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

VOCALIFE LLC, *Plaintiff*, v. AMAZON.COM, INC., AMAZON.COM LLC, *Defendants*.	§ § § § § § § § § §	CIVIL ACTION NO. 2:19-CV-00123-JRG

MEMORANDUM OPINION AND ORDER

Before the Court are the Motion for Additional Findings Regarding Inequitable Conduct and to Amend or Alter the Judgment (the "Inequitable Conduct Motion" or "IC Motion") (Dkt. No. 356) and the Motion for Judgment as a Matter of Law of Non-Infringement Under Rule 50(b) (the "JMOL Motion") (Dkt. No. 357) filed by Defendants Amazon.com, Inc. and Amazon.com LLC (collectively, "Defendants" or "Amazon"). Having considered these Motions, and for the reasons stated herein, the Court finds that the Motions should be **DENIED**.

I. BACKGROUND

Plaintiff Vocalife LLC ("Plaintiff" or "Vocalife") filed suit against Amazon, alleging that certain of Amazon's Echo products[1] (the "Accused Products") infringe U.S. Patent No. RE47,049 (the "'049 Patent"). (*See* Dkt. No. 1). A jury trial was held in the above-captioned case beginning on October 1, 2020. (Dkt. No. 328). At the close of evidence, the parties moved for judgment as a matter of law pursuant to Federal Rule of Civil Procedure 50(a). (*See* Dkt. Nos. 318, 339, 342).

[1] At trial, the Accused Products were: the Amazon Echo 1st Generation, Amazon Echo 2nd Generation, Amazon Echo 3rd Generation, Amazon Echo Dot 1st Generation, Amazon Echo Dot 2nd Generation, Amazon Echo Dot 3rd Generation, Amazon Echo Dot Kids Edition 1st Generation, Amazon Echo Dot Kids Edition 2nd Generation, Amazon Echo Look, Amazon Echo Show 2nd Generation, Amazon Echo Spot, Amazon Echo Plus 1st Generation, Amazon Echo Plus 2nd Generation, and Amazon Echo Studio. (Dkt. No. 340 at 1307:4–12).

Among the Rule 50(a) Motions heard by the Court was Amazon's Motion for Judgment as a Matter of Law of No Induced Infringement, which the Court denied. (Dkt. No. 339 at 1255:16–18; Dkt. No. 342 at 2).

On October 8, 2020, the jury returned a verdict finding that Amazon infringed one or both of Claims 1 or 8 of the '049 Patent (the "Asserted Claims") and that neither of the Asserted Claims were invalid. (Dkt. No. 323). The Court entered a Final Judgment reflecting the jury's unanimous verdict. (Dkt. No. 343). The Court additionally considered Amazon's assertion of unenforceability of the '049 Patent on the basis of inequitable conduct, holding a bench trial on October 8, 2020 while the jury deliberated on their verdict. (*See* Dkt. No. 341). The Court subsequently issued an Order containing its findings of fact and conclusions of law with respect to inequitable conduct, ultimately holding that Amazon did not establish inequitable conduct by clear and convincing evidence. (Dkt. No. 353).

II. AMAZON'S JMOL MOTION

Pursuant to Federal Rule of Civil Procedure 50(b), Amazon filed its JMOL Motion seeking judgment as a matter of law of no induced infringement. (Dkt. No. 357). The Court finds that substantial evidence exists supporting the jury's verdict.

A. Legal Standard

"Judgment as a matter of law is proper when 'a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on that issue.'" *Abraham v. Alpha Chi Omega*, 708 F.3d 614, 620 (5th Cir. 2013) (quoting Fed. R. Civ. P. 50(a)). The non-moving party must identify "substantial evidence" to support its positions. *TGIP, Inc. v. AT&T Corp.*, 527 F. Supp. 2d 561, 569 (E.D. Tex. 2007). "Substantial evidence is more than a mere scintilla. It means such relevant

evidence as a reasonable mind might accept as adequate to support a conclusion." *Eli Lilly & Co. v. Aradigm Corp.*, 376 F.3d 1352, 1363 (Fed. Cir. 2004).

"The Fifth Circuit views all evidence in a light most favorable to the verdict and will reverse a jury's verdict only if the evidence points so overwhelmingly in favor of one party that reasonable jurors could not arrive at any contrary conclusion." *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1361 (Fed. Cir. 2018) (citing *Bagby Elevator Co. v. Schindler Elevator Corp.*, 609 F.3d 768, 773 (5th Cir. 2010)). A court must "resolve all conflicting evidence in favor of [the verdict] and refrain from weighing the evidence or making credibility determinations." *Gomez v. St. Jude Med. Daig Div. Inc.*, 442 F.3d 919, 937–38 (5th Cir. 2006).

B. Discussion

Amazon bases their JMOL Motion on the following grounds: first, that Vocalife did not present substantial evidence that Amazon knew its customers were infringing; second, that Vocalife did not present substantial evidence that Amazon's customers directly infringed. (*See* Dkt. No. 357).

1. AMAZON'S KNOWLEDGE OF CUSTOMERS' INFRINGEMENT

Amazon argues that Vocalife failed to present substantial evidence that Amazon knew that its customers were literally infringing the '049 Patent. (*Id*. at 9–10). Amazon argues that the only evidence presented by Vocalife was the testimony of Joseph McAlexander, who concluded that Amazon indirectly infringed by offering to sell and selling the Accused Products and instructing users on how to set up and use the Accused Products. (*Id*. at 10) (citing Dkt. No. 357-5 at 652:4–17). Amazon contends that the exhibit Mr. McAlexander referred to, PTX-1372, does not suggest Amazon's knowledge with respect to the '049 Patent. (*Id*.). Further, Amazon argues that PTX-1372 does not provide instructions for setting up or using an Amazon Echo in the manner

described by Mr. McAlexander. (*Id.*). Amazon argues that Vocalife failed to show that Amazon had specific intent for its customers to infringe. (*Id*. at 15).

Additionally, Amazon argues that its own evidence showed that it believed its customers were not infringing. (Dkt. No. 357 at 11). At trial, Amazon's corporate representative, Phil Hilmes, testified that he believed the Accused Products did not infringe because they used fixed beamforming, rather than adaptive beamforming. (*Id*. at 12) (citing Dkt. No. 357-7). Mr. Hilmes referred to the lab notebook of Dr. Amit Chhetri and Amazon's internal decisions regarding beamforming, including testimony that Amazon determined that adaptive beamforming was too complex and costly to implement in the Accused Products. (*Id*. at 12–13) (citing Dkt. No. 357-7; DTX-314; DX-27.12). Mr. Hilmes further testified that he believed the Accused Products did not satisfy the "sound source localization" or "determining a delay" claim limitations due to Amazon's use of fixed beamforming. (*Id*. at 13). Amazon's expert witness, Dr. Sayfe Kiaei, opined that the Accused Products did not infringe for many of the same reasons that Mr. Hilmes believed the Accused Products did not infringe. (*Id*. at 14). Amazon argues that its evidence of a good-faith belief that its products did not infringe precludes a finding of induced infringement. (*Id*. at 14–15).

Vocalife argues that, at least as of the time the complaint was filed, Amazon knew of the '049 Patent, and that the jury could reasonably rely on Mr. McAlexander's testimony that Amazon knew or should have known that its instructions would result in infringement of the '049 Patent. (Dkt. No. 363 at 5) (citing *Summit 6 LLC v. Research in Motion Corp.*, No. 3:11-CV-367-O, 2013 WL 12124321, at *5 (N.D. Tex. June 26, 2013)). Vocalife points to PTX-1377, an Amazon presentation, and PTX-130, an article written by Mr. Hilmes and other Amazon employees. (*Id*. at 6) (citing Dkt. Nos. 363-4, 363-5). Vocalife argues that these exhibits showed that all of the Accused Products operated in the same manner and that the article described algorithms designed

to perform claim limitations, including adaptive beamforming. (*Id.*). Vocalife further points to PTX-111, which includes user manuals and support for the Accused Products, as evidence presented to the jury showing that Amazon instructed its customers on how to use the Accused Products in an infringing manner. (*Id.* at 7). Vocalife argues that the jury would have been justified in discounting Amazon's belief in its noninfringement position, since Mr. Hilmes lacked personal knowledge of Dr. Chhetri's notebook and because the notebook was "limited to the time period from February to June 2011." (*Id.* at 8). Vocalife additionally points to PTX-1378, an exhibit containing Amazon's source code. (*Id.*).

"Whoever actively induces infringement of a patent shall be liable as an infringer." 35 U.S.C. § 271(b). "[L]iability for inducing infringement attaches only if the defendant knew of the patent and that 'the induced acts constitute patent infringement.'" *Commil USA, LLC v. Cisco Sys., Inc.*, 135 S.Ct. 1920, 1926 (2015) (quoting *Global-Tech Appliances, Inc. v. SEB S.A.*, 563 U.S. 754, 766 (2011)). It is undisputed that Amazon knew of the '049 Patent as of the date Vocalife filed its complaint.[2] Additionally, there is substantial evidence in the record that Amazon knew that acts it induced its customers to undertake were infringing acts.

Vocalife's expert witness, Mr. McAlexander, testified that he examined Amazon marketing materials, including PTX-111, a document titled "All Things Alexa" found on Amazon's website. (Dkt. No. 331 at 567:2–570:6). Mr. McAlexander tested the behavior of certain Accused Products in the manner described in Amazon's materials. (*Id.* at 567:24–568:2). Mr. McAlexander cited PTX-1372, an instruction provided by Amazon to its users on how to set up the Echo products. (Dkt. No. 332 at 604:18–21) ("And so the person who is installing and using this system has been informed by Amazon to turn it on and use it in a way that they specify . . .").

[2] Amazon acknowledges it "knew of the '049 [P]atent after the Complaint was filed . . ." (Dkt. No. 357 at 10).

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