

United States District Court
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

L.C. ELDRIDGE
SALES CO., LTD., et al.

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v.

No. 6:11cv599

AZEN MANUFACTURING
PTE., LTD., et al.

MEMORANDUM OPINION AND ORDER

Currently before the Court is a series of motions related to Defendants’ efforts to insert new invalidity theories into this case. The following are currently pending before the Court:

- 1) Plaintiffs’ motion to strike expert opinions offered by Defendants in support of Defendants’ invalidity contentions (Doc. No. 141);
- 2) Defendants’ motion for leave to amend its invalidity contentions (Doc. No. 142);
- 3) Defendants’ motion to strike Plaintiffs’ infringement contentions and the expert report of Joseph B. Davis, or to order Plaintiffs to amend their infringement contentions (Doc. No. 145);
- 4) Defendant’s motion to strike the supplemental expert report of Joseph B. Davis (Doc. No. 180); and
- 5) Defendant’s motion for leave to amend its invalidity contentions (Doc. No. 184).

Having considered the parties’ arguments and the applicable law, the Court is of the opinion that Plaintiffs’ motion should be **GRANTED** and Defendants’ motions should be **DENIED**.

I. Background

Plaintiffs allege the Defendants infringe all 52 claims of U.S. Patent No. 7,707,828 (the ‘828 Patent). Plaintiffs served infringement contentions in May 2012. In June 2012, Defendants served their invalidity contentions consisting of 91 invalidity arguments and relying on 17 prior

art references alone or in various combinations. The Court held a *Markman* hearing on December 6, 2012 and entered a claim construction order on May 23, 2013.

In March 2013, Defendants served Plaintiff with the report of expert Dr. Joseph Beaman. Dr. Beaman's report offered 70 invalidity opinions and relied on nine prior art references. Of those, 62 invalidity arguments and two prior art references were not disclosed in Defendants' June 2012 invalidity contentions. The references are U.S. Patent No. 6,640,539 (the Lewis Reference) and U.S. Patent No. 2,722,372 (the Edwards Reference). Both references were included in literature disclosed by the Defendants in their invalidity contentions, and the Lewis Reference is listed in the '828 Patent (Doc. No. 143-4 at 1). Dr. Beaman's report also includes 26 combinations of prior art references that were not previously disclosed.

In April 2013, Plaintiffs' expert Joseph B. Davis submitted a report rebutting the references relied on by Dr. Beaman, including the Edwards and Lewis references (Doc. No. 147 at 3).

Plaintiffs move the Court to strike the opinions of Dr. Beaman based on prior art references and combinations not disclosed in Defendants' invalidity contentions (Doc. No. 141). Four days after Plaintiff filed its motion to strike, Defendants filed a motion for leave to amend their invalidity contentions "to conform them to the disclosures made and opinions offered in Dr. Beaman's expert report on invalidity" (Doc. No. 142 at 8). Defendants then asked the Court to either strike the expert report of Joseph B. Davis or order Plaintiffs to amend their infringement contentions consistent with the report (Doc. No. 145). Defendants filed two further motions seeking an opportunity to amend their invalidity contentions: (1) a motion to strike the supplemental expert report of Joseph B. Davis or order the parties to amend their contentions

(Doc. No. 180), and (2) a second motion for leave to amend their invalidity contentions (Doc. No. 184).

II. Defendants' Motions for Leave to Amend Invalidity Contentions (Doc. Nos. 142, 184)

a. Legal Standard

Local Rule P.R. 3-3 requires the parties to serve “invalidity contentions,” which must state “[w]hether each item of prior art anticipates each asserted claim or renders it obvious. If a combination of items of prior art makes a claim obvious, each such combination, and the motivation to combine such items, must be identified” P.R. 3-3(b). A party’s invalidity contentions are “deemed to be that party’s final contentions.” P.R. 3-6(a); *Motorola, Inc. v. Analog Devices, Inc.*, No. 1:03-CV-131, 2004 WL 5633735, at *1 (E.D. Tex. Apr. 8, 2004). After the deadline for serving invalidity contentions has passed, a party may amend its contentions if it believes that the claim construction order requires it or if the opposing party amends its infringement contentions. P.R. 3-6(a). Other amendments “may be made only by order of the Court, which shall be entered only upon a showing of good cause.” P.R. 3-6(b).

When evaluating a motion for leave to amend, the Court considers the following factors: “(1) the explanation for the failure to meet the deadline; (2) the importance of the thing that would be excluded; (3) potential prejudice in allowing the thing that would be excluded; and (4) the availability of a continuance to cure such prejudice.” *Arbitron, Inc. v. Int’l Demographics Inc.*, No. 2:06-CV-434, 2009 WL 166555, at *1 (E.D. Tex. Jan. 16, 2009); *see also S&W Enters., L.L.C. v. SouthTrust Bank of Ala., NA*, 315 F.3d 533, 535–36 (5th Cir. 2003).

b. Doc. No. 142.

Having considered each of the relevant factors, the Court finds that Defendants have failed to demonstrate good cause to amend their invalidity contentions.¹

Explanation for Failure to Meet the Deadline

Defendants explain that their expert discovered additional prior art references in the course of his own independent research and examination (Doc. No. 142 at 4). Defendants also claim that Plaintiffs consented to Defendants' late amendment of their invalidity contentions when Plaintiffs failed to object to Dr. Beaman's report, which included the Edwards and Lewis references (Doc. No. 142 at 6). Defendants also challenge Plaintiffs' infringement contentions as "scant and clearly preliminary," "overly broad," and clearly deficient (Doc. No. 142 at 6, 8). As a result, Defendants argue that they were "forced to fly blind" when disclosing their invalidity contentions (Doc. No. 142 at 7).²

Plaintiffs respond that Defendants have not been diligent. First, Plaintiffs argue that Defendants failed to review the prior art references when preparing their invalidity contentions (Doc. No. 150 at 4). Plaintiffs note that the Lewis Reference is listed on the face of the patent in suit and the arguments based on the Edwards Reference are contained in an article disclosed with Defendants' contentions (Doc. No. 150 at 5). Plaintiffs argue that Defendants' failure to review and understand the prior art does not justify leave to amend its contentions. Second, Plaintiffs argue that Defendants failed to continue working on their invalidity case after serving their contentions, resulting in the delayed request to amend (Doc. No. 150 at 5). Third, Plaintiffs claim

¹ The Court entered a claim construction order on May 23, 2013, after Defendants moved to amend their invalidity contentions. Defendants do not argue that the Court's claim construction order requires them to amend their invalidity contentions. *See* P.R. 3-6(a). Plaintiffs have not moved to amend their infringement contentions.

² Defendants contend that Plaintiffs should have moved to amend their infringement contentions. They have filed a motion to compel Plaintiffs to amend their contentions (Doc. No. 145).

that Defendants knew about the additional references in January 2013 but failed to promptly disclose or request leave to amend. Also, Defendants produced documents related to the references in February 2013 and March 2013 (along with thousands of pages of other documents) with no indication that they intended to amend their invalidity contentions (Doc. No. 150 at 6).

Defendants had an affirmative duty to disclose their invalidity contentions by the deadline set forth in the Court's scheduling order. A request for late amendment must be prompt and demonstrate good cause for the amendment. Defendants seek to add prior art that was in their possession when they served their invalidity contentions. Defendants then waited until five weeks after their expert listed the references in his report before requesting leave to amend. Finally, and perhaps most egregiously, Defendants suggest that the burden shifted to Plaintiffs to object to the expert report, which included previously undisclosed references. Defendants' explanation is inconsistent with the local rules. *See Tyco Healthcare Grp. LP v. Applied Med. Resources Corp.*, No. 9:06-CV-151, 2009 WL 5842062, at *1 (E.D. Tex. March 30, 2009) ("The purpose of the Local Rules is to 'further the goal of full, timely discovery and provide all parties with adequate notice and information with which to litigate their cases, not to create supposed loopholes through which parties may practice litigation by ambush" (quoting *IXYS Corp. v. Advanced Power Tech., Inc.*, No. C 02-03942, 2004 WL 1368860, at *3 (N.D. Cal. June 16, 2004)). Accordingly, this factor weighs against amendment.

Importance of the invalidity contentions that would be excluded

Defendants do not address the importance factor in their opening brief, but Plaintiffs argue that Defendants' decision not to include the combinations in their initial contentions undermines the importance of these references (Doc. No. 150 at 9 (quoting *Tyco*, 2009 WL

5842062, at *4)). Defendants respond by suggesting that the failure to include the combinations was not deliberate (Doc. No. 154 at 4).

The Court finds that this factor is neutral as neither party puts forward a substantial argument.

Prejudice in allowing Defendants to amend their invalidity contentions

Defendants also argue that Plaintiffs will not be prejudiced if Defendants amend their invalidity contentions because the parties have agreed to extend the discovery deadline (Doc. No. 142 at 9). Further, at the time of Defendants' motion, the Court had not entered a claim construction order. Defendants argue that the local rules allow a party to amend its invalidity contentions "if the Court's claim construction ruling leads either party to believe 'in good faith' that an amendment is warranted" (Doc. No. 142 at 10).³ Defendants also state that they seek to disclose additional prior art and bases for invalidity "prior to claim construction, permitting the Plaintiffs ample time to develop a response in the more than six months before trial is slated to begin" (Doc. No. 142 at 10). Finally, Defendants observe that Plaintiffs' expert already issued a report rebutting the opinion of Defendants' expert. Thus, according to Defendants, excluding Defendants' new prior art references would be punitive and prevent "important, potentially invalidating references from consideration in this matter" (Doc. No. 142 at 11).

Plaintiffs counter that they will be prejudiced if Defendants are permitted to amend their invalidity contentions because Plaintiffs already committed to their claim construction positions at the *Markman* hearing (Doc. No. 150 at 10). Plaintiffs claim that the critical date for prejudice is not when the court enters a claim construction order but rather when the parties "commit to their claim construction opinions" (Doc. No. 150 at 10). Plaintiffs' expert states that responding

³ Defendants advance this argument, but do not point to how the Court's then unissued claim construction order opens the door for amendment.

to the previously undisclosed references “limited [his] time to review and understand those argument and references, and interfered with [his] ability to form [his] opinions” (Doc. No. 143-6 at 7). Further, Plaintiffs note that the agreed extension of discovery deadlines was to provide time for the parties to resolve on-going discovery concerns. (Doc. No. 150 at 11).

Defendants reply that Plaintiffs have not identified a single claim construction position they would have changed in view of the Edwards Reference or the Lewis Reference (Doc. No. 154 at 4–5). Defendants also indicate that Plaintiffs did not complain about the new references and combinations when Dr. Beaman’s report was served in March 2013. (Doc. No. 154 at 5).

The Court finds that in view of Defendants’ delay, amendment of Defendants’ invalidity contentions would prejudice Plaintiffs. Defendants knew of the Lewis Reference much earlier than their first disclosure. The Lewis Reference is listed on the face of the ’828 patent and was disclosed to the PTO during prosecution. Defendants also knew of the Edwards Reference at least as early as their invalidity contentions because their supporting documents included an article that contains the reference. Nevertheless, Defendants did not disclose these references until seven months after Plaintiffs served its proposed constructions on July 13, 2012. In *Finisar Corporation v. DirecTV Group*, this Court struck invalidity references disclosed four months after the exchange of proposed constructions. 424 F. Supp. 2d 896, 902 (E.D. Tex. 2006).

Defendants had ample opportunity to assert these references prior to the claim construction process. Defendants’ attempt to change their invalidity position at this stage is without merit. It is not sufficient for Defendants to argue that Plaintiffs’ expert could have included the new references in a supplemental report. See *LML Patent Corp. v. JPMorgan Chase & Co.*, No. 08-CV-448, 2011 WL 5158285, at *4 (E.D. Tex. Aug. 11, 2011) (rejecting argument that there is no prejudice because defendants “have not added any new references and because

Plaintiff's expert has had adequate time to respond"). Indeed, Plaintiffs' expert refutes that he had sufficient time to address Defendants' change of position (Doc. No. 143-6 at 7).

Accordingly, this factor does not favor amendment.

Availability of a continuance to cure any prejudice

As to the final factor, Plaintiffs state that Defendants argue against a continuance (Doc. No. 150 at 12). Moreover, Plaintiffs state that they have already been prejudiced and a continuance would not cure the prejudice. The Court agrees. See *Finisar*, 424 F. Supp. 2d at 902 ("Enough time and money will eventually cure any prejudice caused by late disclosure of information, but that will not result in the just, *speedy*, and *inexpensive* determination of every action." (quotations omitted)).

As Plaintiffs argue:

There are only two possible scenarios: either [Defendants'] attorneys reviewed the references and did not appreciate their alleged importance, which does not support good cause Or [Defendants'] attorneys did not read the face of the patent or the references they did rely upon to find the two disputed references, which shows a complete lack of diligence.

(Doc. No. 157 at 1–2). The Court agrees. See *CoreLogic Info. Solutions, Inc. v. Fiserv, Inc.*, No. 2:10-cv-132, 2012 WL 4051823, at *3 (E.D. Tex. Sept. 13, 2012) (denying leave to amend where "Defendants did not request leave to amend until their opposition to [plaintiff's] instant motion to strike"); *Ariba, Inc. v. Emptoris, Inc.*, No. 9:07-cv-90, 2008 WL 7285523, at *1 (E.D. Tex. Sept. 9, 2008) ("A party cannot argue that because of its own inability and delay in understanding the divulged prior art, it possesses good cause to prepare new invalidity contentions."). Accordingly, this factor also weighs against amendment.

As discussed more fully above, the balance of the factors weighs against amendment. Accordingly, Defendants' motion for leave to amend its invalidity contentions (Doc. No. 142) is **DENIED**.

c. Doc. No. 184

In the fifth motion related to Defendants' attempt to amend their invalidity contentions, Defendants point to prior art held to invalidate claims in a continuing application to the '828 patent (the Contested Prior Art). Defendants state that the significance of the Contested Prior Art was not made clear to them until Plaintiffs disclosed the final office action for the continuation application in the parties' reexamination of the '828 patent in July 2013. Defendants assert that Plaintiffs' delay in disclosing the Contested Prior Art serves as good cause to allow them to amend their invalidity contentions. They further assert that Plaintiffs will suffer no prejudice because Plaintiffs have known for months about the prior art that invalidated the claims in the continuation application.

Plaintiffs contend that the Contested Prior Art is listed in the references considered by the examiner of the '828 patent. They also note that the United States Patent and Trademark Office (USPTO) has twice found that the Contested Prior Art did not render the '828 claims obvious. Plaintiffs conclude that those facts render Defendants' arguments unavailing.

As to the first factor, Defendants' explanation for their failure to meet the deadline lacks merit. The Contested Prior Art is listed in the '828 patent. Thus, Defendant had notice of the relevant prior art since the suit began. Only Defendants' delay in accessing the importance of the contested prior art explains its failure to include this prior art in its invalidity contentions. That explanation is not sufficient. *See Tyco*, 2009 WL 5842062, at *4; *see also Ariba*, 2008 WL 7285523, at *1 ("A party cannot argue that because of its own inability and delay in

understanding the divulged prior art, it possesses good cause to prepare new invalidity contentions.”).

The Court finds that the second factor, the importance of the reference, favors amendment, even though neither party has substantially briefed the issue. Although the USPTO found (both initially and after reexamination) that the Contested Prior Art does not invalidate the '828 patent, the prior art's invalidating effect on the continuation application, which overlaps with the '828 patent, suggests some importance. Thus, the Court concludes that this factor favors amendment.

The third factor considers the prejudice to Plaintiff if amendment is allowed. Defendants simply have delayed too long to assert prior art that is listed in the patent in suit. Accordingly, Plaintiffs would be prejudiced by this amendment. As such, the third factor weighs against amendment. *See LML Patent Corp.*, 2011 WL 5158285 at *4.

Finally, neither party addressed the availability of a continuance to cure prejudice. But the Court found this factor weighed against Defendants in their first motion to amend their contentions. That conclusion has not changed. *See Finisar*, 424 F. Supp. 2d at 902.

Accordingly, the Court finds that the relevant factors counsel that Defendants' most recent attempt to amend their invalidity contentions cannot be allowed. Therefore the Court **DENIES** Defendants' motion (Doc. No. 184).

III. Plaintiffs' Motion to Strike (Doc. No. 141)

Plaintiffs ask this Court to strike portions of the report of Defendant's expert Dr. Beaman that rely on the untimely disclosed prior art references and combinations. As discussed above, the Court denies Defendant's motion to amend their invalidity contentions to include those

references. Accordingly, Plaintiffs' motion to strike (Doc. No. 141) is **GRANTED**, and the Court strikes all opinions relying on undisclosed references or combinations.

IV. Defendant's Motion to Strike or to Order Plaintiffs to Amend Infringement Contentions (Doc. No. 145)

Defendants move to strike Plaintiffs' infringement contentions and the report of Plaintiffs' expert, Joseph B. Davis (the Davis Report) (Doc. No. 145 at 1). Defendants alternatively ask the Court to order Plaintiffs to amend their infringement contentions (Doc. No. 145 at 1). Defendants' requested relief is "to permit both parties to amend their original contentions (invalidity and infringement) to incorporate information now available" (Doc. No. 145 at 14). For the reasons discussed below, the motion is **DENIED**.

a. Legal Standard

Local Patent Rule 3-1 requires a party claiming infringement to identify each accused product in its infringement contentions. Proper infringement contentions put a defendant on notice of a plaintiff's infringement theories. *Whipstock Servs., Inc. v. Schlumberger Oilfield Servs.*, No. 6:09-cv-113, 2010 WL 143720, at *1 (E.D. Tex. Jan. 8, 2010). The purpose of infringement contentions is to narrow the focus of discovery, claim construction, summary judgment, and—ultimately—trial. *See id.* A plaintiff does not have to prove its case at the outset, nor does a plaintiff have to refer to a defendant's product by "some unique, in-house name or number . . . product line or model number." *See id.* at *2 (internal quotation marks omitted). Local Patent Rule 3-1 only requires that level of disclosure "if known."

b. Analysis

Defendants argue that Plaintiffs failed to sufficiently identify which products infringe the '828 patent. Defendants claim that Plaintiffs' lack of specificity in their infringement contentions allowed Plaintiffs' damages expert, W. Todd Schoettelkotte, to include exhaust systems sold to

rigs not specifically named in Plaintiffs' infringement contentions. Defendants claim that this example, combined with the Davis Report that Defendants contend is overly vague, shows that "the Plaintiffs are holding back any substantive explanation of their infringement positions pending claim construction" (Doc. No. 145 at 4–6, 12–13).⁴ Defendants also list out relevant examples of the specific infringement claims and explain their deficiencies.

Plaintiffs respond first that Defendants' arguments ring hollow since Defendant failed to make these arguments until this juncture in the litigation. Plaintiffs then argue that their infringement contentions sufficiently explain how a particular set of engineered exhaust systems that Defendants have implemented on rigs infringes the '828 patent. Finally, Plaintiffs note that the specific rigs named in the damages report are based on the same plans cited throughout Plaintiffs' infringement contentions and that Defendants have responded to discovery requests for such systems and rigs without objection—until now.

The Court finds that Plaintiffs' infringement contentions are sufficient. Defendants completed the entire claim construction process, more than a year of discovery, and expert discovery without complaining that they could not discern Plaintiffs' theory from their contentions. Thus, Defendants cannot now claim that they did not have notice. *See Fenner Invs., Ltd. v. Hewlett-Packard Co.*, 6:08-CV-273, 2010 WL 786606, at *3 (E.D. Tex. Feb. 26, 2010) ("[S]ubsequent discovery made it explicitly clear If Defendants were unclear as to the scope of the contentions, it was their responsibility to work with Plaintiff, informally or through motion practice, to clarify the issue.).

Furthermore, Defendants' argument that Plaintiffs' expert report on damages implicitly amends Plaintiffs' infringement contentions fails for similar reasons. First, as Plaintiffs note, the

⁴ The Court issued its claim construction order three months ago (Doc. No. 160). Since then, Plaintiffs have not amended, or moved to amend, their infringement contentions.

rigs the expert included in the damages estimate were discovered by Plaintiffs because they are built on the same technical specifications Plaintiffs cite throughout their infringement contentions (Doc. 151 at 8 n.1). Further, Plaintiffs' expert could only include those rigs after Defendants provided information related to them in response to discovery requests. Accordingly, Plaintiffs' damages report does not amend their infringement contentions. *See Fenner*, 2010 WL 786606, at *3–4; *Whipstock*, 2010 WL 143720, at *2.⁵

Defendants' argument that the Davis report is too vague fails for the same reasons. The Davis Report states that his opinions on infringement are contained in Plaintiffs' infringement contentions, which Davis helped prepare and incorporated by reference into his report (Doc. No. 145-3 at 7). Having found the Plaintiff's infringement contentions sufficient, the Court similarly finds the Davis Report to be equally sufficient.

