

CYNTEC COMPANY, LTD. v. CHILISIN ELECTRONICS CORP., Appeal No. 2022-1873 (Fed. Cir. October 16, 2023). Before Moore, Stoll, and Cunningham. Appealed from N.D. Cal. (Judge Hamilton).

Background:

Cyntec sued Chilisin for infringing Cyntec's patents directed to molded "chokes" (a type of electrical inductor) and methods for making molded chokes. During trial, Cyntec relied on testimony from a purported damages expert to support its calculations for damages.

Cyntec's damages expert estimated the amount of Chilisin's sales of accused products imported into the United States ("importation calculations") by using U.S. Securities and Exchange Commission (SEC) filings, annual reports, and other third-party data for customers who purchased or acquired any of the alleged infringing products. The expert then determined each customer's "importation rate" by dividing the customer's U.S. revenue by its total worldwide revenue. The expert multiplied that importation rate for each customer by Chilisin's accused revenues made outside of the United States in order to estimate the infringement revenue subject to damages.

Prior to trial, Chilisin moved to exclude testimony from Cyntec's damages expert because the expert's calculations were allegedly speculative and unreliable. The district court denied the motion, holding that the expert's opinions "rely on data sources that are sufficiently reliable that a jury can determine whether the assumptions made in his calculations were valid."

Issue/Holding:

Did the district court err in denying Chilisin's motion to exclude the testimony of the damages expert? Yes, reversed and remanded.

Discussion:

The Federal Circuit applied the Ninth Circuit's standard of review for the procedural issue of reviewing the district court's ruling on Cyntec's *Daubert* motion. The Ninth Circuit reviews such issues for abuse of discretion; it will reverse a district court's ruling if the ruling is both erroneous and prejudicial.

The Federal Circuit held that the district court abused its discretion by denying Chilisin's motion to exclude the testimony of the damages expert. The expert's calculations included several unsubstantiated assumptions. For example, the expert assumed that the revenue reported in the customers' annual reports reflected sales of products with molded chokes, and all products imported into the United States included an infringing choke. There was no discovery or testing to see if the customer products actually contained the accused chokes.

The Federal Circuit determined that the expert's testimony was unreliable and speculative, and the district court abused its discretion in denying Cyntec's motion and admitting the calculations into evidence. Accordingly, the Federal Circuit reversed the denial of the Cyntec's motion to exclude the evidence. Because the jury's lost profits award was based on the expert's flawed "importation calculations," the Federal Circuit vacated the damages award and remanded to the district court to reassess damages and other issues.