

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

CYWEE GROUP LTD.,

Plaintiff

v.

SAMSUNG ELECTRONICS CO. LTD.  
AND SAMSUNG ELECTRONICS  
AMERICA, INC.,

Defendants.

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NO. 2:17-CV-00140-RWS-RSP

**OPPOSITION TO PLAINTIFF’S MOTION TO COMPEL DEFENDANTS TO  
REPLEAD THEIR ANSWER TO PLAINTIFF’S FIRST AMENDED COMPLAINT**

CyWee Group Ltd.’s Motion to Compel mischaracterizes Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.’s (collectively, “Samsung”) responses to allegations in Plaintiff’s First Amended Complaint and relies on irrelevant case law. Contrary to CyWee’s assertions, each of Samsung’s responses properly denies all factual allegations contained in the corresponding paragraph of the Complaint. Such an approach indisputably complies with Rule 8(b) of the Federal Rules of Civil Procedure. CyWee has not provided a single example of a court finding otherwise under analogous factual circumstances. Accordingly, Plaintiff’s Motion to Compel Defendants to Replead Their Answer to the First Amended Complaint has no legal basis and must be denied.

**I. STATEMENT OF FACTS**

Of the 288 paragraphs in CyWee’s First Amended Complaint, 220 contain vague, conclusory allegations directed to alleged features of accused Samsung products with no supporting detail. For example, CyWee’s complaint states that “[the accused products] include[] a processor that is capable of processing data associated with measurement from a 3-axis

accelerometer.” (First Am. Compl. ¶¶ 39, 56, 90, 107, 124, 141, 158, 175, 192.) It does not clarify the meaning of “data associated with measurement from a 3-axis accelerometer.” It also does not identify the component within Samsung’s products alleged to process that data. The Complaint contains a number of other analogous ambiguous allegations relating to other components.

Although CyWee argues that Samsung’s responses fail to respond to its allegations, the plain language of each of the responses shows the exact opposite. Each relevant response is framed as follows:

To the extent that the allegations of Paragraph 39 sets forth a legal conclusion, no response is required. Samsung denies all remaining allegations of Paragraph 39.

(Answer ¶ 39.) The first sentence, regarding legal conclusions, addresses any claim construction issues within the paragraph. The second sentence addresses any factual basis for the paragraph. (*Id.*) Thus, Samsung’s responses unequivocally deny the entirety of each allegation as required under Rule 8(b).

Indeed, “associated with” is a limitation of claim 10 of asserted U.S. Patent No. 8,441,438 (“the ’438 patent”). (First Am. Compl. ¶ 39.) As another example, paragraph 29 of the complaint states: “The Samsung Galaxy S6 includes a housing.” (First Am. Compl. ¶ 29.) “Housing” is also a limitation in claim 10 of the ’438 patent. (Brann Decl., Ex. 1 at 20:17.) As yet another example, paragraph 33 states that the Galaxy S6 “includes a 3-axis accelerometer attached to a PCB.” (First Am. Compl. ¶ 33.) “Attached to a PCB” is also a limitation in claim 10 of the ’438 patent. (Ex. 1 at 20:18.) Therefore, CyWee’s complaint is a thinly-veiled attempt to bypass the claim construction process and force Samsung to respond to key elements of its infringement case.

## II. SAMSUNG NEED NOT REPLEAD ITS ANSWER TO RESPOND TO LEGAL CONCLUSIONS.

CyWee's complaint prematurely seeks to force Samsung to respond to numerous legal conclusions, including "housing," "attached to a PCB," and "associated with," among numerous others. (*E.g.*, First Am. Compl. ¶¶ 29, 39, 33.) Given that these terms are included in claim 10 of the '438 patent (Ex. 1 at 20:11, 17, 18), their meaning is a question of law. *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 388 (1996).

Responses refusing to admit or deny legal conclusions need not be struck or repleaded. In *Khepera-Bey v. Santander Consumer USA, Inc.*, No. WDQ-11-1269, 2012 WL 1965444, at \*4-5 (D. Md. May 30, 2012), the defendant responded to legal conclusions in the complaint by stating that "no response is required" but denied legal conclusions in case they were deemed factual allegations. *Id.* at \*4-5. The court agreed with the defendant that "[n]o response is required to legal conclusions in a complaint; a defendant is only required to respond to factual allegations." *Id.* at \*5.

