

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

JIAXING SUPER LIGHTING ELECTRIC
APPLIANCE CO., LTD. AND OBERT,
INC.,

Plaintiffs,

v.

CH LIGHTING TECHNOLOGY CO.,
LTD., ELLIOTT ELECTRIC SUPPLY
INC., AND SHAOXING RUISING
LIGHTING CO., LTD.,

Defendants.

Case No. 6:20-CV-00018-ADA

**DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR JUDGMENT AS A MATTER
OF LAW UNDER FEDERAL RULE OF CIVIL PROCEDURE 50(b)**

Jeffrey A. Lamken (*Pro Hac Vice*)
California Bar No. 154217
jlamken@mololamken.com
Caleb Hayes-Deats (*Pro Hac Vice*)
New York Bar No. 5029384
chayes-deats@mololamken.com
MOLOLAMKEN LLP
600 New Hampshire Ave., N.W., Suite 500
Washington, D.C. 20037
Tel.: (202) 556-2000
Fax: (202) 556-2001

Attorneys for Defendants

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CH's renewed JMOL motion explained why Plaintiffs' patents lacked "meaningful or inventive differences from preexisting technologies."¹ ECF No. 291 ("Mot.") 1. In 20 pages of opposition briefing, Plaintiffs identify no such differences. ECF No. 299 ("Opp."). They never explain how affixing an LED strip or a diffusion film directly to a lamp's tube meaningfully advances the art. Nor do they clarify how a shock-protection system that electrifies the light before detecting proper installation—an order of operations the '140 patent's claim language does not even require—improves upon prior art that electrified the light only after detecting proper installation. Plaintiffs' efforts to distinguish preexisting technologies repeatedly contradict the patents' text and the prior art—and in one instance even Plaintiffs' own infringement position.

ARGUMENT

I. THE ASSERTED CLAIMS OF THE '125, '140, AND '540 PATENTS ARE INVALID

A. The Asserted Claims of the '540 Patent Are Invalid

Claim 13. CH's motion explained that skilled artisans would find the two disputed limitations of claim 13 obvious. Mot. 4-7. Electrical engineers with three years of experience designing lighting fixtures would know they could glue LED strips and diffusion film, a "decades-old" technology, to lamp tubes. *Id.* Plaintiffs offer no credible reason to dispute that. Opp. 10-13. Nor do they identify what inventive insight claim 13 supposedly disclosed.

CH's motion identified two sets of prior art references that render claim 13 of the '540 patent obvious: (1) Zhao and Ivey II; and (2) the MaxLite G Series L18T8DF440-G. Plaintiffs address the MaxLite tube only by repeating arguments concerning the '125 patent. Opp. 10. Those arguments are incorrect regardless, as explained below. *See pp. 3-4, infra.*

Zhao depicts an LED strip located inside a tube lamp, with nothing between the strip and

¹ Unless otherwise stated, CH's reply uses the same abbreviations defined in its opening brief.

the tube. Mot. 5. Plaintiffs urge that the jury could have credited testimony by their expert, Dr. Phinney, that Zhao “doesn’t show how the parts fit together” and is “not telling a person of ordinary skill that [the LED strip] is disposed on an inner circumferential surface” of the lamp tube. Day 3 Tr. 111:4-24. That contention addresses anticipation, not obviousness. The question here is not what Zhao teaches, but what a skilled artisan would have regarded as *obvious* based on that teaching. Mot. 4-5. To the extent Dr. Phinney’s testimony addressed obviousness, it is the epitome of conclusory. As Plaintiffs elsewhere concede, “[l]ack of factual support for expert opinion” deprives it of “‘probative value.’” Opp. 8 (quoting *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 294 (Fed. Cir. 1985)). Some further explanation is required before reasonable jurors could credit the dubious proposition that electrical engineers would not understand that they could glue known technologies to a lamp tube.

CH’s motion also explained why affixing the LED strip to the tube lamp would be “common sense.” Mot. 5.² Rather than identify any inventive insight reflected in that claim limitation, Plaintiffs attack “common sense,” asserting that there is no evidence of “*why* an artisan would find the element common sensical.” Opp. 12. But CH explained why. Dr. Lebby testified that Zhao, by depicting the LED strip and the tube together, without any intervening structure, “actually teaches” their combination. Day 2 Tr. 303:3-9. The ability to combine two components that are shown together is “so basic that it certainly lies within the skill set of an ordinary artisan.” *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1377 (Fed. Cir. 2012). Plaintiffs have failed to provide any specific reason to believe that electrical engineers could not make these

² Plaintiffs erroneously contend that this argument is waived. Opp. 12. But CH expressly moved under Rule 50(a) for JMOL finding claim 13 and 14 were obvious over Zhao and Ivey II. Day 3 Tr. 68:18-24. CH did not have to set forth every argument; even a “cursory” motion suffices. See *Blackboard, Inc. v. Desire2Learn, Inc.*, 574 F.3d 1371, 1379 (Fed. Cir. 2009), cited in Opp. 4. Plaintiffs had notice that these technologies were “commonplace.” Day 2 Tr. 182:17-23.

“trivial improvements,” which are obvious as a matter of law. *W. Union Co. v. MoneyGram Payment Sys., Inc.*, 626 F.3d 1361, 1372 (Fed. Cir. 2010).

With respect to diffusion film, CH explained that Zhao disclosed use of a “grinding process” or “light diffusing powder” to reduce a lamp’s “dazzling effect,” and Ivey II disclosed “light diffracting film,” a “decades-old” technology, as an “alternative” to Zhao’s methods. Mot. 6. Those disclosures address “precisely the same problem,” using “simpler mechanical technologies” to solve it. *Ruiz v. A.B. Chance Co.*, 357 F.3d 1270, 1276 (Fed. Cir. 2004); Day 2 Tr. 304:12-305:9. Plaintiffs’ contention that Zhao and Ivey II “were addressed to different types of tube lamps,” Opp. 13, is a red herring. The lamp type does not change each reference’s disclosure of interchangeable techniques for light diffusion. Nor are Plaintiffs correct that each reference teaches a “complete solution.” *Id.* Both references disclose multiple, separate solutions, necessarily allowing for substitution of alternatives. DX60 at 9:42-47; DX56 at 4:35-39.³

Claim 14. CH explained that the additional limitation in claim 14—*i.e.*, that components of a lamp tube be stacked “sequentially in a radial direction”—was obvious. Mot. 7-8. Plaintiffs concede that limitation’s obviousness by “wholly failing to address” CH’s arguments. *Promega Corp. v. Life Techs. Corp.*, 875 F.3d 651, 661 (Fed. Cir. 2017); *Savers Fed. Sav. & Loan Ass’n v. Reetz*, 888 F.2d 1497, 1501 (5th Cir. 1989). Claim 14 thus falls with claim 13.

B. Claim 1 of the ’125 Patent Is Invalid

CH’s motion cited testimony and supporting demonstratives that identified three prior-art tube lamps with an LED strip “disposed on an inner circumferential surface of the lamp tube,” as

³ Plaintiffs contend that CH does not “address secondary considerations regarding the ’540 Patent.” Opp. 13 n.10. But CH specifically noted that Plaintiffs’ expert failed to address such considerations. Mot. 6. In any event, the arguments Plaintiffs now belatedly raise regarding commercial success—based on CH’s sales—fail because the Court has already found that any such success is unrelated to the patented invention. Mot. 15 (citing ECF No. 286 at 37-38; *ABT Sys., LLC v. Emerson Elec. Co.*, 797 F.3d 1350, 1361 (Fed. Cir. 2015)).

required by claim 1 of the '125 patent. Mot. 8-9. Plaintiffs barely address that evidence. Opp. 9-10. They argue that one photo “merely shows a light strip atop a metal rail protruding from the tube.” *Id.* at 9. But Plaintiffs ignore language in the '125 patent, cited by CH, that explains that a light strip itself can be an “elongated aluminum plate.” Mot. 9 (quoting JX2 at 29:10-11). The “metal rail” Plaintiffs identify as “protruding from the tube” is *part* of the LED strip. *Id.*

Plaintiffs contend that JMOL would be inappropriate because they “did not have the opportunity to present their case.” Opp. 8. But they admit that their proof would have mirrored the insufficient evidence they offered on “the same element” of the '540 patent. Opp. 5 n.3; *see pp.* 1-3, *supra*. A vague promise of “more of the same” should not defeat JMOL. *Cf. Granite State Ins. Co. v. Smart Modular Techs., Inc.*, 76 F.3d 1023, 1031 (9th Cir. 1996) (party “fully heard” under Rule 52(c) based on “offer of proof,” even without “live testimony”).

Finally, Plaintiffs argue that CH failed to prove the three tube lamps were prior art. They attempt to dismiss Dr. Lebby’s testimony that each tube was “on sale in 2014,” before the '125 patent’s priority date, Day 2 Tr. 282:12-23, on that ground that it was “uncorroborated” and not based on “personal knowledge,” Opp. 8-9. But expert testimony need not be based on “personal knowledge,” Fed. R. Evid. 703; ECF No. 292 at 4-6, and may be corroborated by “documents that the expert had reviewed,” *Finnigan Corp. v. ITC*, 180 F.3d 1354, 1368 (Fed. Cir. 1999) (quoting *Thomson S.A. v. Quixote Corp.*, 166 F.3d 1172, 1174 (Fed. Cir. 1999)). To the extent more was required, the Court should at a minimum grant a new trial to permit the admission of wrongly excluded evidence, [REDACTED]

[REDACTED] ECF No. 292 at 6-10. [REDACTED]

[REDACTED] Declaration of Caleb Hayes-Deats dated September 16, 2022 (“Hayes-Deats Decl.”) Ex. 2.

C. The Asserted Claims of the '140 Patent Are Invalid

CH's motion explained that claim 1 of the '140 patent is invalid as anticipated by Ono, and all asserted claims are obvious over Ivey I and Sadwick. Mot. 10-15. Plaintiffs' contrary arguments at trial relied on improperly adding limitations found nowhere in the claims themselves. *Id.*; see *SRAM Corp. v. AD-II Eng'g, Inc.*, 465 F.3d 1351, 1358 (Fed. Cir. 2006) (error to read "extraneous" limitation into claim language). First, while Plaintiffs' expert testified that claim 1 "goes right ahead and turns on the light **first** and **then** determines if there's a proper installation," Mot. at 11 (citing Day 3 Tr. 91:1-5), the language of claim 1 provides that the installation detection circuit can cause "the switch circuit to **remain in an off state**," *id.* (citing JX1 59:13-14). The switch circuit cannot "remain in an off state" if the light has already been turned on. Second, the distinction Plaintiffs' expert drew between the role of the "pulse" and the "detection result" misread the claim language and contradicted Plaintiffs' infringement case. *Id.* at 12-13, 16-17. Plaintiffs have no response to either argument, largely ignoring both.

Claim 1. Ono anticipates claim 1 because, contrary to Plaintiffs' argument at trial, nothing in claim 1 requires the lamp to be turned on before proper installation is detected. Mot. 10-11. CH's motion emphasized language in claim 1 stating that the "installation detection circuit" can "control the switch circuit to **remain in an off state**." Mot. 13 (quoting JX1 at 59:8-15 (emphasis added)). Plaintiffs never address that language. They cite testimony from their expert and Aiming Jong, an inventor, stating that the '140 patent turns on the light **before** detecting proper installation. Opp. 14, 17. But expert testimony cannot "be used to vary or contradict claim language." *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1584 (Fed. Cir. 1996). Nor can an inventor's. *Id.* Claim 1 unambiguously shows that the light need not be turned on before detection occurs. The detection circuit cannot cause the switch to "remain" in an "off state" if the switch is already on. JX1 at 59:8-15. This is not a dispute about expert credibility, Opp. 17, be-

cause expert testimony that contradicts claim language is entitled to “no weight.” *Valve Corp. v. Ironburg Inventions Ltd.*, 8 F.4th 1364, 1380 n.15 (Fed. Cir. 2021).

Claim 1 is also obvious over Ivey I, either alone or in combination with Sadwick. Mot. 12-13. CH’s motion explained that Ivey I uses a “pulse” to detect proper installation, and then uses the “detection result” to turn the switch on or off. *Id.* Plaintiffs purport to distinguish Ivey I on the basis that Ivey I’s “pulse generator” controls the “test load” switch, *not* the “light switch.” Opp. 18. Plaintiffs’ invalidity expert thus opined that Ivey I relied on a “detection result” (from the test load circuit), “not [a] pulse” to control the switch, which supposedly distinguishes it from the patented invention. Day 3 Tr. 95:22-96:2.

