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

UNILOC 2017 LLC,	Case No.: 2:18-cv-00508-JRG-RSP
Plaintiff,	
v.	▇▇▇▇▇▇▇▇▇
SAMSUNG ELECTRONICS AMERICA, INC., and SAMSUNG ELECTRONICS CO. LTD.,	
Defendants.	

**UNILOC'S MOTION TO STRIKE PORTIONS OF EXPERT REPORTS BY
SAMSUNG'S EXPERT NENAD MEDVIDOVIC**

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Rules

Plaintiff, Uniloc 2017 LLC ("Uniloc"), hereby respectfully moves to strike portions of the expert reports on invalidity and non-infringement by the expert for Defendants, Samsung Electronics America, Inc. and Samsung Electronics Co Ltd. (collectively "Samsung"), for the reasons set forth below.

I.   INTRODUCTION

Samsung's expert, Dr. Medvidovic, prepared two expert reports in this matters on invalidity and non-infringement, respectively served on February 18, 2020, and March 9, 2020. Exs. A (invalidity report), B (non-infringement report).[1] Dr. Medvidovic was deposed regarding his opinions and reports on March 26 and 27, 2020. In providing his opinion on invalidity, Dr. Medvidovic relies largely upon a Nokia 9000i Communicator User Manual, and allegedly, the accompanying Nokia 9000i device. *See generally*, Ex. A; *see also id.* at ¶¶ 60, 65-68, § X.A, Ex. D-2. In his report on non-infringement, Dr. Medvidovic opines that by utilizing "Bixby," Samsung's voice-activated assistant, "a user can use the phone to place outgoing calls without authenticating themselves with a pin. . . ." *See* Ex. B at ¶ 89. Both reports refer to certain testing Dr. Medvidovic performed to support his invalidity and non-infringement positions. However, in each instance, Dr. Medvidovic failed to specifically identify what particular steps were taken during his testing, what testing or support—if any—was performed by another individual, and what specific results he obtained from testing. As such, any reference to testing performed, and the results of any such testing, by Dr. Medvidovic should be stricken as they are conclusory and unreliable.

---

[1]   Unless otherwise noted, citations to Exhibits herein are attached to the accompanying Declaration of Aaron S. Jacobs.

II.   LEGAL PRINCIPLES

An expert witness may provide opinion testimony if "(a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case." Fed. R. Evid. 702. Rule 702 requires a district court to make a preliminary determination, when requested, as to whether the requirements of the rule are satisfied with regard to a particular expert's proposed testimony. *See Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 149 (1999); *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 592-93 (1993). District courts are accorded broad discretion in making Rule 702 determinations. *Kumho Tire*, 526 U.S. at 152 ("[T]he trial judge must have considerable leeway in deciding in a particular case how to go about determining whether particular expert testimony is reliable.").

"Whether proffered evidence is admissible at trial is a procedural issue not unique to patent law," and therefore decisions whether to admit expert testimony are reviewed under the law of the regional circuit. *Summit 6, LLC v. Samsung Elecs. Co.*, 802 F.3d 1283, 1294 (Fed. Cir. 2015) (citing *Micro Chem., Inc. v. Lextron, Inc.*, 317 F.3d 1387, 1390–91 (Fed. Cir. 2003)). Although the Fifth Circuit and other courts have identified various factors that the district court may consider in determining whether an expert's testimony should be admitted, the common nature of these factors direct the trial court to consider as its ultimate inquiry whether the expert's testimony is sufficiently (1) reliable and (2) relevant to be helpful to the finder of fact and thus to warrant admission at trial. *U.S. v. Valencia*, 600 F.3d 389, 424 (5th Cir. 2010).

"The reliability prong [of *Daubert*] mandates that expert opinion 'be grounded in the methods and procedures of science and . . . be more than unsupported speculation or subjective belief.'" *Id.* at 459 (quoting *Curtis*, 174 F.3d at 668). "The relevance prong [of *Daubert*] requires

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.

fastcase
Smarter legal research.