



Judge Albright Denies Motion To Strike Amended Complaint and Reiterates the Significance of the Order Governing Proceedings

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Plaintiff PacSec3, LLC (PacSec3) filed a Second Amended Complaint, which defendant BlackBerry Corporation (BlackBerry) moved to strike. BlackBerry alleged this amendment violated Federal Rule of Civil Procedure 15(a)(2). The court denied this motion.

Federal Rule of Civil Procedure 15(a)(2) requires that “a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” Because neither of these options was satisfied by PacSec3, BlackBerry believed the amendment was improper.

Judge Albright, however, pointed to his Standard Order Governing Proceedings in Patent Cases (OGP) and noted that PacSec3’s amendment complied. Under the OGP, parties are given until 16 weeks after the *Markman* hearing to amend the pleadings. A motion is not required for such an amendment “unless the amendment adds patents or patent claims.” Seeing as the *Markman* hearing has not yet occurred and PacSec3’s amendment does not add patents or patent claims, the court found that a motion for leave to file the Second Amended Complaint was not required.

This decision reaffirms the importance of the procedures outlined in the OGP for patent cases in the Western District of Texas.

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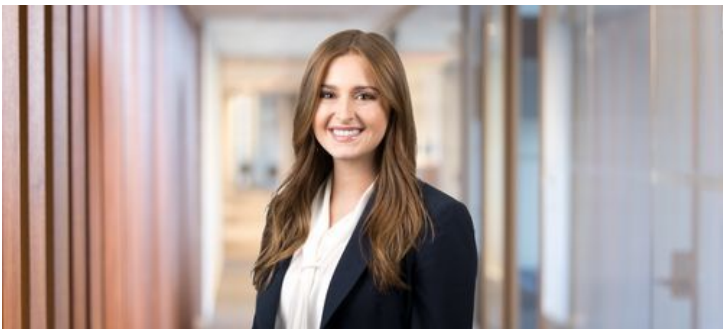
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