

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNWIRED PLANET, LLC,
Plaintiff,

v.

APPLE INC,
Defendant.

Case No. 13-cv-04134-VC

**ORDER GRANTING SUMMARY
JUDGMENT RE WILLFUL
INFRINGEMENT**

Unwired Planet has sued Apple for infringement of four patents (the '831 patent, '446 patent, '260 patent, and '092 patent). The parties have filed cross-motions for summary judgment. Included in Apple's motion is an argument that Unwired Planet cannot establish willful infringement as a matter of law. Although the other issues presented by the parties' cross-motions remain under submission, the Court hereby rules on Apple's motion with respect to willful infringement.

"Establishing willful infringement of a valid patent requires a two-prong analysis entailing an objective and a subjective inquiry." *Halo Electronics, Inc. v. Pulse Electronics, Inc.*, 769 F.3d 1371, 1381-82 (Fed. Cir. 2014). First, Unwired Planet must "show by clear and convincing evidence that [Apple] acted despite an objectively high likelihood that its actions constituted infringement of a valid patent." *In re Seagate*, 497 F.3d 1360, 1371 (Fed. Cir. 2007). Second, if it can satisfy the first prong, Unwired Planet must then prove that Apple knew or should have known of the objectively high risk that it was infringing. *Id.*

Although the question whether Apple is entitled to summary judgment on noninfringement of the four patents is difficult, the question whether Apple *willfully* infringed is not. The evidence in the record clearly establishes that Unwired Planet cannot, as a matter of law, satisfy the first prong of the test for willfulness. As will be clear from the Court's forthcoming order on the

1 remaining issues presented by the cross-motions, Apple has an objectively reasonable basis for
2 believing it does not infringe any of the four patents held by Unwired Planet, and no reasonable
3 juror could conclude otherwise by clear and convincing evidence. This is so with respect to all
4 four patents, regardless of whether the issues of infringement or invalidity of any of those patents
5 need to go to a jury. Accordingly, summary judgment is granted for Apple on Unwired Planet's
6 allegation of willful infringement of the patents-in-suit.

7
8 **IT IS SO ORDERED.**

9 Dated: April 23, 2015



VINCE CHHABRIA
United States District Judge