

[REDACTED]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

CANON, INC.,

Plaintiff,

v.

TCL ELECTRONICS HOLDINGS
LTD., *et al.*,

Defendants.

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CIVIL ACTION NO. 2:18-cv-00546

JURY TRIAL DEMANDED

**PLAINTIFF CANON, INC.’S UNOPPOSED MOTION FOR LEAVE TO FILE A
SUPPLEMENTAL CLAIM CONSTRUCTION BRIEF REGARDING**

[REDACTED]

Pursuant to Local Rule CV-7(k), Plaintiff Canon, Inc. (“Canon”) seeks leave of Court to file a 9 page supplemental brief on a limited topic relevant to claim construction. The supplemental brief is filed herewith. Canon has good cause to bring this motion now because it learned new facts regarding Roku’s role as [REDACTED] in this action when Defendants responded to an interrogatory request after the March 18, 2020 Markman hearing. Canon and Defendants met and conferred, and Defendants do not oppose this motion.

Roku had listed Defendants as a statutory privy in IPR petitions filed in December 2019, but did not disclose the nature of that privity. Defendants eventually produced on January 15, 2020 a license agreement with Roku containing [REDACTED], but that clause contained numerous exceptions and it was unclear whether it applied to this litigation, particularly in view of Defendants’ February 20, 2020 Initial Disclosures, which omitted any reference to [REDACTED] by Roku. It was not until after questioning by Canon and

[REDACTED]

the Court at the Markman hearing that Defendants confirmed in its March 19, 2020 discovery responses that [REDACTED].

Canon seeks leave to (i) inform the Court that Roku is [REDACTED]
[REDACTED]
[REDACTED], and, given that revelation, (ii) explain why Roku's arguments before the Patent Trial and Appeals Board in *inter partes review* proceedings on the patents in suit contradict Defendants' claim construction arguments and are directly relevant to this Court's interpretation of the patent claims. As Canon did not have the opportunity to fully brief or argue these issues previously (as Defendants had not disclosed the extent of Roku's true role in this action until after the Markman hearing), it respectfully requests that the Court grant its request for leave to file the concurrently filed Supplemental Brief with supporting evidence. Should the Court grant Canon leave to file the Supplemental Brief, the parties agree and Canon requests the Court also grant: (1) Defendants leave to file a 9 page response within 7 days of Canon filing the supplemental brief, (2) Canon leave to file a 2 page reply within 3 days of Defendants filing a response, and (3) Defendants leave to file a 2 page sur-reply within 3 days of Canon filing a reply, if any.

[REDACTED]

DATED: March 30, 2020

Respectfully submitted,

PAUL HASTINGS LLP

By: /s/ Yar R. Chaikovsky

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[REDACTED]

CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service are being notified of the filing of this document via the Court's CM/ECF system per Local Rule CV-5(a). I also hereby certify that all counsel of record are being served with a copy of the foregoing document by electronic mail on this 30th day of March 2020.

/s/ Harry L. Gillam, Jr.
Harry L. Gillam, Jr.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]