

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

TYCO HEALTHCARE GROUP LP,	§	
MALLINCKRODT INC. and	§	
LIEBEL-FLARSHEIM COMPANY,	§	
Plaintiffs,	§	
v.	§	CIVIL ACTION NO. 2:07-CV-262 (TJW)
	§	
E-Z-EM, INC. and ACIST MEDICAL	§	
SYSTEMS, INC.,	§	
Defendants.	§	

ORDER

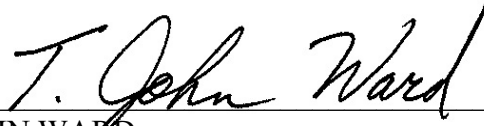
Pending before the Court is Defendants Motion for Leave to Serve Supplemented Invalidation Contentions. [Dkt. No. 245] Defendants discovered U.S. Patent No. 5, 189, 408 (“the Teicher patent”) in November 2009 following a supplemental search performed after protracted discovery. Defendants sought leave to amend their invalidity contentions in early December 2009 to add this single reference. Jury selection is scheduled in June 2010.

The purpose of the local rules is to put the parties on notice of the information its adversary anticipates using at trial. *Saffran v. Johnson & Johnson*, 2:07-cv-451, Dkt. No. 49 (Feb. 24, 2009). Plaintiffs argue that Defendants’ invalidity contentions are too voluminous and the Court should strike Defendants’ contentions as it did in *Saffran*. This case is distinguishable from *Saffran*. While the defendants’ contentions are over 700 pages long, the first 600 pages include an in-depth narrative description of how each claim is anticipated by each reference. The last 100 pages provide a similarly-detailed chart with pinpoint citations to each cited prior art reference. The defendants in *Saffran*, on the other hand, provided 800 pages of nothing but citations with no explanation as to how the defendants anticipated using the prior art references.

The court is of the opinion that Plaintiffs have sufficient notice of Defendants' invalidity positions. Defendants' motion is GRANTED.

It is SO ORDERED.

SIGNED this 1st day of April, 2010.

A handwritten signature in black ink that reads "T. John Ward". The signature is written in a cursive style with a large, prominent "T" and "W".

T. JOHN WARD
UNITED STATES DISTRICT JUDGE