

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

GEORGETOWN RAIL EQUIPMENT COMPANY,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 6:13-cv-366-JDL
	§	
HOLLAND L.P.,	§	
	§	
Defendant.	§	

ORDER

Before the Court is: 1) Plaintiff Georgetown Rail Equipment Company’s Motion for Partial Summary Judgment of Validity (Doc. No. 139); 2) Defendant Holland L.P.’S Motion For Summary Judgment Of Noninfringement of the Asserted Claim of U.S. Patent No. 7,616,329 Because the “Algorithm” Steps are Not Performed by Holland (Doc. No. 141); and 3) Defendant Holland L.P.’S Motion for Summary Judgment of Invalidity of The Asserted Claim of U.S. Patent No. 7,616,329 (Doc. No. 142). For the reasons set forth below, the Court **DENIES** the three aforementioned motions (Doc. Nos. 139, 141, and 142).

Per Standing Order, the Court requires that, prior to filing any summary judgment motion, the moving party file a letter brief requesting leave to submit any motion for summary judgment.¹ See Doc. No. 32 at 3 (The Docket Control Order provides that the parties are directed to file “[l]etter [b]riefs for summary judgment motions and *Daubert* [m]otions.”) [hereinafter the “Letter Brief Requirement”]. On April 22, 2014, the parties submitted a Joint Motion to Amend the Docket Control Order (Doc. No. 115). On April 25, 2014, the Court denied the Joint Motion as presented by the parties but granted a revised schedule and ordered the parties to provide an Amended Docket Control Order in compliance with the order by May 1,

¹ http://www.txed.uscourts.gov/cgi-bin/view_document.cgi?document=24085

2014 (Doc. No. 117). The parties then submitted an Amended Docket Control Order on April 29, 2014 (Doc. No. 121-1). While the parties represented that “[a]ll dates contained in the Amended Docket Control Order comply with the Court’s Order of April 25, 2014, ([Doc. No. 117]),” (Doc. No 121), the Amended Docket Control Order omitted, *inter alia*, the Letter Brief Requirement contained in the original Docket Control Order (Doc. No. 32 at 3). On April 30, 2014, the Court entered an Amended Docket Control Order reflecting the parties’ Amended Docket Control Order of April 29, 2014, which, as noted above, omitted the Letter Brief Requirement (Doc. No. 124). As a result, the Letter Brief Requirement was erroneously omitted in all subsequent Amended Docket Control Orders (Doc. Nos. 136 and 150).

In light of the foregoing circumstances, the Court’s Amended Docket Control Order of April 30, 2014, (Doc. No. 124), which omitted the Letter Brief Requirement, was erroneously entered. The Court finds that the Docket Control Order must be corrected to reflect the original Docket Control Order (Doc. No. 32), containing the Letter Brief Requirement, along with the appropriate deadlines as modified by subsequent amendments to the original Docket Control Order. Accordingly, the parties are **ORDERED** to submit an Amended Docket Control Order containing the aforementioned changes within seven days from the entry of this Order.

Moreover, in contravention of the Court’s Letter Brief Requirement, the parties have filed the following three motions for summary judgment without having first filed corresponding letter briefs: 1) Plaintiff Georgetown Rail Equipment Company’s Motion for Partial Summary Judgment of Validity (Doc. No. 139); 2) Defendant Holland L.P.’S Motion For Summary Judgment Of Noninfringement of the Asserted Claim of U.S. Patent No. 7,616,329 Because the “Algorithm” Steps are Not Performed by Holland (Doc. No. 141); and 3) Defendant Holland

L.P.'S Motion for Summary Judgment of Invalidity of The Asserted Claim of U.S. Patent No. 7,616,329 (Doc. No. 142).

Accordingly, because the parties have not submitted letter briefs, and therefore have not been granted leave to file any motions for summary judgment, the three aforementioned motions (Doc. Nos. 139, 141, and 142) are **DENIED**.

So ORDERED and SIGNED this 14th day of August, 2014.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE