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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MONOLITHIC POWER SYSTEMS, INC.,
Plaintiff,
v.
SILERGY CORPORATION, et al.,
Defendants.

Case No. [14-cv-01745-VC](#) (KAW)

**ORDER REGARDING 9/28/15 JOINT
LETTER RE: SPECIAL
INTERROGATORIES**

Re: Dkt. No. 189

On September 28, 2015, the parties filed a joint letter, in which Plaintiff seeks to compel supplemental responses to Interrogatory No. 1 to Silergy and Compal, and Interrogatory No. 4 to Dr. Wei Chen. (9/28/15 Joint Letter, “Joint Letter,” Dkt. No. 189.)

Upon review of the joint letter, the Court deems this matter suitable for disposition without oral argument pursuant to Civil L.R. 7-1(b), and GRANTS IN PART AND DENIES IN PART Plaintiff’s request to compel supplemental discovery of related products.

I. BACKGROUND

Plaintiff Monolithic Power Systems, Inc. (“MPS”) is a semiconductor company that designs, develops, and markets proprietary, advanced analog and mixed-signal semiconductors, including synchronous step-down converters utilizing under bump metallization technology, which improves the flip chip packages of MPS synchronous step-down converters by increasing heat dissipation and package reliability, while reducing alignment tolerances. (Second Am. Complaint, “SAC,” ¶ 12.) MPS’s step-down converters can be used in a wide range of devices, including laptop computers, mobile phones, DVD drives, and handheld devices. (SAC ¶ 13.)

Defendants Silergy Corporation and Silergy Technology (collectively “Silergy”) is one of MPS’s direct competitors in the power integrated circuit market. (SAC ¶ 14.) Dr. Wei Chen is

1 Silergy’s founder, President, and CEO. (SAC ¶ 6.) Dr. Chen served as an officer of MPS and a
2 member of the MPS Patent Committee until his departure in January 2008. *Id.* In that capacity,
3 Dr. Chen was MPS’s primary in-house technical consultant in connection with patent litigation.
4 (SAC ¶ 18.) In February 2008, Dr. Chen founded Silergy. *Id.* Plaintiff alleges that Dr. Chen
5 copied MPS’s confidential files, which were not returned upon his departure in violation of his
6 MPS employment agreements and company policy. (SAC ¶ 19.) Silergy’s products include
7 synchronous step-down regulators, such as those in the SY8206, SY8208, and SY8228 product
8 families. Silergy has contracts with Compal, Bizcom, and others, as well as with consumer
9 electronics companies, such as Lenovo and Acer. (SAC ¶ 15.) MPS alleges that step-down
10 regulators from Silergy are used in the Lenovo G500 and the Acer Aspire E1 notebooks, and
11 incorporate one or more of MPS’s patents. (SAC ¶ 16.)

12 In 2010, MPS filed several actions to enforce its rights against Silergy and Dr. Chen. (SAC
13 ¶ 66.) These lawsuits settled, and the parties entered into a Settlement and License Agreement on
14 December 6, 2011. (SAC ¶¶ 67-68.)

15 On November 1, 2013, MPS filed a patent infringement and breach of contract action
16 against Silergy, Dr. Chen, and related entities, including Compal.

17 On September 15, 2015, the undersigned granted Plaintiff leave to amend its infringement
18 contentions (“ICs”) and ordered that the amended ICs be served within 7 days. MPS appears to
19 have served its amended ICs and charted SY8208 as representative of the SY8206 and SY8228
20 product families. (Joint Letter at 1.)

21 On September 28, 2015, the parties filed the instant joint letter in which Plaintiff seeks to
22 compel supplemental discovery responses pertaining to the SY8206 and SY8228 product families,
23 as well as other unaccused Silergy products.

24 II. DISCUSSION

25 MPS seeks to compel responses to Interrogatory No. 1 to Silergy and Compal, and
26 Interrogatory No. 4 to Dr. Chen regarding the SY8208, SY8206, and SY8228 product families,
27 and similar, unaccused Silergy products.

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1 **A. Interrogatory No. 1 to Silergy and Compal**

2 Interrogatory No. 1 to Silergy seeks that

3 For each Silergy Step-Down Regulator identify (1) the model name,
4 number, or version of the product (including Silergy’s internal names as
5 well as customer names); (2) the customers (whether direct or indirect)
6 that product has been sold to; (3) any products of those customers
7 (whether direct or indirect) incorporating that product; and (4) any
8 technical specifications for that product including, but not limited to,
9 specification sheets.

10 (Dkt. No. 147-8 at 5.)

11 Interrogatory No. 1 to Compal seeks that

12 For each Compal product incorporating one or more Step-Down Regulator
13 identify (1) the model name, number, or version of the product (including
14 Compal’s internal names as well as customer names); (2) the customers
15 (whether direct or indirect) that product has been sold to; (3) any products
16 of those customers (whether direct or indirect) incorporating that product;
17 and (4) any technical specifications for that product, including, but not
18 limited to, specification sheets.

19 (Dkt. No. 147-9 at 5.)¹

20 **i. Whether SY8208 is a representative product**

21 MPS contends that Defendants are improperly limiting the scope of discovery to the
22 SY8208 product family. (Joint Letter at 1.) Defendants concede that they are proceeding with
23 discovery as to the single product, because it was the only product charged in the amended ICs,
24 and MPS is not entitled to discovery on the other accused products because its infringement
25 contentions “failed to show how its charting of the SY8208 is representative of the other accused
26 products (the SY8206 and SY8228).” (Joint Letter at 2.)

27 Defendants are correct that Patent Local “Rule 3-1 ... requires Plaintiff to articulate how
28 the accused products share the same, or substantially the same, infringing [qualities] with any
29 other product or with the ... ‘representative’ product [].” *Silicon Labs. Inc. v. Cresta Tech. Corp.*,
30 No. 14-cv-03227-PSG, 2015 WL 846679, at *1 (N.D. Cal. 2015)(quoting *Bender v. Freescale*

31 ¹ The parties’ reproduction of Interrogatory No. 1 was misleading (*see* Joint Letter at 1), so the
32 Court had to scour the record to obtain the original interrogatories, which should have been
33 attached pursuant to the undersigned’s standing order. (*See* Judge Westmore’s General Standing
34 Order ¶ 13) (“[T]he parties shall attach the propounded discovery and the applicable responses as
35 exhibits to the joint discovery letter.”)

1 *Semiconductor, Inc.*, No. 09–cv–01156, 2010 WL 1689465, at *3 (N.D. Cal. Apr. 26,
2 2010)(internal quotations omitted). This articulation, however, is evaluated in the context of a
3 challenge to the sufficiency of the infringement contentions. Here, there has been no challenge to
4 the sufficiency of the amended ICs, so the Court must assume that SY8208 is representative of the
5 SY8206 and SY8228 product families. Accordingly, Defendants must fully respond regarding all
6 three accused products.

7 **ii. Documents related to unaccused products**

8 Plaintiff seeks to compel discovery regarding products not specifically identified in its
9 infringement contentions on the grounds that it has no reliable publicly-available information to
10 ascertain infringement for Defendants’ other products. (Joint Letter at 1-2.) As a result, MPS
11 contends that it is impossible for it to ascertain which particular end product incorporates
12 Defendants’ products. (Joint Letter at 2.)

13 In opposition, Defendants contend that this request violates Patent Local Rule 3-1(b),
14 because it seeks documents on products that are not accused in the amended infringement
15 contentions. (Joint Letter at 2-3.) Additionally, Defendants contend that the demands to Compal
16 are overbroad and irrelevant, because the interrogatory is not limited to Silergy step-down
17 regulators. (Joint Letter at 2.) The objection as to Compal is sustained. The litigation concerns
18 Silergy products, so the interrogatory should be limited to Silergy step-down regulators.

19 Furthermore, Defendants contend that MPS failed to conduct the pre-filing investigation to
20 “determine if step-down regulators made by companies other than Silergy have any of the
21 packaging idiosyncrasies that are recited in the three patents-in-suit.” (Joint Letter at 3.) As was
22 the case with the related joint letter concerning the requests for production (*see* Dkt. No. 195), the
23 Court lacks sufficient information to determine whether Plaintiff’s interrogatory is overbroad,
24 because the parties have not provided a summary of the pertinent facts to aid the court in its
25 resolution of the pending dispute in violation of Paragraph 13(b) of the undersigned Standing
26 Order. This is why the court was forced to review, and cite to, the operative complaint. *See supra*
27 Part I. Indeed, the parties have cited to various previously-filed documents in support of their
28 arguments. This is improper.

1 Therefore, to the extent that Plaintiff seeks to compel supplemental responses from Silergy
2 regarding unaccused products, the Court does not have sufficient information to determine
3 whether this request is overbroad.² Relevancy, however, is a broad standard, and courts in this
4 district have found that discovery of unaccused products is permissible “if the plaintiff does not
5 know of the allegedly infringing product when it serves its infringement contentions and could not
6 have discovered the product absent discovery.” *Infineon Technologies AG v. Volterra*
7 *Semiconductor Corp.*, No. C 11-6239 MMC DMR, 2012 WL 6184394, at *3 (N.D. Cal. Dec. 11,
8 2012) (citing *Kelora Sys., LLC v. Target Corp.*, No. 11-1548 CW (LB), 2011 WL 5444419, at *2
9 (N.D. Cal. Nov. 9, 2011); *Oracle Am., Inc.*, 2011 WL 4479305, at *2 (citing N.D. Cal. Patent L.R.
10 3-1(b)). “In such circumstances, the plaintiff must ‘articulate how the [unknown] accused
11 products share the same, or substantially the same, infringing [structure]’ with a named product.”
12 *Infineon Technologies*, 2012 WL 6184394, at *3 (citing *Bender v. Freescale Semiconductor, Inc.*,
13 No. C 09-1156 PHJ MEJ, 2010 WL 1689465, at *3 (N.D. Cal. Apr. 26, 2010)).

14 Absent a clear explanation of the technology at issue, and the relation to the patents-in-suit,
15 the Court declines to order Defendant to supplement its responses to include unaccused products.
16 If, however, Plaintiff’s representation that information regarding Defendant’s products are not
17 publicly available and cannot be easily obtained is accurate, and Plaintiff articulates how the
18 technology concerns the patents-in-suit and the alleged infringement, the court is prepared to order
19 Defendants to provide discovery on similar, unaccused products.

20 The parties are, therefore, ordered to further meet and confer regarding Silergy’s
21 supplemental responses concerning unaccused products. If the parties are unable to resolve this
22 dispute without further court intervention, they shall file a joint letter that includes a detailed
23 description of flip chips, step-down regulators, and other technology at issue, summaries of the
24 respective patents-in-suit, and how the unaccused products allegedly infringe. The parties may not
25 cite to documents previously filed in the case nor those previously submitted to the undersigned in
26

27 ² As provided above, the Court declines to order Compal to respond regarding all step-down
28 regulators, as the interrogatory is overbroad. Compal need only fully respond as to the three
accused product families.

1 lieu of further explanation. All future joint letters should be complete, because the court is not
2 required to expend judicial resources scouring the record. Failure to comply with these
3 requirements will result in the letter being terminated for failure to comply with the Court's
4 standing order.

5 **B. Interrogatory No. 4 to Dr. Chen**

6 Request No. 4 asks Dr. Chen to

7 Outline and explain the design and development process for each
8 Silergy Flip Chip Product, including identification of key milestones
9 met, explanation of the activities undertaken during each step of the
10 process, identification of the group or people within Silergy who
undertook those steps, description of the relative time windows
associated with each step in the process, and whether and how you
used knowledge you obtained during the course of your employment
at MPS.

11 (Joint Letter at 4; Dkt. No. 183-6 at 3.)

12 Plaintiff contends that Defendants are withholding all relevant and responsive discovery
13 regarding MPS's breach of contract claim on the grounds that this is a trade secret case under
14 California Code of Civil Procedure § 2019.210. (Joint Letter at 4.)

15 Defendants argue that, pursuant to § 2019.210, they should not be required to respond until
16 MPS identifies the allegedly misappropriated "confidential information." (Joint Letter at 6.)
17 Section 2019.210 provides, in pertinent part, that "[i]n any action alleging the misappropriation of
18 a trade secret under the Uniform Trade Secrets Act . . . , before commencing discovery relating to
19 the trade secret, the party alleging the misappropriation shall identify the trade secret with
20 reasonable particularity. . . ." Cal. Civ. Proc. Code § 2019.210. While MPS's breach of contract
21 claim relates to the alleged use of confidential information, the contract provision breached does
22 not mention trade secrets, and Defendants have not shown "that this claim is based on an
23 allegation that [] Defendants disclosed or misused [Plaintiff's] trade secrets." *Tessera, Inc. v.*
24 *Advanced Micro Devices, Inc.*, No. C 05-4063 CW, 2013 WL 210897, at *2 (N.D. Cal. Jan. 18,
25 2013) (citing Cal. Civ. Code § 3426.1(d) (setting forth a definition of trade secret)). Therefore,
26 Defendants are required to answer without the benefit of MPS identifying the confidential
27 information it believes was utilized in the breach of the December 6, 2011 Settlement and License
28 Agreement.

