

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

XIAOHUA HUANG,  
Plaintiff,

No. C 18-06654 WHA

v.

**ORDER ON MOTION  
TO STRIKE**

NEPHOS INC.,  
Defendant.

\_\_\_\_\_ /

**INTRODUCTION**

In this patent infringement action, accused infringer moves to strike *pro se* patent owner’s infringement contentions, to dismiss the instant action with prejudice, and for attorney’s fees. To the extent stated below, accused infringer’s motion is **GRANTED**.

**STATEMENT**

A prior order has set forth the background of this case (Dkt. No. 55). In brief, *pro se* plaintiff Xiaohua Huang owns United States Patent Nos. 6,744,653 (“the ’653 patent”) and 6,999,331 (“the ’331 patent”), which patents generally involve ternary content addressable memory (“TCAM”) technology used in the semiconductor chip industry. According to plaintiff, the patents employ a TCAM design “using differential match line to achieve high speed and lower power consumption” (Dkt. No. 65-9 at 11). Plaintiff accuses defendant’s chips of infringing those patents (Compl. ¶¶ 1, 8, 11).

1 Since December 2018, plaintiff has been advised by defendant’s counsel multiple times  
2 that his infringement contentions were non-compliant with the patent local rules. The Court has  
3 twice warned plaintiff — including a prior order dated July 9 that struck his third set of  
4 contentions for various deficiencies and offered him one more chance to amend — that failure  
5 to serve proper contentions would likely result in dismissal of his action (Dkt. No. 55 at 9).  
6 Plaintiff timely served his fourth set of infringement contentions (Dkt. No. 59). According to  
7 this new set of contentions, plaintiff accuses defendant’s “Aries MT3250 Family, Aries Hybrid  
8 ToR Switch, Taurus Family NP8360 Series, Taurus ToR and Fabrics Switch” products of  
9 infringing Claims 1, 5, 8, 12, 15, and 17 of the ’653 patent and Claims 1 and 9 of the ’331  
10 patent (Dkt. No. 59-1 at 1, 7).

11 Defendant now moves to strike (for a second time) plaintiff’s latest amended  
12 infringement contentions for failure to comply with Patent Local Rules 3-1(c)–(e), for dismissal  
13 with prejudice, and for an award of attorney’s fees (Dkt. No. 65). This order follows full  
14 briefing and oral argument.

## 15 ANALYSIS

### 16 1. PATENT LOCAL RULE 3-1 NONCOMPLIANCE.

17 Defendant contends that plaintiff’s fourth set of infringement contentions are still  
18 deficient under (1) Patent Local Rule 3-1(c) for failure to provide “chart[s] identifying  
19 specifically where and how each limitation of each asserted claim is found within each Accused  
20 Instrumentality”; (2) Patent Local Rule 3-1(d) for failure to identify “any direct infringement  
21 and a description of the acts of the alleged indirect infringer that contribute to or are inducing  
22 that direct infringement” for each asserted claim alleged to be indirectly infringed; and (3)  
23 Patent Local Rule 3-1(e) for failure to demonstrate “[w]hether each limitation of each asserted  
24 claim is alleged to be literally present or present under the doctrine of equivalents in the  
25 Accused Instrumentality” (Dkt. No. 65 at 1–2). *See* Patent L.R. 3-1(c)–(e). This order agrees.

26 “Patent Local Rule 3 requires patent disclosures early in a case and streamlines  
27 discovery by replacing the series of interrogatories that parties would likely have propounded  
28 without it.” *Huawei Techs., Co, Ltd v. Samsung Elecs. Co, Ltd.*, 340 F. Supp. 3d 934, 945–46

1 (N.D. Cal. 2018) (quoting *ASUS Comput. Int'l v. Round Rock Research, LLC*, No. C 12-02099  
2 JST (NC), 2014 WL 1463609, at \*1 (N.D. Cal. Apr. 11, 2014) (Magistrate Judge Nathanael  
3 Cousins)). Patent Local Rule 3-1, which sets forth the requirements for disclosing asserted  
4 claims and preliminary infringement contentions, “require[s] the party claiming infringement to  
5 crystallize its theories of the case early in the litigation and to adhere to those theories once  
6 disclosed.” *Shared Memory Graphics LLC v. Apple, Inc.*, 812 F. Supp. 2d 1022, 1024 (N.D.  
7 Cal. 2010) (quoting *Bender v. Advanced Micro Devices, Inc.*, No. C 09-1149 MMC (EMC),  
8 2010 WL 363341, at \*1 (N.D. Cal. Feb. 1, 2010) (Judge Edward Chen)). Though a plaintiff  
9 need not supply evidence of infringement, “the degree of specificity under Local Rule 3-1 must  
10 be sufficient to provide reasonable notice to the defendant why the plaintiff believes it has a  
11 reasonable chance of proving infringement.” *Id.* at 1025; *Creagri, Inc. v. Pinnaclife Inc., LLC*,  
12 No. C 11-06635 LHK (PSG), 2012 WL 5389775, at \*3 (N.D. Cal. Nov. 2, 2012) (Magistrate  
13 Judge Paul Grewal).

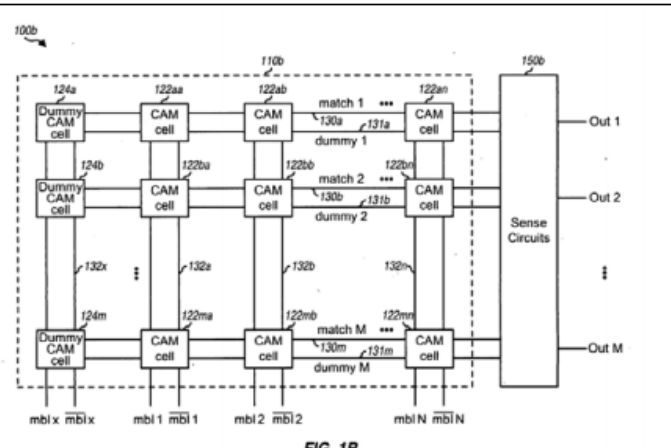
14 **A. Claim Chart Deficiencies.**

15 Patent Local Rule 3-1(c) requires plaintiff to provide “[a] chart identifying specifically  
16 where and how each limitation of each asserted claim is found within each Accused  
17 Instrumentality.”

18 This order finds that plaintiff’s fourth set of infringement contentions under Patent Local  
19 Rule 3-1(c) are deficient for failure to provide the required limitation-by-limitation analysis. As  
20 before, the claim charts here for both patents-in-suit are still mainly self-referential. That is,  
21 they primarily consist of plaintiff’s opinion about how a claim limitation relates to a figure in  
22 the specification. The chart for the first two limitations in Claim 1 of the ’331 patent illustrates  
23 the problem as follows (Dkt. No. 65-9 at 16):  
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(1) an array of TCAM cells arranged in a plurality of rows and a plurality of columns;

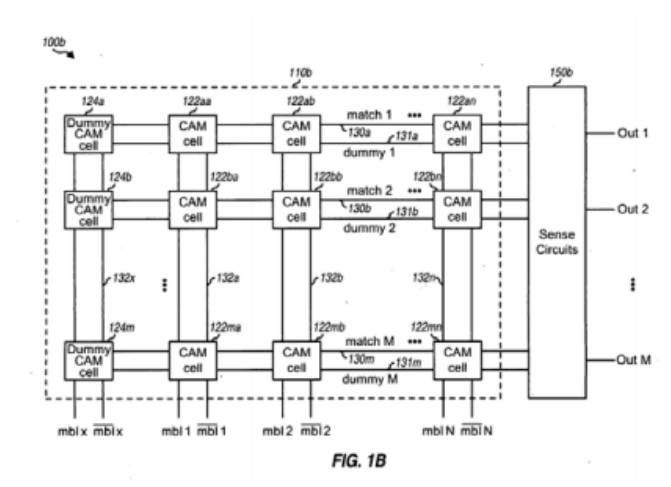


**FIG. 1B**

This claim section (1) read on the “CAM cell” symbol in FIG 1B of the 14.8 Mbit TCAM design used in **Aries MT3250 Family of Nephos Inc.**  
<http://www.nephosinc.com/nps/products/>

(2) a plurality of match lines, one match line for each row of TCAM cells and operatively coupled to a plurality of output transistors for the TCAM cells in each row; a plurality of dummy lines, one dummy line for each row of TCAM cells and operatively coupled to a plurality of dummy transistors for the TCAM cells in each row;

TCAM used in “**Aries MT3250 Family of Nephos Inc.**” use “differential match line sensing design” as shown in FIG. B of US patent 6,999,331.



**FIG. 1B**

This claim section (2) read on the “match” and “dummy” line in FIG 1B of the 14.8 Mbit TCAM design used in **Aries MT3250 Family of Nephos Inc.**  
<http://www.nephosinc.com/nps/products/>

Construing the contentions liberally, plaintiff merely opines for the first claim limitation that it generally “read[s] on the ‘CAM cell’ symbol” in Figure 1B, which corresponding feature exists somewhere in “the 14.8 Mbit TCAM design used in” the accused product. Plaintiff

1 then punctuates the analysis with a link to defendants’ website, which link contains only high-  
2 level information about the four accused products. Same goes for the second claim limitation  
3 — and .

4 Nowhere — not in the claim charts or elsewhere in the infringement contentions —  
5 does plaintiff tie any specific feature of an accused product to the claim language. As  
6 defendants point out, plaintiff bases his infringement contentions on the following general  
7 features allegedly found within all four of defendants’ products: (1) “differential match line  
8 sensing” (or “differential”); (2) “voltage swing” (or “swing”); (3) “five Megabits” (or  
9 “Megabits” or “MB”); (4) “more than 1 Ghz” (or “Gigahertz” or “Ghz”); and (5) “1K x 160  
10 bits” (Dkt. Nos. 65-9 at 3–4; 72 at 4). Yet the claim charts hardly mention any of those  
11 features within the context of the accused products. Nor do they point to any useful website  
12 or document, or give any meaningful analysis of defendant’s products *as they specifically*  
13 *relate to the claim limitations*.

14 We have been down this road before. A prior order dated July 9 struck plaintiff’s third  
15 set of contentions (Dkt. No. 55). As relevant here, that order specifically noted that the then-  
16 claim charts were deficient because they failed to cite a “single reference to defendant’s  
17 documents or website” or give a “specific analysis of the accused products tying specific  
18 features to the claim language” (*id.* at 3). Here, as with his prior infringement contentions,  
19 plaintiff’s claim charts “merely describe the claims themselves and certain general features of  
20 the accused products . . . with no serious attempt to explain how they read on anything  
21 specifically in the accused product” (*id.* at 5).

22 Plaintiff responds by again attacking defendant for allegedly bringing the instant  
23 motion in bad faith in order to “delay the case and increase” his “cost to reply” and  
24 defendant’s alleged concealment of its investors “to cheat [him], the Court, Amazon.com Inc.  
25 and [the] US government” (Dkt. No. 70 at 1, 6–8). As to the actual merits, plaintiff argues  
26 that his disclosure under Patent Local Rule 3-1(b) offers product information copied from  
27 defendant’s website (*id.* at 8–10) and that his claim charts “summarized” how each of Figures  
28 1B, 2E, 8B, 8C, 9A, and 9B found within both specifications of the patents-in-suit is “read

1 by” the asserted claims (*id.* at 10). He again fixates on his prior meeting and email exchange  
 2 with an engineer from MediaTek (defendant’s predecessor company) in which defendant  
 3 allegedly disclosed certain features of all four accused products (*ibid.*). Plaintiff then  
 4 generally ties certain features to certain *figures* within the specifications. Specifically,  
 5 plaintiff’s own pitch of his claim charts is as follows (*id.* at 11):

6 The main idea is that: the ACL function of Aries MT3250 Family of  
 7 Nephos Inc. uses TCAM designed by MediaTek, the TCAM designed by  
 8 MediaTek uses and contains the content of FIG.1B, FIG.2E ,FIG.7,  
 9 8B,FIG.8C, FIG.9A and FIG.9B. of US patent 6744654 and 6999331 as  
 10 stated in 3-1(b) and 3-1(c), if claim 1 read any of FIG.1B, FIG.2E ,FIG.7,  
 11 8B,FIG.8C, FIG.9A and FIG.9B. of US patent 6744654 and 6999331, then  
 12 claim1 read the TCAM used in Aries MT3250 Family of Nephos Inc. So  
 13 the claim chart focus on explaining **HOW** the claim 1 of US patent 6999331  
 14 read FIG.1B, FIG.2E ,FIG.7, 8B,FIG.8C, FIG.9A and FIG.9B. of US patent  
 15 6999331 since the TCAM used in Aries MT3250 Family of Nephos Inc.  
 16 contains the content of FIG.2E ,FIG.7, 8B,FIG.8C, FIG.9A and FIG.9B. of  
 17 US patent 6999331, so claim1 read FIG.2E ,FIG.7, 8B,FIG.8C, FIG.9A and  
 18 FIG.9B. of US patent 6999331,then claim 1 read the TCAM used in the  
 19 Aries MT3250 Family of Nephos Inc, then the claim 1 read the Aries  
 20 MT3250 Family of Nephos Inc. The TCAM used in the Aries MT3250  
 21 Family of Nephos Inc. is **WHERE**.

22 But Patent Local Rule 3-1(c) requires him to “identify[] *specifically* where and how  
 23 *each* limitation of *each* asserted claim is found within *each* Accused Instrumentality.” Patent  
 24 L.R. 3-1(c) (emphasis added). To repeat, that means that plaintiff must specifically tie the  
 25 asserted claim language to some feature within the accused product. Plaintiff’s general  
 26 assertion that the claims (and the alleged corresponding figures in the specifications) again  
 27 fails to satisfy his “obligation to identify the particular claim components in each claim [and]  
 28 map those components onto the features of the allegedly infringing products.” *Finjan, Inc. v.*  
*Check Point Software Techs., Inc.*, No. C 18-02621 WHO, 2019 WL 955000, at \*6 (N.D. Cal.  
 Feb. 27, 2019) (citing *Shared Memory Graphics*, 821 F. Supp. 2d at 1025).

### B. Generic Indirect Infringement Theory.

The fourth set of infringement contentions also fail as to plaintiff’s allegation of  
 indirect infringement. Under Patent Local Rule 3-1(d), plaintiff must disclose for each claim  
 “any direct infringement and a description of the acts of the alleged indirect infringer that  
 contribute to or are inducing that direct infringement.” Plaintiff’s contentions, however,  
 merely states as follows (Dkt. No. 65-9 at 105):

1 The claim 1, 5, 8,12,15 and 17 of US Patent No.6744653 and Claim 1 and 9  
 2 of US Patent No.6999331 are directly infringed by the Chips of Nephos Inc.  
 3 including Aries MT3250 Family, Aries Hybrid ToR Switch, Taurus Family  
 4 NP8360 Series, Taurus ToR and Fabrics Switch. Since the claims are  
 5 infringed by TCAM used in the chips, and the TCAM function are [sic]  
 always used by the Switches which using the chips ,so [sic] the chips of  
 Nephos Inc. induced the parties, such as Amazon, which using the Chips of  
 Nephos Inc. to infringe the US patent No. 6744653 and 6999331, which  
 contribute to or are inducing that indirect infringement.

6 A “general assertion of the elements of indirect infringement is plainly insufficient.”

7 *Blue Spike, LLC v. Adobe Sys., Inc.*, No. C 14-01647 YGR (JSC), 2015 WL 335842, at \*7  
 8 (N.D. Cal. Jan. 26, 2015) (Magistrate Judge Jacqueline Corley) (citing *France Telecom, S.A.*  
 9 *v. Marvell Semiconductor, Inc.*, No. C 12-04967 WHA (NC), 2013 WL 1878912, at \*5 (N.D.  
 10 Cal. May 3, 2013) (Magistrate Judge Nathanael Cousins)). “[B]oilerplate language that  
 11 simply claims an accused infringer provided instructions on, advertised, or promoted the use  
 12 of an accused product, without describing which instructions, advertisements, or promotions  
 13 led to what infringing behavior, does not suffice under PLR 3-1(d).” *Comcast Cable*  
 14 *Commc’ns, LLC v. OpenTV, Inc.*, No. C 16-06180 WHA, 2017 WL 2630088, at \*5 (N.D. Cal.  
 15 June 19, 2017) (citing *France Telecom*, 2013 WL 1878912, at \*5).

16 Here, plaintiff includes Amazon as an example of an “induced party.” Otherwise, his  
 17 current disclosure under Patent Local Rule 3-1(d) remains the same as the disclosure  
 18 previously stricken in the order dated July 9 (*see* Dkt. No. 55 at 7). As before, this disclosure  
 19 offers only boilerplate language and fails to specify any act committed by defendant and thus  
 20 again fails to comply with Patent Local Rule 3-1(d).

21 **C. Placeholder Assertions re Doctrine of Equivalents.**

22 Plaintiff’s disclosures of infringement under the doctrine of equivalents also fail to  
 23 comply with Patent Local Rule 3-1(e), which requires plaintiff to disclose “[w]hether each  
 24 limitation of each asserted claim is alleged to be literally present or present under the doctrine  
 25 of equivalents.” He first discloses that “[e]ach limitation of the asserted claim[s] . . . are  
 26 literally infringed by the” accused products (Dkt. No. 65-9 at 105). He next provides that (*id.*  
 27 at 106 (emphasis added)):

28 Even the TCAM designed and used in Nephos Inc. *in the future are* [sic]  
*changed* to some extension, it has to use the differential match line sensing

1 because the chips now designed in Nephos are below 7nm process, the  
 2 voltage supply is less than 0.6voltage, without using the differential match  
 3 line sensing, the noise is comparable to the signal, which is completely not  
 4 working. To achieve high speed and low power, differential match line small  
 5 voltage swing sensing is the only choice. Use [of] the differential match line  
 6 small voltage swing sensing to achieve high speed and low power TCAM  
 7 result is using the same way (method )to achieve the same result with the US  
 8 patent 6744653 and 6999331. For the senior TCAM designer any variation  
 9 of differential match line sensing with small voltage swing to achieve low  
 10 power is obvious to what US patent 6744653 and 6999331 taught, so any  
 11 change on the design taught in US patent 6744653 and 6999331 fall[s] into  
 12 the infringement of Doctrine of equivalence [sic].

13 As defendant points out, this disclosure relates to defendants' *future* products, not the  
 14 *presently* accused products (and thus implicitly concedes that the accused products only  
 15 literally infringe). Further, while the disclosure only makes a blanket assertion that if any  
 16 changes are made, the infringement must fall under the doctrine of equivalents, "[t]he Patent  
 17 Local Rules require a limitation-by-limitation analysis." *Rambus Inc. v. Hynix Semiconductor*  
 18 *Inc.*, No. C-05-00334 RMW, 2008 WL 5411564, at \*3 (N.D. Cal. Dec. 29, 2008) (Judge  
 19 Ronald Whyte). Plaintiff's current disclosure thus effectively amounts to improper generic  
 20 "placeholder" language and is thus insufficient under Patent Local Rule 3-1(e). *See Finjan,*  
 21 *Inc. v. Proofpoint, Inc.*, No. C 13-05808 HSG, 2015 WL 1517920, at \*10 (N.D. Cal. Apr. 2,  
 22 2015) (Judge Haywood Gilliam, Jr.).

## 23 2. DISMISSAL WITH PREJUDICE.

24 Defendant again seeks to strike plaintiff's deficient revised infringement contentions,  
 25 to dismiss the instant action with prejudice for plaintiff's failure to prove his case, and an  
 26 award of attorney's fees in connection with bringing both motions to strike as a sanction  
 27 against plaintiff for his conduct.

28 "Striking a patentee's infringement contentions is a severe sanction that should be  
 used sparingly and only for good cause." *Proofpoint*, 2015 WL 1517920 at \*12. The prior  
 order has already recounted the numerous chances plaintiff has been given to comply with  
 Patent Local Rule 3-1 and plaintiff's "troubling" litigation history, both in this case and in  
 prior cases (Dkt. No. 55 at 2, 8–9, 12–13).

In brief, since December 2018, defendant has advised plaintiff of the deficiencies in  
 his infringement contentions. In March 2019, the Court explicitly warned plaintiff that failure



United States District Court  
For the Northern District of California

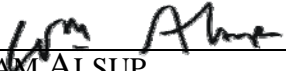
1 to comply with the patent local rules could result in the dismissal of his case (Dkt. No. 41 at  
2 9:14–20). And, the prior order striking plaintiff’s third set of infringement contentions clearly  
3 warned him that “the Court w[ould] likely dismiss the instant action possibly with prejudice  
4 and may well consider a motion for attorney’s fees and costs by defendants” if plaintiff failed  
5 to file and serve “*proper* infringement contentions” (Dkt. No. 55 at 13). After multiple  
6 wasted chances (despite repeated guidance from the Court) and nearly a year since he filed the  
7 instant action, plaintiff still has yet to “crystallize” his infringement theory. *See Shared*  
8 *Memory Graphics*, 812 F. Supp. 2d at 1024. This drawn-out litigation history demonstrates  
9 that plaintiff will not remedy the identified deficiencies going forward. Good cause thus  
10 exists here. Accordingly, defendant’s motion to strike plaintiff’s infringement contentions is  
11 **GRANTED** and the case is **DISMISSED WITH PREJUDICE**. In light of plaintiff’s *pro se* status  
12 and the unlikelihood that plaintiff currently has sufficient funds, however, defendant’s request  
13 for attorney’s fees is **DENIED** for now without prejudice to renewal after any appeal and  
14 affirmance.

15 **CONCLUSION**

16 To the foregoing extent, defendant’s motion to strike is **GRANTED** and the instant  
17 action is **DISMISSED WITH PREJUDICE**. Judgment will follow.

18  
19 **IT IS SO ORDERED.**

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21 Dated: November 12, 2019.

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24 WILLIAM ALSUP  
25 UNITED STATES DISTRICT JUDGE  
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United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

XIAOHUA HUANG,

No. C 18-06654 WHA

Plaintiff,

v.

**ORDER DENYING MOTION  
FOR TEMPORARY  
RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

NEPHOS INC.,

Defendant.

*Pro se* plaintiff Xiaohua Huang moves for a temporary restraining order and preliminary injunction — ten months after filing the instant action — to prohibit defendant Nephos Inc. “from selling its networking chips” within the United States, “especially selling its chips to Amazon.com Inc.” (Dkt. No. 67 at 1). The motion is **DENIED**.

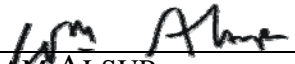
In seeking a temporary restraining order and preliminary injunction, plaintiff must demonstrate that: (1) serious questions going to the merits were raised, (2) the balance of hardships tips sharply in the plaintiff’s favor, (3) there is a likelihood of irreparable harm, and (4) that the injunction is in the public interest. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–36 (9th Cir. 2011) (incorporating factors from *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7 (2008)); *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (“[O]ur analysis is substantially identical for the injunction and the TRO.”).

Here, plaintiff has failed to establish, at the very least, a likelihood of irreparable harm. Plaintiff complains that defendant has not yet produced relevant source code, continues to file

1 motions to strike plaintiff’s infringement contentions, is refusing to “pay any royalty and  
2 damage[s]” to plaintiff, and lowballed plaintiff during settlement discussions (Dkt. No. 67 at  
3 4–5). He contends that without a temporary restraining order, defendant “will never show  
4 respect to the Court and [plaintiff’s] intellectual property” and will “make million USD [*sic*] in  
5 selling its chips to Amazon.com Inc. alone” (*id.* at 5). None of these contentions show  
6 irreparable harm. Plaintiff’s failure to establish this factor alone is sufficient to deny his motion  
7 for a temporary restraining order and preliminary injunction.

8  
9 **IT IS SO ORDERED.**

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11 Dated: August 30, 2019.

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14 WILLIAM ALSUP  
15 UNITED STATES DISTRICT JUDGE  
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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

XIAOHUA HUANG,

No. C 18-06654 WHA

Plaintiff,

v.

**ORDER GRANTING  
DEFENDANT’S MOTION TO  
STRIKE AND DENYING  
PLAINTIFF’S MOTION FOR  
SANCTIONS**

NEPHOS INC.,

Defendant.

\_\_\_\_\_ /

**INTRODUCTION**

In this patent infringement action, accused infringer moves to strike *pro se* patent owner’s infringement contentions and to dismiss the instant action with prejudice. *Pro se* patent owner moves for sanctions against accused infringer. Accused infringer’s motion to strike is **GRANTED** to the extent stated below and patent owner’s motion for sanctions is **DENIED**.

**STATEMENT**

*Pro se* plaintiff Xiaohua Huang owns United States Patent Nos. 6,744,653 (“the ’653 patent”) and 6,999,331 (“the ’331 patent”). The patents generally involve ternary content addressable memory (“TCAM”) technology used in the semiconductor chip industry. According to the complaint, from October 2014 to November 2014, plaintiff had several meetings with the design team of “MediaTek” to discuss TCAM design. In 2016, part of MediaTek’s design team became defendant Nephos Inc., which plaintiff sued for infringement of the ’653 and ’331 patents in November 2018 (Dkt. No. 1 ¶¶ 1, 8, 10).

