

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

CHRIMAR SYSTEMS, INC., et al, §
§
v. §
§ Civil Action No. 6:15-cv-163 -JDL
ALCATEL-LUCENT USA, INC., et al. §
(LEAD CASE) §
§

ORDER

Before the Court is Defendant ALE USA, Inc.’s (“ALE”) Motion to Strike the Supplemental Rebuttal Report of Chrimar’s technical expert, Dr. Madisetti (Doc. No. 315). Plaintiffs Chrimar Systems, Inc. and Chrimar Holding Company, LLC (“Chrimar”) have filed a response (Doc. Nos. 328). Upon consideration of the parties’ arguments, ALE’s Motion (Doc. Nos. 315) is **GRANTED-IN-PART** and **DENIED-IN-PART**, as set forth herein.

On September 13, 2016, this Court held a pretrial conference at which the Court took up the parties’ motions in limine. In ruling on those motions, the Court permitted ALE’s expert, Ian Crayford, to submit a short supplemental report to address documents that were newly produced by Chrimar on September 6, 2016. (Doc. No. 293, “Hearing Transcript” or “Tr.” at 137:17–21.) In addition, the Court stated to Chrimar’s counsel, “Mr. Cohen, if you want to provide a supplemental response to that, as to those documents that were produced on the 6th and Mr. Crayford provides some information, do that by Friday, the 23rd.” *Id.* at 18–21. ALE now moves to strike paragraphs 22–27 and 40–56 of Dr. Madisetti’s rebuttal report as outside the scope of the Court’s order on supplementation. (Doc. No. 315, at 3–4.)

As an initial matter, Chrimar has agreed to withdraw paragraphs 40–56. (Doc. No. 328, at 1.) Accordingly, that portion of the motion (Doc. No. 315) is **DENIED** as moot. As to

paragraphs 22–27, ALE contends that these paragraphs cover two letters from Mr. Boenke that were produced at the outset of this case and included in Mr. Crayford’s original expert report. (Doc. No. 315, at 3.) Chrimar contends that these letters were addressed in Mr. Crayford’s supplemental report and that Dr. Madisetti’s response is therefore proper rebuttal. (Doc. No. 328, at 2.) Chrimar does not address the time of production of these letters or that they were included in Mr. Crayford’s original report.

Here, the Court specifically limited any supplementation and response thereto to the newly produced documents produced on September 6, 2016. It is not disputed that these documents were produced early on in this litigation and that Mr. Crayford addressed these documents in his original report. *See, e.g.*, Doc. No. 315-4, at ¶¶ 883–897. Because paragraphs 22–27 of Dr. Madisetti’s rebuttal report discuss only these letters in rebuttal, which were not included in the new production and were included in Mr. Crayford’s original report, the Court finds they are outside the scope of the Court’s order regarding supplementation and rebuttal and ultimately untimely. Accordingly, the Court **GRANTS** ALE’s motion (Doc. No. 315) as to paragraphs 22–27 of Dr. Madisetti’s rebuttal report.

So ORDERED and SIGNED this 29th day of September, 2016.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE