

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**CORE WIRELESS LICENSING
S.A.R.L.,**

Plaintiff,

v.

**LG ELECTRONICS, INC., and LG
ELECTRONICS MOBILECOMM U.S.A.,
INC.**

Defendants.

Case No. 2:14-cv-911-JRG-RSP

Jury Trial Demanded

**CORE WIRELESS LICENSING S.A.R.L.'S SUR REPLY IN OPPOSITION TO LG'S
SECOND MOTION FOR JUDGMENT AS A MATTER OF LAW OR NEW TRIAL
(VALIDITY)**

I. INTRODUCTION

Having failed to carry its high burden of proof at trial, LG asks the Court to cast aside the jury's factual findings and conclusions that the '020 and '476 patents are not anticipated by the Blanchard patent. In doing so, LG distorts Core Wireless's explanation as to why the jury reasonably (and correctly) concluded that Blanchard does not disclose all the claim limitations in the '020 and '476 patents. Contrary to LG's contention, Core Wireless is not making, and does not need to make, any arguments that the '020 and '476 patents are valid over Blanchard due to "non-existent claim limitations." Instead, whether Blanchard discloses every claim limitation is a question of fact that the jury resolved in Core Wireless's favor. It was LG's burden to prove by clear and convincing evidence that Blanchard anticipated the asserted claims of the Martyn patents. Blanchard on its face fails to disclose several claim elements including the "application summary," "limited list," "sub-set of functions," and "unlaunched state" limitations found in the '020 and '476 patents. Moreover, LG's expert--tasked with explaining to the jury how a person of ordinary skill in the art would view these patents--was thoroughly impeached on cross-examination. The jury was entitled to discredit Dr. Rhyne's testimony. Absent credible expert testimony explaining the Blanchard reference and Martyn patents from the perspective of one skilled in the art, LG's invalidity case boils down to the four corners of the Blanchard patent standing alone. But Blanchard's disclosures, which are at most ambiguous, do not teach all of the asserted claim limitations and cannot justify overturning the jury's verdict and awarding LG judgment as a matter of law.

II. SUBSTANTIAL EVIDENCE SUPPORTS THE JURY'S VERDICT THAT LG FAILED TO CARRY ITS BURDEN OF PROOF

The jury's verdict that Blanchard does not anticipate the '020 and '476 patents is supported by substantial evidence showing that Blanchard does not disclose at least the

“application summary window”/“application summary,” “limited list” or “sub-set of functions,” and “unlaunched state” limitations in the asserted claims. LG has not offered the “overwhelming amount of evidence needed to require [the Court] to overturn the jury’s verdict.” *Whitserve, LLC v. Computer Packages, Inc.*, 694 F.3d 10, 24 (Fed. Cir. 2012). Initially, LG cannot rely on any of Dr. Rhyne’s testimony to establish invalidity as a matter of law, as the jury was free to discredit that testimony because Dr. Rhyne was repeatedly impeached. *Reeves v. Sanderson Plumbing Prods. Inc.*, 530 U.S. 133, 150 (2000); *Jenkins v. General Motors Corp.*, 446 F.2d 377, 380 (5th Cir. 1971). Thus, LG’s Motion can only rely on the Blanchard patent itself, viewed in the light most favorable to Core Wireless. *Carroll v. Ellington*, 800 F.3d 154, 168 (5th Cir. 2015). But the jury was entitled to conclude that Blanchard does not disclose certain limitations of the Martyn patents. It was not and is not Core Wireless’s burden to convince the jury of these deficiencies, but here Core Wireless explains just three of the potential omissions in Blanchard that the jury could have reasonably found as a bar to anticipation.

A. Blanchard Does Not Disclose an Application Summary Window

All of the asserted claims require an “application summary window” or “application summary.” Those terms were not raised for construction by either party and, accordingly, were not construed by the Court. Thus, they were given their plain and ordinary meaning in the context of the patent. The jury could reasonably conclude that Blanchard does not expressly or inherently disclose this limitation. The menus displayed in Blanchard do not summarize the application; they represent the actual application itself, not the separate application summary window claimed by the Martyn patents. As Core Wireless explained at trial and in its opposition, Blanchard does not disclose any other manner to access an application’s functions other than through the myriad of menus. (Opp. at 4). While the Martyn patents disclose an application summary window that is an alternative means of navigating to functions in the

application, Blanchard presents only the application itself, listing all of the various functions.

See Blanchard Fig. 3.

LG seeks to write off this glaring omission in Blanchard by accusing Core Wireless of relying on three unclaimed limitations. (Reply at 2). This is not the case. It was a question for the jury to determine, among other things, whether Blanchard disclosed the “application summary” limitation, and that limitation was to be given its plain and ordinary meaning in the context of the patent and art. As described in the Martyn patents, the application summary window presents an alternative to launching the application directly from the main menu. ’020 patent at 3:5-22. Using the main menu approach, a user is required to open the Application Launcher, scroll to the desired application, and then “take conventional navigation steps” *Id.* at 3:19-22. For example, the user may launch the application from this point, but then has to spend time trying to locate the desired function within the application itself. *See, e.g., id.* at 1:33-46. Using the application summary feature, however, the user may simply highlight the desired application in the Application Launcher, causing the application summary window to be displayed, and select the desired function directly from the application summary window. *Id.* at 3:22-44.

Blanchard does not teach or suggest such an application summary window because the menu options presented in response to a top-row icon being highlighted (as a result of a user scrolling to a desired top-row icon) are the *only* means by which the associated application (or function) may be invoked. Or, put differently, when a user is navigating the various options disclosed in Blanchard, he is actually navigating within the application itself (and thus the application is also not in an unlaunched state, as explained below). Hence, the menu displayed as a result of such selection cannot be considered an application summary window because rather

than presenting an alternative application summary approach to launching the associated application, the menu options being presented provide the only means of doing so.

B. Blanchard Does Not Disclose an Application Summary Window Displayed While the Application Is in an “Unlaunched State”

In evaluating Blanchard, the jury could have also concluded that Blanchard does not satisfy the “unlaunched state” limitation contained in all of the asserted claims. Related to the point above that application functionality in Blanchard is accessible *only* through the menu structure that LG meritlessly argues is an application summary window, the jury could have reasonably and properly found that the functions seen in Figure 3 of Blanchard are found within the application itself, and thus the sub-menu displays shown in Figure 3 are visible only once the application itself is launched, or per the Court’s claim construction, “displayed.” *See* Blanchard Fig. 3 & 3:64-4:11.

C. Blanchard Does Not Disclose the “Limited List” or “Sub-Set of Functions” Limitations

LG’s attempt to show that Blanchard discloses the “limited list” or “sub-set of functions” limitations is risible. LG argued at trial and here that this limitation is satisfied by Blanchard by virtue of the fact that a user would have to scroll down to see all of the five functions in the Phone Book application. (Reply at 3 n.4). The argument ignores the fact that under LG’s alleged interpretation of the application summary window, all of these five functions are displayed as part of the application summary. *See* Blanchard Fig. 3 at 320, 321, 322, 323, 324. As indicated by the brackets highlighted in the figure below, each of these callouts depicts the functions available from the Phone Book application. The fact that the Blanchard screen could only depict three of the five at a time does not alter the fact that the hold-over two are still listed as part of what LG contends is the application summary window.

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