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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

REMBRANDT PATENT INNOVATIONS
LLC, and REMBRANDT SECURE
COMPUTING, LP,

No. C 14-05094 WHA (lead)
No. C 14-05093 WHA (consolidated)

Plaintiffs,

v.

APPLE INC.,

**REQUEST FOR
SUPPLEMENTAL BRIEFING**

Defendant.

The complaint in this action alleged that Apple infringed the patent-in-suit by making, using, importing, offering for sale, or selling products “including but not limited to” an initial set of eighteen specifically-identified products, plus other “reasonably similar products.” Plaintiffs also accused those products in their initial infringement contentions. Plaintiffs have twice amended their infringement contentions to add products released since commencing this action, and they seek leave to add new products once more (this would be the sixth amendment to the infringement contentions).

Rule 15(d) provides that a supplemental complaint, not merely an amended complaint, is necessary to set out “any transaction, transaction, occurrence, or event that happened after the date” of the complaint. Plaintiffs have never sought to file a supplemental complaint in connection with their amended infringement contentions.

The amended Federal Rules of Civil Procedure took effect on December 1. The amended rules eliminated Form 18, which had set a bare pleading standard for claims of direct

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patent infringement, notably allowing a patent claim to survive a Rule 12 motion even if the patent owner did not specifically name the accused products. The amended rules apply to pending cases “insofar as just and practical.”

The parties did not address whether plaintiffs’ proposed amendments to their infringement contentions have any implications for their complaint, particularly in light of the elimination of Form 18.

By **TUESDAY, DECEMBER 8 AT NOON**, the parties will please file supplemental briefs **NOT TO EXCEED FIVE PAGES** double-spaced with no footnotes addressing the issues detailed above. Please also state whether a junior lawyer four or fewer years out of law school will conduct the argument, if allowed, a factor the Court will take into account in deciding whether to submit the motion on the papers or not.

IT IS SO ORDERED.

Dated: December 4, 2015.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE