

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EON CORP IP HOLDINGS LLC,  
Plaintiff,  
v.  
CISCO SYSTEMS INC, et al.,  
Defendants.

Case No. 12-cv-01011-JST

**ORDER GRANTING SUMMARY  
JUDGMENT TO DEFENDANT  
MOTOROLA SYSTEMS, INC.**

Re: ECF Nos. 1032 &amp; 1036.

On April 1, 2014, after conducting oral argument and an earlier claim construction hearing, the Court granted a motion by Defendants Cisco Systems, Inc., Sprint Spectrum L.P., HTC America, Inc., United States Cellular Corporation, and Motorola Mobility LLC (the “moving defendants”) for summary judgment of non-infringement. The five moving defendants subsequently submitted a proposed form entering judgment in favor of the five moving defendants as well as a sixth defendant, Motorola Systems, Inc. (“MSI”), who did not join the motion for summary judgment. MSI argued that, since its alleged liability is predicated exclusively on acts of direct infringement that the Court found as a matter of law not to infringe the Patent-in-Suit, the Court’s order entitles MSI to summary judgment for the same reasons as it entitles the five moving defendants to judgment. ECF No. 1032.

“After giving notice and a reasonable time to respond, the court may . . . grant summary judgment for a nonmovant.” Fed. R. Civ. P. 56(f). A district court may sua sponte grant summary after ensuring that the party against whom judgment is sought has “had a full and fair opportunity to ventilate the issues involved.” Albino v. Baca, \_\_ F.3d \_\_, No. 10-55702, 2014 WL 1317141, at \*12-13 (9th Cir. Apr. 3, 2014) (quoting Cool Fuel, Inc. v. Connett, 685 F.2d 309, 312 (9th Cir. 1982)).

The Court granted Plaintiff EON Corp. IP Holdings LLC (“EON”) leave to file any

1 response to MSI's argument within eight days. ECF No. 1033. EON's response, ECF No. 1036,  
2 did not dispute that the Court's summary judgment order entitles MSI to judgment for the same  
3 reasons as it entitles the other five Defendants to judgment.

4 Instead, EON argues that it had negotiated a settlement in principle with MSI. If MSI has  
5 violated an enforceable agreement with EON, that is a matter for another motion or, depending on  
6 the circumstances, another case.

7 EON also invokes Rule 54(b)'s prohibition against entering judgment against fewer than  
8 all of the defendants in the action without making specific findings. But that rule only applies  
9 when the Court will, in fact, only be entering judgment against fewer than all the parties in an  
10 action. For the reasons argued by MSI in ECF No. 1032, which EON has failed to rebut, and on  
11 the basis of the Court's earlier orders, the Court will grant summary judgment to MSI pursuant to  
12 Rule 54(f).

13 The Court will enter all six defendants' proposed form of judgment.

14 **IT IS SO ORDERED.**

15 Dated: April 24, 2014

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17 JON S. TIGAR  
18 United States District Judge  
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