

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

KERANOS, LLC

v.

SILICON STORAGE

TECHNOLOGY, INC., et al.

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Case No. 2:13-cv-17

ORDER ON MOTIONS TO RECONSIDER

Plaintiff in this patent infringement action alleges that Defendants—manufacturers of flash memory products—infringe three related patents. (A related case, *Keranos v. Analog Devices, Inc.*, 2:13-cv-18, involves similar claims against customer defendants.) Defendants challenge the patents as invalid.

The Court previously ruled on several pending motions, including Plaintiff’s request to amend its infringement contentions and Plaintiff’s motion to compel Defendants’ non-infringement contentions. The Court denied Plaintiff’s motion for leave to amend its infringement contentions and granted Plaintiff’s motions to compel answers to its interrogatories. Plaintiff now seeks reconsideration of both issues (Doc. Nos. 154, 159). For the reasons discussed below, the motions to reconsider are DENIED.

Reconsideration of Court’s Order Compelling Non-Infringement Contentions

In its original motion, Plaintiff challenged Defendants’ responses to its non-infringement contentions as insufficient and asked the Court to compel complete responses from Defendants. Defendants objected to Plaintiff’s request, arguing that their response was sufficient and that Plaintiff was attempting to prematurely compel expert discovery. The Court noted that the

deadline to exchange expert reports had passed and granted the motion to compel Defendants to respond “to the extent they [had] not already done so.”

Plaintiff now argues that the order—which issued after the close of fact discovery—allows Defendants to proceed on facts not timely disclosed. But the Court’s previous order compelling Defendants’ supplemental non-infringement contentions did not address whether Defendant may present those theories at trial. That issue is the subject of a letter brief filed by Plaintiff (Doc. No. 94) and will be addressed accordingly. Therefore, the Court finds no reason to amend its previous ruling that Defendant respond to Plaintiff’s interrogatories, and the motion to reconsider (Doc. No. 154) is DENIED.¹

Reconsideration of Court’s Order Denying Leave to Amend Infringement Contentions

Also, the Court previously denied Plaintiff’s request to amend its infringement contentions to add thousands of additional products. The Court found that Plaintiff did not act diligently when disclosing its original infringement contentions and thus did not demonstrate good cause for the amendment.

Plaintiff’s motion to reconsider raises the same arguments previously addressed by the Court and does not justify amendment of the Court’s previous ruling. Accordingly, the motion to reconsider (Doc. No. 159) is DENIED.


But Plaintiff also seeks clarification of the Court’s earlier order. In its original infringement contentions, Plaintiff identified several product families, such as Freescale’s HC08 product family. The parties now question whether these products were sufficiently disclosed in

¹ The Court denies the motion without the benefit of Defendants’ response, which was not filed. The Court considered Plaintiff’s motion and reply and Defendants’ surreply.

Plaintiff's original contentions or whether the Court's refusal to allow Plaintiff to amend excludes those products from this action. As discussed in the Court's previous order, Plaintiff made virtually no effort to specifically identify the accused products as required by the local patent rules. Instead, Plaintiff demanded that Defendants identify the allegedly offending products. While the Court does not necessarily foreclose any categorical infringement contentions, Plaintiff's disclosure of entire product families without limited or no attempt to narrow the accused product descriptions is inconsistent with the rules of this court.

It is SO ORDERED.

SIGNED this 3rd day of January, 2014.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE