WI-LAN, INC. v. APPLE INC., Appeal Nos. 2014-1437, 1485 (Fed. Cir. January 8, 2016). Before Reyna, Wallach, and Hughes. Appealed from E.D. Tex (Judge Gilstrap).

Background:

Wi-LAN sued Apple for patent infringement based on claims drawn to a wireless data communication technique. At trial, Apple argued there was no infringement because Apple's products performed steps in the reverse order from the steps in Wi-LAN's claims. Apple further argued the claims were invalid as anticipated by several references.

The jury found that Apple did not infringe the claims, and further that the claims were invalid. At that point, Wi-LAN moved for judgment as a matter of law (JMOL) with respect to the infringement and invalidity issues. The district court denied the motion with respect to the infringement issue, but granted the motion with respect to the invalidity issue. In granting the motion for judgment of no invalidity, the district court made a revised post-verdict construction of the claims, based on which the court found the claims to be valid. The district court noted that, although the claim construction it made during trial did not require a "complex" multiplier, the claim nevertheless required a complex multiplier because the expert witnesses from both sides agreed as much. Because the prior art only used "real" multipliers, the district court found the claims not anticipated and thus valid.

Wi-LAN appealed the denial of JMOL with respect to the infringement issue. Apple cross-appealed the granting of JMOL of no invalidity.

Issue/Holding:

Did the district court err in revising its construction of the claims at the JMOL stage, after the jury had reached its verdict? Yes, reversed in-part.

Discussion:

In addressing the district court's granting of JMOL of no invalidity, the Federal Circuit sided with Apple in finding the district court's post-verdict revised claim construction to have been improper at the JMOL stage. The Federal Circuit confirmed that the only question for a trial court at the JMOL stage is whether substantial evidence supports a jury's verdict under the construction already issued by the court. The Federal Circuit noted that a trial court may adjust claim constructions post-trial if merely clarifying a previous construction. In this case, however, the district court did not merely clarify the previous construction, but altered the scope of the original claim construction and thus entered judgment based on a construction which was not before the jury.

The district court had found that the "complex" multiplier was implicitly required by the claims according to the expert testimony from both parties. However, the Federal Circuit reviewed the record and found the opposite to be true, based on a key expert witness testifying that the claims did not require the "complex" multiplier. The Federal Circuit also emphasized that a jury is not required to agree with witness testimony and, in this case, would not necessarily have found the "complex" multiplier to be implied in the claims. The Federal Circuit maintained that a new claim construction cannot be argued for or adopted at the JMOL stage, and thus reversed the district court's grant of JMOL of no invalidity.