Accordingly, the Court **DENIES** Defendant's motion to strike (Doc. No. 145).

V. Defendants' Motion to Strike Supplemental Expert Report or Order the Parties to Amend their Contentions (Doc. No. 180)

a. Legal Standard

Local Patent Rule 3-1 requires a party claiming infringement to identify each accused product in its infringement contentions. Proper infringement contentions put a defendant on notice of a plaintiff's infringement theories. *Whipstock*, 2010 WL 143720, at *1. The purpose of infringement contentions is to narrow the focus of discovery, claim construction, summary judgment, and—ultimately—trial. *See id.* A plaintiff does not have to prove its case at the outset, nor does a plaintiff have to refer to a defendant's product by "some unique, in-house name or

⁵ The Court does not reject *Whipstock's* contention that there can be circumstances where a lack of publically available information early in a case requires amending infringement contentions after discovery provides the parties a clearer picture. But that is not the case here because the technical specifications cited in Plaintiffs' infringement contentions put Defendants on notice that the products developed from the specifications were alleged to infringe.

number . . . product line or model number.” *See id.* at *2 (internal quotation marks omitted). Instead, Local Patent Rule 3-1 only requires that level of disclosure “if known.”

An expert infringement report “may not introduce theories not previously set forth in infringement contentions.” *Fenner*, 2010 WL 786606, at *2. But the scope of an expert’s report and the scope of a plaintiff’s infringement contentions are not the same. *Id.* The infringement contentions are not required to “disclose ‘specific evidence nor do they require a plaintiff to prove its infringement case.’” *Id.* (quoting *EON Corp. IP Holdings, LLC v. Sensus USA Inc.*, No. 6;09-cv-116, 2010 WL 346218, at *2) (E.D. Tex. Jan. 21, 2010). Expert reports, on the other hand, “must include a complete statement of the expert’s opinions, the basis and reasons for them, and any data or other information considered when forming them.” *Id.* (citing Fed. R. Civ. P. 26(a)(2)(B)).

b. Discussion

Defendants argue that Dr. Davis’s supplement report (the Supplemental Report) effectively amends Plaintiffs’ infringement contentions, triggering Defendants’ right to amend their invalidity contentions (ostensibly so that they can include the previously omitted prior art references). Defendants again challenge Plaintiffs’ infringement contentions as insufficient. According to Defendants, the Supplemental Report’s reference to documents produced during discovery provided the first notice of Plaintiffs’ infringement contentions.

Plaintiffs respond that their original infringement contentions put Defendants on notice of their infringement theories and that the Supplemental Report appropriately incorporated the documents received during discovery. Plaintiffs argue that the Supplemental Report goes into specifics that were not possible prior to receiving Defendants’ non-public documents.

As stated above, the Court finds that Plaintiffs' infringement contentions are sufficient. The Court finds that the supplement report is proper and need not be struck. The supplemental report does not add new theories but simply incorporates the documents produced by Defendants. It does what the expert report is supposed to: "include a complete statement of the expert's opinions, the basis and reasons for them, and any data or other information considered when forming them." *Fenner*, 2010 WL 786606, at *2 (citing Fed. R. Civ. P. 26(a)(2)(B)). Dr. Davis reasonably and timely (prior to his deposition) supplemented his original assessment to include newly discovered evidence (Doc. No. 182 at 2-3). Therefore, the Court finds no basis to strike the supplemental report. *See Fenner*, 2010 WL 786606, at *3.

VI. Conclusion

For the forgoing reasons, the Court **ORDERS** the following:

1. Plaintiff's Motion to Strike (Doc. No. 141) is **GRANTED**;
2. Defendants' Motion for Leave (Doc. No. 142) is **DENIED**; and
3. Defendants' Motion to Strike or to Order Plaintiffs to Amend Infringement Contentions (Doc. No. 145) is **DENIED**.
4. Defendants' Motion to Strike or to Order the Parties to Amend Their Contentions (Doc. No. 180) is **DENIED**.
5. Defendants' Motion for Leave to Amend Invalidity Contentions (Doc. No. 184) is **DENIED**.

It is SO ORDERED.

SIGNED this 11th day of October, 2013.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE