

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GUZIK TECHNICAL ENTERPRISES, INC.,)
Plaintiff and Counterclaim Defendant,)
v.)
WESTERN DIGITAL CORPORATION,)
WESTERN DIGITAL TECHNOLOGIES, INC.,)
and WESTERN DIGITAL (FREMONT) INC.,)
Defendants and Counterclaim Plaintiffs, and)
WESTERN DIGITAL (THAILAND))
COMPANY LIMITED and WESTERN)
DIGITAL (MALAYSIA) SDN.BHD,)
Defendants.)

Case No.: 11-CV-03786-PSG
**ORDER DENYING LEAVE TO
AMEND INFRINGEMENT AND
INVALIDITY CONTENTIONS**
(Re: Docket Nos. 181, 185)

In this patent infringement case, Plaintiff Guzik Technical Enterprises, Inc. (“GTE”) moves for leave to amend its infringement and invalidity contentions pursuant to Patent L.R. 3-6. GTE argues that it has good cause for the requests and points to discovery only recently produced that it wants to incorporate into its amended infringement contentions. It also asserts that after “in-depth analysis”¹ following the court’s claim construction in September 2012,² it wants to reclassify its

¹ See Docket No. 185.

² See Docket Nos. 117, 123.

1 invalidity contentions and add charts that it mistakenly omitted. GTE maintains that none of its
2 amendments will prejudice Western Digital or require much if any changes to the case schedule
3 that the court has set.

4 What GTE does not offer to either the court or Western Digital are the actual amended
5 contentions, infringement or invalidity. At the hearing on the motions, GTE stated that it had not
6 yet completed the new contentions, in part because it is continuing to connect the recent discovery
7 to its infringement theories. GTE also has made no commitment regarding the date that the court
8 and Western Digital could expect to receive the amended contentions despite the impending
9 deadline for opening expert reports, set only three days from this order.³ But GTE maintains that
10 the absence of the amendments is no detriment to its requests because it has provided sufficient
11 description of the changes it plans to make and, based on its own description of those changes, the
12 contentions will neither prejudice Western Digital nor substantially delay the case.

14 GTE's position presents the court with an opportunity to clarify the requirements for
15 parties seeking to amend their infringement or invalidity contentions before the undersigned:
16 moving parties must submit their proposed amended contentions with their request. It is true that
17 Patent L.R. 3-6 does not explicitly require that a party seeking to amend its contentions provide the
18 court or its opposing counsel with the proposed changes, and so GTE's failure to submit its new
19 contentions is not an obvious error. But Rule 3-6 does require that the moving party make a
20 showing of good cause and that the court assess whether the nonmoving party would be subject to
21 undue prejudice. How can the court analyze those factors when it has no opportunity to review the
22 changes the moving party proposes? Without the amendments, the court cannot ascertain whether
23 the moving party's reasons for amendment are borne out in its proposed changes or whether the
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28 ³ See Docket No. 57.

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two are wholly unconnected. And without that nexus, the court cannot and should not permit amendment.⁴ Its evaluation in essence would be no more than a guess.

Because GTE has not provided the proposed amended contentions, the court DENIES its requests for leave to file them. This determination does not reflect on whether GTE had good cause or acted diligence or whether Western Digital would be unfairly prejudiced. And that, in a nutshell, is the problem. Without the amendments, the court cannot make those determinations, and without those determinations, the court cannot grant leave to amend.

IT IS SO ORDERED.

Dated: May 14, 2013



PAUL S. GREWAL
United States Magistrate Judge

⁴ See *O2 Micro Intern. Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355, 1365-66 (Fed. Cir. 2006) (noting that amendment of infringement contentions requires a showing of diligence).