*Barnes v. AT&T Pension Benefit Plan*, 718 F. Supp. 2d 1167 (N.D. Cal. 2010), addressed responses, almost exactly like Samsung's, that did not admit or deny legal conclusions but denied all factual allegations on which those conclusions rested. *Id.* at 1175. The court denied plaintiff's motion to deem the allegations in its complaint admitted. *Id.*

Similarly, in *Guifu Li v. A Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2011 WL 2971046 (N.D. Cal. July 21, 2011), the plaintiff moved to strike portions of the defendant's answer, which stated that the defendant denied the allegation "[t]o the extent that [corresponding paragraph of the complaint] contain[ed] factual allegations." *Id.* at \*2-3. Noting that "[d]efendants ha[d] denied Plaintiffs' factual allegations wherever they have declined to respond

to a legal conclusion,” the court denied the motion. *Id.* at \*3. Samsung’s responses are substantially the same as those in *Guifu* and therefore are sufficient.

Requiring responses to ambiguous legal conclusions would be premature. Under the Patent Local Rules, the claim construction process starts with CyWee serving Samsung its infringement contentions. Patent L.R. 3-1. The infringement contentions must, *inter alia*, provide notice of the asserted claims and accused products and identify “specifically where and how each limitation of each asserted claim is found within each Accused Instrumentality.” *Id.* Only after CyWee has provided these additional details is Samsung required to propose terms for construction and its proffered construction of these terms. Patent L.R. 4-1–4-6. Indeed, Patent L.R. 1-2 requires that motions raising claim construction issues be deferred until after the completion of claim construction. Therefore, CyWee’s complaint and motion to compel subvert the claim construction process required by the Patent Local Rules.

**III. EVEN IF ALL THE RELEVANT ALLEGATIONS ARE FACTUAL, SAMSUNG’S RESPONSES ARE INDISPUTABLY SUFFICIENT.**

While arguing that Defendants must respond to legal conclusions, CyWee asserts that all allegations corresponding to the disputed responses pertain only to factual issues. (Pl. Mot. at 1, 2, 6.) If CyWee is correct, Samsung need not provide any additional response because Samsung already denied all factual allegations as required under Rule 8(b). Specifically, Samsung denied all allegations in the paragraphs other than legal conclusions.

Similar responses have been found to be sufficient. In *Genetic Technologies Ltd. v. Agilent Technologies, Inc.*, No. CV 12-01616 RS, 2014 WL 3908192 (N.D. Cal. Aug. 11, 2014), the defendant included assertions that the complaint included legal conclusions that do not require a response but denied factual allegations. *Id.* at \*1. The plaintiff complained that it was

not clear which allegations were admitted, but the court disagreed. “There is no undue uncertainty as to what has been admitted, and what remains to be litigated in this action.” *Id.*

Here, for those paragraphs that it did not admit, Samsung stated that the paragraph did not require a response to the extent that it contained a legal conclusion. It then denied the remaining, factual allegations. This response is sufficient and need not be amended.

**IV. NONE OF THE CASES CITED BY CYWEE ADDRESS SITUATIONS IN WHICH THE RESPONDING PARTY’S ANSWERS UNAMBIGUOUSLY DENIED ALL ALLEGATIONS.**

CyWee relies on a number of short excerpts from cases suggesting that a party must respond to legal contentions. However, notably absent from its motion is any analysis of how these cases apply to Samsung’s answer.

In fact, some of the cited cases support Samsung’s position. *Lane v. Page*, 272 F.R.D. 581 (D.N.M. 2011), involved two sets of defendants, both of whom included statements in their answer that legal conclusions required no response. *Id.* at 602. The first set of defendants also included a general denial; the second set did not. *Id.* The Court found the first set of defendants’ responses sufficient because of the general denial. *Id.*

*Gomez v. United States*, No. 09-22148-Civ., 2010 WL 3834211 (S.D. Fla. Sept. 28, 2010), also supports Samsung’s position. *Id.* at \*1. Although the court found that responses simply refusing to respond to legal conclusions were insufficient, it found responses with “impermissible” language not admitting or denying parts of a paragraph to be sufficient when they denied the remainder of the paragraph. *Id.* at \*2.

In *Farrell v. Pike*, 342 F. Supp. 2d 433 (M.D.N.C. 2004), the defendant’s responses stated that the allegations amounted to legal conclusions for which no answer was required and denied the allegations in the alternative. *Id.* at 441. The court declined to strike the defendant’s responses, noting that “[i]t would not be productive to encourage a pleading motion practice,

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