

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

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| PLANT EQUIPMENT, INC., |) | |
| |) | |
| Plaintiff, |) | CIVIL ACTION NO. 2:09-CV-395 (JRG) |
| |) | |
| vs. |) | JURY TRIAL DEMAND |
| |) | |
| INTRADO, INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |

ORDER

Before the Court is Defendant Intrado, Inc.’s (“Intrado”) Motion to Compel Infringement Contentions that Comply with P.R. 3-1. (Dkt. No. 87.) Having considering the Motion and the arguments of counsel, the court DENIES Defendant’s Motion to Compel.

INTRODUCTION

Plant Equipment Inc. (“Plant”) is the owner of United States Patent No. 6,744,858 (the ‘858 Patent). The ‘858 Patent describes a system and method for routing incoming calls through the use of a central data manager over a wide network to multiple call centers having multiple remote terminals. Intrado provides technology for the 9-1-1 call infrastructure that delivers millions of emergency calls each year throughout the United States. On November 10, 2009, Plant sued Intrado, alleging infringement of the ‘858 Patent. Generally, Plant accuses Intrado’s 9-1-1 network, called the Intelligent Emergency Network (“IEN”), of infringing the ‘858 Patent.

On May 6, 2011, Plant served its Original Infringement Contentions (“Original Contentions”) upon Intrado. (Dkt. No. 77.) On May 31, 2011, Plant supplemented its Original Contentions (“Supplemental Contentions”) at Intrado’s request. (Dkt. No. 78.)

On August 8, 2011, Intrado filed its Motion to Compel Infringement Contentions that Comply with P.R. 3-1, urging this Court to order Plant to produce infringement contentions that “fully” comply with Local Patent Rule 3-1 (“P.R. 3-1”). (Dkt. No. 87.)

ISSUES PRESENTED

Intrado argues that Plant’s Original and Supplemental Contentions fail to comply with P.R. 3-1 in three ways: (1) for the “partitioned database” limitation, Plant parroted claim language and used block quotes, without specifying components or structures within IEN that allegedly meet the “partitioned database” limitation; (2) for the “remote terminal” limitation, Plant failed to consistently point to the same structures that constitute a “remote terminal;” and (3) because the IEN system can be customized for each Intrado customer, Plant failed to explain which customized installations of the system infringe and explain how such infringement occurs. (Dkt. No. 87, at 4-5.)

LEGAL STANDARD

P.R. 3-1 requires that a party claiming patent infringement must serve on all parties its infringement contentions, consistent with the following:

- (a) Each claim of each patent in suit that is allegedly infringed by each opposing party;
- (b) Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality”) of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus must be identified by name or model number, if known. Each method or process must be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process; and
- (c) A chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by

35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function. ...

E.D. Tex. P.R. 3-1(a)–(c). This District’s Patent Rules are intended to streamline discovery. *Linex Techs., Inc. v. Belkin Int’l, Inc.*, 628 F. Supp. 2d 703, 713 (E.D. Tex. 2008). Properly disclosed infringement contentions will frame the scope of discovery, focus the parties on the issues, and allow the case to take a clear path to trial. *Connectel, LLC v. Cisco Sys., Inc.*, 391 F. Supp. 2d 526, 527 (E.D. Tex. 2005). Enough specificity is required to give an alleged infringer notice of the patentee’s claims. *Computer Acceleration Corp. v. Microsoft Corp.*, 503 F. Supp. 2d 819, 821 (E.D. Tex. 2007).

ANALYSIS

1. “Partitioned Database” Limitation

First, Intrado argues that Plant’s infringement contentions regarding the limitation “partitioned database” are insufficient because of Plant’s use of block quotes, leaving Intrado to “guess” as to the relevance of the cited material. (Dkt. No. 87, at 7.) Plant argues that its contentions logically step through its theories by quoting only “carefully selected portions of Intrado’s documents” rather than “random” block quotes, as alleged. (Dkt. No. 91, at 11.)

The Court finds that Plant’s infringement contentions, in their totality, do indeed logically step through its theories of infringement and provide cites to specific quotes from selected portions of Intrado’s documents. As required by P.R. 3-1, Plant’s Original Contentions, when considered with its Supplemental Contentions, provide Intrado with the requisite notice of Plant’s infringement claims regarding the limitation “partitioned database.” Accordingly, Plant’s contentions regarding the limitation “partitioned database” are sufficient.

2. “Remote Terminal” Limitation

Next, Intrado argues that Plant’s infringement contentions regarding the limitation “remote terminal” are insufficient because Plant does not consistently point to the same structures as constituting a “remote terminal” for each claim in which the language is used. (Dkt. No. 87, at 8.) Intrado argues that because some accused structures are described as a “remote terminal” in one claim but not in others, it cannot decipher whether Plant considers such structures as infringing. *Id.* at 9. Plant argues that the “remote terminal” structures are indeed consistently disclosed, but rather in short-hand or by alternate names. (Dkt. No. 91, at 14.)

The Court finds that Plant provided adequate notice of what structures it alleges infringe the ‘858 Patent regarding the “remote terminal” limitation and further disclosure is unnecessary. Accordingly, Plant’s infringement contentions regarding the limitation “remote terminal” are sufficient.

3. Specificity Related to Customized Products

Finally, Intrado argues that because its system can be customized into various configurations, Plant failed to provide infringement contentions for each alleged form of infringement. (Dkt. No. 87, at 10.) However, Plant explicitly states that it does not propose different infringement theories for different installations of the system, but rather that its contentions account for both the relatively static components of the accused system as well as the points of potential variability. (Dkt. No. 91, at 4 and 12.) Because Plant will have one infringement theory regardless of the potential variability in Intrado’s system, there is no need for Plant to provide additional charts for each and every permutation of the customized system.

CONCLUSION

The Court, having found that Plant’s infringement contentions provide Intrado with

sufficient notice of its infringement contentions and that they adequately comply with P.R. 3-1, hereby DENIES Defendant's Motion to Compel Infringement Contentions.

So ORDERED and SIGNED this 31st day of January, 2012.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE