

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**SPRINT COMMUNICATIONS
COMPANY, L.P.,**

Plaintiff,

v.

**COMCAST CABLE
COMMUNICATIONS, LLC, et al.,**

Defendants.

CIVIL ACTION

No. 11-2684-JWL

MEMORANDUM AND ORDER

The Court has reviewed Comcast's Motion to Strike Sprint's Response to Comcast's Submission of Supplemental Authority (doc. 968) and Sprint's Opposition to that motion (doc. 975). For the reasons set out below, the motion is granted and the Response (doc. 941) is hereby stricken.

Paragraph 7 of the Court's Order of October 5, 2016, (doc. 926) clearly lays out the procedure for briefing following lifting the stay put in place as a result of an appeal from a ruling by the District Court in Delaware to the Federal Circuit Court of Appeals. That Order applies to all three patent cases pending before this Court in which Sprint is the plaintiff, but has slightly different provisions concerning Comcast because in that case alone briefing had not been completed on already pending dispositive and *Daubert* motions at the time the stay was entered. In all three cases all of the parties were permitted to file a single supplemental brief by October 14, 2016. In light of the fact that briefing was completed by the parties in

the other two cases, they were permitted to respond to the supplemental briefs by October 21, 2016. But because the briefing was not closed in Comcast, the Order provides differently for that case.

The Order clearly states that in Comcast “the parties’ responses to the pending summary judgment and *Daubert* motions *as supplemented* (emphasis added) are due on October 28, 2016...” No provision is made for a separate response to the supplemental briefs because the parties were afforded the opportunity to address the arguments raised in the briefs “as supplemented” in the responses to the pending motions. Sprint filed a 61 page brief (doc. 954) in which it had the opportunity to respond to any supplemental authority, precisely as the Court’s Order contemplated. It is entitled to no more.

IT IS THEREFORE ORDERED BY THE COURT that Comcast’s Motion to Strike Sprint’s Response to Comcast’s Submission of Supplemental Authority (doc. 968) is granted and the Response (doc. 941) is hereby stricken.

IT IS SO ORDERED.

Dated this 8th day of November, 2016 at Kansas City, Kansas.

s/ John W. Lungstrum

JOHN W. LUNGSTRUM

UNITED STATES DISTRICT JUDGE