2016-1729

United States Court of Appeals for the Federal Circuit

REMBRANDT WIRELESS TECHNOLOGIES, LP,

Plaintiff – Appellee.

v.

SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG TELECOMMUNICATIONS AMERICA, LLC,

Defendants – Appellants.

SAMSUNG AUSTIN SEMICONDUCTOR, L.L.C., RESEARCH IN MOTION CORPORATION, RESEARCH IN MOTION LTD.,

Defendants.

Appeal from the United States District Court for the Eastern District of Texas, Case No. 2-13-cv-00213, Judge Rodney Gilstrap.

BRIEF FOR PLAINTIFF-APPELLEE REMBRANDT WIRELESS TECHNOLOGIES, LP.

MICHAEL HEIM
ERIC ENGER
MIRANDA JONES
HEIM, PAYNE & CHORUSH LLP
600 Travis Street, Suite 6710
Houston, TX 77002
(713) 221-2000

DEMETRIOS ANAIPAKOS
AMIR ALAVI
JAMIE AYCOCK
ALISA LIPSKI
AHMAD, ZAVITSANOS, ANAIPAKOS, ALAVI & MENSING, P.C.
1221 McKinney Street, Suite 2500
Houston, TX 77010
(713) 655-1101

Counsel for Plaintiff-Appellee

Qualcomm Incorporated
Exhibit 1031
Page 1 of 83

July 21, 2016

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

I. CERTIFICATE OF INTEREST

Counsel for Rembrandt Wireless Technologies, LP certifies the following:

I. The full name of every party or *amicus* represented by us is:

Rembrandt Wireless Technologies, LP.

II. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by us is:

N/A

III. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party represented by us are:

Rembrandt II, LLLP.

IV. The names of all law firms and the partners or associates who appeared for the party now represented by us in the trial court or are expected to appear in this Court are:

Heim, Payne & Chorush LLP: Michael Heim, Eric Enger, Miranda Jones, Blaine Larson, Alden Harris, Robert Bullwinkel.

Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing, PC: Demetrios Anaipakos, Amir Alavi, Jamie Aycock, Alisa Lipski, Kyril Talanov, Brian Simmons, Sean Gorman.

Ward, Smith & Hill, PLLC: Thomas John Ward, Jr., Claire Henry, Wes Hill.

Dated: July 21, 2016

/s/ *Eric J. Enger*
Eric J. Enger
Counsel for Appellant

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

II. TABLE OF CONTENTS

Page

I. CERTIFICATE OF INTEREST i

II. TABLE OF CONTENTS ii

III. TABLE OF AUTHORITIES v

IV. STATEMENT OF RELATED CASES 1

V. INTRODUCTION 2

VI. STATEMENT OF ISSUES 3

VII. STATEMENT OF THE CASE AND FACTS 3

A. The Inventor, the Patents-In-Suit, and the Infringing Technology. 4

B. The District Court's Claim Construction**Error! Bookmark not defined.**

C. Samsung's IPRs 8

D. Samsung's Prior Art References 9

E. The District Court's Relevant Pre-Trial Rulings 10

F. Trial & Post-Trial Rulings 11

VIII. SUMMARY OF ARGUMENT 13

IX. ARGUMENT 14

A. Standards of Review 14

B. The District Court Correctly Construed "Different Types" of Modulation Methods Consistent With the Intrinsic Definition 15

1. The Patentee Defined "Type Of Modulation Method" in the Intrinsic Record. 16

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

2. The Patentee's Express Definition Is Consistent With The Ordinary Meaning And Supported By Intrinsic & Extrinsic Evidence. 20

3. Samsung Violates Numerous Doctrines of Claim Construction. 23

4. The Construction of "Different Types" Is Not Dispositive. 25

C. The Jury Correctly Found the Asserted Claims Are Not Obvious 26

1. Samsung Did Not Carry Its Burden On Obviousness 27

a. Samsung Failed To Prove It Would Be Obvious to Combine Boer With A Master/Slave Protocol and The Jury Resolved The Factual Matter Of Whether The Prior Art "Teaches Away" In Rembrandt's Favor 28

b. No Prior Art Discloses Modulation Methods Of A "Different Type." 32

c. Samsung Did Not Establish That Boer Teaches Reversion. 35

d. Samsung Failed To Prove That It Would Be Obvious to Further Modify Boer To Include Siwiak's "Address Data" In The Header. 38

i. Samsung Did Not Present Sufficient Evidence That It Would Have Been Obvious to Combine Boer, Upender, and Siwiak. 38

ii. The Siwiak Patent Is Non-Analogous and Was Considered by the PTO During the Original Prosecution 40

e. The Secondary Considerations Suggest Non-Obviousness. 41

2. Rembrandt Was Not Required To Put On A Rebuttal Case 43

D. The Damages Award Is Proper 45

...

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

1. Weinstein Carefully Apportioned the Value of the Patented Features Using a Methodology Explicitly Approved by this Court. 46

2. Samsung's Complaints About Weinstein's Chip Price Analysis Are a Misguided Request for the Court to Invade the Province of the Jury and Determine Which Facts Are Most Relevant. 48

3. The BlackBerry Agreement Was Properly Admitted Because It Is Highly Relevant to the Hypothetical Negotiation. 56

4. The District Court Properly Exercised Its Discretion to Redact Third Party Confidential Material as well as Irrelevant, Unduly Prejudicial Material in a Patent Sale Agreement. 57

5. Substantial Evidence Supports the Jury's $15.7M Award, Which Was Within the Range Presented. 59

E. Rembrandt Complied With The Marking Statute 62

1. Samsung Failed to Preserve Its Marking Arguments. 62

2. Claim 40 Cannot Create Any Marking Obligation Because It Was Disclaimed, Which Means That It Should Be Treated As If It Never Existed. 64

3. Treating Claim 40 As Though It Never Existed Is Consistent With the Underlying Purpose of the Marking Statute. 66

X. CONCLUSION & STATEMENT OF RELIEF SOUGHT 68

XI. CERTIFICATE OF SERVICE 69

XII. CERTIFICATE OF COMPLIANCE 71

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.