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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TEK GLOBAL S.R.L., et al.,
Plaintiffs,
v.
Sealant Systems International Inc., et al.,
Defendants.

Case No. [5:11-cv-00774-PSG](#)
**ORDER DENYING REQUEST TO
STRIKE PLAINTIFFS’
SUPPLEMENTAL REBUTTAL
REPORT**
(Re: Docket Nos. 373, 374)

Following remand, this court issued an order permitting each party to file supplemental expert reports.¹ Defendants object to the scope of a supplemental report from Plaintiffs’ expert Homayoon Kazerooni and ask that the court strike certain portions.² Their particular beef is that, in his supplemental rebuttal report, Kazerooni has gone beyond what they contend was permitted: addressing the Federal Circuit’s construction of the disputed claim term “cooperating with.”³

There is just one problem with Defendants’ objection: their expert did the same thing. In particular, in his own supplemental expert report, Defendants’ expert Randall King speaks at length about whether prior art discloses a “three-way valve,” an entirely different claim term.⁴

¹ See Docket No. 360 at 2.

² See Docket No. 374.

³ See id.

⁴ See Docket No. 373-1 at 18:21-19:5, 20:12-21:5, 22:1-26, 23:25-27, 26:17-21.

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Nowhere in its opinion did the Federal Circuit address that limitation.⁵

Any number of legal doctrines might apply to this situation. For the sake of brevity, the court will simply apply one: “pot, kettle, black.”

Defendants’ request is DENIED.

SO ORDERED.

Dated: May 4, 2016



PAUL S. GREWAL
United States Magistrate Judge

⁵ See Docket No. 357; Sealant Systems International, Inc. et al. v. Tek Global, S.R.L. et al., 616 Fed. App’x 987 (Fed. Cir. 2015).