

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EMC CORPORATION, EMC
INTERNATIONAL COMPANY, and EMC
INFORMATION SYSTEMS
INTERNATIONAL,

Plaintiffs,

v.

PURE STORAGE, INC.,

Defendant.

Civil Action No. 13-1985-RGA

MEMORANDUM ORDER

Pure seeks judgment as a matter of law that the accused products do not infringe claim 32 of U.S. Patent No. 7,373,464 (“the ’464 patent”) under the doctrine of equivalents (“DOE”). (D.I. 443). EMC argues that the testimony of its expert witness provides a sufficient basis from which the jury could reasonably find that the accused product infringes claim 32 under the DOE. (D.I. 444 at 4).

There is insufficient evidence from which a jury reasonably could find that the FlashArray infringes claim 32 of the ’464 patent under the DOE. *See* FED. R. CIV. P. 50(a); *Buskirk v. Apollo Metals*, 307 F.3d 160, 166 (3d Cir. 2002). EMC’s expert’s conclusory DOE testimony (Trial Tr. at 529:2–9) fails to provide the “particularized testimony and linking argument” required by the Federal Circuit. *See Tex. Instruments Inc. v. Cypress Semiconductor Corp.*, 90 F.3d 1558, 1567 (Fed. Cir. 1996). EMC also did not present any evidence from which

the jury could find equivalence on the basis of insubstantial differences or known interchangeability. (*See* Trial Tr. at 525–30).

For the reasons stated above, Pure’s motion for judgment as a matter of law (D.I. 443) is

GRANTED.

Entered this 15 day of March, 2016.


United States District Judge