

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 14-cv-80651-MIDDLEBROOKS

ADVANCED GROUND INFORMATION
SYSTEMS, INC.,

Plaintiff,

v.

LIFE360, INC.,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION FOR JUDGMENT
AS A MATTER OF LAW - WILLFULNESS

To establish willful infringement, a patentee must first “show by clear and convincing evidence that the infringer acted despite an objectively high likelihood that its actions constituted infringement of a valid patent.” *In re Seagate Tech., LLC*, 497 F.3d 1360, 1371 (Fed. Cir. 2007). AGIS cannot overcome this threshold inquiry because Life360 has raised both legitimate defenses to infringement and credible invalidity arguments. *See Black & Decker, Inc. v. Robert Bosch Tool Corp.*, 260 F. App'x 284, 291 (Fed. Cir. 2008) (“[B]oth legitimate defenses to infringement claims and credible invalidity arguments demonstrate the lack of an objectively high likelihood that a party took actions constituting infringement of a valid patent.”).

From the summary judgment briefing and evidence presented at trial, I find that Life360's non-infringement position that AGIS cannot demonstrate that a single user performs all of the asserted method claims is reasonable. *See Spine Solutions, Inc. v. Medtronic Sofamor Danek USA, Inc.*, 620 F.3d 1305, 1319 (Fed. Cir. 2010) (“This ‘objective’ prong of *Seagate* tends not to be met where an accused infringer relies on a reasonable defense to a charge of

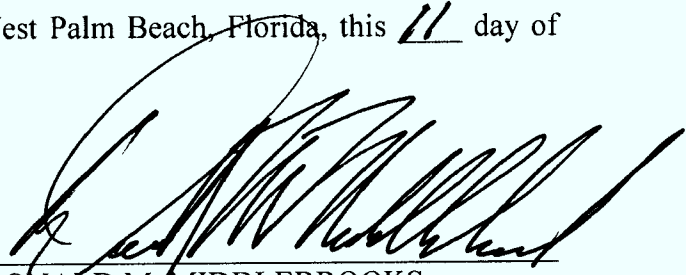
infringement.”) (citations omitted); accord *Bard Peripheral Vascular, Inc. v. W.L. Gore & Associates, Inc.*, 682 F.3d 1003, 1006 (Fed. Cir. 2012) (“[T]he question . . . often posed is whether a defense or noninfringement theory was ‘reasonable.’”) (citations omitted).

Similarly, Life360’s invalidity contentions, while not fully developed at this juncture, are objectively reasonable under the facts of this case. At the *Markman* hearing, I agreed with Life360 that four of the originally asserted claims are indefinite, and therefore invalid. This finding suggests, at a minimum, that there are reasons to question to validity of the remaining claims.

As I have expressed throughout this trial, virtually all of Life360’s allegedly “willful” conduct occurred after the Complaint was filed. See *In re Seagate Tech.*, 497 F.3d at 1374 (“[I]n ordinary circumstances, willfulness will depend on an infringer’s prelitigation conduct . . .”). While not dispositive, AGIS’ failure to seek a preliminary injunction undercuts its claim for willful infringement. See *id.* (“A patentee who does not attempt to stop an accused infringer’s activities [by seeking a preliminary injunction] should not be allowed to accrue enhanced damages based solely on the infringer’s post-filing conduct.”).

For these reasons, Life360’s Motion for Judgment as a Matter of Law on Willfulness is **GRANTED**.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 11 day of March, 2015.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record