

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RALINK TECHNOLOGY CORP.,

Plaintiff,

v.

LANTIQ, DEUTSCHLAND GMBH,

Defendant.

ORDER

10-cv-688-bbc

As is common in patent infringement cases filed in this district, the defendant, in this case, Lantiq, Deutschland GMBH, has moved under 28 U.S.C. § 1404(a) to transfer this patent infringement case to the Northern District of California. Not unexpectedly, plaintiff Ralink Technology Corp. opposes the motion. The parties briefed the motion thoroughly; their six briefs address not just the issue of transfer, but defendant's motion to file a supplement to its reply brief; plaintiff's motion to strike portions of defendant's reply and declaration in support of defendant's motion to transfer; and defendant's response to the motion to strike.

The first issue is plaintiff's motion to strike portions of defendant's reply brief. In support of the motion, plaintiff alleges that defendant raised certain arguments for the first

time in its reply brief, which is improper. Defendant responds by denying that it added any new arguments; rather, it says, it simply included some new support for the same arguments it made earlier. In its opening brief, defendant said that the named patent inventor resides and works in the Northern District of California. Not until its reply brief did defendant say that the inventor would be unwilling to travel to Wisconsin voluntarily to provide testimony and that his testimony is critical to many issues. In addition, defendant responded to a declaration that plaintiff filed with its brief in opposition, in which one of defendant's California employees stated that this case may involve only a subset of defendant's products. Defendant takes the position that if this declaration is correct, the parties are not competitors at least with respect to these products. Presumably, it follows from this that the need for a speedy resolution is diminished if the parties are not competing against each other for sales of competing products.

As defendant notes, motions to strike are disfavored by the courts. Rather than grant plaintiff's motion to strike the reply brief, I will give plaintiff one week in which to file a sur-reply if it wishes.

ORDER

IT IS ORDERED that plaintiff Ralink Technology Corp.'s motion to strike defendant Lantiq Deutschland GMBH's reply brief, dkt. #38, is DENIED. Plaintiff may have until

March 23, 2011 in which to file a sur-reply brief.

Entered this 15th day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge