



Nitride Semiconductors Co., Ltd. v. Rayvio Corporation

2017 | Cited 0 times | N.D. California | December 14, 2017

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 United States District Court

Northern District of California

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

NITRIDE SEMICONDUCTORS CO., LTD.,

Plaintiff, v. RAYVIO CORPORATION,

Defendant.

Case No. 17-cv-02952-EJD (SVK)

ORDER ON JOINT STATEMENT REGARDING PLAINTIFF'S REQUEST TO COMPEL
RESPONSES TO INTERROGATORIES Re: Dkt. No. 48 Defendant to provide further responses to
Interrogatory Nos. 2, 3, 7, 8, 10, and 11. ECF 48.

Plaintiff contends that these interrogatories request basic factual information that Defendant should be required to provide now. Defendant argues that the interrogatories are premature contention interrogatories. Pursuant to Civil Local Rule 7-1(b), the Court deems this issue appropriate for determination without oral argument. motion to compel is DENIED without prejudice to Plaintiff raising these issues again later in

discovery. I. BACKGROUND

On May 23, 2017, Plaintiff filed this action alleging that certain of Defen s infringe Pla 270. ECF 1. Fact discovery has been underway for four months, but according to Defendant, document production is in its early stages, and no depositions have been taken. ECF 48 at 1, 3. Fact discovery will close on June 28, 2018. ECF 37. Claim construction proceedings are also underway. The parties have exchanged proposed terms for construction and proposed constructions, and a claim construction hearing is scheduled for April 19, 2018. Id.

The interrogatories that are the subject of the current dispute ask Defendant to provide the 1 2 3 4 5 6
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following information:

For each epitaxial process or structure identified in response to Interrogatory No. 1,

- any variation in elemental composition or spatial fluctuation in the band gap in the light emitting region or

3.) underlying

-infringement defense. (Interrogatory No. 7.) Identify whether and how

tion] that the techniques discussed in

this case are not representative of the techniques by which the Accused Products

detail all differences between and among the epitaxial processes or

Defendant responded in part to these interrogatories but also objected to them as premature insofar as t

that several of the terms used in these interrogatories or similar terms including layer, ,

require construction. II. ANALYSIS

Federal Rule of Civil Procedure 33 permits interrogatories to parties regarding their factual is not objectionable merely because it asks for contentions that

In re eBay Seller Antitrust Litig., No. C 07-1882 JF 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 United States District Court

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(RS), 2008 WL 52121 Id.

Courts in this district require a party moving to compel responses to contention interrogatories at an early stage in litigation to show that the ute scope of the dispute; (3) setting up early settlement discussion; or (4) exposing a substantial basis

for a motion under Rule 11 or Rule 56. See In re Convergent Techs. Sec. Litig., 108 F.R.D. 328, 337



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(N.D. Cal. 1985).

Plaintiff does not acknowledge or address these factors. Plaintiff argues that Defendant could provide more information about the accused products at issue, but does not explain why requiring a response to the disputed interrogatories now (as opposed to later in discovery) would contribute meaningfully to any of the interests identified in *In re Convergent Technologies*. The mere prospect that information the Defendant may provide now would make discovery easier is not a sufficient basis for requiring the Defendant to respond to contention interrogatories before substantial discovery has taken place. See *Barnes & Noble, Inc. v. LSI Corp.*, No. C 11-02709 EMC (LB), 2013 WL 655023, at *2 (N.D. Cal. Feb. 2013) (denying motion to compel responses to contention interrogatories at early stage of litigation). Moreover, the fact that several of the interrogatories use terms that will be addressed by the District Judge during claim construction is another reason that requiring Defendant to provide additional responses at this time would be of questionable value. See *Amgen Inc. v. Sandoz Inc.*, No. 14-CV-04741-RS(MEJ), 2016 WL 913105, at *3 (N.D. Cal. March 10, 2016) (denying motion to compel responses to interrogatories containing terms that were the subject of claim construction proceedings that were served before claim construction and before substantial discovery had been conducted).

Accordingly, the Court will not require Defendant to provide further responses at this stage of the case. /// 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 United States District Court

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III. CONCLUSION

to provide more complete responses to Interrogatory Nos. 2, 3, 7, 8, 10, and 11 is DENIED without prejudice to Plaintiff raising these issues again later in the case.

SO ORDERED. Dated: December 14, 2017

SUSAN VAN KEULEN United States Magistrate Judge