1 On December 18, 2018, plaintiff served his preliminary infringement contentions (Dkt.  
2 Nos. 42-1 ¶ 3; 42-2). Defendant’s counsel advised plaintiff that those contentions were both  
3 premature and non-compliant with the patent local rules (Dkt. No. 42-3). During the initial case  
4 management conference held on March 21, defendant’s counsel raised the issue of the  
5 inadequacy of plaintiff’s then-infringement contentions under Patent Local Rule 3-1, and the  
6 Court warned plaintiff of his obligation to comply with the local rules or risk dismissal of the  
7 instant action (Dkt. No. 42-4 at 9–10). Plaintiff subsequently served substantially the same  
8 contentions on April 2 (*compare* Dkt. No. 42-5 *with* Dkt. No. 42-2). After defendant’s counsel  
9 advised plaintiff again that defendant believed the contentions to be insufficient under Patent  
10 Local Rule 3-1 and offered plaintiff an opportunity to amend (Dkt. No. 42-6), plaintiff again  
11 served essentially the same infringement contentions, with additional summaries for certain  
12 dependent claims (*compare* Dkt. No. 42-8 *with* Dkt. No. 42-5).<sup>1</sup>

13 Defendant now moves to strike plaintiff’s latest amended infringement contentions. It  
14 further contends that given that plaintiff has already had repeated chances to comply with the  
15 patent local rules, the instant action should be dismissed with prejudice (Dkt. No. 42 at 1). For  
16 his part, plaintiff moves for sanctions under Rule 11. Plaintiff takes issue with defendant’s  
17 corporate disclosure statement, which he believes contained false statements. He further asserts  
18 that defendant moved to strike his infringement contentions “in order to increase [plaintiff’s]  
19 expense and delay the case” (Dkt. No. 44 at 1–2). This order follows full briefing and oral  
20 argument.

## 21 ANALYSIS

### 22 1. DEFENDANT’S MOTION TO STRIKE.

23 Defendant contends that plaintiff’s amended infringement contentions are deficient  
24 under (1) Patent Local Rule 3-1(c) for failure to provide “chart[s] identifying specifically where  
25 and how each limitation of each asserted claim is found within each Accused Instrumentality”;  
26 (2) Patent Local Rule 3-1(d) for failure to identify “any direct infringement and a description of

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27  
28 <sup>1</sup> Though plaintiff’s deadline for amending his infringement contentions was April 4, plaintiff served the instant contentions at issue on April 14. Defendant, however, does not move to strike the late contentions on this basis (Dkt. No. 42 at 7 n.2).

1 the acts of the alleged indirect infringer that contribute to or are inducing that direct  
2 infringement” for each asserted claim alleged to be indirectly infringed; and (3) Patent Local  
3 Rule 3-1(e) for failure to demonstrate “[w]hether each limitation of each asserted claim is  
4 alleged to be literally present or present under the doctrine of equivalents in the Accused  
5 Instrumentality” (Dkt. No. 42 at 5). *See* Patent L.R. 3-1(c)–(e). This order agrees.

6 “Patent Local Rule 3 requires patent disclosures early in a case and streamlines  
7 discovery by replacing the series of interrogatories that parties would likely have propounded  
8 without it.” *Huawei Techs., Co, Ltd v. Samsung Elecs. Co, Ltd.*, 340 F. Supp. 3d 934, 945–46  
9 (N.D. Cal. 2018) (quoting *ASUS Computer Int’l v. Round Rock Research, LLC*, No. C 12-02099  
10 JST (NC), 2014 WL 1463609, at \*1 (N.D. Cal. Apr. 11, 2014) (Judge Nathanael Cousins)).  
11 Patent Local Rule 3-1, which sets forth the requirements for disclosing asserted claims and  
12 preliminary infringement contentions, “require[s] the party claiming infringement to crystallize  
13 its theories of the case early in the litigation and to adhere to those theories once disclosed.”  
14 *Shared Memory Graphics LLC v. Apple, Inc.*, 812 F. Supp. 2d 1022, 1024 (N.D. Cal. 2010)  
15 (quoting *Bender v. Advanced Micro Devices, Inc.*, No. C 09-1149 MMC (EMC), 2010 WL  
16 363341, at \*1 (N.D. Cal. Feb. 1, 2010) (Judge Edward Chen)). Though a plaintiff need not  
17 supply evidence of infringement, “the degree of specificity under Local Rule 3-1 must be  
18 sufficient to provide reasonable notice to the defendant why the plaintiff believes it has a  
19 reasonable chance of proving infringement.” *Id.* at 1025; *Creagri, Inc. v. Pinnaclife Inc., LLC*,  
20 No. C 11-06635 LHK (PSG), 2012 WL 5389775, at \*3 (N.D. Cal. Nov. 2, 2012) (Judge Paul  
21 Grewal).

22 **A. Claim Chart Deficiencies.**

23 As defendant points out, plaintiff’s charts largely consist of plaintiff’s opinions  
24 regarding (1) how a claim element relates to the specification or other claims; (2) how a claim  
25 element is or is not required to be present in a product; and (3) the accused products’ allegedly  
26 claimed features generally, without a single reference to defendant’s documents or website or  
27 specific analysis of the accused products tying specific features to the claim language. They do  
28 not contain the limitation-by-limitation analysis required by Patent Local Rule 3-1(c).

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1 Plaintiff’s amended infringement contentions are thus insufficient to put defendant on  
2 reasonable notice of his infringement theories.

3 To highlight a few non-exhaustive examples of the aforementioned deficiencies,  
4 plaintiff’s chart for Claims 2, 7, 11, and 14 of the ’653 patent simply states as follows (Dkt. No.  
5 42-8 at 14–15, 17–18):

6	2. The CAM cell of claim 1, wherein	This claim further describe that how the
7	the comparison circuit further includes	dummy CAM cell which also perform the
8	a first pair of transistors configured to	“Valid bit” function works. This cell is
9	receive the detected bit value and	supporting both “Valid bit” and
10	provide a drive for the output	differential match line sensing of using a
11	transistor, and a second pair of	differential sense amplifier. This claim
12	transistors configured to receive the	read (1) the TCAM use the differential
13	inverted detected bit value and provide	Match line sensing,
14	a drive for the dummy transistor.	

15	7. The CAM cell of claim 5, wherein	This claim further describe of Claim 5.
16	an output of the pair of dummy	This claim read (1) the TCAM use the
17	transistors are OFF during sensing	differential Match line sensing,
18	operation.	

19	11. The CAM cell of claim 10,	This claim further describe of Claim 10
20	wherein the dummy transistors are	
21	approximately half the dimension of	
22	the output transistors.	

23	14. The sense circuit of claim 13,	This claim is the common way to
24	wherein the match line and the dummy	implement.
25	line are pre-charged prior to being	
26	sensed by the sense circuit.	

