

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

TEXAS ADVANCED OPTOELECTRONIC §
SOLUTIONS, INC., §
§
Plaintiff, §
§
v. §
§
INTERSIL CORPORATION, §
§
Defendant. §

Case No. 4:08-CV-451

**ORDER DENYING PLAINTIFF’S MOTION FOR RECONSIDERATION AND
AFFIRMING THE MAGISTRATE JUDGE’S ORDER REGARDING
DEFENDANT’S RENEWED MOTION TO STRIKE PLAINTIFF’S
AMENDED PATENT INFRINGEMENT CONTENTIONS
AND FOR SANCTIONS**

– AND –

**ORDER DENYING AS MOOT PLAINTIFF’S MOTION FOR ORAL HEARING ON
PLAINTIFF’S MOTION FOR RECONSIDERATION AND APPEAL
OF THE MAGISTRATE JUDGE’S ORDER**

The following are pending before the court:

1. Plaintiff’s motion for reconsideration and appeal of the Magistrate Judge’s order regarding Defendant’s renewed motion to strike Plaintiff’s amended patent infringement contentions and for sanctions (docket entry #118);
2. Intersil’s response in opposition to TAOS’s motion for reconsideration and appeal of the Magistrate Judge’s order (docket entry 119);
3. Plaintiff’s sealed reply brief in support of its motion for reconsideration and appeal of the Magistrate Judge’s order regarding Defendant’s renewed motion to strike Plaintiff’s amended patent infringement contentions and for sanctions (docket entry #124); and
4. Plaintiff’s motion for oral hearing on Plaintiff’s motion for reconsideration and appeal of the Magistrate Judge’s order (docket entry #129).

Having considered the Plaintiff's motion for reconsideration and appeal as well as the responsive briefing thereto, the court finds that the same should be denied.

On November 4, 2009, United States Magistrate Judge Don Bush granted in part the Defendant's renewed motion to strike the Plaintiff's amended patent infringement contentions.¹ The Plaintiff appeals the following portion of Magistrate Judge Bush's order:

However, the Court does agree that TAOS has not specifically identified any external devices in the claims noted above for the products referenced as to its indirect infringement claims. Therefore, Intersil's Motion to Strike is granted regarding external products not identified in its Amended PICs. TAOS may not assert claims for indirect infringement for the Group I, II or III products, unless the external products have been previously identified and explanation given as to how the infringement is achieved.

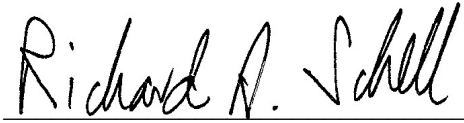
ORDER, docket entry #113, NOV. 4, 2009, p. 2.

The court has reviewed Magistrate Judge Bush's November 4, 2009 order, the Plaintiff's appeal and the responsive briefing thereto. Having reviewed the same, the court finds that Magistrate Judge Bush's order is not clearly erroneous or contrary to law. FED. R. CIV. P. 72(a). The court notes, however, that once the court issues its claim construction order, the Plaintiff may amend its infringement contentions if it believes in good faith that the court's claim construction order so requires. *See* P.R. 3-6(a)(1). Based on the foregoing, the Plaintiff's motion for reconsideration is **DENIED** and the Magistrate Judge's order regarding Defendant's renewed motion to strike Plaintiff's amended patent infringement contentions and for sanctions (docket entry #118) is **AFFIRMED**. The Plaintiff's motion for oral hearing on Plaintiff's motion for reconsideration and appeal of the Magistrate Judge's order (docket entry #129) is **DENIED AS MOOT**.

¹The court referred the Defendant's renewed motion to strike the Plaintiff's amended patent infringement contentions to Magistrate Judge Bush on October 6, 2009.

IT IS SO ORDERED.

SIGNED this the 29th day of September, 2010.

Handwritten signature of Richard A. Schell in cursive script.

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE