

U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:19-cv-01062-CFC-CJB

TriDiNetworks Ltd. v. NXP USA, Inc. et al.
Assigned to: Judge Colm F. Connolly
Referred to: Judge Christopher J. Burke
Related Cases: [1:19-cv-01063-CFC-CJB](#)
[1:19-cv-01064-CFC-CJB](#)
Cause: 35:271 Patent Infringement

Date Filed: 06/07/2019
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Date Filed	#	Docket Text
03/15/2021	74	<p>ORAL ORDER: The Court, having reviewed Defendants' motion to strike Plaintiff's supplemental expert declaration ("Motion"), (D.I. 62 in Civil Action No. 19-1062-CFC-CJB and Civil Action No. 19-1063-CFC-CJB; D.I. 70 in Civil Action No. 19-1064-CFC-CJB), and the briefing related thereto, hereby ORDERS that the Motion is DENIED. It is a close call as to whether Plaintiff's filing of this supplemental declaration was even all that wrongful in the first place (though Plaintiff should have sought leave of the Court to file it, instead of just doing it on its own). Whether it is wrongful depends on whether Defendants should have made reference to the Philips PN531 chip in their opening expert report; reasonable minds could disagree on that point. In any event, even if the supplemental declaration is considered an untimely submission, the Pennypack factors (which Defendants suggest apply here) would not counsel in favor of exclusion. In the Court's view, Defendants could not have been too surprised to see that Plaintiff wanted to comment on the PN531 chip (in that the chip was referenced for the first time in Defendants' reply expert report). And the Court does not think that having to respond to the supplemental declaration (which, after all, relates to one discrete issue, and is only two pages long) would occasion some great prejudice to Defendants. The issue can be resolved by permitting Defendants to file a supplemental sur-rebuttal expert report on this point. That would cure the prejudice and would not disrupt the trial. Indeed, this was a proposed resolution that was discussed during the parties' meet and confer. The Court sees that the parties dispute which side offered that proposed resolution or whether it was ever accepted, but it does not matter. The point is that it should have been offered, it should have been accepted, and that would have been that. (Indeed, the effort Defendants spent filing and litigating this Motion is arguably greater than the effort it would have taken for them to prepare and file a short sur-rebuttal expert report in the first instance.). Defendants may file a sur-rebuttal expert report on this point by no later than 10 days from today's date. The teleconference on the Motion scheduled for today is CANCELLED. Ordered by Judge Christopher J. Burke on 3/15/2021. Associated Cases: 1:19-cv-01062-CFC-CJB, 1:19-cv-01063-CFC-CJB, 1:19-cv-01064-CFC-CJB(dlb) (Entered: 03/15/2021)</p>