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

CELLULAR COMMUNICATIONS EQUIPMENT LLC,

Plaintiff,

v.

LG ELECTRONICS, INC., ET AL.,

Defendants.

Civil Action No. 6:14-cv-982-JRG
LEAD CASE

AGREED DISCOVERY ORDER

After a review of the pleaded claims and defenses in this action, in furtherance of the management of the Court's docket under Federal Rule of Civil Procedure 16, and after receiving the input of the parties to this action, it is ORDERED AS FOLLOWS:

1. **Initial Disclosures.** In lieu of the disclosures required by Federal Rule of Civil Procedure 26(a)(1), each party shall disclose to every other party the following information:

   (a) the correct names of the parties to the lawsuit;

   (b) the name, address, and telephone number of any potential parties;

   (c) the legal theories and, in general, the factual bases of the disclosing party's claims or defenses (the disclosing party need not marshal all evidence that may be offered at trial);

   (d) the name, address, and telephone number of persons having knowledge of relevant facts, a brief statement of each identified person's connection with the

case, and a brief, fair summary of the substance of the information known by any such person;

(e) any indemnity and insuring agreements under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment entered in this action or to indemnify or reimburse for payments made to satisfy the judgment;

(f) any settlement agreements relevant to the subject matter of this action; and

(g) any statement of any party to the litigation.

2. **Disclosure of Expert Testimony.** A party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703 or 705, and:

(a) if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, provide the disclosures required by Federal Rule of Civil Procedure 26(a)(2)(B) and Local Rule CV-26; and

(b) for all other such witnesses, provide the disclosure required by Federal Rule of Civil Procedure 26(a)(2)(C).

3. **Additional Disclosures.** Without awaiting a discovery request,[1] each party will make the following disclosures to every other party:

(a) provide the disclosures required by the Patent Rules for the Eastern District of Texas with the following modifications to P.R. 3-1 and P.R. 3-3:

[1] The Court anticipates that this disclosure requirement will obviate the need for requests for production.

> **P.R. 3-1(g)**: If a party claiming patent infringement asserts that a claim element is a software limitation, the party need not comply with P.R. 3-1 for those claim elements until 30 days after source code for each Accused Instrumentality is produced by the opposing party. Thereafter, the party claiming patent infringement shall identify, on an element-by-element basis for each asserted claim, what source code of each Accused Instrumentality allegedly satisfies the software limitations of the asserted claim elements.
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> **P.R. 3-3(e)**: If a party claiming patent infringement exercises the provisions of P.R. 3-1(g), the party opposing a claim of patent infringement may serve, not later than 30 days after receipt of a P.R. 3-1(g) disclosure, supplemental "Invalidity Contentions" that amend only those claim elements identified as software limitations by the party claiming patent infringement.

(b) produce or permit the inspection of all documents, electronically stored information, and tangible things in the possession, custody, or control of the party that are relevant to the pleaded claims or defenses involved in this action, except to the extent these disclosures are affected by the time limits set forth in the Patent Rules for the Eastern District of Texas; and

(c) provide a complete computation of any category of damages claimed by any party to the action, and produce or permit the inspection of documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered, except that the disclosure of the computation of damages may be deferred until the time for Expert Disclosures if a party will rely on a damages expert.

4. Protective Orders. The Court will enter the parties' Agreed Protective Order.

5. Discovery Limitations. The discovery in this cause is limited to the disclosures described in Paragraphs 1-3 together with:

(a) Interrogatories.

i. Plaintiff may serve up to 20 common interrogatories on the Defendants, as well as 20 specific interrogatories on each Defendant.[2]

ii. Defendants may serve up to 20 common interrogatories on Plaintiff. In addition, each Defendant may serve 20 specific interrogatories on Plaintiff.

(b) Requests for Admission.

i. Plaintiff may serve up to 50 requests for admission on each Defendant.

ii. Each Defendant may serve up to 50 requests for admission on Plaintiff.

iii. Notwithstanding the limitations of 5(c)(i) and (ii), any party may serve an unlimited number of requests for admission that seek an admission as to (a) the authenticity of a particular document or thing, (b) the admissibility of a particular document or thing, and/or (c) whether a document qualifies as a printed publication under 35 U.S.C. § 102. Prior to serving any request for admission regarding the admissibility of documents, each party agrees to request that the opposing party stipulate to the admissibility of such documents. If the opposing party fails to stipulate to the admissibility of all such documents within two weeks of such request for stipulation, the requesting party may service on the opposing party requests for admission on all documents whose admissibility has not been stipulated.

[2] For purposes of this section 5, each common entity group is referred to separately as "Defendant" and shall be treated as a single and separate defendant from the other common entity groups. For example, for purposes of this section 5, LG Electronics, Inc. and LG Electronics U.S.A. comprise a common entity group and are considered, singularly, to be a Defendant.

(c) Fact Depositions of Parties and Third Parties.

i. Plaintiff may take up to 35 hours of total fact deposition testimony, including depositions under Rule 30(b)(1) and Rule 30(b)(6), of each Defendant (with former employees not counting toward this limit). The parties recognize that multiple depositions requiring the services of a translator may be cause for expanding this limit.

ii. Defendant collectively may take up to 45 hours of fact deposition testimony, including depositions under Rule 30(b)(1) and Rule 30(b)(6), of Plaintiff (with former employees not counting toward this limit).

iii. In addition to the limits set forth in Sections 5(c)(i)-(ii), *supra*, Plaintiff may take the lesser of up to 75 hours of third party deposition testimony (not including inventors) or a maximum of 20 total third party depositions. Further, Defendants collectively may take the lesser of up to 100 hours of third party deposition testimony (not including inventors) or a maximum of 25 total third party depositions.

iv. For each of Sections 5(c)(i)-(iii), each individual deposition (other than individual 30(b)(6) designees) shall count for a minimum of 2.5 hours of deposition time with respect to the limits set forth in those Sections.

(d) Inventor Depositions. Depositions of inventors of patents asserted by CCE are not included in the hour limitations set forth in Paragraphs 5(d)(ii)-(iii) and 5(f). Defendants, collectively, may take 7 hours of fact deposition testimony of each named inventor. Subject to resolution of any objection(s) of the inventor or inventor's employer, Defendants, collectively, may take 14 hours of fact

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