

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

YYZ, LLC,)
)
Plaintiff,)
)
V.) Civ. No. 13-136-SLR
)
HEWLETT-PACKARD COMPANY,)
)
Defendant.)

YYZ, LLC,)
)
Plaintiff,)
)
v.) Civ. No. 13-579-SLR
)
ADOBE SYSTEMS, INC.,)
)
Defendant.)

YYZ, LLC,)
)
Plaintiff,)
)
v.) Civ. No. 13-581-SLR
)
PEGASYSTEMS, INC.,)
)
Defendant.)

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MEMORANDUM OPINION

Dated: October 8, 2015
Wilmington, Delaware


ROBINSON, District Judge

I. INTRODUCTION

On January 24, 2013, plaintiff YYZ, LLC (“plaintiff”) filed a patent infringement action against defendant Hewlett-Packard Company¹ (“HP”) and against defendants Adobe Systems, Inc.² (“Adobe”) and Pegasystems Inc.³ (“Pegasystems”) (collectively with HP, “defendants”) on April 11, 2013, alleging infringement of U.S. Patent Nos. 7,062,749 (“the ‘749 patent”) and 7,603,674 (“the ‘674 patent”). (D.I. 1)⁴ The court issued its claim construction order on December 12, 2014. (D.I. 112) Presently before the court are defendants’ motions for summary judgment of invalidity and plaintiff’s cross-motions for summary judgment of validity (D.I. 115; D.I. 121),⁵ as well as defendants’ motions to strike the expert declaration (D.I. 129).⁶ The court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

II. BACKGROUND

Plaintiff is a limited liability company organized and existing under the laws of the Commonwealth of Pennsylvania, having its principal place of business in Glen Mills, Pennsylvania. HP is a corporation organized and existing under the laws of Delaware, with its principal place of business in Palo Alto, California. Adobe is a corporation organized and existing under the laws of Delaware, with its principal place of business

¹ Civ. No. 13-136.

² Civ. No. 13-579.

³ Civ. No. 13-581.

⁴ All references are to Civ. No. 13-136 unless otherwise indicated.

⁵ Civ. No. 13-579, D.I. 116 and D.I. 122; Civ. No. 13-581, D.I. 111 and D.I. 117.

⁶ Civ. No. 13-579, D.I. 131; Civ. No. 13-581, D.I. 125.

in San Jose, California. Pegasystems is a Massachusetts corporation with its principal place of business in Cambridge, Massachusetts.

The '749 patent, titled "Measuring, Monitoring and Tracking Enterprise Communications and Processes" was filed on December 15, 2000 and was issued June 13, 2006. The '674 patent, titled "Apparatus and System for Measuring, Monitoring, Tracking and Simulating Enterprise Communications and Processes" was filed on April 5, 2006, as a continuation of the '749 patent and was issued on October 13, 2009. Plaintiff asserts claims 22, 23, 27, 28, and 29 of the '749 patent and claims 51, 52, 55, 56, and 57 of the '674 patent against HP; claim 55 of the '749 patent and claims 1, 2, 3, 6, 7, 38, 41, 46, and 47 of the '674 patent against Adobe; and claims 1, 2, 3, 4, 5, and 56 of the '749 patent and claims 70, 71, 75, and 76 of the '674 patent against Pegasystems (collectively the "asserted claims"). (D.I. 116 at 1)

III. STANDARD OF REVIEW

"The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The moving party bears the burden of demonstrating the absence of a genuine issue of material fact. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 415 U.S. 475, 586 n. 10 (1986). A party asserting that a fact cannot be—or, alternatively, is—genuinely disputed must be supported either by citing to "particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for the purposes of the motions only), admissions, interrogatory answers, or other materials," or by "showing that the materials cited do not establish the absence or

presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.” Fed. R. Civ. P. 56(c)(1)(A) & (B). If the moving party has carried its burden, the nonmovant must then “come forward with specific facts showing that there is a genuine issue for trial.” *Matsushita*, 415 U.S. at 587 (internal quotation marks omitted). The Court will “draw all reasonable inferences in favor of the nonmoving party, and it may not make credibility determinations or weigh the evidence.” *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 150 (2000).

To defeat a motion for summary judgment, the non-moving party must “do more than simply show that there is some metaphysical doubt as to the material facts.” *Matsushita*, 475 U.S. at 586-87; see also *Podohnik v. U.S. Postal Service*, 409 F.3d 584, 594 (3d Cir. 2005) (stating party opposing summary judgment “must present more than just bare assertions, conclusory allegations or suspicions to show the existence of a genuine issue”) (internal quotation marks omitted). Although the “mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment,” a factual dispute is genuine where “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). “If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted.” *Id.* at 249-50 (internal citations omitted); see also *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986) (stating entry of summary judgment is mandated “against a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial”).

IV. DISCUSSION

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