

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LANTIQ DEUTSCHLAND GMBH, ET AL.,
Plaintiffs,
v.
RALINK TECHNOLOGY CORPORATION,
ET AL.,
Defendants.

Case No.: 5:11-CV-00234 EJD

**ORDER GRANTING MOTION TO
STRIKE AND DENYING MOTION
TO AMEND SCHEDULING ORDER
AS MOOT**

(Re: Docket Nos. 81, 83)

On October 14, 2011, the parties filed a Joint Case Management Conference Statement in which they agreed to a “Deadline to Amend Pleadings without Leave of Court” on November 25, 2011. See Docket No. 65 at 9:7. This statement is signed by counsel for Plaintiffs and counsel for Defendants. On October 24, 2011, the court issued the Case Management Order, which included the order that “the deadline for joinder of any additional parties or other amendment to the pleadings, is sixty days after entry of this order.” Docket No. 71 at 1:26-28. On December 23, 2011, Plaintiffs filed a Second Amended Complaint. See Docket No. 79. On January 9, 2012, Defendants filed a motion to strike the Second Amended Complaint. On January 17, 2012, Defendants filed a motion to continue dates relating to claims construction in light of the new parties and claims in Plaintiffs’ Second Amended Complaint. The court finds that these motions are appropriate for determination without oral argument. See Civil L.R. 7-1(b).

Pursuant to Fed. R. Civ. P. 15(a), when amendment is not a matter of right, a party may amend its pleading “only with the opposing party’s written consent or the court’s leave.” Although the parties’ Joint Case Management Conference Statement arguably gives Plaintiffs written consent to amend their complaint until November 25, 2011, Plaintiffs missed that deadline. Plaintiffs argue that the Case Management Order provided them with the right to amend their pleadings without leave of court until December 23, 2012. Nowhere in the Case Management Order does the court provide the leave required by Rule 15 or order that leave is not required. The court merely set a deadline for amendment consistent with all applicable rules. Plaintiffs’ Second Amended Complaint therefore was improperly filed without leave of court. Accordingly,

IT IS HEREBY ORDERED that the motion to strike is GRANTED.

IT IS FURTHER ORDERED that the motion to continue dates in light of the Second Amended Complaint is DENIED AS MOOT.

Dated: