

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

PARKERVISION, INC.,

Plaintiff,

v.

Case No. 6:11-cv-719-Orl-37TEM

QUALCOMM INCORPORATED,

Defendant.

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**ORDER**

This cause is before the Court on the following:

1. Parkervision, Inc.'s Rule 50(a) Motion for Judgment as a Matter of Law on Infringement (Doc. 392), filed October 11, 2013;
2. Qualcomm Incorporated's Rule 50(a) Motion for Judgment as a Matter of Law of Noninfringement and Opposition to Parkervision, Inc.'s Motion for Judgment as a Matter of Law of Infringement (Doc. 398), filed October 14, 2013;
3. Qualcomm Incorporated's Rule 50(a) Motion for Judgment as a Matter of Law of Invalidity and No Willfulness (Doc. 399), filed October 15, 2013;
4. Parkervision, Inc.'s Rule 50(a) Motion for Judgment as a Matter of Law on Infringement and Validity (Doc. 400), filed October 15, 2013;
5. Qualcomm Incorporated's Renewed Motion for Judgment as a Matter of Law, or in the Alternative, Motion for New Trial (Doc. 414), asserted orally in Court on October 17, 2013;
6. Qualcomm Incorporated's Motions for Judgment as a Matter of Law on

Damages and Motion to Strike the Opinions of Mr. Paul Benoit and Mr. Jeff Parker on Damages (Doc. 422), filed October 21, 2013, and (Doc. 466), filed October 25, 2013;

7. Qualcomm Incorporated's Motion for Judgment as a Matter of Law of No Willful Infringement (Doc. 423), filed October 21, 2013;
8. Parkervision, Inc.'s Motion for Judgment as a Matter of Law on Willfulness and Damages (Doc. 425), filed October 22, 2013;
9. Parkervision, Inc.'s Response in Opposition to Qualcomm Incorporated's Motion for Judgment as a Matter of Law on Noninfringement (Doc. 475), filed October 31, 2013;
10. Parkervision, Inc.'s Response in Opposition to Qualcomm Incorporated's Motion for Judgment as a Matter of Law of Invalidity and No Willfulness (Doc. 478), filed November 1, 2013;
11. Parkervision, Inc.'s Response in Opposition to Qualcomm Incorporated's Motion for Judgment as a Matter of Law of No Willful Infringement (Doc. 480), filed November 7, 2013;
12. Parkervision, Inc.'s Response in Opposition to Qualcomm's Motions for Judgment as a Matter of Law on Damages and Motions to Strike the Opinions of Paul Benoit and Jeff Parker (Doc. 482), filed November 7, 2013;
13. Parkervision, Inc.'s Proposed Form of Permanent Injunction (Doc. 488), filed December 2, 2013;
14. Parkervision, Inc.'s Alternative Motion for Ongoing Royalty (Doc. 489), filed December 2, 2013;

15. Parkervision, Inc.'s Motion for Post-Verdict Royalties to the Time of Judgment, Prejudgment Interest, Post-Judgment Interest, and Costs (Doc. 490), filed December 2, 2013;
16. Parkervision, Inc.'s Unopposed Motion for Leave to File Under Seal (Doc. 491), filed December 2, 2013;
17. Parkervision, Inc.'s Rule 50(b) Renewed Motion for Judgment as a Matter of Law, or in the Alternative, a New Trial, on Willfulness (Doc. 497), filed December 20, 2013;
18. Parkervision, Inc.'s Unopposed Motion for Leave to File Under Seal (Doc. 498), filed December 20, 2013;
19. Qualcomm Incorporated's Rule 50(b) Renewed Motion for Judgment as a Matter of Law and Motion for New Trial Regarding Invalidity (Doc. 499), filed December 20, 2013;
20. Qualcomm Incorporated's Rule 50(b) Motion for Judgment as a Matter of Law and Motion for Remittitur and a New Trial Regarding Damages (Doc. 500), filed December 20, 2013;
21. Qualcomm Incorporated's Rule 50(b) Renewed Motion for Judgment as a Matter of Law and Motion for New Trial Regarding Infringement (Doc. 501), filed December 20, 2013; and
22. Qualcomm Incorporated's Unopposed Motion to Seal the Unredacted Copy of Qualcomm Incorporated's Renewed Motion for Judgment as a Matter of Law and Motion for New Trial Regarding Noninfringement (Doc. 502), filed December 20, 2013.

## **BACKGROUND**

On July 20, 2011, Parkervision, Inc. (“Parkervision”) initiated this patent infringement action against Qualcomm Incorporated (“Qualcomm”). The parties tried the matter before a jury in two phases from October 7, 2013, through October 24, 2013. In the first phase, the jury rejected Qualcomm’s invalidity claims and determined that sixteen different Qualcomm products infringe the following patent claims: (1) claims 23, 25, 161, 193, and 202 of U.S. Patent No. 6,061,551; (2) claims 27, 82, 90, and 91 of U.S. Patent No. 6,266,518; (3) claim 2 of U.S. Patent No. 6,370,371; and (4) claim 18 of U.S. Patent No. 7,496,342. (Doc. No. 416.) At the appropriate times, Qualcomm and Parkervision moved for judgment as a matter of law concerning invalidity and infringement issues. (Docs. 392, 398, 399, 400, 414.) In the second phase, the jury awarded Parkervision damages of \$172,704,600.00 for Qualcomm’s direct and indirect infringement but rejected Parkervision’s claims of willful infringement. (Doc. 468.) Again, Parkervision and Qualcomm timely moved for judgment as a matter of law concerning damages and willfulness. (Docs. 422, 423, 425, 466.)

In Orders dated November 20, 2013, and November 25, 2013, the Court established a post-trial briefing schedule. (Docs. 486, 487.) In accordance with the Orders, Parkervision filed its motions for permanent injunction (Doc. 488), for ongoing royalty payments (Doc. 489), for post-verdict royalties to the time of judgment, prejudgment interest, and post-judgment interest (Doc. 490), and for judgment as a matter of law or a new trial on willfulness (Doc. 497). Qualcomm also filed renewed motions for judgment as a matter of law or a new trial concerning invalidity (Doc. 499), noninfringement (Doc. 501), and damages (Doc. 500). Both parties also filed unopposed motions for leave to file certain documents under seal. (Docs. 491, 498,

502.) Additional briefing concerning the post-trial motions (Docs. 488, 489, 490, 497, 499, 500, 501) is due to be filed in January 2014.

### STANDARDS AND DISCUSSION

Whether brought pursuant to Rule 50(a) or Rule 50(b), under the law of the Eleventh Circuit Court of Appeals,<sup>1</sup> “[t]he question before the district court regarding a motion for judgment as a matter of law” is “whether the evidence is ‘legally sufficient to find for the party on that issue.’” *Morgan v. Family Dollar Stores, Inc.*, 551 F.3d 1233, 1247 n.8 (11th Cir. 2008) (quoting Fed. R. Civ. P. 50(a)). A jury’s verdict of validity, infringement, and willfulness renders moot motions for judgment as a matter of law on such issues brought before the jury’s deliberations. Fed. R. Civ. P. 50 advisory committee note’s; e.g., *Cummins-Allison Corp. v. SBM Co., Ltd.*, 484 F. App’x 499, 503 n.3 (Fed. Cir. 2012) (noting that district court denied motion as moot due to jury’s verdict); *ArcelorMittal France v. AK Steel Corp.*, 811 F. Supp. 2d 960, 973 n.15 (D. Del. 2011), *rev’d in part on other grounds*, 700 F.3d 1314 (Fed. Cir. 2012). Further, a renewed post-verdict motion for judgment as a matter of law moots a pre-verdict motion for judgment as a matter of law. E.g., *Cooper v. Dailey*, No. 07-C-2144, 2013 U.S. Dist. LEXIS 8275, \*2 (N.D. Ill. Jan. 22, 2013) (denying Rule 50(a) motion as moot). Here, many of the party’s pending motions have been rendered moot by the jury’s verdicts and the parties’ post-trial briefing. Accordingly, those motions (Docs. 392, 398, 399, 400, 414, 422, 423, 425) will be denied as moot.

Upon review, the Court finds that the parties have satisfied the procedural requirements of the Local Rules and the substantive legal requirements to file certain

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<sup>1</sup> The Federal Circuit Court of Appeals reviews rulings on Rule 50 motions in patent cases under regional circuit law. *Whitserve, LLC v. Computer Packages, Inc.*, 694 F.3d 10, 18 (Fed. Cir. 2012), *cert. denied*, 133 S. Ct. 1291 (2013).

documents related to post-trial briefing under seal. Accordingly, the Court finds that the parties' unopposed motions for leave to file under seal are due to be granted. (Docs. 491, 498, 502.)

### **CONCLUSION**

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. Parkervision, Inc.'s Rule 50(a) Motion for Judgment as a Matter of Law on Infringement (Doc. 392) is **DENIED AS MOOT**.
2. Qualcomm Incorporated's Rule 50(a) Motion for Judgment as a Matter of Law of Noninfringement (Doc. 398) is **DENIED AS MOOT**.
3. Qualcomm Incorporated's Rule 50(a) Motion for Judgment as a Matter of Law of Invalidity and No Willfulness (Doc. 399) is **DENIED AS MOOT**.
4. Parkervision, Inc.'s Rule 50(a) Motion for Judgment as a Matter of Law on Infringement and Validity (Doc. 400) is **DENIED AS MOOT**.
5. Qualcomm Incorporated's Renewed Motion for Judgment as a Matter of Law, or in the Alternative, Motion for New Trial (Doc. 414) is **DENIED AS MOOT**.
6. Qualcomm Incorporated's Motion for Judgment as a Matter of Law on Damages and Motion to Strike the Opinions of Mr. Paul Benoit and Mr. Jeff Parker on Damages (Doc. 422) is **DENIED AS MOOT**.
7. Qualcomm Incorporated's Motion for Judgment as a Matter of Law of No Willful Infringement (Doc. 423) is **DENIED AS MOOT**.
8. Parkervision, Inc.'s Motion for Judgment as a Matter of Law on Willfulness and Damages (Doc. 425) is **DENIED AS MOOT**;
9. Parkervision, Inc.'s Unopposed Motion for Leave to File Under Seal (Doc.

491) is **GRANTED**.

10. Parkervision, Inc.'s Unopposed Motion for Leave to File Under Seal (Doc. 498) is **GRANTED**.
11. Qualcomm Incorporated's Unopposed Motion to Seal the Unredacted Copy of Qualcomm's Renewed 50(b) Motion for Judgment as a Matter of Law and Motion for New Trial Regarding Noninfringement (Doc. 502) is **GRANTED**.
12. Ruling is **RESERVED** on Parkervision, Inc.'s: (a) Proposed Form of Permanent Injunction (Doc. 488); (b) Alternative Motion for Ongoing Royalty (Doc. 489); (c) Motion for Post-Verdict Royalties to the Time of Judgment, Prejudgment Interest, Post-Judgment Interest, and Costs (Doc. 490); and (d) Rule 50(b) Renewed Motion for Judgment as a Matter of Law, or in the Alternative, a New Trial, on Willfulness (Doc. 497).
13. Ruling is **RESERVED** on Qualcomm Incorporated's: (a) Motion to Strike the Opinions of Mr. Paul Benoit and Mr. Jeff Parker (Doc. 466); (b) Rule 50(b) Motion for Judgment as a Matter of Law and Motion for New Trial Regarding Invalidity (Doc. 499); (c) Rule 50(b) Motion for Judgment as a Matter of Law and Motion for Remittitur and a New Trial Regarding Damages (Doc. 500); and (d) Rule 50(b) Motion for Judgment as a Matter of Law and Motion for New Trial Regarding Infringement (Doc. 501).

**DONE AND ORDERED** in Chambers in Orlando, Florida, on December 31, 2013.



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ROY B. DALTON JR.  
United States District Judge

Copies:

Counsel of Record