

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

COMCAST IP HOLDINGS I, LLC,

Plaintiff,

v.

SPRINT COMMUNICATIONS COMPANY L.P.;
SPRINT SPECTRUM L.P.; and
NEXTEL OPERATIONS, INC.,

Defendants.

C.A. No.: 1:12-cv-00205-RGA

DEMAND FOR JURY TRIAL

**SPRINT’S RENEWED MOTION FOR JUDGMENT AS A
MATTER OF LAW OF NONINFRINGEMENT AND
NO DAMAGES AND ALTERNATIVE MOTION FOR A NEW TRIAL**

Defendants Sprint Communications Company L.P., Sprint Spectrum L.P., and Nextel Operations, Inc., (collectively, “Sprint”) hereby respectfully move for entry of judgment as a matter of law of noninfringement and no damages, pursuant to Fed. R. Civ. P. 50(b), or, in the alternative, for an order granting a new trial, pursuant to Fed. R. Civ. P. 59, with respect to claim 45 of U.S. Patent No. 7,012,916 (“the ’916 patent”); claims 90 and 113 of U.S. Patent No. 8,204,046 (“the ’046 patent”); and claims 1, 13 and 27 of U.S. Patent No. 8,170,008 (“the ’008 patent”). Proposed forms of order are attached as Exhibits A and B.

The grounds for this motion, which are more fully set forth in Sprint’s Memorandum in Support of its Renewed Motion for Judgment as a Matter of Law of Noninfringement and No Damages and Alternative Motion for a New Trial and the Declaration of Rachele H. Thompson with attached exhibits concurrently filed herewith and incorporated fully herein by reference, are also outlined below.

On October 15, 2014, a jury rendered its verdict that Sprint infringes claim 45 of the ’916 patent, claims 90 and 113 of the ’046 patent, and claims 1, 13 and 27 of the ’008 patent. (D.I.

335.) At the conclusion of Comcast's case in chief and at the close of all evidence, Sprint moved for judgment as a matter of law under Fed. R. Civ. P. 50(a) on noninfringement of all asserted claims of the patents-in-suit and for no damages. The Court denied each motion. *See* Tr. 807:5–816:20; 1165:19–1167:5; 1359:3–8.

Pursuant to Fed. R. Civ. P. 50(b), Sprint renews its Motion for Judgment as a Matter of Law that Sprint does not infringe claim 45 of the '916 patent; claims 90 and 113 of the '046 patent; and claims 1, 13 and 27 of the '008 patent and that Comcast is not entitled to any damages award. Sprint is entitled to judgment as a matter of law that it does not infringe the asserted claims of the '008 patent for, *inter alia*, the following reasons. First, the jury verdict on the '008 patent renders the claim terms “call destination” and “identifier of a second party”/“second party” superfluous and is unsupported by sufficient evidence. Second, there is no evidence to support the jury's finding of a “call” to a call destination or second party, as required by the asserted claims of the '008 patent. Third, the jury verdict cannot be sustained as a matter of law in light of the record evidence on non-infringing call flows. Fourth, the “call destination” and “second party” are not determined by the requisite domain name system signaling as a matter of law and uncontroverted record evidence.

Sprint is entitled to judgment as a matter of law that it does not infringe the asserted claims of the '916 and '046 patents. First, Comcast's own contradictory expert testimony regarding “grammar” cannot support a finding that the accused call flows satisfy the “parsing” limitation. Second, there is no evidence sufficient to support the jury's finding of “parsing.”

The Court should vacate the damages award because Comcast's damages expert provided nothing more than a conclusory methodology lacking sufficient analysis and evidentiary support. Moreover, there is no legally sufficient evidence to support the jury's award of damages because

Comcast's expert improperly applied the Entire Market Value Rule.

Pursuant to Fed. R. Civ. P. 59, Sprint moves, in the alternative, for a new trial on the issues of noninfringement and damages because the jury verdict and damages award are contrary to the great weight of the evidence and because Comcast's experts exceeded the scope of their expert reports.

Pursuant to D. Del. LR 7.1.1, Sprint hereby certifies that reasonable efforts have been made to reach agreement with Plaintiff on the nature of the relief requested. Plaintiff opposes this motion.

Dated: November 19, 2014

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EXHIBIT A

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DEMAND FOR JURY TRIAL

**[PROPOSED] ORDER GRANTING SPRINT'S MOTION FOR
JUDGMENT AS A MATTER OF LAW OF NONINFRINGEMENT
AND NO DAMAGES**

Before the Court is Defendants Sprint Communications Company L.P., Sprint Spectrum L.P., and Nextel Operations, Inc.'s (collectively, "Sprint's") Renewed Motion for Judgment as a Matter of Law of Noninfringement and No Damages and Alternative Motion for a New Trial. Having reviewed the Motion and all related briefing, the Court hereby GRANTS Sprint's Motion for Judgment as a Matter of Law (D.I. ____). Claim 45 of U.S. Patent No. 7,012,916; claims 90 and 113 of U.S. Patent No. 8,204,046; and claims 1, 13 and 27 of U.S. Patent No. 8,170,008 are not infringed, and damages are vacated.

Date: _____, 2014

The Honorable Richard G. Andrews
United States District Judge

EXHIBIT B

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C.A. No.: 1:12-cv-00205-RGA

DEMAND FOR JURY TRIAL

**[PROPOSED] ORDER GRANTING SPRINT'S
ALTERNATIVE MOTION FOR A NEW TRIAL**

Before the Court is Defendants Sprint Communications Company L.P., Sprint Spectrum L.P., and Nextel Operations, Inc.'s (collectively, "Sprint's") Renewed Motion for Judgment as a Matter of Law of Noninfringement and No Damages and Alternative Motion for a New Trial. Having reviewed the Motion and all related briefing, the Court hereby GRANTS Sprint's Motion for a New Trial (D.I. ____).

Date: _____, 2014

The Honorable Richard G. Andrews
United States District Judge