

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ENZO BIOCHEM, INC. ET AL.,	:	
Plaintiffs,	:	
	:	No. 3:04cv929 (JBA)
v.	:	
	:	
APPLERA CORP. ET AL.,	:	
Defendants.	:	

ORDER ON DEFENDANT APPLERA'S MOTION FOR LEAVE TO FILE
SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT OF INVALIDITY [DOC. # 232]

Defendant Applera has moved for leave to file a supplemental memorandum supporting a new ground for summary judgment of invalidity: lack of enablement under 35 U.S.C. § 112 ¶ 1, the basis for which arises from plaintiff Enzo's recent "admissions in another proceeding before the United States Patent and Trademark Office that indisputably establish the asserted claims of the Ward patents are invalid." (Def. Mot. [Doc. # 232] at 1.) Plaintiff Enzo opposes defendant's motion for leave, or in the alternative, seeks to submit a supplemental memorandum opposing summary judgment of invalidity on the newly asserted ground of lack of enablement. (Pl. Mot. [Doc. # 236].)

While the summary judgment deadlines have obviously expired, based on defendant's representation that it did not until recently have the information needed to support its lack of enablement claim, and as plaintiff has expressed its willingness to have the Court consider a supplemental opposition memorandum

to defendant's purported supplemental memorandum, the Court GRANTS defendant Applera's Motion for Leave to File Supplemental Memorandum of Law in Support of its Motion for Summary Judgment of Invalidity [Doc. # 232], and will consider plaintiff's supplemental opposition brief and related materials [Doc. # 236]. No further briefing on lack of enablement shall be submitted.

IT IS SO ORDERED.

/s/

JANET BOND ARTERTON, U.S.D.J.

Dated at New Haven, Connecticut, this 5th day of September, 2007.