

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

SILICON GRAPHICS, INC.,

Plaintiff,

v.

ATI TECHNOLOGIES, INC.,
ATI TECHNOLOGIES ULC, and
ADVANCED MICRO DEVICES, INC.,

Defendant.

ORDER

06-cv-611-bbc

Defendants ATI Technologies, Inc., ATI Technologies ULC and Advanced Micro Devices, Inc., have moved for reconsideration of the order entered on March 10, 2011, dkt. #749, granting plaintiff's motion to strike defendants' new expert opinions of Drs. Potel and Wolfe and a new witness on invalidity. Defendants allege that the original order is in error in two respects: it contains a mistake on page 2, in which I said that "*defendants* argued vigorously for the construction [of the rasterization process] that the court of appeals later determined was the correct one" and it did not consider defendants' alleged need for new expert reports on hardware, now that the courts have decided that the claims in issue are limited to "specialized rasterization hardware." Neither alleged problem requires

reconsideration.

The reference to “defendants” in the March 10 order was inaccurate; in fact, it was plaintiff Silicon Graphics, Inc. that advocated the construction of rasterization process that the court of appeals adopted. The error is unfortunate but inconsequential. The point is that the construction was in play for the entire time that the parties were engaged in discovery, because the term was not construed until shortly before trial. Thus, neither side had good reason to refrain from gathering evidence relevant to either of the two constructions at issue, whether it was defendants’ proposed construction that the patent required that the process operate in full floating point format or plaintiff’s position that the patent could apply to a process that operated in partial floating point format.

As to the failure to discuss defendants’ alleged need for more evidence and expert opinion on the “specialized rasterization hardware,” that, too, is inconsequential because it fails for the same reason that I granted plaintiff’s motion to strike defendants’ supplemental evidence on rasterization process: defendants have known all along of plaintiff’s position that the patent required specialized rasterization hardware and had ample opportunity to undertake discovery of potential prior art during the first round of this lawsuit.

Finally, defendants argue that they are entitled to submit new expert reports because they did not have a chance to respond to plaintiff’s second round of expert reports filed in 2007. The argument is unpersuasive; any responses they could have filed then would have

been limited to rebuttal of the opinions expressed by plaintiff's experts. They would not have been allowed to submit new reports, as defendants have tried to do now.

ORDER

IT IS ORDERED that the motion of defendants ATI Technologies, Inc., ATI Technologies ULC and Advanced Micro Devices, Inc., for reconsideration of the order entered on March 10, 2011 is DENIED, with one exception: the order is AMENDED to delete the second sentence of the first full paragraph on page 2 and insert in its place the following sentence:

Throughout the entire discovery period, the parties argued vigorously about the proper construction of the terms "rasterization process" and "specialized rasterization hardware."

In all other respects, the order remains as entered.

Entered this 4th day of April, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge