

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CONVOLVE, INC. and MASSACHUSETTS
INSTITUTE OF TECHNOLOGY,

Plaintiffs,

-against-

COMPAQ COMPUTER CORP. and SEAGATE
TECHNOLOGY LLC,

Defendants.

-----X
GEORGE B. DANIELS, District Judge:

Defendant Seagate Technology LLC's ("Seagate") outstanding objections to Magistrate Judge James C. Francis' Orders, granting plaintiffs' motion to strike amended validity contentions and denying reconsideration, are overruled.

Plaintiffs' outstanding objections to Magistrate Judge Francis' Orders: (1) granting Seagate's amendment motion to the extent that Seagate identifies amendments directly related to the prior submissions of Dr. Franklin; and (2) allowing Seagate to produce Maxtor documents and amend its invalidity contentions to the extent it relates to Maxtor prior art, are overruled.

Seagate's outstanding objections to Magistrate Judge Francis' Order limiting certain of Seagate's amended for-cause invalidity contentions, are overruled.

Defendant Compaq Computer Corporation's motion (Doc. No. 930) for reconsideration of this Court's Order denying its application for leave to amend its answer, is denied.

Plaintiffs' motion (Doc. No. 956) to supplement the summary judgment record with new material evidence and for other relief requested in the interest of justice, is granted to the extent that the affidavit of Paul A. Galloway may be added to the summary judgment record and discovery may be reopened to take his deposition. Plaintiffs' motion is denied in all other respects.

ORDER
00 CV 5141 (GBD)

Defendant Seagate's application seeking leave to supplement its summary judgment motion, is denied.

Defendant Seagate's motion for an order holding plaintiff Convolv, Inc. and its counsel in contempt for allegedly violating the Stipulation and Protective Order dated September 21, 2000, is denied.

Defendants' summary judgment motions (Doc. Nos. 906 & 907) to dismiss plaintiffs' claim for infringement of the '267 patent, are granted.

Plaintiffs' partial summary judgment motion (Doc. No. 910) to dismiss defendants' '267 patent affirmative defenses and defendant Seagate's '267 patent counterclaim, is granted.

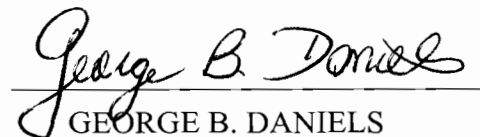
Plaintiffs' summary judgment motion to dismiss defendant Seagate's affirmative defense and counterclaim for trade secret misappropriation, is denied. Plaintiffs seeks dismissal solely on the grounds that Seagate failed to comply with Cal. Civ.Proc. Code § 2019.210, by not identifying the specific trade secrets at issue. Section 2019.210 is a pre-discovery statute. It is not a basis for granting summary judgment where, as here, the claims have been actively litigated.

That portion of plaintiffs' summary judgment motion to dismiss counterclaims and affirmative defenses on the ground that they are allegedly being pursued based on arguments in violation of prior Court Orders, is denied. The relief sought by plaintiffs is not the appropriate subject of a summary judgment motion.

Dated: New York, New York

March 11, 2010

SO ORDERED:

A handwritten signature in cursive script, reading "George B. Daniels", written over a horizontal line.

GEORGE B. DANIELS

United States District Judge