

million in damages² to Plaintiff Rembrandt Wireless Technologies, LP (“Rembrandt”). (“Verdict”, Dkt. No. 288.) Samsung now asserts that the jury did not have sufficient evidence for its findings.

Samsung offers two main arguments in support of its contention that Rembrandt did not present sufficient evidence to support the jury’s damages award. First, Samsung argues that Mr. Roy Weinstein, Rembrandt’s damages expert, analyzed the prices of chips unrelated to the accused Samsung products, improperly isolated chip price data, and failed to correctly apportion between patented and unpatented features of the Bluetooth technology at issue in this case. Second, Samsung argues that Mr. Weinstein relied on a license agreement provision that Rembrandt unilaterally created for litigation purposes. Additionally, Samsung alleges that the jury simply reached a compromise verdict.

In the alternative, Samsung contends that it is entitled to a new trial on damages because the Court made multiple erroneous evidentiary rulings. Having considered the parties’ briefing, arguments, and the entire record, the Court is persuaded that Rembrandt introduced substantial evidence that is more than adequate to support the jury’s damages verdict. The Court also concludes that Samsung is not entitled to a new trial on the issue of damages.

II. LEGAL STANDARD

A. Applicable Law Regarding FRCP 50

Upon a party’s renewed motion for judgment as a matter of law following a jury verdict, the Court should properly ask whether “the state of proof is such that reasonable and impartial minds could reach the conclusion the jury expressed in its verdict.” FRCP 50(b); *see also Am. Home Assur. Co. v. United Space Alliance*, 378 F.3d 482, 487 (5th Cir. 2004). “The grant or

² Samsung asserted at trial that, if damages were awarded, the proper amount of damages should not exceed \$500,000.

denial of a motion for judgment as a matter of law is a procedural issue not unique to patent law, reviewed under the law of the regional circuit in which the appeal from the district court would usually lie.” *Finisar Corp. v. DirectTV Group, Inc.*, 523 F.3d 1323, 1332 (Fed. Cir. 2008). “A JMOL may only be granted when, ‘viewing the evidence in the light most favorable to the verdict, the evidence points so strongly and overwhelmingly in favor of one party that the court believes that reasonable jurors could not arrive at any contrary conclusion.’” *Versata Software, Inc. v. SAP Am., Inc.*, 717 F.3d 1255, 1261 (Fed. Cir. 2013) (quoting *Dresser-Rand Co. v. Virtual Automation, Inc.*, 361 F.3d 831, 838 (5th Cir. 2004)).

Under Fifth Circuit law, a court is to be “especially deferential” to a jury’s verdict, and must not reverse the jury’s findings unless they are not supported by substantial evidence. *Baisden v. I’m Ready Prods., Inc.*, 693 F.3d 491, 499 (5th Cir. 2012). “Substantial evidence is defined as evidence of such quality and weight that reasonable and fair-minded men in the exercise of impartial judgment might reach different conclusions.” *Threlkeld v. Total Petroleum, Inc.*, 211 F.3d 887, 891 (5th Cir. 2000). A motion for judgment as a matter of law must be denied “unless the facts and inferences point so strongly and overwhelmingly in the movant’s favor that reasonable jurors could not reach a contrary conclusion.” *Baisden*, 693 F.3d at 498 (citation omitted). However, “[t]here must be more than a mere scintilla of evidence in the record to prevent judgment as a matter of law in favor of the movant.” *Arismendez v. Nightingale Home Health Care, Inc.*, 493 F.3d 602, 606 (5th Cir. 2007).

In evaluating a motion for judgment as a matter of law, a court must “draw all reasonable inferences in the light most favorable to the verdict and cannot substitute other inferences that [the court] might regard as more reasonable.” *E.E.O.C. v. Boh Bros. Const. Co., L.L.C.*, 731 F.3d 444, 451 (5th Cir. 2013) (citation omitted). However, “[c]redibility determinations, the weighing

of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge.” *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 150 (2000). “[T]he court should give credence to the evidence favoring the nonmovant as well as that ‘evidence supporting the moving party that is uncontradicted and unimpeached, at least to the extent that that evidence comes from disinterested witnesses.’” *Id.* at 151 (citation omitted).

B. Applicable Law Regarding FRCP 59

Under FRCP 59(a), a new trial can be granted to any party after a jury trial on any or all issues “for any reason for which a new trial has heretofore been granted in an action at law in federal court.” FRCP 59(a). In considering a motion for a new trial, the Federal Circuit applies the law of the regional circuit. *z4 Techs., Inc. v. Microsoft Corp.*, 507 F.3d 1340, 1347 (Fed. Cir. 2007). “A new trial may be granted, for example, if the district court finds the verdict is against the weight of the evidence, the damages awarded are excessive, the trial was unfair, or prejudicial error was committed in its course.” *Smith v. Transworld Drilling Co.*, 773 F.2d 610, 612–13 (5th Cir. 1985). “The decision to grant or deny a motion for a new trial is within the discretion of the trial court and will not be disturbed absent an abuse of discretion or a misapprehension of the law.” *Prytania Park Hotel, Ltd. v. General Star Indem. Co.*, 179 F.3d 169, 173 (5th Cir. 1999).

C. Applicable Law Regarding Damages

Upon a showing of infringement, a patentee is entitled to an award of damages “adequate to compensate for the infringement, but in no event less than a reasonable royalty for the use made of the invention by the infringer, together with interest and costs as fixed by the court.” 35 U.S.C. § 284. However, “[t]he burden of proving damages falls on the patentee.” *Lucent Techs., Inc. v. Gateway, Inc.*, 580 F.3d 1301, 1324 (Fed. Cir. 2009). There are two alternative categories

of damages typically recovered in a patent case: the patentee's lost profits or the "reasonable royalty [the patentee] would have received through arms-length bargaining." *Id.* In this case, Rembrandt sought a reasonable royalty.

To determine an appropriate reasonable royalty, patentees (and courts) commonly employ the hypothetical negotiation, or "willing licensor-willing licensee" model. *Id.* at 1324–25. The hypothetical negotiation "attempts to ascertain the royalty upon which the parties would have agreed had they successfully negotiated an agreement just before infringement began" with the assumption that the patent is valid, enforceable, and infringed. *Id.*; *see also Georgia-Pacific Corp. v. U.S. Plywood Corp.*, 318 F. Supp. 1116, 1120 (S.D.N.Y. 1970); *Rite-Hite Corp. v. Kelley Co.*, 56 F.3d 1538, 1554 n.13 (Fed. Cir. 1995) (en banc).

Such a reasonable royalty analysis "necessarily involves an element of approximation and uncertainty." *Unisplay, S.A. v. Am. Elec. Sign Co.*, 69 F.3d 512, 517 (Fed. Cir. 1995). However, the Court must ensure that a jury's damages award is supported by substantial evidence. *Id.* Generally, the Court should uphold a jury's damages award "unless 'grossly excessive or monstrous,' clearly not supported by the evidence, or based only on speculation or guesswork." *Energy Transp. Group, Inc. v. William Demant Holding A/S*, 697 F.3d 1342, 1356 (Fed. Cir. 2012).

III. ANALYSIS

At trial, Rembrandt based its damages analysis on the value of Enhanced Data Rate ("EDR") functionality in Bluetooth devices³ and presented its damages theory through the testimony of Mr. Weinstein. Mr. Weinstein compared the prices of two Texas Instruments ("TI")

³ Rembrandt asserted that the patented technology at issue consists of "embedded modulations," and "[w]ithout embedded modulation, [EDR] does not work." (2/9/2015 P.M. Trial Tr., Dkt. No. 290 at 37, 43.) Rembrandt further stated that "the evidence will be that Samsung cannot make a Bluetooth EDR device without infringing [the patents-in-suit]. Why? Because embedded modulation is the heart of enhanced data rate." (*Id.* at 178.)

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