27 And, plaintiff’s charts for the asserted claims of the ’331 patent fare no better, as illustrated by  
28 the following examples for Claims 1 (as to the first limitation) and 6 (Dkt. No. 42-8 at 21, 24):

29	[1.] (1) an array of TCAM cells	(1) This element of claim describe
30	arranged in a plurality of rows and	Fig.1.B in U.S. patent 6999331, which is
31	a plurality of columns;	the basic structure of CAM, Ternary
32	a plurality of match lines, one	CAM to use differential sense amplifier
33	match line for each row of TCAM	to sense MATCH(HIT) line,
34	cells and operatively coupled to a	it also cover “Valid bit” function.
35	plurality of output transistors for the	which read
36	TCAM cells in each row; a plurality of	(1) the TCAM use the differential
37	dummy lines, one dummy line for each	Match line sensing,
38	row of TCAM cells and operatively	
39	coupled to a plurality of dummy	
40	transistors for the TCAM cells in each	
41	row;	

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6. The TCAM of claim 1, wherein the sense amplifier connected to the match line and the dummy line in each row comprises: two inverters connected to each other in a way of positive feedback; and a P type transistor serially connected to both inverters and [sic]

This claim gives one example how the differential sense amplifier in claim 1 is implemented, which is not necessary to be designed the same way.

As these examples illustrate, the charts merely describe the claims themselves and certain general features of the accused products (e.g., “the TCAM use the differential Match line sensing”), with no serious attempt to explain how they read on anything specifically in the accused product. Plaintiff’s charts thus fail to “identify[] *specifically* where and how *each* limitation of *each* asserted claim is found within *each* Accused Instrumentality.” Patent L.R. 3-1(c) (emphasis added). In other words, plaintiff fails to identify how defendant’s products allegedly infringe the asserted claims “with as much specificity as possible with the information currently available to it” such that defendant may ascertain plaintiff’s infringement theory. *See Creagri*, 2012 WL 5389775, at \*3.

Plaintiff offers no meaningful response to the aforementioned deficiencies. Aside from largely regurgitating the information found in his amended infringement contentions, plaintiff simply counters that MediaTek disclosed, during a meeting with plaintiff in November 2014, various features regarding its TCAM design, which plaintiff summarizes as follows (Dkt. No. 47 at 4):

- (1) TCAM use the differential Match line sensing ,
- (2) amount of TCAM IP is more than five Megabits,
- (3) search speed of the TCAM is more than 1 GHz at 28nm process,
- (4) smallest TCAM unit is 1K x 160 bits with priority encoding logic,
- (5) TCAM requires as low power as possible using ML (match line) small-swing

Based on this, plaintiff makes the blanket assertion that defendant’s TCAM “reads on the claims of” the patents-in-suit and that “[m]ore than 5 Mbit TCAM have [sic] been used in each and every Nephos Inc.’s chip products” (*ibid.*).



1           During oral argument, plaintiff asserted that defendant unfairly portrayed the  
2 infringement contentions at issue by offering examples of dependent claims only. But those  
3 examples are just that — merely examples to highlight the overall deficiencies in the  
4 contentions with respect to *both* independent and dependent claims. Moreover, plaintiff clearly  
5 asserts the dependent claims at issue against defendant, as disclosed by his own infringement  
6 contentions (*see* Dkt. No. 42-8 at 1–2). Though plaintiff argued during oral argument that he  
7 largely relies on infringement of the independent claims, Patent Local Rule 3-1(c) nonetheless  
8 requires plaintiff to specifically identify for *each asserted claim* where and how each limitation  
9 is found within each accused product.

10           Plaintiff further argued during oral argument that defendant failed to take into account  
11 his expert’s analysis, which plaintiff relies upon in his analysis pursuant to Patent Local Rule 3-  
12 1(b). Plaintiff believed that this analysis, which makes certain references to defendant’s  
13 documents and various features of the accused products, cured the alleged claim chart  
14 deficiencies under Patent Local Rule 3-1(c). The analysis for Patent Local Rule 3-1(b),  
15 however, largely contains the same high-level descriptions, information, and opinions as those  
16 in the claim charts. Nor does plaintiff’s analysis for Patent Local Rule 3-1(b) tie specific  
17 features of specific accused products to each limitation of each asserted claim, as required for  
18 Patent Local Rule 3-1(c).

19           At bottom, though plaintiff is not required to disclose specific evidence or prove his  
20 infringement case, his merely pointing out general features of defendant’s TCAM design is  
21 insufficient under Patent Local Rule 3-1(c), which requires plaintiff to “specify the location of  
22 every claim element within the accused products.” *Bender v. Maxim Integrated Prods.*, No. C  
23 09-01152 SI, 2010 WL 1135762, at \*2 (N.D. Cal. Mar. 22, 2010) (Judge Susan Illston).  
24 Plaintiff fails to include factual support with “the degree of specificity” needed “to provide  
25 reasonable notice” to defendant as to why plaintiff “believes [he] has a ‘reasonable chance of  
26 proving infringement.’ ” *Shared Memory*, 812 F. Supp. 2d at 1025 (quoting *View Eng’g, Inc. v.*  
27 *Robotic Vision Sys., Inc.*, 208 F.3d 981, 986 (Fed. Cir. 2000)).  
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1                                   **B.      Generic Indirect Infringement Theory.**

2           The amended infringement contentions also fail as to plaintiff’s allegation of indirect  
3 infringement. Under Patent Local Rule 3-1(d), plaintiff must disclose for each claim “any  
4 direct infringement and a description of the acts of the alleged indirect infringer that contribute  
5 to or are inducing that direct infringement.” Plaintiff’s contentions, however, merely stated as  
6 follows (Dkt. No. 42-8 at 27):

7                           The claim 1, 5, 8,12,15 and 17 of US Patent No.6744653 and Claim 1 and  
8 9 of US Patent No.6999331 are directly infringed by the Chips of Nephos  
9 Inc. including Aries MT3250 Family, Aries Hybrid ToR Switch, Taurus  
10 Family NP8360 Series, Taurus ToR and Fabrics Switch. Since the claims  
11 are infringed by TCAM used in the chips, and the TCAM function are  
always used by the Switches which using the chips ,so the chips of Nephos  
Inc. induced the parties which using the Chips of Nephos Inc. to infringe  
the US patent No. 6744653 and 6999331, which contribute to or are  
inducing that indirect infringement.

12           A “general assertion of the elements of indirect infringement is plainly insufficient.”  
13 *Blue Spike, LLC v. Adobe Sys., Inc.*, No. C 14-01647 YGR (JSC), 2015 WL 335842, at \*7 (N.D.  
14 Cal. Jan. 26, 2015) (Magistrate Judge Jacqueline Corley) (citing *France Telecom, S.A. v.*  
15 *Marvell Semiconductor, Inc.*, No. C 12-04967 WHA (NC), 2013 WL 1878912, at \*5 (N.D. Cal.  
16 May 3, 2013) (Magistrate Judge Nathanael Cousins)). “[B]oilerplate language that simply  
17 claims an accused infringer provided instructions on, advertised, or promoted the use of an  
18 accused product, without describing which instructions, advertisements, or promotions led to  
19 what infringing behavior, does not suffice under PLR 3-1(d).” *Comcast Cable Commc’ns, LLC*  
20 *v. OpenTV, Inc.*, No. C 16-06180 WHA, 2017 WL 2630088, at \*4–5 (N.D. Cal. June 19, 2017)  
21 (citing *France Telecom*, 2013 WL 1878912, at \*5).

22           Here, the amended infringement contentions fail to identify what materials (or any  
23 specific act by defendant for that matter), such as specific advertisements or instructions by  
24 defendant, allegedly led to what infringing behavior. Nor do they specify any third party or  
25 describe any acts committed by a third party, other than boilerplate language, that would  
26 suggest direct infringement. Plaintiff’s disclosure thus amounts to mere formulaic assertions of  
27 indirect infringement for all asserted claims and therefore fails to comply with Patent Local  
28 Rule 3-1(d).

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**C. Boilerplate Assertions re Doctrine of Equivalents.**

1 Plaintiff’s disclosures of infringement under the doctrine of equivalents also fail to  
2 comply with Patent Local Rule 3-1(e), which requires plaintiff to disclose “[w]hether each  
3 limitation of each asserted claim is alleged to be literally present or present under the doctrine  
4 of equivalents.” The amended infringement contentions provide the following (Dkt. No. 42-8 at  
5 27):  
6

7 Each limitation of the asserted claim 1, 5, 8,12,15 and 17 of US Patent  
8 No.6744653 and Claim 1 and 9 of US Patent No.6999331 are at least alleged  
9 to be present under the doctrine of equivalents in the Accused Instrumentality  
10 Aries MT3250 Family, Aries Hybrid ToR Switch, Taurus Family NP8360  
11 Series, Taurus ToR and Fabrics Switch. The claim 1 of US patent No.  
12 6999331 alleged to be literally present in the Accused Instrumentality Aries  
13 MT3250 Family, Aries Hybrid ToR Switch, Taurus Family NP8360 Series,  
14 Taurus ToR and Fabrics Switch.

15 Plaintiff further generally states at the outset of his contentions with respect to certain claims  
16 that, for example, “[i]n my opinion, based upon a reasonable degree of scientific certainty,  
17 Claim 8 of the ‘653 Patent at least reads on the ‘TCAM of Nephos’ under the doctrine of  
18 equivalents” (*id.* at 5). Plaintiff also intersperses throughout his claim charts that, with respect  
19 to certain claim limitations, “[a]ny modifications to this [limitation] should be deemed as  
20 Doctrine equivalent [*sic*]” (*see, e.g., id.* at 13, 15, 23).

21 “It is improper to assert the doctrine of equivalents with generic ‘placeholder’ language  
22 on the hope that future discovery might support such an assertion.” *Finjan, Inc. v. Proofpoint,*  
23 *Inc.*, No. C 13-05808 HSG, 2015 WL 1517920, at \*10 (N.D. Cal. Apr. 2, 2015) (Judge  
24 Haywood Gilliam, Jr.). Here, plaintiff’s boilerplate assertions regarding doctrine of equivalents  
25 amount to improper generic “placeholder” language and are thus insufficient under Patent Local  
26 Rule 3-1(e).  
27

28 \* \* \*

Defendant contends that the amended infringement contentions should be struck and that  
the case be dismissed with prejudice. Though plaintiff is proceeding *pro se*, defendant points  
out that plaintiff “is not new to patent litigation,” that “this is not the first time Plaintiff has  
struggled to comply with Patent Local Rule 3-1,” and that plaintiff “has had ample notice and  
experience to know that all three versions of his infringement contentions have been and are

1 insufficient under Patent Local Rule 3-1” (Dkt. No. 42 at 18). *See, e.g., Huang v. OpenSilicon,*  
2 *Inc.*, No. 18-cv-00707-JSW (LB), 2018 WL 5099275, at \*5–6 (N.D. Cal. Aug. 27, 2018)  
3 (Magistrate Judge Laurel Beeler) (discussing the inadequacy of plaintiff’s proposed  
4 amendments to his infringement contentions under Patent Local Rule 3-1). As such, defendant  
5 asserts that plaintiff should not be given leave to amend his infringement contentions at this  
6 stage and as such, the instant action should be dismissed pursuant to Rules 12(b)(6), 12(c),  
7 12(d), 12(h)(2)(B), or 56 for failure to state a claim upon which relief may be granted (Dkt. No.  
8 42 at 19; *see also* Dkt. No. 8 at 6).

9        Though plaintiff has had a number of chances to amend his contentions already and has  
10 been repeatedly warned of the requirements under Patent Local Rule 3-1, this order will strike  
11 *pro se* plaintiff’s infringement contentions and allow one last chance. Plaintiff has *one* last  
12 chance to serve and file proper infringement contentions by **JULY 31 AT NOON**. Beyond that, no  
13 more amendments will be entertained and dismissal possibly with prejudice will be likely if the  
14 infringement contentions do not comply with Patent Local Rule 3-1 by that date. To reiterate,  
15 plaintiff must both serve on defendant *and* file on the public docket proper infringement  
16 contentions by the aforementioned deadline. If plaintiff fails to file on the docket proper  
17 infringement contentions by that deadline, the Court may dismiss the action possibly with  
18 prejudice, and retain jurisdiction only for purposes of attorney’s fees and costs. (And, if  
19 plaintiff fails to file anything by that deadline, the Court may *sua sponte* dismiss the action.)

20        **2. PLAINTIFF’S MOTION FOR SANCTIONS.**

21        Plaintiff separately moves for Rule 11 sanctions against defendant and requests an  
22 award of costs and expenses resulting from defendant’s “false statement and vexatious bad faith  
23 conducts” (Dkt. No. 44 at 1). He lists a litany of allegedly false statements made by defendant’s  
24 counsel, Attorney Brandon Stroy, regarding defendant’s true owner and further takes issue with  
25 defendant’s motion to strike. None of plaintiff’s complaints warrants Rule 11 sanctions.

26        *First*, plaintiff fixates on defendant’s corporate disclosure statement dated November 21,  
27 2018 (*id.* at 3). That disclosure stated that “Nephos is wholly-owned, indirectly, by MediaTek,  
28 Inc. (located in Hsinchu City, Taiwan) through MediaTek Investment Singapore Pte. Ltd. and

1 Gaintech Co. Limited. Nephos is 100 percent owned by Gaintech Co. Limited” (Dkt. No. 9 at  
2 1). Plaintiff, however, asserts that he found on defendant’s website that Nephos Inc. includes  
3 Nephos (Hefei) Co., Ltd; Nephos (USA) Inc.; Nephos (Taiwan) Inc.; and Nephos (Singapore)  
4 Pte. Ltd. (Dkt. No. 44 at 3–4). He then claims that he “also found that Nephos (Hefei) Co. Ltd  
5 are [sic] invested by China Hefei governmental high-tech investment Ltd.” and other entities  
6 and that “the officers of Nephos (Hefei) Co., Ltd includes [sic] the Executives of Nephos Inc  
7 [sic] and Hefei government Officials” (*id.* at 4–5). Plaintiff argues that Attorney Stroy provided  
8 to him defendant’s 2015 initial registration in the United States and a certificate of 10,000  
9 shares of common stock issued to Gaintech Co. Limited in an attempt “to cheat” and further  
10 defraud plaintiff into believing that defendant is wholly-owned by Gaintech (*id.* at 5). He  
11 further contends that defendant, perhaps along with Huawei Technologies Co. Ltd., “hid[] the  
12 evidence that it has been invested by Hefei governmental fund in China” because it “has sold its  
13 networking chips infringing ‘653 and ‘331 patents [sic] to Amazon and used in Amazon data  
14 center which has hold the data of US government and Pentagon” (Dkt. No. 53 at 23–24).

15 On the current record, this order does not find that Attorney Stroy attempted “to cheat”  
16 plaintiff or the Court with defendant’s corporate disclosure statement. Attorney Stroy based his  
17 filing upon information obtained from in-house counsel for MediaTek Inc., defendant’s ultimate  
18 corporate parent (Dkt. No. 48-1 ¶ 3). And, following plaintiff’s objection to the corporate  
19 disclosure statement, Attorney Stroy received from defendant and sent to plaintiff certain  
20 documents such as defendant’s “Certificate of Incorporation,” “Investor Representation  
21 Statement,” and “Stock Issue Certificate” in order to verify to plaintiff his prior representations  
22 of defendant’s ownership (*see* Dkt. Nos. 48-6–48-8). Though plaintiff still disagrees with  
23 Attorney Stroy’s representations and has provided other documents — originally written in  
24 Chinese and translated to English by plaintiff himself — that allegedly show that defendant has  
25 other owners aside from Gaintech (*see, e.g.*, Dkt. No. 44-5), there is no evidence that Attorney  
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1 Stroy acted in bad faith or otherwise violated his obligations under Rule 11 in his  
2 representations of defendant’s ownership status.<sup>2</sup>

3 Moreover, even assuming that Attorney Stroy misstated defendant’s ownership, it is  
4 unclear what exact injury plaintiff claims to have suffered based on a relatively inconsequential  
5 filing in the instant patent infringement action. In fact, plaintiff himself admitted in  
6 correspondence with Attorney Stroy dated December 13, 2018, that he “assume[d] that” the  
7 alleged corporate disclosure misstatement “d[id] not bother this case,” as it is “Nephos Inc.”  
8 who “has used [his] patents, so [he] only care[d] that Nephos Inc. should license [his] patents”  
9 and that he “d[id] not care who owns Nephos Inc.” (Dkt. No. 48-10 at 1).

10 *Second*, plaintiff next complains that in defendant’s case management statement,  
11 defendant misleadingly used the name “Nephos (USA) Inc.” (Dkt. No. 44 at 6). But defendant  
12 explains that defendant’s “brief use of” this name “was a direct result of” plaintiff’s “own use of  
13 the Nephos (USA), Inc. name interchangeably with Nephos, Inc. [*sic*] when referring to Nephos  
14 in” plaintiff’s complaint (Dkt. No. 48 at 2). That is, defendant initially had consistently used  
15 the name “Nephos Inc.” in its filings at the start of the instant action. While preparing its case  
16 management statement, however, defendant “noticed that” plaintiff “had identified ‘Nephos  
17 (USA), Inc.’ in Paragraph 3 of his complaint under the heading ‘The Parties’ ” (Dkt. No. 48 at 5  
18 (citing Dkt. No. 1 at ¶ 3). Defendant accordingly identified itself as “Nephos (USA), Inc.”  
19 thereafter (*see* Dkt. Nos. 23, 27, 28). After plaintiff filed his objection to defendant’s case  
20 management statement, defendant’s counsel consulted with defendant and confirmed that  
21 “Nephos (USA) Inc.” does not exist and has since identified itself again as “Nephos Inc.” (Dkt.  
22 No. 48-1 ¶ 4).

23 This order thus finds that plaintiff’s accusation that defendant “played a very stupid  
24 cheating scheme to change Nephos Inc. to Nephos (USA) Inc.” is without merit (*see* Dkt. No.  
25 44 at 6). At most, whatever error there was flowed from plaintiff’s own error. Nor does  
26 plaintiff claim any real injury due to defendant’s alleged scheme.

27  
28 <sup>2</sup> This order notes that the reliability of plaintiff’s documents is uncertain at this stage. Moreover, those documents refer to “Nephos (Hefei) Co. Ltd.” — a separate non-party to the instant action.



1 denied and the United States Court of Appeals for the Federal Circuit affirmed the district  
2 court's dismissal of the action and attorney's fees award against plaintiff (Dkt. No. 48-12).<sup>3</sup>  
3 And, plaintiff's vexatious litigation conduct appears to be on repeat in the seemingly duplicative  
4 *Huawei II* action (*see, e.g.*, Dkt. No. 48-14).

5 This order agrees that plaintiff's litigation history is troubling, both in this case and in  
6 other cases. To repeat, if *proper* infringement contentions are not timely filed, the Court will  
7 likely dismiss the instant action possibly with prejudice and may well consider a motion for  
8 attorney's fees and costs by defendants.

9 **CONCLUSION**

10 To the foregoing extent, defendant's motion to strike is **GRANTED**. Plaintiff has one last  
11 chance to amend and file his infringement contentions by **JULY 31 AT NOON**. Plaintiff's motion  
12 for sanctions against defendant is **DENIED**.

13  
14 **IT IS SO ORDERED.**

15  
16 Dated: July 9, 2019.

  
\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup> Plaintiff's petition for a writ of certiorari to the Supreme Court of the United States, in which plaintiff again  
accused Huawei and Magistrate Judge Roy Payne of fraud (*see* Dkt. No. 48-13), was denied on May 20, 2019.