

HONORABLE RICHARD A. JONES

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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 TELEBUYER, LLC,

10 Plaintiff & Counterclaim
11 Defendant,

CASE NO. C13-1677RAJ

v.

ORDER

12 AMAZON.COM, INC., et al.,

13 Defendants &
14 Counterclaim Plaintiffs.

15 The court's only order in this patent case, other than scheduling orders, is a two-
16 page minute order that provided, in relevant part, as follows:

17 Defendants should consider the scope of Plaintiff's claims after Plaintiff
18 files its Asserted Claims and Infringement Contentions in accordance with
19 Local Patent Rule 120. If, after reviewing those disclosures, Defendants
20 believe that additional time is necessary, they shall first meet and confer
21 with Plaintiff. Defendants may then file a motion, stipulated or otherwise,
22 requesting changes to the scheduling order.

23 Jan. 21, 2014 minute order (Dkt. # 88).

24 Defendants (collectively "Amazon") violated that order. Amazon filed a motion
25 to extend the deadline for its next disclosures (its non-infringement and invalidity
26 contentions in accordance with LPR 121) by 30 days, and filed that motion so that it was
27 fully briefed before Amazon had even received Plaintiff's initial contentions. Although
28 Amazon purported to have met and conferred in good faith, it rejected Plaintiff's
reasonable proposal to permit Amazon to delay its LPR 121 disclosures until after the
court ruled on a motion to modify the scheduling order. The court will adopt Plaintiff's

ORDER – 1

1 reasonable proposal. Amazon should have done so without seeking relief from the court,
2 and certainly without seeking relief from the court in a motion that squarely violates a
3 court order. The court accordingly DENIES Amazon's motion for an extension of time
4 (Dkt. # 90) and imposes sanctions as stated at the conclusion of this order.

5 On February 7, Plaintiff Telebuyer, LLC, served disclosures of its asserted claims
6 and infringement contentions. According to a statement Amazon filed *after* it had
7 completed briefing on this motion, the disclosures are more than 900 pages long, assert
8 nearly 200 claims, and span 7 patents-in-suit. That most likely means that Amazon will
9 need to extend the March 10 deadline currently in place for its LPR 121 disclosures. But
10 Telebuyer recognizes that, and already offered to give Amazon any reasonable extension,
11 provided that Amazon requested one in accordance with the court's order. Instead,
12 Amazon insisted that it file the motion now before the court. Instead of requesting a
13 reasonable extension to permit it to prepare its LPR 121 disclosures, Amazon requested a
14 30-day extension solely for the purpose of permitting it to prepare yet another motion for
15 an extension.

16 The only explanation Amazon offers for violating the court's order is that the
17 court must have made a mistake in concluding that 31 days between Telebuyer's
18 infringement contentions and Amazon's deadline for a response was enough time to
19 permit Amazon to resolve any scheduling dispute. Amazon is mistaken. As Telebuyer's
20 actions (and now this court's actions) reveal, Amazon could have waited, complied with
21 the court's order, and received reasonable relief. If Amazon was concerned that the court
22 might penalize it for not complying with the March 10 deadline while its motion was
23 pending (a concern that itself seems unreasonable), it could have filed a one-page motion,
24 with Telebuyer's consent, requesting that the court vacate the March 10 deadline pending
25 its ruling. The court already indicated in its January 21 minute order that it understands
26 that the deadlines currently in place are likely to change once the parties (and perhaps the
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1 court) can assess the scope of Telebuyer's allegations of infringement. The court
2 reiterates that point today.

3 The court orders as follows:

- 4 1) The court DENIES Amazon's motion for an extension of time. Dkt. # 90.
- 5 2) The court adopts Telebuyer's reasonable proposal, and orders that Amazon's
6 LPR 121 disclosures are not due until the latest of the following dates: (a) the
7 current March 10 deadline (unless Amazon files a motion for relief from that
8 deadline), (b) any reasonable deadline to which the parties agree, or (c) any
9 deadline the court imposes in an order resolving a dispute over the deadline.
- 10 3) As a sanction, Amazon shall pay Telebuyer's reasonable attorney fees for
11 opposing its motion for an extension of time. The parties shall meet and confer
12 and attempt to agree on those fees. If they are unable to agree, a party may file
13 a motion. The court will impose sanctions on any party who takes an
14 unreasonable position in support of or in opposition to that motion.
- 15 4) The day after it filed its motion for extension of time, Amazon filed a motion
16 for a protective order that it supported with more than 200 pages of exhibits.
17 In violation of both this District's electronic filing rules and this court's
18 scheduling order, Amazon provided no courtesy copy. The court will not
19 consider Amazon's motion for a protective order until Amazon provides
20 courtesy copies in compliance with the court's scheduling order. The court
21 will terminate that motion unless it receives those copies by the end of this
22 week.
- 23 5) The parties must use the expedited joint motion procedure of Local Rules W.D.
24 Wash. LCR 37(b) for every motion they file, excepting dispositive motions and
25 claim construction briefs.

26 To conclude, the court cautions both parties to remember that their dispute is just
27 one of more than 200 civil cases assigned to this court, to say nothing of the court's

1 active criminal docket. Their conduct to date suggests that they believe the court has
2 unlimited resources to apply to this litigation. That is not the case.

3 Dated this 11th day of February, 2014.

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7 The Honorable Richard A. Jones
8 United States District Court Judge
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