

Intel Loses Post-trial Motions and Must Pay \$162 Million in Prejudgment Interest Payments to VLSI Technology, LLC

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On March 2, 2021, the jury trial in *VLSI Technology, LLC v. Intel Corporation* concluded and found that Intel had literally infringed U.S. Patent No. 7,523,373 ('373 patent) and that infringed under the doctrine of equivalents U.S. Patent No. 7,725,759 ('759 patent)s. The jury awarded VLSI a lump sum of \$1.5 billion for the infringement of the '373 patent and a lump sum of \$675 million for the infringement of the '759 patent. In March and April 2022, Judge Albright denied Intel's Rule 52 Motion for Judgment Barring Recovery; denied Intel's Rule 52 Motion for Judgment of No Infringement of '759 Patent; and granted in part, Plaintiff VLSI's Rule 59(e) Motion for Prejudgment and Post-judgment Interest.

In the Rule 52 Motion for Judgment Barring Recovery, Judge Albright found that “[m]any of Intel’s assertions against VLSI outline missteps or inaction by Intel that VLSI simply used to its advantage, rather than the deceptive intent or fraud.” In fact, even though the court reviewed the allegedly inconsistent testimony of VLSI CEO Mr. Stolarski, the court found that “whatever inconsistencies existed were deemed irrelevant to the issues at trial.” Most notably, Judge Albright repeatedly underscored the fact that Intel had the opportunity to address the court regarding these potential unclean hands issues at earlier points in time.

In the decision regarding the Rule 52 Motion for Judgment of No Infringement of the '759 Patent, Judge Albright found that Intel had not proved its defense of prosecution history estoppel and was merely raising the same arguments that were previously denied in the motion for summary judgment. Judge Albright also noted that Intel's arguments regarding ensnarement were sparse, but nonetheless found that none of Intel's three prior art references ensnared the doctrine of equivalents infringement analysis. The court also found that there was no claim vitiation because VLSI's doctrine of equivalents theory did not read out any claim limitation. Therefore, the court denied Intel's Rule 52 Motion for Judgment of No Infringement.

Judge Albright granted in part Plaintiff VLSI's Rule 59(e) Motion for Prejudgment and Post-judgment Interest. Most notably, the court found Intel's arguments that: (1) VLSI is not entitled to prejudgment interest because the damages award is generous enough, and (2) VLSI's status as a non-practicing entity should preclude it from prejudgment interest, were unconvincing and chose to abide by the general rule that prejudgment interest should be awarded. The court also relied on the fact that prejudgment interest is meant to “put[] the patent owner in as good of an economic position had a royalty been paid and infringement not occurred” and selected VLSI's start date for the calculation of prejudgment interest. However, the court chose to use Intel's rate proposal (average 52-week U.S.

Treasury Bill) rather than the prime rate that VLSI sought. Based on such calculations, Intel must pay \$162 million in prejudgment interest payments.

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