

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

OMEGA PATENTS, LLC,

Plaintiff,

v.

Case No: 6:13-cv-1950-Orl-40DCI

CALAMP CORP.,

Defendant.

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ORDER

This cause is before the Court on Plaintiff's Motion for New Trial on Willfulness. (Doc. 331). Defendant has responded in opposition. (Doc. 347). The Court has reviewed the pleadings, and pertinent trial testimony.

Plaintiff argues that Defendant CalAmp's advice of counsel defense to willfulness was supported by either false testimony or the exploitation of a discovery violation. That is, CalAmp presented witnesses who testified that their attorney advised that CalAmp's products did not infringe the patents-in-issue and that the patents were invalid. CalAmp argued to the jury that they relied on this legal advice and so did not act willfully. Omega counters that the witness testimony was incredible, because witnesses could not possibly recount with such exacting clarity conversations that had occurred many years earlier. Omega charges that CalAmp's claim that documents involving these meetings with their attorney is false and is designed to bolster fabricated testimony. Alternatively, Omega contends that if corroborating documents exist, they were not produced in discovery to ambush them. The balance of Omega's motion discusses the strength of their claim that CalAmp's infringement was willful.

CalAmp contests Omega's characterization of the testimony presented to rebut a finding of willfulness. The Court has considered the pleadings and has reviewed the relevant testimony. While a reasonable jury could have rejected CalAmp's advice of counsel defense, the jury, having the benefit of Omega's cross-examination on the issues now here, apparently accepted the advice of counsel defense. The mere fact that a reasonable fact finder could have questioned the witness's surprisingly crisp memory of distant events, is insufficient to award a new trial.

Upon due consideration Plaintiff's Motion for New Trial on Willfulness (Doc. 331) is **DENIED**.

DONE AND ORDERED in Orlando, Florida on March 20, 2020.


PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties