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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 AVOCENT REDMOND CORP.,

9 Plaintiff,

10 v.

11 ROSE ELECTRONICS, *et al.*,

12 Defendants.

Case No. C06-1711RSL

ORDER DENYING PLAINTIFF'S
MOTION TO EXCLUDE THE
TESTIMONY OF JAMES SAMUELS

13 This matter comes before the Court on “Avocent’s Daubert Motion to Preclude the
14 Testimony of Belkin’s Technical Expert James Samuels.” Dkt. # 568.¹ Pursuant to Fed. R. Ev.
15 702:

16 If scientific, technical, or other specialized knowledge will assist the trier of fact to
17 understand the evidence or to determine a fact in issue, a witness qualified as an
18 expert by knowledge, skill, experience, training, or education, may testify thereto
19 in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient
20 facts or data, (2) the testimony is the product of reliable principles and methods,
21 and (3) the witness has applied the principles and methods reliably to the facts of
22 the case.

23 In Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579 (1993), the Supreme Court charged trial
24 judges with the responsibility of acting as gatekeepers to prevent unreliable expert testimony
25 from reaching the jury. The gatekeeping function applies to all expert testimony, not just
26 testimony based on science. Kumho Tire Co. v. Carmichael, 526 U.S. 137 (1999). To be

¹ The Court finds that this matter can be decided on the papers submitted. Plaintiff’s request for oral argument is, therefore, DENIED.

1 admissible, expert testimony must be both reliable and helpful. The reliability of expert
2 testimony is judged not on the substance of the opinions offered, but on the methods employed
3 in developing those opinions. Daubert, 509 U.S. at 594-95. In general, the expert’s opinion
4 must be based on principles, techniques, or theories that are generally accepted in his or her
5 profession and must reflect something more than subjective belief and/or unsupported
6 speculation. Daubert, 509 U.S. at 590. The testimony must also be “helpful,” such that a valid
7 connection between the opinion offered and the issues of the case exists. Daubert, 509 U.S. at
8 591-92.

9 Avocent is not challenging the admissibility of Mr. Samuels’ factual testimony
10 regarding the state of the art at the time of the invention. Rather, Avocent argues that Mr.
11 Samuel should not be permitted to opine that “the circuit diagrams in Figures 12A and 12B of
12 the patents in suit were simply the application of an obvious and known design for integrating a
13 Motorola MC141543P on screen processor in to [sic] a computer video application” or that “[i]n
14 the patents in suit, the three digital signals drive an analog video amplifier.” Opening Expert
15 Report of James Samuels (Dkt. # 569-2) at 15 and 17. Mr. Samuels is qualified by experience
16 and education to testify on both subjects, he has provided sufficient examples, facts, and
17 comparisons to support his opinions, and there is nothing unreliable about the methods of
18 inquiry or analysis that gave rise to his opinions. Avocent’s challenge is based on its assertion
19 that allowing Mr. Samuels to compare drawings in the specification to prior art will cause the
20 jury to mistake the specification for the claims themselves and cause error in the obviousness
21 determination. Mr. Samuels is an engineer: he is skilled in, and appropriately limited his
22 testimony to, an evaluation of engineering schematics and real life products that were in the
23 market at the relevant time. Had he attempted to construe the claims or otherwise offer legal
24 conclusions, Avocent’s motion might have some merit. As it is, Mr. Samuels’ testimony is
25 practical, understandable, and relevant to one or more of the elements of the obviousness
26 analysis. The jury may find it helpful in understanding the scope and content of prior the art, the

1 demands of the market, and/or the knowledge possessed by one practicing in the art at the time
2 of the invention. The Court, with the help of the parties, will provide instructions regarding the
3 specific findings the jury must make in order to avoid any confusion.

4 In reply, Avocent raises the additional argument that Mr. Samuels should be
5 excluded under Local Civil Rule 43 because his testimony regarding obviousness is duplicative
6 of that which will be offered by Mr. Dezmelyk. Because Belkin has not had an opportunity to
7 respond to this argument, it has not been considered. However, the Court is mindful of the Local
8 Civil Rule, and no duplicative testimony will be allowed.

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10 For all of the foregoing reasons, the Court finds that Mr. Samuels' proposed
11 testimony is reliable and will be helpful to the factfinder. Avocent's motion to exclude his
12 opinions is DENIED.

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14 Dated this 11th day of December, 2012.

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17 Robert S. Lasnik
18 United States District Judge
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