
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

KOMBEA CORPORATION,

Plaintiff,

v.

NOGUAR L.C.,

Defendant.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANT'S
MOTION FOR
RECONSIDERATION

Case No. 2:13-CV-957 TS

This matter is before the Court on Defendant's Motion for Reconsideration of the Court's prior Memorandum Decision and Order, dated December 29, 2014 (Docket No. 49). For the reasons discussed below, the Court will deny Defendant's Motion.

"Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice."¹ "Thus, a motion for reconsideration is appropriate where the court has misapprehended the facts, a party's position, or the controlling law. It is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing."² The Court finds that the Defendant has not met this burden.

Defendant asserts that the Court committed clear error by not conducting a claim-by-claim analysis of the patents-in-suit. In responding to the Motion, Defendant did not conduct such an analysis or argue that the Court should conduct such an analysis. The Court will not

¹ *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000).

² *Id.* (citation omitted).

consider, as a basis for reconsideration, any argument that could have been raised in prior briefing. Therefore, the Court will not reconsider its previous Order on Defendant's argument after the fact that the Court should have conducted a claim-by-claim analysis.

Defendant also argues that the Court misapplied the Federal Circuit's holding in *DDR Holdings v. Hotels.com*.³ Defendant claims that because the *DDR Holdings* decision was issued only a few days prior to the hearing on Plaintiff's Motion for Summary Judgment, Defendant did not have an opportunity to fully digest and present oral argument regarding Defendant's understanding of the case to the Court.⁴ Defendant, however, was aware of the *DDR Holdings* case at the hearing and could have moved to submit supplemental briefing on the application of *DDR Holdings*. Defendant did not do so and the Court will not consider, as a basis for reconsideration, any argument that could have been raised in prior briefing.

It is therefore

ORDERED that Defendant's Motion for Reconsideration (Docket No. 56) is DENIED.

DATED this 30th day of June 2015.

BY THE COURT:



TED STEWART
United States District Judge

³ 773 F.3d 1245 (Fed. Cir. 2014).

⁴ Docket No. 76, at 5.