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

GENBAND US LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	Case No. 2:14-cv-33-JRG
METASWITCH NETWORKS LTD;	§	
METASWITCH NETWORKS CORP.,	§	
	§	
Defendants.	§	

MEMORANDUM OPINION AND ORDER

Before the Court is the motion filed by Defendants Metaswitch Networks Ltd. and Metaswitch Networks Corp. (collectively, "Metaswitch"), styled Metaswitch's Rule 50(b) Renewed Motion for Judgment as a Matter of Law on Liability and Invalidity (Dkt. No. 537). For the reasons set forth below, the motion is **DENIED** in all respects.

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I. BACKGROUND

The Court held a jury trial in this case and the jury returned a unanimous verdict on January 16, 2016. The asserted claims of United States Patent Nos. 6,791,971 (" '971 Patent"), 6,885,658 (" '658 Patent"), 6,934,279 (" '279 Patent"), 7,995,589 (" '589 Patent"), 7,047,561 (" '561 Patent"), 7,184,427 (" '427 Patent") (collectively, the "patents-in-suit") relate to telecommunications, such as communications over an Internet Protocol network, in particular Voice over Internet Protocol ("VoIP"). The jury returned a verdict that the asserted claims were infringed and not invalid, and it awarded $8,168,400 in damages to Plaintiff Genband for Metaswitch's infringement of the patent claims. ("Verdict," Dkt. No. 465.)

Metaswitch now asserts that, the jury did not have sufficient evidence for its findings. Metaswitch contends that Genband did not present sufficient evidence to support the jury's finding of infringement of each of the asserted patents. Additionally, Metaswitch alleges that the asserted claims of the '561, '971, and '279/'589 Patents are invalid as a matter of law under 35 U.S.C. §§ 102 and 103 in light of prior art that the jury considered.

Having considered the parties' briefing, arguments, and the entire record, the Court is persuaded that Genband introduced substantial evidence that is more than adequate to support the jury's verdict as to infringement and validity.

II. APPLICABLE LAW

A. Applicable Law Regarding Fed. R. Civ. P. 50

Upon a party's renewed motion for judgment as a matter of law following a jury verdict, the Court asks whether "the state of proof is such that reasonable and impartial minds could reach the conclusion the jury expressed in its verdict." Fed. R. Civ. P. 50(b); *Am. Home Assur. Co. v. United Space Alliance*, 378 F.3d 482, 487 (5th Cir. 2004). "The grant or denial of a

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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 Productions, 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* 393 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

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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 Infringement

To prove infringement under 35 U.S.C. § 271, a plaintiff must show the presence of every element, or its equivalent, in the accused product or service. *Lemelson v. United States*, 752 F.2d 1538, 1551 (Fed. Cir. 1985). First, the claim must be construed to determine its scope and meaning; and second, the construed claim must be compared to the accused device or service. *Absolute Software, Inc. v. Stealth Signal, Inc.*, 659 F.3d 1121, 1129 (Fed. Cir. 2011) (citing *Carroll Touch, Inc. v. Electro Mech. Sys., Inc.*, 15 F.3d 1573, 1576 (Fed. Cir. 1993)). "A determination of infringement is a question of fact that is reviewed for substantial evidence when tried to a jury." *ACCO Brands, Inc. v. ABA Locks Mfr. Co.*, 501 F.3d 1307, 1311 (Fed. Cir. 2007).

C. Applicable Law Regarding Validity

An issued patent is presumed valid. 35 U.S.C. § 282; *Fox Grp., Inc. v. Cree, Inc.*, 700 F.3d 1300, 1304 (Fed. Cir. 2012). Metaswitch has the burden to show by clear and convincing evidence that the asserted claims were anticipated by or obvious over the prior art. *Microsoft Corp. v. i4i Ltd. P'ship*, 131 S. Ct. 2238, 2242 (2011). To prevail on judgment as a matter of law, moreover, Metaswitch must show that no reasonable jury would have a legally sufficient evidentiary basis to find for the Plaintiff. Fed. R. Civ. P. 50. "Generally, a party seeking to invalidate a patent as obvious must demonstrate by clear and convincing evidence that a skilled

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