IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EMC CORPORATION, EMC INTERNATIONAL COMPANY, and EMC INFORMATION SYSTEMS INTERNATIONAL,

Plaintiffs,

v.

PURE STORAGE, INC.,

Defendant.

Civil Action No. 13-1985-RGA

MEMORANDUM OPINION

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September 1, 2016

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**ANDREWS, U.S. DISTRICT JUDGE:**

Presently before the Court are EMC's Motion for a Permanent Injunction (D.I. 491) and Pure Storage's renewed Motion for Judgment as a Matter of Law ("JMOL") or, in the Alternative, for a New Trial (D.I. 484). The motions have been fully briefed. (D.I. 492, 496, 509, 511, 523, 524). The Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). For the reasons that follow, the Court will deny Pure Storage's motion with respect to JMOL, grant in part and deny in part Pure Storage's motion with respect to a new trial, and dismiss as moot EMC's motion for a permanent injunction.

## I. BACKGROUND

Plaintiff EMC Corporation initiated this litigation on November 26, 2013, alleging that Defendant Pure Storage, Inc. ("Pure") infringed U.S. Patent Nos. 6,904,556 ("the '556 patent"); 7,373,464 ("the '464 patent"); 7,434,015 ("the '015 patent"); and 8,375,187 ("the '187 patent").[1] (D.I. 1). On June 6, 2014, EMC Corporation filed an amended complaint, joining EMC International Company, and EMC Information Systems International as plaintiffs (Plaintiffs collectively, "EMC"). (D.I. 37). Pure answered the amended complaint on June 13, 2014. (D.I. 38). The Court resolved the parties' claim construction disputes in two opinions issued January 9, 2015 and February 2, 2016. (D.I. 115, 362). On February 11, 2016, the Court granted summary judgment of noninfringement of the '187 patent and summary judgment of infringement of certain claims of the '015 patent. (D.I. 381, 388). The parties proceeded to trial on the '556, '464, and '015 patents beginning on March 7, 2016. (D.I. 461–67). On March 15, 2016, the jury rendered a verdict for EMC on the '015 patent, finding the asserted claims of the '015 patent (claims 1, 2, 7, 15, and 16) valid. (D.I. 453). The jury found that the asserted claims

[1] EMC also alleged infringement of U.S. Patent No. 6,915,475, but subsequently withdrew the '475 patent from the litigation.

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of the '556 and '464 patents were not infringed. (*Id.*). The jury awarded reasonable royalty damages in the amount of $14 million to EMC and found that EMC was not entitled to lost profits. (*Id.*). At trial, Pure moved for judgment as a matter of law pursuant to Rule 50(a) of the Federal Rules of Civil Procedure. (D.I. 445). The Court denied that motion. (D.I. 455). The Court entered judgment consistent with the jury's verdict on March 17, 2016. (D.I. 456).

The motions presently before the Court relate to the '015 patent. (D.I. 484, 491). The '015 patent is entitled "Efficient Data Storage System" and discloses systems and methods for providing efficient data storage. ('015 patent, (54), 1:18–20). The '015 patent systems and methods eliminate data redundancy using deduplication techniques. (*See id.*; D.I. 461 at 149–50). Deduplication reduces the demand for storage space in a data storage system by eliminating duplicate copies of data. (D.I. 215 at 10; D.I. 461 at 149–50; D.I. 464 at 97–100).

## II. LEGAL STANDARDS

### A. Judgment as a Matter of Law

Judgment as a matter of law is appropriate if "the court finds that a reasonable jury would not have a legally sufficient evidentiary basis to find for [a] party" on an issue. FED. R. CIV. P. 50(a)(1). "Entry of judgment as a matter of law is a 'sparingly' invoked remedy, granted only if, viewing the evidence in the light most favorable to the nonmovant and giving it the advantage of every fair and reasonable inference, there is insufficient evidence from which a jury reasonably could find liability." *Marra v. Phila. Hous. Auth.*, 497 F.3d 286, 300 (3d Cir. 2007) (citation and internal quotation marks omitted).

In assessing the sufficiency of the evidence, the Court must give the nonmovant, "as [the] verdict winner, the benefit of all logical inferences that could be drawn from the evidence presented, resolve all conflicts in the evidence in his favor and, in general, view the record in the light most favorable to him." *Williamson v. Consol. Rail Corp.*, 926 F.2d 1344, 1348 (3d Cir.

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1991). The Court may "not determine the credibility of the witnesses [nor] substitute its choice for that of the jury between conflicting elements in the evidence." *Perkin-Elmer Corp. v. Computervision Corp.*, 732 F.2d 888, 893 (Fed. Cir. 1984). Rather, the Court must determine whether the evidence reasonably supports the jury's verdict. *See Gomez v. Allegheny Health Servs. Inc.*, 71 F.3d 1079, 1083 (3d Cir. 1995); 9B *Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure* § 2524 (3d ed. 2008) ("The question is not whether there is literally no evidence supporting the party against whom the motion is directed but whether there is evidence upon which the jury might reasonably find a verdict for that party.").

Where the movant bears the burden of proof, the Third Circuit applies a stricter standard. *Fireman's Fund Ins. Co. v. Videfreeze Corp.*, 540 F.2d 1171, 1177 (3d Cir. 1976) (internal quotation marks omitted). To grant judgment as a matter of law in favor of a party that bears the burden of proof on an issue, the Court "must be able to say not only that there is sufficient evidence to support the [movant's proposed] finding, even though other evidence could support as well a contrary finding, but additionally that there is insufficient evidence for permitting any different finding." *Id.* (internal quotation marks omitted).

**B. Motion for a New Trial**

Federal Rule of Civil Procedure 59(a)(1)(A) provides, in pertinent part: "The court may, on motion, grant a new trial on all or some of the issues—and to any party— . . . after a jury trial, for any reason for which a new trial has heretofore been granted in an action at law in federal court . . . ." Among the most common reasons for granting a new trial are: (1) the jury's verdict is against the clear weight of the evidence, and a new trial must be granted to prevent a miscarriage of justice; (2) newly discovered evidence exists that would likely alter the outcome of the trial; (3) improper conduct by an attorney or the court unfairly influenced the verdict; or



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(4) the jury's verdict was facially inconsistent. *See Zarow-Smith v. N.J. Transit Rail Operations, Inc.*, 953 F. Supp. 581, 584–85 (D.N.J. 1997).

The decision to grant or deny a new trial is committed to the sound discretion of the district court. *Allied Chem. Corp. v. Daiflon, Inc.*, 449 U.S. 33, 36 (1980); *Olefins Trading, Inc. v. Han Yang Chem Corp.*, 9 F.3d 282, 289 (3d Cir. 1993). Although the standard for granting a new trial is less rigorous than the standard for granting judgment as a matter of law—in that the Court need not view the evidence in the light most favorable to the verdict winner—a new trial should only be granted where "a miscarriage of justice would result if the verdict were to stand" or where the verdict "cries out to be overturned" or "shocks [the] conscience." *Williamson*, 926 F.2d at 1352–53.

## III. ANALYSIS

### A. Venti Reference and Moulton Patent

#### 1. JMOL—Venti Reference

Pure argues that it is entitled to JMOL that the Venti reference anticipates the asserted claims of the '015 patent. (D.I. 496 at 19–22; D.I. 524 at 12–14). At trial, EMC disputed that the Venti reference discloses the "determining" step of the asserted independent claims and the "confirming" step of dependent claim 7.[2] (D.I. 466 at 156–60). Specifically, EMC argues that there are three reasons why Venti does not anticipate. First, EMC argues that Venti does not disclose the determining step because it does not disclose a space-efficient, probabilistic summary that is used in data writes. (*Id.* at 157–58, 207, 209–10; D.I. 509 at 25–26). Second, EMC argues that Venti does not disclose a determination made with "possible uncertainty"

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[2] The "determining" step of the asserted claims of the '015 patent is: "determin[ing/e] whether one of the plurality of data segments has been stored previously using a summary, wherein the summary is a space efficient, probabilistic summary of segment information." ('015 patent, 9:58–61, 10:64–67, 12:1–4). The "confirming" step is: "confirming whether the one of the plurality of data segments has been stored previously using a relatively high latency memory." (*Id.* at 10:13–15).

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