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BY E-MAIL

Paul J. Andre
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Re: Vasu Holdings LLC v. Samsung Electronics Co., Ltd. et al (E.D. Tex. No. 2:24-cv-00034-JRG-RSP)

Dear Paul:

I write on behalf of Defendant Samsung to notify Plaintiff Vasu of certain deficiencies in Vasu's May 15, 2024 Disclosure of Asserted Claims and Preliminary Infringement Contentions Under Patent Local Rules 3-1 and 3-2 and May 16, 2024 Amended Disclosure of Asserted Claims and Preliminary Infringement Contentions Under Patent Local Rules 3-1 and 3-2 ("Infringement Contentions"), and Vasu's contravention of relevant rules.

As an initial matter, I note that Infringement Contentions were served four months after the Complaint was filed on January 22, 2024. Despite this, Vasu's Infringement Contentions are incomplete, internally inconsistent, and fail to give Samsung notice of Vasu's infringement allegations.

Turning to the contentions themselves, Samsung notes that Vasu identified the following asserted claims:

Patent	Asserted Claims
8,520,605 ("the '605 patent")	1, 12, 24, 28, 29, and 30
8,886,181 ("the '181 patent")	1, 3, 4, 8, and 9 ¹
8,958,434 ("the '434 patent")	1, 2, 10, 12, and 19

¹ While the cover document to Vasu's Infringement Contentions and Appendices B-1 through B-4 identify claim 3 of the '181 patent as asserted, the attached claim charts are deficient and do not address claim 2, from which claim 3 depends.

10,206,154 (“the ’154 patent”)	1, 2, 4, 43, and 47 ²
10,368,281 (“the ’281 patent”)	1, 12, 23, 31, 37, and 45
10,419,996 (“the ’996 patent”)	1, 12, 23, 25, 34, 35, 39, and 41

Vasu’s Infringement Contentions Fail to Chart “Each” Accused Instrumentality

The local rules require infringement contentions to include “[a] chart identifying specifically where each element of each asserted claim is found within *each* Accused Instrumentality.” Local Patent Rules 3-1(c). Vasu’s Infringement Contentions, however, do not comport with this clear requirement. Instead, for each Patent-in-Suit, the Infringement Contentions provide single charts for groups of products, which include multiple disparate models. See Appendices A-1 through F-4 of Infringement Contentions.

Vasu’s reliance on single charts for groups of products, and its reliance on the same product across multiple charts for the same patent, is improper. For example, for the ’181, ’154, ’281, and ’996 patents, Vasu purports to identify the Galaxy S22 phone device as “a representative Galaxy Product” for every claim chart for these patents. However, Appendices B-2, B-3, B-4, D-2, D-3, D-4, E-2, E-3, E-4, F-2, F-3, and F-4 all define “Accused Products” as sets of products that do *not* include the Galaxy S22 device. As another example, portions of Vasu’s contentions in all charts pertaining to these patents assert that the accused products switch between Wi-Fi and cellular networks, but it appears that a number of the listed Galaxy products do not even support cellular functionality. For example, many versions of the accused Galaxy Tab devices do not support cellular functionality. Thus, Vasu’s footnote stating that “Galaxy phones and tablets are similar products operating on similar systems” falls short of the Court’s requirement that Vasu “provide an explanation of the technical and functional identity of the products represented” when using exemplary claim charts. *UltimatePointer, LLC v. Nintendo Co.*, No. 6:11-cv-496, 2013 WL 12140173, at *3 (E.D. Tex. May 28, 2013). And while Vasu haphazardly cites evidence pertaining to certain other products in portions of the claim charts for these patents, it does so inconsistently across claim elements and not for every product.

With respect to the ’605 and ’434 patents, Vasu purports to accuse three separate groups of products—WLAN access points, WLAN controllers, and a wireless enterprise manager—but provides only a single claim chart for each patent that charts a subset of the product categories. Vasu points to no evidence to support its general allegation that all three product categories “include technology that operates the same with respect to the claims asserted.” Indeed, this statement is facially incorrect because the products have substantially different functionality, as Vasu’s claim charts appear to concede. For example, Vasu references all three product categories for the preamble of claim 1 of

² While the cover document to Vasu’s Infringement Contentions and Appendices D-1 through D-4 identify claim 47 of the ’154 patent as asserted, the attached claim charts are deficient and do not address claims 46 and 45, from which claim 47 depends.

the '605 patent, but then for the body of the claim which includes only limitations 1[a] (“a controller device”) and [1.b] (“content parameters module”), Vasu refers to the “Accused Products” as including only the accused WLAN controller devices (“Accused Products (WEC8500/WEC8050)”). Moreover, Vasu does not cite any evidence for the WLAN access points or the wireless enterprise manager for limitations 1[a] and [1.b]. This failure to chart certain Accused Products with substantially different functionality is an issue throughout Vasu’s Infringement Contentions for both the '605 and '434 patents.

A plaintiff may only use exemplary claim charts in limited circumstances. In order to do so, the plaintiff “must provide an explanation of the technical and functional identity of the products represented.” *UltimatePointer*, 2013 WL 12140173, at *3 (granting Defendants motion to enforce Rule 3-1 and ordering Plaintiff to supplement its infringement contentions); *see also Alacritech Inc. v. Century Link, Inc.*, No. 2:16-cv-00693-JRG-RSP, 2017 WL 3007464, at *4 (E.D. Tex. Jul. 14, 2017) (ordering Plaintiff to explain “with specificity and supporting documentary or declaratory evidence, its assertions there are no material differences between the accused instrumentalities that affect its infringement theories for the uncharted products.”). In its contentions, Vasu, was thus required to explain “with specificity and supporting documentary or declaratory evidence” why the particular products it charted are representative. Vasu failed to do so and did not give Samsung sufficient notice of its infringement allegations.

Vasu’s Infringement Contentions Fail to Chart with the Required Specificity

Although required by Local Patent Rule 3-1(c), Vasu’s Infringement Contentions fail to provide a chart identifying specifically where each element of each asserted claim is found within any accused instrumentality. Below is a non-exhaustive list of deficiencies in Vasu’s Infringement Contentions where Vasu either failed to identify where the element is found in Samsung’s products or the identification is unclear:

1. '605 Patent

- Elements 1[a], 12[a], 28[a], and 30[a] recite “wherein each content data stream is associated with a specific content provider such that the content data streams having the same type of content can be distinguished based on the specific content provider,” but Vasu does not identify for the Accused Products how the “same type of content can be distinguished based on the specific content provider.” For example, Vasu identifies alleged content types such as SIP_AUDIO, but does not identify what functionality in the Accused Products distinguishes a content provider for that alleged content type. Vasu must amend its Infringement Contentions to identify how the Accused Products distinguish content streams having the same type of content provider.
- Elements 1[b], 12[b], 24[d], 28[b], 29[b], and 30[d] recite “generating a first processed content data stream” but Vasu does not identify what it contends is the “first processed content data

stream.” Vasu must amend its Infringement Contentions to identify the alleged “first processed content data stream.”

- Element 28[b] recites “wherein the stored content parameter values are sent by the content parameters module to the controller device before the first content data stream is processed, and wherein the first content data stream is processed by the controller device before the first processed content data stream is transmitted to the end user device,” but Vasu does not identify where it contends the data stream is “processed” nor how the Accused Products “process” data streams such that it practices this element. Vasu must amend its Infringement Contentions to identify the functionality it accuses of “processing” the data streams.

2. '434 Patent

- Elements 1[a] and 10[a] recite “to apply a second quality of service to the content data stream based on the content provider and to selectively transmit one of the one or more content data streams to the end user device according to the request,” but Vasu does not identify the alleged “selectively transmit[ting]” in the Accused Products. Vasu must amend its Infringement Contentions to identify the alleged “selectively transmit[ting].”
- Elements 1[a], 10[a]/10[b], and 19[a]/19[c] require a “first quality of service that is applied to all of the content streams transmitted over the infrastructure” and a “second quality of service” that is applied “based on the content provider to selectively transmit....,” but, for a number of these limitations, Vasu identifies certain alleged quality of service (QoS) without indicating whether Vasu alleges it to be the claimed first or second quality of service. For each alleged QoS in the Accused Products, Vasu must amend its Infringement Contentions to clearly identify which identified QoS corresponds to the claimed first and/or second quality of service, where not already identified.

3. '181 Patent

- Element 1[d] recites “notifying the mobile communication device to terminate transmission over the first communication link.” In its Infringement Contentions, Vasu contends that the “Accused Products (also referred to as user equipment, UEs) perform every step of the method of Claim 1” Vasu, however, asserts that the “SCC AS”—not the Accused Products—“notifies the Accused Products to terminate a wireless communication link when appropriate, according to its connection criteria and signal strength.” Vasu must amend its Infringement Contentions to identify the alleged “notifying the mobile communication device to terminate transmission over the first communication link” step in the Accused Products.
- Element 1[c] recites “when the signal strength drops below a predetermined threshold, notifying an interface server with the mobile communication device,” but Vasu does not clearly identify what it contends is the notification to the interface server. Vasu must amend its Infringement Contentions to identify the alleged process of “notifying an interface server” that is performed “when the signal strength drops below a predetermined threshold.”

- Element 1[c] recites “establishing a second communication link between the interface server and the end destination device without disrupting the first communication link.” Vasu asserts that “[t]he *Accused Products* establish the second communication link with the transfer-in network without disrupting the first communication link in the transfer-out network,” but Vasu has not identified what it contends is a communication link established between the alleged *interface server* and the alleged end destination device. Vasu must amend its Infringement Contentions to identify the alleged “establishing a second communication link between the interface server and the end destination device without disrupting the first communication link.”
- Element 1[d] recites “notifying the mobile communication device to terminate transmission over the first communication link.” Vasu generally alleges that the “[t]he SCC AS notifies the Accused Products through the service control signaling path to terminate transmitting over the first communication link,” but Vasu does not actually identify what transmission or what specific feature in the cited evidence is the alleged “notifying.” Vasu must amend its Infringement Contentions to identify the alleged “notifying.”

4. '154 Patent

- Elements 1[d] and 43[d] recite “notifying the [mobile] communication device to terminate transmission over the first communication link.” In its Infringement Contentions, Vasu contends that the “Accused Products (also referred to as user equipment, UEs) perform every step of Claim 1...” Vasu, however, asserts that the “SCC AS”—not the user equipment—“notifies the Accused Products to terminate a wireless communication link when appropriate, according to its connection criteria and signal strength.” Thus, either Vasu must amend its Infringement Contentions to identify the alleged “notifying the [mobile] communication device to terminate transmission over the first communication link” step in the Accused Products.
- Element 1[c] recites “when a second context is preferred over the context of the first communication link.” Element 43[c] similarly recites “when ... a second context of a second communication link corresponding to the second network is preferable.” Vasu generally alleges that “the Accused Products may prefer a second context (signal strength by RSSI in the second network or by user preference),” but does not identify what specifically in the Accused Products is the alleged first and second context. Vasu must amend its Infringement Contentions to identify what it contends are the “first context” and “second context,” and what functionality in the Accused Products it contends is “a second context is preferred over the context of the first communication link.”
- Elements 1[c] and 43[c] recite “when a second context is preferred over the context of the first communication link, notifying an interface server,” but Vasu does not clearly identify what it contends is the notification to the interface server. Vasu must amend its Infringement Contentions to identify the alleged process of “notifying an interface server” that is performed “when a second context is preferred over the context of the first communication link.”

- Elements 1[c] and 43[c] recite “establishing a second communication link between the interface server and the end destination device without disrupting the first communication link.” Vasu asserts that “[t]he *Accused Products* establish the second communication link ... with the transfer-in network without disrupting the first communication link in the transfer-out network,” but Vasu has not identified what it contends is a communication link established between the alleged *interface server* and the alleged end destination device. Vasu must amend its Infringement Contentions to identify the alleged “establishing a second communication link between the interface server and the end destination device without disrupting the first communication link.”
- Elements 1[d] and 43[d] recite “notifying the [mobile] communication device to terminate transmission over the first communication link.” Vasu generally alleges that the “[t]he SCC AS notifies the Accused Products through the service control signaling path to terminate transmitting over the first communication link,” but Vasu does not actually identify what transmission or what specific feature in the cited evidence is the alleged “notifying.” Vasu must amend its Infringement Contentions to identify the alleged “notifying.”

5. '281 Patent

- Elements 1[a], 23[b], and 37[a] recite a “first communication module and “second communication module.” Vasu alleges that “Wi-Fi network selection functions can be either the first communication module or the second communication module, depending on the network switching operation,” but Vasu does not identify both the alleged first and second communication modules for each network switching operation. Vasu must amend its Infringement Contentions to identify both the alleged “first communication module” and “second communication module” in each operation.
- Elements 1[b], 23[d], 37[b], and 45[d] recite “wherein upon activation of a timer, [the/a] switching system causes [the/a] second communication module to change state from a sleep mode to an active mode, wherein the timer is activated to establish a time window of a predefined size” Elements 12[b] and 31[b] similarly recite a timer “activating [] a timer to establish a first time window of a first predefined size” In its Infringement Contentions, Vasu asserts that “[t]he Accused Products activate a timer through Doze to improve battery life by monitoring device use and wakefulness”; “if the screen is on and the Accused Products are disconnected, the Android connectivity system issues periodic scans (activation of a timer) following an exponential back off schedule (increasing the waiting time between retries)”; “[t]hrough Doze, the Accused Products that are idle (stationary or having the screen off) periodically (timer) enter a maintenance window, during which apps can complete pending work”; and “the platform exits Doze (from sleep state to an active mode) by user interaction, device movement, turning on the screen, or imminent AlarmClock alarm (another timer)” (citations omitted). Samsung is unable to determine which, if any, of these purported timers Vasu contends is the alleged “timer” that upon its activation, the switching system causes the second communication module to change state from a sleep mode to an active mode and that

is activated to establish a time window of a predefined size. Vasu must amend its Infringement Contentions to identify what it is accusing to be the alleged “timer” that becomes activated as required by the claims.

- Relatedly, element 31[f] recites, in part, “a timer is activated to establish a second time window of a second predefined size” but Vasu does not identify what it contends is the “timer [that] is activated to establish a second time window of a second predefined size.” Vasu must amend its Infringement Contentions to identify what it is accusing as the alleged “timer” as required by the claim.
- Element 12[e] recites “detecting a third context” and element 12[g] recites “detecting a fourth context during the second time window” but Vasu does not identify the alleged third context or the fourth context that are detected or the second time window during which the fourth context is detected. Vasu generally alleges that the “the Accused Products detect a third context (signal strength via RSSI or user preference) through pre-defined time window and a threshold value of the signal strength” and “the Accused Products detect a fourth context through switching system and its communication modules during the second time window (described in Element 12[d/e]).”³ But Samsung is unable to determine what specifically Vasu is asserting are the third and the fourth contexts, particularly given that Vasu appears to merely cross reference its discussion and evidence from other claim elements that do not recite a third context or fourth context. Samsung is also unable to determine what Vasu is asserting is the second time window. Vasu must amend its Infringement Contentions to identify what are the “third” and “fourth” detected contexts and what is “the second time window” during which the fourth context is detected.

6. '996 Patent

- Elements 1[a] and 35[a] recite a “first communication module and “second communication module.” Similarly, Element 34[a] recites a “communication module” and “Wi-Fi communication module.” Vasu alleges that “Wi-Fi network selection functions can be either the first communication module or the second communication module, depending on the network switching operation,” but Vasu does not identify both the alleged first and second communication modules for each network switching operation. Vasu must amend its Infringement Contentions to identify both the alleged “first communication module” and “second communication module” in each operation.
- Elements 1[a], 12[d], 23[d], 34[b], and 35[b] recite “wherein upon activation of a timer, the [switching system/the server] causes the [second/Wi-Fi] communication module to change state from a sleep mode to a stand-by mode,” element 25[d] recites “wherein upon activation of a timer, a communication module of the second device changes state from a sleep mode to

³ Samsung understands the charted element on the bottom of p. 83 of Appendix E-2 is incorrectly labelled as “12[f]” and should instead read in full: “12[g]. detecting a fourth context during the second time window; and.”

a stand-by mode,” and elements 39[f] and 41[d] recite “wherein upon activation of a timer, the [mobile communication device/interface] causes a communication module to change state from a sleep mode to a stand-by mode.” In its Infringement Contentions, Vasu asserts that “[t]he Accused Products activate a timer through Doze to improve battery life by monitoring device use and wakefulness”; “if the screen is on and the Accused Products are disconnected, the Android connectivity system issues periodic scans (activation of a timer) following an exponential back off schedule (increasing the waiting time between retries)”; “[t]hrough Doze, the Accused Products that are idle (stationary or having the screen off) periodically (timer) enter a maintenance window, during which apps can complete pending work”; and “the platform exits Doze (from sleep state to an active mode) by user interaction, device movement, turning on the screen, or imminent AlarmClock alarm (another timer)” (citations omitted). Samsung is unable to determine which, if any, of these purported timers Vasu contends is the alleged “timer” that upon its activation, the communication module changes state from a sleep mode to a stand-by mode. Vasu must amend its Infringement Contentions to identify what it is accusing to be the alleged “timer” that becomes activated as required by the claims.

- Element 12[d] recites “wherein upon activation of a timer, the server causes a communication module to change state from a sleep mode to a stand-by mode, and the server causes the communication module to change state from the stand-by mode to an active mode before a communication is switched to the communication module” but Vasu does not identify what it contends is the “server [that] causes a communication module to change state from a sleep mode to a stand-by mode” and “from the stand-by mode to an active mode before a communication is switched to the communication module.” Vasu must amend its Infringement Contentions to identify what it is accusing as the alleged “server” as required by the claim.
- Elements 1[b], 12[d], 23[d], 25[d], 34[b], 35[b], 39[f], and 41[d] also recite a “communication module [that] changes state from a sleep mode to a stand-by mode” and “from the stand-by mode to an active mode” but Vasu does not identify three different claimed modes (“sleep,” “stand-by,” and “active” modes) in the Accused Products. Instead, Vasu generally alleges that a switching system “causes the second communication module (Wi-Fi framework/Wi-Fi firmware/VoWiFi) to change state from a sleep mode to a stand-by mode, then from the stand-by mode to an active mode before switching the first communication link to the second communication module,” without identifying what it contends is each alleged mode in the Accused Products. Vasu must amend its Infringement Contentions to identify what it is accusing to be the alleged “sleep,” “stand-by,” and “active” modes.

Vasu Cannot Amend its Infringement Contentions Without Seeking Leave

Vasu is not permitted to amend its Infringement Contentions without first seeking leave of the Court. *See Traxcell Technologies, LLC v. AT&T, Inc.*, E.D. Texas Case No. 2:17-cv-00718-RWS-RSP, Dkt.

No. 18 (August 13, 2018) (“In short, plaintiffs that rely on ‘amended’ or ‘supplemental’ infringement contentions without moving for leave to amend do so at their own peril. Because of the clarity of the rule, any ambiguity as to whether contentions have been accepted by agreement of the parties will likely be resolved in the defendant’s favor. The better practice is for the plaintiff to always move for leave to amend”).

Moreover, Samsung’s products, and information about them, are publicly available, and Vasu has had more than ample time to prepare its infringement contentions after initiating this lawsuit almost four months before it served infringement contentions. Accordingly, should Vasu be granted leave to amend its contentions and choose to maintain its claims against Samsung for products beyond the Galaxy S22 and WEC8500/WEC8050 products, Samsung reserves its rights to object to any attempt by Vasu to expand its theories of infringement beyond those specifically identified in the Infringement Contentions, or attempts to add allegations beyond its existing allegations of infringement of the identified claims of the Patents-in-Suit.

With respect to any proposed amendments relating to the deficient identification of the accused functionality as identified in the preceding section of this letter, Samsung will consider any such proposal when Vasu provides the proposed amendment.

Please confirm by June 28, 2024 that Vasu will promptly provide proposed amended infringement contentions by July 12, 2024 to address the issues where its contentions are unclear, and that it will withdraw its contentions for any products beyond the Galaxy S22 for the ’181, ’154, ’281 and ’996 patents and the WEC8500/WEC8050 products for the ’605 and ’434 patents.

Sincerely,



Christopher Bonny