UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

APPLE, INC., a California corporation, Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., A Korean corporation; SAMSUNG ELECTRONICS AMERICA, INC., a New York corporation; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, a Delaware limited liability company, Defendants.	Case No.: 11-CV-01846-LHK ORDER DENYING MOTION TO ENLARGE PAGE LIMIT

On August 28, 2012, after extended discussion with the parties, this Court issued a carefully considered Order setting a briefing schedule and page limits for all of the post-trial briefing in this case ("Scheduling Order"). ECF No. 1945. In the Scheduling Order, the Court limited the briefing for Apple's motion for permanent injunction and willfulness enhancements to 30 pages for the opening brief, 35 pages for Samsung's opposition, and 15 pages for Apple's reply. On October 26, 2012, after Samsung filed its opposition, Apple filed a motion to enlarge the page limit for its reply in support of motion for permanent injunction and enhanced damages. ECF No. 2092. Samsung filed an opposition to that motion to enlarge the page limit. ECF No. 2098. Apple then filed a motion for leave to file a reply, ECF No. 2099, to which Samsung filed a separate opposition. ECF Nos. 2101. The Court DENIES Apple's motion to enlarge pages, and accordingly DENIES as moot Apple's motion to file a reply.

Apple's stated grounds for asking this Court to change its well considered allotment of pages after two of the three briefs have already been submitted are: (1) that in its opposition, Samsung submitted substantial additional evidence and arguments not presented at trial; and (2) that in its opposition, Samsung refers to analysis in the Federal Circuit's October 11, 2012 opinion in Case No. 12-CV-00630. Neither argument would justify altering the established page limits at this late stage.

As Samsung points out, the parties were aware before the briefing even began that additional evidence would be necessary for the preliminary injunction. *See* 8/24/2012 Tr. at 4323:15-18 (counsel for Apple noting that "we're going to be assembling the record that's already been adduced at trial and adding to it additional evidence on irreparable harm. . ."). The fact that both Apple and Samsung discussed additional evidence in their briefs does not now justify giving Apple additional pages.

Further, the arguments addressed in the Federal Circuit opinion were well known to the parties far in advance of the present briefing deadlines in this case. Apple had the opportunity to address the issues it knew were under consideration in its brief, and Apple now has the opportunity to respond to Samsung's discussion of the opinion within the existing boundaries of its reply brief. It would not be fair to change the allotments now, after Samsung has already filed its opposition. Accordingly, Apple's motion to enlarge the page limit is DENIED.

IT IS SO ORDERED.

Dated: October 29, 2012

Lucy H. Koh

LUCY H. KOH
United States District Judge