



Arizona Judge Snuffs Out Patentee's Attempt to Add New Accused Products in LED Light Bulb Dispute and Strikes Its Expert's Infringement Theories, Resulting in Immediate Settlement

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In a rematch between Arizona-based Lighting Defense Group LLC (LDG) and Shanghai Sansi Electronic Engineering Company Ltd. (with its subsidiaries, collectively "SANSI"), LDG asserted multiple heat-dissipation-related patents in federal district court for the District of Arizona against SANSI's LED lighting products available on Amazon.com.^[1] Last week, Judge Brnovich addressed the hotly contested issue of whether LDG's expansive expert report on infringement was problematic—its having been filed before LDG obtained the court's permission to serve (second) amended infringement contentions at the close of fact discovery—which had been festering for the better part of the past year. The ruling came out against LDG, and the parties settled the next day.

By way of background: LDG had served its initial infringement contentions back in early 2023, mapping certain patents to some but not all groups of accused products. These contentions comprised 18 claim charts accusing 72 of SANSI's lighting products. One month later, the court granted LDG's unopposed motion to amend its infringement contentions that identified 90 additional products. The court issued its claim construction order in January of 2024 and in late March, SANSI's interrogatory responses identified 39 new SKU numbers and 39 new Amazon ASIN numbers. Over four months after the court's claim construction order, on May 1, 2024, LDG moved for leave to amend its infringement contentions again—this time, to modify the existing 18 claim charts and add 10 new claim charts.

Judge Brnovich ultimately denied leave to amend the contentions, because "LDG failed to explain how discovery of those [March-identified] SKUs and ASINs justified the changes, when the products themselves were discovered months prior, already alleged to infringe [other] patents," and LDG "waited months" to accuse certain product groups of infringing those additional patents. Subsequently, while filing its pre-trial motions *in-limine*, SANSI sought to enforce the previous court order and strike parts of LDG's expert report based on the disallowed proposed second amended contentions.

Here, the court found that the expert's report improperly extended existing infringement theories for respective patents to additional accused product groups (that had been merely accused of infringing other patent(s) previously) and further included theories previously unidentified in the operative first amended contentions. Accordingly, the court granted SANSI's motion and struck those portions of the report that introduced new theories or that correlated earlier infringement reads onto more product groups. The court emphasized that its initial Case Management Order

—which generally tracked the disclosure obligations from other jurisdictions’ local patent rules—was intended to prevent exactly this kind of mid-litigation pivot or “shifting sands” approach.

TAKEAWAYS

Plaintiffs who wish to serve expert reports with new theories should first seek permission to amend their operative contentions, first from opposing counsel by stipulation but, if opposed, then by a court order. Plaintiffs should also move the court for an expedited ruling prior to the deadline for serving the expert report. When moving for leave to amend the contentions, the movant should emphasize that it did not unreasonably delay in bringing the motion and further demonstrate how exactly the newly discovered information (which would excuse the delay) is relevant to its request to amend; or, failing that, demonstrate its diligence despite the delay.

[1] *Lighting Defense Group LLC v. Shanghai Sansi Electronic Engineering Company, Ltd.*, No. 2:22-cv-1476 (D. Ariz. 2022).

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