

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WI-LAN INC.,

Plaintiff,

v.

VIZIO, INC.,

Defendant.

~~FILED UNDER SEAL~~ 

Civil Action No. 15-00788-LPS

~~PROPOSED~~ FINAL JUDGMENT UNDER RULE 54(B)

WHEREAS, on May 11, 2015, Plaintiff Wi-LAN Inc. (“Wi-LAN”) filed a Complaint against Defendant Vizio, Inc. (“VIZIO”) alleging that VIZIO directly and indirectly infringes U.S. Patent Nos. 6,359,654 (“the ‘654 patent”) and 6,490,250 (“the ‘250 patent”) (the “patents-in-suit”) [D.I. 1];

WHEREAS, on November 30, 2015, Wi-LAN filed its First Amended Complaint again alleging that Sharp and VIZIO infringed the patents-in-suit [D.I. 16];

WHEREAS, on December 17, 2015, VIZIO filed its Answer and Counterclaims to Wi-LAN’s First Amended Complaint, asserting, among other defenses and counterclaims, defenses and counterclaims of non-infringement and invalidity of the patents-in-suit [D.I. 17];

WHEREAS, on February 26, 2018, the Court held a Markman hearing regarding the claim construction disputes between the parties, including those claim construction disputes relating to the ‘654 and ‘250 patents [D.I. 195];

WHEREAS, on April 27, 2018, the Court issued its Memorandum Opinion and Order Regarding Claim Construction, which construed various terms of the ‘654 patent and ‘250 patent (the “Claim Construction Opinion and Order”) [D.I. 219, 220];

WHEREAS, the Court issued an Oral Order on August 2, 2018, granting in part Defendants’ Motion to Preclude Portions of Plaintiff’s Expert Reports, which struck the portions of Wi-LAN’s expert report relating to Wi-LAN’s allegations of induced infringement of the ‘654 patent [D.I. 279];

WHEREAS, the Court issued a Memorandum Opinion on February 14, 2019 granting summary judgment of non-infringement of the ‘654 patent [D.I. 416,417];

WHEREAS, on March 6, 2019, Wi-LAN filed its Stipulation to Non-Infringement of U.S. Patent No. 6,490,250 Based on the Court’s Memorandum Opinion on Claim Construction,

conceding that it could not prove infringement of the '250 patent by the accused products of VIZIO under the Court's construction of the terms "a multimedia processor, coupled to the data rate analyzer" and "output multimedia data stream" [D.I. 424] (the "Stipulation");

WHEREAS, on March 22, 2019, Wi-LAN filed its Motion for Entry of Final Judgment of Non-Infringement Under Federal Rule of Civil Procedure 54(b), requesting that the Court direct entry of final judgment with respect to Wi-LAN's claims for infringement of the '654 and '250 patents and VIZIO's counterclaims of non-infringement of the '654 and '250 patents under Rule 54(b) and dismissal without prejudice of VIZIO's counterclaims for invalidity of the '654 and '250 patents (the "Rule 54(b) Motion");

WHEREAS, the Court, having considered Wi-LAN's Rule 54(b) Motion, the relevant authorities and cited evidence, including the Stipulation, and the parties' related briefing, hereby

ORDERS that:

- There are*
- and March 7, 2019 opposition thereto*
1. ~~Wi-LAN's Stipulation leaves~~ no litigable issues regarding the conceded basis for noninfringement as to Wi-LAN's claims for infringement of the '250 patent and VIZIO's counterclaim for noninfringement of the '250 patent;
 2. There is no just reason for delay to enter final judgement in favor of VIZIO against Wi-LAN on the infringement claims and VIZIO's noninfringement counterclaims associated with the '654 and '250 patents;
 3. Accordingly, Wi-LAN's Motion for Entry of Final Judgement of Non-Infringement Under Federal Rule of Civil Procedure 54(B) is hereby GRANTED.

4. In addition, there is good cause to dismiss without prejudice VIZIO's counterclaims for invalidity of the '654 and '250 patents;
5. Accordingly, the Court hereby **DISMISSES** without prejudice VIZIO's remaining counterclaims for invalidity of the '654 and '250 patents.

The Clerk of the Court is hereby directed to enter Rule 54(b) final judgement in favor of VIZIO against Wi-LAN on Wi-LAN's claims for infringement of the '654 patent and '250 patents.

IT IS SO ORDERED, this 12th day of September, 2019.



The Honorable Leonard P. Stark

and Vizio's
counterclaim for
non-infringement of
the '654 and '250
patents.