IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

PI-NET INTERNATIONAL INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 12-282-SLR
	)	
JPMORGAN CHASE & CO.,	)	
	)	
Defendant.	)	

George Pazuniak, Esquire of O'Kelly Ernst & Bielli, LLC, Wilmington, Delaware. Counsel for Plaintiff.

Robert Scott Saunders, Esquire and Jessica Raatz, Esquire of Skadden, Arps, Slate, Meagher & Flom LLP, Wilmington, Delaware. Counsel for Defendant. Of Counsel: Danie A. DeVito, Esquire, Douglas R. Nemec, Esquire, Edward L. Tulin, Esquire and Andrew Gish, Esquire of Skadden, Arps, Slate, Meagher & Flom LLP.

MEMORANDUM OPINION

Dated: May 14, 2014
Wilmington, Delaware

ROBINSON, District Judge

I. INTRODUCTION

Plaintiff Pi-Net International, Inc. ("plaintiff") filed a complaint alleging patent infringement against JPMorgan Chase & Co. ("defendant") on March 1, 2012 alleging infringement of three patents: U.S. Patent Nos. 5,987,500 ("the '500 patent"), 8,037,158 ("the '158 patent"), and 8,108,492 ("the '492 patent") (collectively, the "patents-in-suit"). (D.I. 1) Defendant answered the complaint, asserting affirmative defenses of invalidity and non-infringement, on May 23, 2012. (D.I. 11)

Presently before the court are several motions for summary judgment: defendant's motion for summary judgment of non-infringement (D.I. 113) and for invalidity of the patents-in-suit (D.I. 121), as well as defendant's motion for partial summary judgment of laches for the '500 patent (D.I. 111). Plaintiff moved to strike defendant's opening brief in support of its partial summary judgment of laches for the '500 patent. (D.I. 132) The parties also filed motions to exclude testimony: defendant's motion to exclude certain testimony of Stevan Porter (D.I. 109) and plaintiff's motions to exclude the expert testimony of Susan Spielman (D.I. 115), certain testimony by Michael Siegel (D.I. 117), and certain testimony by Dawn Hall (D.I. 119). The court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a).

II. BACKGROUND

A. The Parties

Plaintiff is a California corporation with a principal place of business in Menlo Park, California. (D.I. 1 at ¶ 1) Plaintiff provides innovative software products, services

and solutions that enable distributed transaction processing and control over public and private networks, including (without limitation) the Internet and the World-Wide Web. Plaintiff owns the patents-in-suit. (*Id.*) Defendant is a Delaware corporation with a registered agent in Wilmington, Delaware and an office in New York, New York. (D.I. 11 at ¶ 3) Defendant is a global financial services firm that operates in various locations, including the United States of America, conducting business in the fields of investment banking, financial services for consumers and small businesses, commercial banking, financial transaction processing, asset management, and private equity. (*Id.*)

B. Technology Overview

The patents-in-suit generally claim a system and method for online transactions, wherein a user takes an action at the "front-end" that causes data to be routed through a system and used as a basis to execute a transaction at the "back-end," thereby completing a non-deferred (or "real time") transaction. Plaintiff accuses six online banking instrumentalities of infringing the '500 patent and the '492 patent: Account Transfers; Payments; Customer Center; Account Activity (Business Card); Wire Transfers; and Chase Mobile Application, QuickPaysm ("Mobile QuickPay"). Only the Account Transfers instrumentality is accused of infringing the '158 patent. With the exception of Mobile QuickPay, all of the accused instrumentalities are accessible to defendant's customers through its website. (D.I. 114 at 4-5)

III. STANDARDS OF REVIEW

A. Summary Judgment

"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. 574, 586 n.10 (1986). A party asserting that a fact cannot be—or, alternatively, is—genuinely disputed must support the assertion 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.*, 411 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*, 411 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").

B. Infringement

A patent is infringed when a person "without authority makes, uses or sells any patented invention, within the United States . . . during the term of the patent." 35 U.S.C. § 271(a). A two-step analysis is employed in making an infringement determination. *See Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995). First, the court must construe the asserted claims to ascertain their meaning and scope. *See id.* Construction of the claims is a question of law subject to de novo review. *See Cybor Corp. v. FAS Techs.*, 138 F.3d 1448, 1454 (Fed. Cir. 1998). The trier of fact must then compare the properly construed claims with the accused infringing product. *See Markman*, 52 F.3d at 976. This second step is a question of fact. *See Bai v. L & L Wings, Inc.*, 160 F.3d 1350, 1353 (Fed. Cir. 1998).

"Direct infringement requires a party to perform each and every step or element of a claimed method or product." *BMC Res., Inc. v. Paymentech, L.P.*, 498 F.3d 1373,

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