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11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN JOSE DIVISION**

15 **BARCO N.V., a Belgian corporation,**
16 **Plaintiff,**
17 **v.**
18 **TECHNOLOGY PROPERTIES LTD.,**
19 **PATRIOT SCIENTIFIC CORP., and**
20 **ALLIACENSE LTD.,**
21 **Defendant.**
22
23

Case No. **3:08-cv-05398 JW**

**BARCO'S REPLY BRIEF IN
SUPPORT OF ITS MOTION TO
STRIKE PORTIONS OF TPL'S
INFRINGEMENT CONTENTIONS
FOR U.S. PATENT NO. 5,809,336;
U.S. PATENT NO. 5,440,749; AND
U.S. PATENT NO. 5,530,890**

**Hearing Date: February 24, 2012
Time: 8:30 A.M.
Special Master Thomas Denver**

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1 **I. INTRODUCTION**

2 In its Opposition, Defendants Technology Properties Limited, Patriot Scientific Corporation,
3 and Alliacense Limited (collectively “TPL”) blatantly ignore the standard applicable to infringement
4 contentions (“ICs”): ICs must identify “specifically where each limitation of each asserted claim is
5 found within each Accused Instrumentality.” *See* Patent Local Rule (“P.L.R.”) 3-1(c); *Barco N.V. v.*
6 *Tech. Props. Ltd.*, 2011 U.S. Dist. LEXIS 106431, *8 (N.D. Cal. Sept. 20, 2011) (Dkt. 223); *Shared*
7 *Memory Graphics LLC v. Apple Inc.*, 2011 U.S. Dist. LEXIS 99166, *12-13 (N.D. Cal. Sept. 2,
8 2011); *Renesas Tech. Corp. v. Nanya Tech. Corp.*, 2004 WL 2600466, at *5 (N.D. Cal. Nov. 10,
9 2004) (stating that “Patent L.R. 3–1(c) requires a party to identify ‘specifically where each element of
10 each asserted claim is found within each Accused Instrumentality.’”); *InterTrust Techs. Corp. v.*
11 *Microsoft Corp.*, 2003 U.S. Dist. LEXIS 22736, at * 8 (N.D. Cal. Nov. 26, 2003) (noting that the
12 “purpose of Patent Local Rule 3-1, however, is in fact to be nit picky, to require a plaintiff to
13 crystalize its theory of the case and patent claims.”); *Network Caching Tech., LLC v. Novell, Inc.*,
14 2002 WL 32126128, at *6 (N.D. Cal. August 13, 2002) (noting that reliance on marketing literature
15 was insufficient as “NCT *provides no link between* the quoted passages and the infringement
16 contention... [t]he court sees no specific link.”) (hereinafter referred to as the “*August 2002 Network*
17 *Caching*” decision) (emphasis added); *LG Electronics Inc. v. Q-Lity Computer Inc.*, 211 F.R.D. 360,
18 366 (N.D. Cal. December 4, 2002).

19 TPL’s ICs fail to meet this standard. TPL argues that P.L.R. 3-1(c) “only [r]equires [n]otice of
20 [t]heories of [i]nfringement” by “setting forth particular theories of infringement with sufficient
21 specificity to provide defendants’ with notice of infringement beyond that which is provided by the
22 mere language of the patents themselves.” *See* TPL’s Opposition (“Opp.”) at page 1, lines 7-8 and
23 page 5, lines 7-21. (Dkt. 264). None of the cases cited by TPL stand for the proposition that the
24 requirement of providing notice undercuts or obviates the requirement of identifying specifically
25 where each limitation of each asserted claim is found within each accused product.

26 TPL’s main argument is that integrated circuits or “chips” within, or that “come from” the
27 same “family” “generally have the same structure.” Opp. at 3. There is a glaring logical flaw in TPL’s
28 argument: TPL does not offer any explanation that any of the accused chips *are* in the same “family”

1 as the non-accused chips in TPL's contentions. As just one example, TPL states: "the ViewSonic
2 projector contains a DDP2230 chip, which is part of the same family of chips as is used in the iCon
3 H400." Opp. at 3. This is nothing but attorney argument. It does not *show* that the DDP2230 chip is in
4 the same "family" as the accused DDP3020 chip. TPL does not offer any clues for determining when
5 any chips with different part numbers are in the same "family." Indeed, TPL's amended contentions
6 do not offer any better link between accused and non-accused products than its original contentions
7 did. The amended contentions have the exact deficiency, for the same reason, that Judge Lloyd noted:
8 "TPL does not explain how or why information concerning a DDP1000 chip or a CDCDLP223 chip is
9 relevant to its IC for a DDP1011. Perhaps information concerning these other two chips is relevant,
10 or perhaps it is not; from TPL's ICs, the court cannot say." Lloyd Order, D.I. 223 at 7

11 **II. ARGUMENT**

12 **A. TPL's Opposition Misstates The Record.**

13 Before addressing the merits, Barco notes that TPL's Opposition includes numerous
14 inaccurate and incorrect statements that warrant correction.

15 **1. Barco's Arguments Were Not "Largely Rejected" By Judge Lloyd.**

16 In its Opposition, TPL argues that "Magistrate Judge Lloyd largely *rejected* Barco's
17 complaints." TPL's Opposition at page 1, lines 16-17 (emphasis in original). This is not accurate.

18 In his Order, Judge Lloyd decided two issues with respect to TPL's ICs: (1) "Barco's
19 Argument that TPL's ICs are Vague and Insufficient" (Order at page 4, line 19) and (2) "Barco's
20 Argument that TPL's ICs Rely on Unrelated Material" (Order at page 6, line 27). With respect to
21 the first issue, Judge Lloyd disagreed with Barco's statement that TPL's ICs were 'simply too
22 vague.' Order at page 4, line 19 and page 6, lines 24-25. (Dkt. 223). The second issue, however, was
23 decided in Barco's favor. Judge Lloyd stated:

24 Barco is correct that some of TPL's ICs are based on material for other products. For
25 instance, TPL accuses Barco of infringement based on its use of a DDP1011 chip, but it
26 relies upon a presentation about a DDP1000 chip and a datasheet for a CDCDLP223 chip
27 in its ICs. See Docket No. 208-2, Ex. A-8, Pic. 1927. And, in doing so, TPL does not
28 explain how or why information concerning a DDP1000 chip or a CDCDLP223 chip is
relevant to its IC for a DDP1011. Perhaps information concerning these other two chips
is relevant, or perhaps it is not; from TPL's ICs, the court cannot say. Thus, to the extent
that TPL's ICs rely upon information concerning products not at issue in this litigation,
TPL must amend its ICs to either provide information concerning the products at issue or

1 explain how and/or why information concerning any products not at issue is relevant to
its ICs.

2 (Dkt. 223, page 7). Because Judge Lloyd agreed with Barco on one of the two issues, Barco's
3 arguments were not "largely rejected" by Judge Lloyd.

4 2. Barco Is Not Litigating Substantive Issues By Way Of Its Motion To 5 Strike.

6 On page 2, TPL argues that "Barco is again attempting to litigate the substantive issues of
infringement." TPL's Opposition at page 2, lines 15-16. To support this statement, TPL states:

7 For instance, Barco disagrees that TPL can prove that the on-chip clock varies
8 together with the CPU by using scientific literature (along with expert testimony) that
9 explains how the physical properties of the chip are affected by process, voltage and
10 temperature. Motion at 4. Barco is free to dispute TPL's reliance on evidence at trial,
but the fact that Barco disagrees with TPL's infringement position does not make the
ICs "insufficient" under the Patent L.R. 3-1(c).

11 *Id.* at page 2, lines 16-19. These statements by TPL are simply incorrect. Nowhere in its Motion to
12 Strike Portions to TPL's ICs ("Motion" or "Motion to Strike") (Dkt. 238) does Barco argue issues that
13 TPL can or cannot prove for infringement. Rather, *all* of the issues raised by Barco in its Motion are
14 directed to the relevance of materials that have no connection with the accused products. Infringement
15 contentions must compare the accused products to the claims. *See* Patent Local Rule ("P.L.R.") 3-
16 1(c); *Barco N.V.*, 2011 U.S. Dist. LEXIS 106431, *8 (Dkt. 223); *Shared Memory Graphics LLC*,
17 2011 U.S. Dist. LEXIS 99166, *12-13; *LG Electronics Inc.*, 211 F.R.D. at 366; *InterTrust Techs.*
18 *Corp.*, 2003 U.S. Dist. LEXIS 22736, at * 8; *Renesas Tech. Corp.*, 2004 WL 2600466, at *5 (stating
19 that "Patent L.R. 3-1(c) requires a party to identify 'specifically where each element of each asserted
20 claim is found within each Accused Instrumentality.'"); *Network Caching Tech., LLC*, 2002 WL
21 32126128, at *6. TPL's ICs fail to do just that.

22 Further, on page 5, lines 22-25 of its Opposition, TPL argued the following:

23 Most relevant here, infringement contentions "are not meant to provide a forum for
24 litigation of the substantive issues." However, as Judge Lloyd pointed out, "this is
25 exactly what Barco appears to be doing." Order at 5. ***Judge Lloyd's observation
applies in abundance here.***

26 (emphasis added). Without citing to a single page or line in Barco's Motion to Strike, TPL makes a
27 blanket statement that Barco is arguing substantive issues pertaining to the present case. This is an
28 incorrect statement. Nowhere does Barco argue substantive issues relating to this case. TPL takes

1 Judge Lloyd's statement out of context which was made with respect to TPL's ICs being vague. *See*
2 Judge Lloyd's Order, at page 5, lines 16-17. Barco's pending Motion to Strike does not raise the first
3 issue decided by Judge Lloyd. Rather, it relates to the second issue – the one decided in Barco's favor.

4 **3. Barco Does Not Argue That The Amended ICs Include Too Much**
5 **Information.**

6 On page 2, TPL states that "Barco complains that the amended ICs include *too much*
7 information, including information from other products not offered by Barco." TPL's Opposition at
8 page 2, lines 23-25 (emphasis in original). This is an incorrect statement. Notably, TPL does not cite
9 to any page or line in Barco's Motion. Nowhere has Barco argued that the amended ICs include too
10 much information. Barco's Motion to Strike is *not* directed to the amount of information; it is instead
11 directed to the fact that the contentions are directed to products that Barco does not use

12 **4. Barco Is Not Relitigating The Issues Decided by Judge Lloyd.**

13 On page 4 of its Opposition, TPL argued the following:

14 In the present case, Judge Lloyd expressly determined that TPL's original ICs were
15 not too vague. Order at 6 ("the court disagrees with Barco's statement that TPL's ICs
16 are 'simply too vague.'). That determination is law of the case and should not be
17 relitigated here. *U.S. v. Alexander*, 106 F.3d 874, 876 (9th Cir. 1997)

18 TPL's Opposition, at page 4, line 24 to page 5, line 1. TPL's claim that Barco is relitigating the issues
19 decided by Judge Lloyd is incorrect. Nowhere does Barco in its Motion to Strike argue that TPL's ICs
20 are "vague." Indeed, this issue of whether TPL's ICs are vague was not raised in Barco's Motion.

21 Rather, Barco's Motion to Strike is a response to TPL's *failure* to comply with the P.L.R.s
22 even after Judge Lloyd ordered TPL to amend its ICs. As noted above, Barco's pending Motion to
23 Strike does not raise the first issue decided by Judge Lloyd. Rather, it relates to the second issue – the
24 one decided in Barco's favor. In response to Judge Lloyd's Order, TPL served amended ICs on
25 October 11, 2011.

26 TPL's amended ICs still contain many of the same deficiencies noted in Judge Lloyd's Order.
27 TPL still relies on products and materials that are unrelated to the accused Barco products. In
28 addition, TPL cites non-Barco products - products made and sold by companies unrelated to Barco –
to purportedly show how the accused products infringe. And in some instances, the amended ICs
suffer from precisely the same deficiency highlighted by Judge Lloyd above where "TPL accuses

1 Barco of infringement of a DDP1011 chip but it relies on a presentation about a DDP1000 chip.”
2 Order at page 7, lines 6-7 (Dkt. 223).

3 **5. Judge Lloyd Did Not Reject Barco’s Argument That TPL’s ICs Cite To**
4 **Unrelated Publications.**

5 On page 6, lines 4-12 of the Opposition, TPL argues that “Barco claims that TPL’s Amended
6 ICs improperly rely on scientific publications...Judge Lloyd rejected this argument.” This is an
7 inaccurate statement. Judge Lloyd did not affirmatively reject Barco’s argument that TPL’s ICs rely
8 on unrelated publications. Notably, TPL does not cite to any page or line in Judge Lloyd’s Order.

9 **B. TPL’s ICs Do Not Identify Specifically Where Each Limitation Of Each**
10 **Asserted Claim Is Found Within Each Accused Instrumentality.**

11 In its Motion to Strike, Barco explained that the Court should strike those portions of TPL’s
12 ICs that rely on products and materials that have no connection or relationship with Barco’s accused
13 products. For the reasons explained below, TPL’s Opposition failed to establish a connection or
14 relationship for the unrelated products and materials.

15 **1. U.S. PATENT NO. 5,809,336 (THE ‘336 PATENT).**

16 **a. TPL Relies On Publications That Have No Connection With The**
17 **Accused Products.**

18 Other than simply stating that the cited publications have a “[c]lose [c]onnection with the
19 Accused Products,” TPL does not explain any alleged connection with the accused Barco products.
20 Instead, TPL argues the following three points: (1) Barco seeks reconsideration of Judge Lloyd’s
21 Order (Dkt. 264 at page 6, lines 5-15), (2) the level of detail Barco seeks is impossible, and (3) the
22 two cases cited by TPL supports TPL’s position.

23 With respect to TPL’s first point, as explained above, Barco does not seek reconsideration of
24 Judge Lloyd’s Order. *See Renesas Tech. Corp. v. Nanya Tech. Corp.*, 2005 U.S. Dist. LEXIS 44138,
25 at *6-7 (N.D. Cal. Aug. 18, 2005) (noting that a motion to strike *amended* infringement contentions
26 served in response to an order is *not* a motion that seeks reconsideration of that order). In this case,
27 Barco’s Motion is directed to TPL’s *amended* ICs that were served because of Judge Lloyd’s Order
28 and that still fail to comply with the P.L.R.s by failing to identify specifically where each limitation of
each asserted claim is found within each accused instrumentality.

With respect to TPL’s second point, Barco is not seeking the type of detail that TPL assumes.

1 Nor is Barco asking TPL to prove its case by providing more detail about the “transistor feature size
2 of the fabrication technology today”. TPL’s Opposition at page 6, line 17. Rather, Barco seeks what
3 the Local Rules require: an explanation as to the connection between asserted claims and the accused
4 products. TPL merely cites to publications and simply asks the Court to assume that the
5 corresponding limitations of the asserted claims are found in the accused Barco products.

6 With respect to TPL’s third point, the two cases cited by TPL are distinguishable and do not
7 support TPL’s position. In *Network Caching Tech v. Novell, Inc.*, 2002 WL 32126128, *6 (N.D. Cal.
8 Aug. 13, 2002), the court noted:

9 In support of this contention, NCT cites the following marketing literature:

10 “If Traffic Server contains a requested document, it serves the document to the end
11 user. If it does not have a document, it acts as a proxy and fetches the content from the
12 origin server on the user's behalf.” NCT 012498.

13 “Couple cluster technology from Inktomi® scales to support your network traffic
14 loads.” NCT 011435.

15 “HTTP parent proxy supports hierarchies of Traffic Servers for increased network
16 efficiency.” NCT 011436

17 ***NCT provides no link between the quoted passages and the infringement contention that
18 simply mimics the language of the claim. The court sees no specific link.*** For example,
19 NCT provides no explanation of how the proxies described in the literature map onto the
20 claim language. Nor does NCT describe how “couple cluster technology” is relevant. In
21 essence, NCT has provided no further information to defendants than the claim language
22 itself. This is plainly insufficient.

23 Just like NCT in *Network Caching Tech*, TPL cites to unrelated literature and provides no link
24 between the cited literature and the accused Barco products. The publications are not related to Barco
25 products in any way, and TPL does not explain how they are related. TPL’s ICs require Barco to
26 assume the connection between the cited publications and the accused Barco products.

27 Similarly, *American Video Graphics, L.P. v. Electronic Arts, Inc.*, 359 F.Supp.2d 558, 559
28 (E.D. Tex. 2005) is a software patent case in which approximately 800 games were accused of
infringing source code. In that case, the Eastern District of Texas noted that “[s]oftware cases present
unique challenges for the parties and the courts because, prior to discovery, plaintiffs usually only
have access to the manifestation of the defendants’ allegedly infringing source code and not the code
itself.” *Id.* at 560. Unlike *American Video Graphics*, this case is not a software patent case and does

1 not deal with source code. The accused Barco products are publicly available and have been available
2 for many years, even prior to 2008, when this case was filed. Indeed, TPL does not argue (and cannot
3 argue) that the accused Barco products are not publicly available.

4 The first publication cited by TPL is titled “Process and Environmental Variation Impacts on
5 ASIC Timing” by Zuchowski et. al. at IBM’s Microelectronic Division, hereinafter referred to as the
6 *Zuchowski* publication. See Exhibit H-1. The second cited publication is titled “A 7-MHz Process,
7 Temperature and Supply Compensated Clock Oscillator in 0.25µm CMOS” by Sundaresan et. al.,
8 hereinafter referred to as the *Sundaresan* publication. See Exhibit H-2. The third cited publication is
9 titled “Using Adaptive Circuits to Mitigate Process Variations in a Microprocessor Design” by Eric S.
10 Fetzer at Intel, hereinafter referred to as the *Fetzer* publication. See Exhibit H-3. TPL does not explain
11 the connection between these publications and the accused Barco products.

12 There is a strict requirement that the *accused product* be compared to the claims. *CCS Fitness,*
13 *Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1365, (Fed. Cir. 2002); see also *Pharmastem Therapeutics,*
14 *Inc. v. Viacell, Inc.*, 491 F.3d 1342, 1350-51 (Fed. Cir. 2007) (finding that the patent owner’s reliance
15 on “indirect evidence in the form of advertising and other materials generated by the defendants,”
16 instead of “direct testing or other scientific evidence” was insufficient to support the patent owner’s
17 theory of infringement); *Renesas Tech. Corp.*, 2004 WL 2600466, at *5 (stating that “Patent L.R. 3–
18 1(c) requires a party to identify ‘specifically where each element of each asserted claim is found
19 within each Accused Instrumentality.’”).

20 As noted in Barco’s Motion to Strike, TPL does *not* cite to any additional information or
21 materials other than the *Zuchowski*, *Sundaresan*, and *Fetzer* publications for several limitations. None
22 of these cited publications indicate or suggest that they are related to the accused Barco products and
23 TPL does not explain how these references are pertinent to the accused Barco products. TPL merely
24 cites to these publications and simply assumes that the corresponding limitations of the asserted
25 claims are found in the accused Barco products. The table titled “Claim Limitations For Which TPL
26 Relies On Published Articles With No Connection To Accused Products” on pages 6-7 of Barco’s
27 Opening Motion provides a complete list identifying claim limitations where TPL relies on
28 publications that have no connection to the accused products.

1 For the foregoing reasons, ICs for claims 1, 6, 11, and 13 for *all* eleven Barco products
2 accused of infringing the '336 patent should be stricken.

3 **b. TPL's Contentions Rely On Several Non-Barco Products.**

4 In its Motion To Strike, Barco provided the following three specific examples illustrating how
5 TPL's ICs rely on non-Barco products: (1) TPL's ICs rely on an unrelated ViewSonic Multimedia
6 Projector, (2) TPL's IC's rely on an unrelated Texas Instruments projector generally described on the
7 Rambus website, and (3) TPL's ICs rely on an unrelated Toshiba Color Television, 42HM66.

8 With respect to the ViewSonic Projector, TPL does not dispute that it cites to a non-Barco
9 product to support its ICs - a ViewSonic Multimedia projector. Further, TPL does not dispute that the
10 ViewSonic projector uses a different chip (i.e., 2230 Chip) than the chip used in the accused Barco
11 products (DDP 3020 Chip). TPL's only argument is that the ViewSonic Multimedia Projector uses a
12 Texas Instruments chip from the same "family" as the chips used in the accused Barco products.

13 TPL, however, ignores that chips from the same "family" may be designed to operate together
14 on the same board but perform different functions. The fact that the 2230 Chip *may* be part of the
15 same "family" as the 3020 Chip (which Barco does not concede) is irrelevant. TPL must show that the
16 2230 Chip has the same allegedly infringing specific features as the accused DDP3020 Chip, which it
17 has not done.

18 Further, TPL provides no definition for the word "family." It is possible that all chips
19 manufactured by the same manufacturer are part of the same "family." It is also possible that only a
20 few chips are part of the same family. The problem with TPL's argument is that it forces the court to
21 assume the definition of "family" and identify those chips that are part of the family and those that are
22 not. Accordingly, TPL's contentions fall far short of showing where "each limitation of each asserted
23 claim is found within each *accused instrumentality*."

24 In addition, TPL cites to a declaration from Dr. Oklobdzija to support the assertion that a
25 "Barco product likewise includes a PLL, indicating the presence of an on-chip oscillator." TPL's
26 Opposition at page 7, lines 15-17. TPL argues that "If Barco believes that the ViewSonic schematic is
27 not sufficient proof of an on-chip oscillator in its product, it will have the opportunity to dispute that
28 at trial." *Id.* at page 7, lines 17-19. Here, TPL has confused the standard that the ICs must comply

1 with. Barco does not argue, at this juncture, that the ICs lack information for TPL to *prove* that its
2 products include an on-chip oscillator. Rather, Barco is entitled to information as to how a ViewSonic
3 Projector is sufficient under the local rules to support a contention that a Barco projector infringes.

4 With respect to the Texas Instruments projector from a Rambus website, TPL's Opposition is
5 silent on this issue. *Nowhere* does TPL explain this issue raised in Barco's Motion to Strike. *See*
6 Barco's Motion to Strike at page 9, line 9 to page 10, line 2 (Dkt. 238) *cf.* TPL's Opposition at pages
7 7-9 (Dkt. 264). On page 9 of Barco's Motion to Strike, citing to Exhibit D-3 at PIC12511, Barco
8 includes a portion from TPL's ICs that relies on a Texas Instruments Projector. TPL's IC fails to
9 name or identify any particular chip in the Texas Instruments projector. TPL has relied on an
10 unrelated Texas Instruments Projector from a Rambus website that has no connection with the
11 accused products, and the corresponding IC does not address the claim limitation at issue which calls
12 for an "an on-chip input/output interface". This is precisely the deficiency in TPL's ICs noted by
13 Judge Lloyd.

14 With respect to the Toshiba Color Television, TPL'S ICs purport to "analyze" components
15 that are all different from those in Barco products. For instance, the page cited by TPL, PIC12635 (in
16 Ex. D-5), states that "The Barco Projector SLM R12+ contains a Texas Instrument DDP1011
17 processor, *a Samsung 44R271669 RDRAM*, a Texas Instruments CDCR83 Direct Clock Generator,
18 and a 100 MHz crystal." *See* TPL's Opposition at page 9, lines 17-19 (*citing* PIC12635 in Ex. D-5).
19 These components are different from the ones identified in PIC12637, which was cited by Barco in its
20 Motion to Strike. *See* Barco Motion to Strike, at page 10 (*citing* PIC12637 in Ex. D-5). PIC12637
21 states that "[t]he Toshiba Color Television 42HM66 depicts a Texas Instruments DDP1011 product
22 design, which contains a *Rambus RDRAM*, Rambus Clock Gen (DRCG), and a 100 MHz crystal."
23 Accordingly, the Toshiba Television relied upon by TPL is not sufficient under the Local Rules to
24 support a contention that a Barco projector infringes.¹

25
26 ¹ Barco's analysis (in error) stated that TPL was analyzing the DDP3020 chip instead of the accused
27 DDP1011 chip. *See* Barco's Motion to Strike at page 10, lines 22-24. In other words, the sentence on
28 page 10, lines 22-24 of Barco's Motion to Strike should have read: "The Toshiba Color Television
22HM66 is **not** one of the accused Barco products and there is no showing by TPL that the
DDP1011 Chip is configured in the same manner as the accused DDP1011 Chip in the accused
Barco product."

1 The table titled “TPL’s Reliance on Non-Barco Products” on pages 10-11 of Barco’s Motion
 2 to Strike (Dkt. 238) provides a complete list of instances where the ICs rely on non-Barco products,
 3 and provides in parentheses the corresponding asserted claims which should be stricken. ICs that
 4 rely on a ViewSonic Projector, a Texas Instruments Projector from a Rambus Webpage, or a Toshiba
 5 Color Television should be stricken as these products have no connection with the accused products,
 6 and TPL has not even attempted to show any connection.

7 Accordingly, the ICs for claims 1, 6, 9, 10, 11, 13, 15, and 16 for the following Barco
 8 projectors should be stricken: iCon H400 Projector, SIM 5R Projector, iCon H500 Projector, iCon
 9 H250 Projector, and ID R600+ Projector.

10 **c. TPL Analyzes Chips That Have No Connection With the Accused
 11 Products.**

12 Barco’s Motion to Strike identified nine different accused Barco products for which the ICs
 13 identified and relied on unrelated chips having no connection with the accused products. *See* Barco’s
 14 Motion at page 14. Of the nine identified accused Barco products, TPL’s Opposition attempted to
 15 dispute issues relating to only *one* of the identified products, Barco’s SLM R12+ projector. TPL
 16 completely ignored the remaining eight Barco products: the Media Axon Server, the DX-700 Display
 17 Digitizer², the iCon H400 Projector, the SIM 5R Projector, the RLM R6+ Projector, the iCon H500
 18 Projector, the iCon H250 Projector, and the ID R600+ Projector. Nowhere does TPL discuss these
 19 eight projectors.

20 **Media Axon Server**³: The ICs identify the “TTB4398A0” chip (e.g., Ex. D-6, PIC1812) as
 21 the accused chip for Barco’s Media Axon Server. However, as noted in the table titled “TPL’s
 22 Reliance on Unrelated Chips” on page 14 of Barco’s Motion to Strike (Dkt. 238), the ICs rely on a
 23 completely different product, the “ARM7TDMI” core (e.g., Ex. D-6, PIC1815, PIC1823, PIC1835,

24 ² The issue that the ICs cite to an unrelated chip relating to the DX-700 Display Digitizer is no longer before
 25 the court. Barco, however, maintains that the ICs for DX-700 Display Digitizer still cite to unrelated
 26 publications.

27 ³ Barco notes that Seagate Technology (“Seagate”) has been ordered to produce documents relating to
 28 Seagate hard drives for two accused Barco products: (1) “Barco Lighting Consol Hog iPC” and (2) “Barco
 Media Axon Server”. See Recommended Discovery Order No. 1 issued on February 8, 2012. Seagate has
 been ordered to produce documents relating to various hard drives. The documents that will be produced by
 Seagate have no bearing on Barco’s Motion to Strike. The first product, the “Barco Lighting Consol Hog
 iPC,” is not one of the products at issue in Barco’s Motion to Strike. The issues raised in Barco’s Motion to
 Strike for the second product (i.e., Barco’s Media Axon Server) relate to an integrated chip and not a hard
 drive.

1 PIC1843, PIC1851, PIC1863). Nowhere in its Opposition does TPL explain the connection or link
 2 between these two products. Accordingly, this Court should strike TPL's ICs relating to Barco's
 3 Media Axon Server for the following claims: 6, 10, 11, 13, and 16.

4 **iCon H400 Projector, SIM 5R Projector, iCon H500 Projector iCon H250 Projector, and**
 5 **the ID R600+ Projector:** Each of these five products is accused of incorporating the DDP3020 Chip.
 6 However, as noted in the table titled "TPL's Reliance on Unrelated Chips" on page 14 of Barco's
 7 Motion to Strike (Dkt. 238), the ICs purport to analyze the following chips: DDP1000, DDP2000, and
 8 DDP2030. In its Opposition, TPL argues that "DDP1000 and DDP1011 chips are from the same
 9 Texas Instruments DLP family and that 'the DDP1011 and DDP2000 are in the same generation of
 10 DLP DDP Controllers, which evolved from the DDP1000 controller.'" See TPL's Opposition at page
 11 10, lines 1-5.

12 This statement, however, does not show any link between the accused DDP3020 chip and the
 13 chips that the ICs rely on. TPL's statement that the DDP1000 DDP2000 and DDP2030 are from the
 14 "same family" or "evolved" from the same DDP1000 chip, does not satisfy the Local Rules. The
 15 statement does not show that the DDP3020 Chip shares any allegedly infringing features with those
 16 chips. As Judge Lloyd Ordered, TPL was to amend its ICs to "either provide information concerning
 17 the *products at issue* or explain how and/or why information concerning any products not at issue is
 18 relevant to its ICs." Order at page 7, lines 21-22 (emphasis added). Despite having been given an
 19 opportunity to do so, TPL has done neither.

20 Accordingly, TPL's ICs for claims 1, 6, 9, 10, 11, 13, 15, 16 for the following Barco
 21 projectors should be stricken: iConH400, SIM 5R, iCon H500, iCon H250, and ID R600+.

22 **RLM R6+ Projector:** Barco's RLM 6+ is accused of incorporating the DDP1011 chip. As
 23 noted in the table titled "TPL's Reliance on Unrelated Chips" on page 14 of Barco's Motion to Strike
 24 (Dkt. 238), TPL's ICs purport to analyze the DDP1000, or DDP2000 chips for certain claim
 25 limitations. Accordingly, claims 1, 6, 9, 10, 11, 13, 15, and 16 should stricken for the RLM R6+
 26 Projector for the reasons stated above.

27 **SLM R12+ Projector:** As noted above, this is the only product that TPL cited to in its
 28 Opposition. As noted in the table titled "TPL's Reliance on Unrelated Chips" on page 14 of Barco's

1 Motion to Strike (Dkt. 238), TPL’s ICs purport to analyze the DDP1000, or DDP2000 chips for
 2 certain claim limitations. Accordingly, claims 1, 6, 9, 10, 11, 13, 15, and 16 should stricken for the
 3 SLM R12+ Projector for the reasons stated above.

4 **2. U.S. PATENT NO. 5,440,749 (THE ‘749 PATENT)**

5 **a. TPL’s Reliance On The *Zuchowski* Publication.**

6 Like TPL’s ICs for the ‘336 patent, TPL relies on an unrelated publication (“*Zuchowski*”) for
 7 at least one claim limitation of the ‘749 patent. As discussed in Barco’s Motion to Strike on pages 4-8
 8 (Dkt. 238) and noted above, the *Zuchowski* publication has **no** connection with the accused products.
 9 TPL, in its Opposition, does not explain how this publication is pertinent to any Barco product.
 10 Included below is a complete list of instances where TPL’s ICs rely on the *Zuchowski* publication for
 11 the ‘749 patent.

12 **Table 1: ‘749 Patent - Claim Limitations For Which TPL Relies On *Zuchowski***

Claim Limitation	Claim(s) where Limitation Is Present	TPL’s ONLY Evidence:	Citation in ICs
said central processing unit integrated circuit and said ring counter variable speed system clock being provided in a single integrated circuit, said ring counter variable speed system clock being configured to provide different clock integrated circuit as a result of transistor propagation delays, depending on at least one temperature of said single integrated circuit, voltage and microprocessor fabrication process for said single integrated circuit	54	<i>Zuchowski</i>	Exh. E-1, PIC12781; Exh. E-2, PIC12809, Exh. E-3, PIC13090; & Exh. E-4, PIC13117

18 Because TPL has failed to show any connection between *Zuchowski* and the accused products,
 19 portions of TPL’s ICs that rely on this publication should be stricken. In particular, claim 54 for all
 20 five of the following Barco projectors should be stricken: iCon H400, SIM 5R Projector, iCon H500,
 21 iCon H250, and ID R600+.

22 **b. TPL Purports To Analyze Several Non-Barco Products.**

23 As with its ICs for the ‘336 patent, TPL relies on several non-Barco products that have no
 24 connection with the accused products. As noted above, TPL does not oppose or dispute that it cites to
 25 a Texas Instruments Projector as described on a Rambus Website. Instances where TPL relies on non-
 26 Barco products in its ICs are listed in the table on page 16 of Barco’s opening Motion to Strike (Dkt.
 27 238).

28 These ICs are irrelevant to Barco’s alleged infringement: the ViewSonic Projector is shown in

1 TPL's own ICs as having a DDP2230 Chip, not the accused DDP3020 Chip⁴. The Texas Instruments
 2 projector generally described on the webpage included as part of TPL's ICs does not refer to *any chip*
 3 *at all*, yet TPL borrows language from the webpage and applies it to the DDP3020 chip. TPL provides
 4 no link or explanation whatsoever for this.

5 ICs that rely on a ViewSonic Projector or a Texas Instruments Projector (from a Rambus
 6 Webpage) should be stricken as these products have no connection with the accused Barco products.
 7 In particular, the ICs for all five of the accused Barco projectors for claims 54 and 55 should be
 8 stricken as they rely on the unrelated products: iCon H400, SIM 5R Projector, iCon H500, iCon
 9 H250, and ID R600+.

10 **c. TPL Relies On Chips That Have No Connection With The
 11 Accused Products.**

12 For **all** of the accused Barco products for the '749 patent, TPL's ICs rely on chips that are not
 13 found in the accused Barco products. The table on page 17 of Barco's Motion to Strike (Dkt. 238)
 14 lists instances where the ICs rely on unrelated Chips.

15 Each of the five accused Barco products is accused of incorporating the DDP3020 Chip.
 16 However, as noted on page 17 Barco's Motion to Strike (Dkt. 238), TPL's ICs rely on the following
 17 unrelated chips: DDP1000, DDP1011, and DDP2000. In its Opposition, TPL argues that "DDP1000
 18 and DDP1011 chips are from the same Texas Instruments DLP family and that 'the DDP1011 and
 19 DDP2000 are in the same generation of DLP DDP Controllers, which evolved from the DDP1000
 20 controller.'" See TPL's Opposition at page 10, lines 1-5. As discussed above, this argument does not
 21 show any relationship between the accused DDP3020 chip and the chips that the ICs rely on.

22 Accordingly, ICs for claim 54 for the following Barco projectors should be stricken:
 23 iConH400, SIM 5R, iCon H500, iCon H250, and ID R600+.

24 **3. U.S. PATENT NO. 5,530,890 (THE '890 PATENT)**

25 **a. TPL Relies On Several Non-Barco Products.**

26 As with its ICs for the '336 and '749 patents, TPL relies on several non-Barco products that
 27 have no connection with the accused products. Instances where TPL relies on non-Barco products in

28 ⁴ The table on page 16 of Barco's opening Motion to Strike (Dkt. 238) erroneously lists a
 "DDP3320" Chip as the accused chip. It should have listed the "DDP3020 Chip" as the accused
 chip.

1 its ICs are listed in Barco’s Motion to Strike (Dkt. 238) on pages 18-19 in the table titled “TPL’s
2 Reliance on Non-Barco Products.”

3 For the reasons explained above, ICs that rely on a ViewSonic Projector and a Texas
4 Instruments Projector (from a Rambus Webpage) should be stricken as these products have no
5 connection with the accused products. In particular, ICs for claims 11, 12, 17, and 19 for all five of
6 the following Barco projectors accused of infringing the ‘890 patent should be stricken: iConH400,
7 SIM 5R, iCon H500, iCon H250, and ID R600+.

8 **b. TPL Relies On Chips That Have No Connection With The
9 Accused Products.**

10 As with its ICs for the ‘336 and ‘749 patents, TPL relies on chips that have no connection to
11 the accused Barco products. The table on page 19 of Barco’s Motion to Strike (Dkt. 238) lists
12 instances where the ICs rely on unrelated Chips.

13 For the reasons explained above, Barco respectfully requests that ICs relying on chips that
14 have no connection with the accused chips be stricken. In particular, the ICs for claim 17 in all of the
15 product reports for all five of the following Barco projectors accused of infringing the ‘890 patent
16 should be stricken: iConH400, SIM 5R, iCon H500, iCon H250, and ID R600+ .

17 **C. TPL Should Not Be Granted Leave To Amend.**

18 The inadequacies of TPL’s ICs have already been the subject of motion practice and a
19 resulting order in this case. *See* Judge Lloyd’s Order of September 20, 2011. (Dkt. 223).

20 TPL, however, still relies on products and materials that are unrelated to the accused Barco
21 products. In fact, the amended ICs suffer from precisely the same deficiencies highlighted by Judge
22 Lloyd. Accordingly, because the inadequacies of TPL’s ICs have already been the subject of motion
23 practice and a resulting order in this case, Barco requests that the Court preclude TPL from further
24 amending its Infringement Contentions.
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III. CONCLUSION

1 TPL failed to comply with P.L.R. 3-1(c) for the reasons stated above. Accordingly, Barco
2 respectfully requests that the Court grant Barco’s Motion to Strike.

3
4 Dated: February 17, 2012

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