ALERT MEMORANDUM

Optis Cellular Tech., LLC v. Apple Inc.: Federal Circuit Vacates Infringement Verdict and $300M Damages Award

June 23, 2025

On June 16, 2025, the Federal Circuit vacated a jury verdict of infringement that led to a $300,000,000 damages award in *Optis Cellular Tech., LLC v. Apple Inc.* (Case No. 22-1925) and remanded the case back to the Eastern District of Texas for a new trial on infringement and damages. This decision provides important guidance on several issues, but this alert focuses on the Court's decision on patent verdict forms as well as the admissibility of evidence related to purportedly comparable licenses.[1]

Case Background. Optis Cellular Technology, LLC and related entities (collectively "Optis") sued Apple Inc. for infringement of five patents covering technology essential to the LTE wireless standard (commonly referred to as "standard-essential patents"). After a first trial in 2020, a jury answered "Yes" when asked "Did Optis prove by a preponderance of the evidence that Apple infringed **ANY** of the Asserted Claims?" (emphasis in original). That jury awarded Optis $506,200,000 in damages. The district court vacated the damages award and granted a new trial—on damages only—to address whether Optis was obligated to license its patents on fair reasonable and non-discriminatory ("FRAND") terms, evidence the district court determined it had improperly excluded from the first trial. In 2021, a second jury awarded Optis $300,000,000 in lump-sum damages.

If you have any questions concerning this memorandum, please reach out to your regular firm contact or to the Cleary authors below.

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[1] The Federal Circuit also reversed: 1) the district court's ruling that certain claims of one of the asserted patents were not directed to an abstract idea under 35 U.S.C. § 101; and 2) the district court's ruling that the term "selecting unit" did not invoke 35 U.S.C. §112 ¶ 6. The Federal Circuit affirmed the district court's construction of another claim.

The primary issue on appeal was whether it was proper to ask a jury if Optis had proven that "any of" the asserted patent claims (from five different patents) was infringed, rather than having the jury determine infringement on a patent-by-patent basis. The Federal Circuit rejected the former approach, ruling that failing to ask about infringement on a patent-by-patent basis violated a defendant's right to a unanimous jury verdict. The Federal Circuit also found that the district court had abused its discretion in admitting evidence relating to a settlement agreement.

I. Verdict Form. In the initial trial, both Optis and Apple had proposed including a separate infringement question for each of the five patents at issue. But the district court allowed only a single generalized question concerning infringement in the verdict form. The Federal Circuit found that approach "violated Apple's right to jury unanimity on each legal claim against it" as required by the Seventh Amendment.[2] The Federal Circuit reasoned that "[e]ach patent asserted raises an independent and distinct cause of action" such that "infringement must be separately proved as to each patent."[3] Thus, "to announce the ultimate legal result of each cause of action," the verdict form "needed to have included, at the very least, separate infringement questions for each asserted patent."[4] Otherwise, different members of the jury could find different asserted patents infringed without unanimity, and they still "would be required to answer 'Yes' as to infringement."[5]

II. Settlement Agreement. The Federal Circuit also found that the district court abused its discretion in admitting evidence relating to a worldwide litigation settlement agreement between Apple and Qualcomm. The Federal Circuit found that the settlement agreement's "probative value appears minimal" given that the "scope of the patent rights under the settlement agreement was far greater than the hypothetical license to the five asserted patents in this case."[6] On the other hand, "it was highly prejudicial to Apple for Optis (and [its expert]) to repeatedly recite the large settlement figure."[7] Thus, the settlement agreement should have been excluded under Federal Rule of Evidence 403. This decision is in keeping with the Federal Circuit's recent trend of closely scrutinizing reliance on allegedly comparable licenses to determine if they are truly comparable. *See, e.g.,* En Banc Federal Circuit Limits Admissibility of Patent Damages Expert Testimony.

III. Key Implications. Patent owners should propose breaking infringement questions out by patent in multi-patent cases. Although not at issue in this case, the same analysis likely applies to accused infringers with respect to invalidity questions on the verdict form. While the Federal Circuit noted that there "may be cases in which an issue of infringement is identical across more than one asserted patent such that a single infringement question does not run afoul of the Seventh Amendment and Rule 48(b),"[8] such cases figure to be the exception rather than the rule. As a further safeguard, patent owners may consider breaking infringement out by claim, an issue that was not before the Federal Circuit in this case.

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[2] *Optis Cellular Tech., LLC v. Apple Inc.*, No. 22-1925, slip op. at 15 (Fed. Cir. June 16, 2025).
[3] *Id.* at 16 (quoting *Kearns v. Gen. Motors Corp.*, 94 F.3d 1553, 1555-56 (Fed. Cir. 1996)).
[4] *Id.*
[5] *Id.* at 18.
[6] *Id.* at 35.
[7] *Id.*
[8] *Id.* at 19.