-one (21) days after the entry of the Court's Order denying the Motion to Compel to comply with Local Patent Rules 3.3 and 3.4.

As set forth in detail in the Motion to Compel, Plaintiff's Infringement Contentions ("ICs") fail to satisfy the requirements of Local Patent Rule 3.1. (*See* Mot. to Compel, at 6-11.) Forcing Samsung to guess at what is being accused, and to provide thousands of pages of responsive contentions without the level of guidance required under the Local Patent Rules, will undoubtedly lead to subsequent revisions and thereby impose significant unnecessary burdens on Samsung. Responding to Plaintiff's vague and deficient ICs prior to the Court's ruling on the Motion to Compel would, therefore, be an exercise in futility.

The requested extension, however, ensures that the Court has adequate time to consider the merits of Samsung's Motion to Compel without forcing Samsung to respond *twice* to over 10,000 pages of infringement contentions. And, should the Court grant Samsung's Motion to Compel, and Plaintiff serves properly supplemented infringement contentions, significant resources would be saved. In fact, even Plaintiff would benefit from receiving responsive non-infringement contentions from Samsung which will presumably be more detailed and focused on the issues actually in contention.

At the same time, Plaintiff would suffer no prejudice as a result of such a brief extension. Indeed, even if the Motion to Compel is denied, Plaintiff will be in no materially worse position than it would have been had Samsung complied with its noninfringement obligations by August

¹ August 19, 2013 is thirty (30) days from entry of the last Order lifting the stay in the co-pending B.E. Tech. cases. The parties agreed to this deadline in the Joint Schedule Proposal submitted to the Court on July 19, 2013.

19, 2013; the requested extension would have the limited effect of moving the deadlines relating to infringement/noninfringement contentions back a few weeks.²

Finally, the orderly course of justice weighs in favor of an extension pending resolution of the Motion to Compel. As noted above, issues in this case will be simplified rather than become more complex as a result of a brief extension. Moreover, even if the Court were to deny the Motion to Compel, its reasoning and remarks would presumably provide guidance to Samsung as to how to even attempt to respond to the ICs as they currently stand. Accordingly, to serve the convenience of the parties and the interests of justice, it is respectfully submitted that the Court should extend the deadline for Samsung to comply with Local Patent Rules 3.3 and 3.4 pending the resolution of Samsung's Motion to Compel.

CONCLUSION

For the reasons set forth above, Samsung respectfully requests that this Court grant a brief extension pending resolution of Samsung's Motion to Compel, and order that Samsung's deadline to comply with Local Patent Rules 3.3 and 3.4 be extended to twenty-eight (28) days after Plaintiff serves its supplemented Infringement Contentions, or twenty-one (21) days after the entry of the Court's Order denying Samsung's Motion to Compel.

DATE: July 24, 2013

Respectfully submitted,

/s/ Jonathan E. Nelson

Shepherd D. Tate (TN BPR #05638)
Jonathan E. Nelson (TN BPR #028029)
BASS, BERRY & SIMS, PLC
100 Peabody Place, Suite 900
Memphis, Tennessee 38103
Telephone: (901) 543-5900

² All remaining deadlines in the Joint Proposed Scheduling Order shall remain in place as set forth therein. Moreover, the Court has not yet conducted a patent scheduling conference and no discovery has been served beyond the ICs.

Facsimile: (901) 543-5999
Email: state@bassberry.com
jenelson@bassberry.com

Richard C. Pettus (admitted *pro hac vice*)
Joshua Raskin (admitted *pro hac vice*)
Justin A. MacLean (admitted *pro hac vice*)
GREENBERG TRAURIG, LLP
200 Park Avenue
New York, NY 10166
Telephone: (212) 801-9200
Facsimile: (212) 801-6400
Email: pettusr@gtlaw.com
raskinj@gtlaw.com
macleanj@gtlaw.com

*Attorneys for Defendants, Samsung Electronics
America, Inc. and Samsung Telecommunications
America, LLC*

CERTIFICATE OF CONSULTATION

I, Jonathan Nelson, attorney for Defendants Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC, certify that I communicated telephonically with Counsel for Plaintiff, Richard Carter, on July 23, 2013 regarding the relief requested in the foregoing Motion. Mr. Carter advised that the Plaintiff did not consent to the relief requested in this Motion.

/s/ Jonathan Nelson
Jonathan Nelson

CERTIFICATE OF SERVICE

The foregoing document was filed under the Court's CM/ECF system, automatically effecting service on counsel of record for all other parties who have appeared in this action on the date of such service.

/s/ Jonathan Nelson
Jonathan Nelson

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