But those arguments contradict Plaintiffs’ infringement case. When arguing infringement, Plaintiffs agreed that, in the patented invention, the **detection result** turns the switch on and off. Opp. 15 n.13.⁴ That is what Ivey I teaches. As CH explained, in Ivey I the pulse generator’s activation of the test load switch creates the **detection result**, which then turns the load switch on or off. Mot. 12-13. That is precisely what Plaintiffs identify as infringing—using a “detection result” created by a pulse to control the switch. The contradiction between Plaintiffs’ arguments is fatal to their case on invalidity. *Data Engine Techs. LLC v. Google LLC*, 10 F.4th 1375, 1381 (Fed. Cir. 2021). It confirms that Ivey I teaches the patented invention.⁵ CH’s motion highlighted this contradiction. Mot. 17. Plaintiffs argue in their introduction that “nothing in [their] infringement proof was inconsistent with their validity presentation,” Opp. 2, but never substantiate that claim in their argument.

⁴ They wrongly contend, however, that the pulse generator must first turn the switch on “momentarily.” *But see* p. 5, *supra*.

⁵ Plaintiffs argue that CH limited its Rule 50(a) motion for claim 1 to the combination of Ivey I and Sadwick. Opp. 18 n. 15. But that contradicts the Fifth Circuit’s “liberal” construction of Rule 50. *Blackboard*, 574 F.3d at 1380. In any event, the combination of Ivey I and Sadwick by definition **includes** Ivey I’s teachings, and CH proved motivation to combine. *See* pp. 7-8, *infra*.

Plaintiffs next contest that Ivey I concerns “tube lamps.” Opp. 18. But they have no response to CH’s argument that no other type of double-ended LED light posed the relevant shock risk. Mot. 12 (citing Day 2 Tr. 213:13-15). Testimony by Plaintiffs’ expert that Ivey I does not use the “the word ‘tube lamp,’” Day 3 Tr. 92:21-24, addresses anticipation rather than what would be obvious to a skilled artisan regardless.

Claim 4. CH’s motion explained that Claim 4’s additional limitation—a “latch” that stores results from the “installation detection circuit”—is obvious over Ivey I, either alone or in combination with Sadwick. Mot. 13-14. Plaintiffs’ expert conceded that Ivey I disclosed a “latch” that could be “synchronized at certain times” with detection results produced by the pulse generator, but denied that the detection result “controlled” the latch between pulses. *Id.* (citing Day 3 Tr. 99:10-15). That testimony does not distinguish the ’140 patent, which also disclosed a “time period between the pulses.” *Id.* (quoting JX1 at 45:41-42). Plaintiffs offer no response. They simply repeat their expert’s characterization of Ivey I’s latch as a “shut-off circuit,” Day 3 Tr. 97:9-15; Opp. 18-19, while ignoring his concession that it could be configured to be “synchronized” with the pulse generator, Day 3 Tr. 99:10-15.

CH further explained that, in addition to Ivey I’s disclosures, Sadwick taught that the latch could “periodically” turn the switch back on “to see if the hazard fault condition had cleared.” Mot. 14 (quoting DX68 ¶82). Plaintiffs mischaracterize Sadwick as a “turn-off circuit,” Opp. 20 (quoting Day 3 Tr. 108:2-21), while ignoring that Sadwick specifically discloses “*diverse* possible responses to the detection of the fault hazard including, *but certainly not limited to*, a complete turn-off,” DX68 ¶82 (emphasis added). They further contend that skilled artisans would have no motivation to combine Ivey I and Sadwick. Opp. 19-20. But both references address the same “problem to be solved,” *i.e.*, prevention of shocks, a “well settled” basis

for motivation. *ABT Sys., LLC v. Emerson Elec. Co.*, 797 F.3d 1350, 1360 (Fed. Cir. 2015); *Ruiz*, 357 F.3d at 1276; *see* Mot. 12-13. Plaintiffs cannot dispute this “well settled” law. Their sole citation is an unpublished decision that upheld a finding of no motivation where references did not solve the same problem, but instead only “address[ed] the same technical issues.” *Microsoft Corp. v. Enfish, LLC*, 662 F. App’x 981, 990 (Fed. Cir. 2016), *cited in* Opp. 19.

Claims 5, 24, 28, & 31. Plaintiffs do not dispute that claim 24 and the dependent claims rise or fall with claim 4, Mot. 14-15, thus conceding the point, *Promega*, 875 F.3d at 661.

Secondary Considerations. CH explained that the sole secondary consideration Plaintiffs raised for the ’140 patent, *i.e.*, commercial success based on CH’s sales, could not avoid a finding of obviousness because Plaintiffs proved no nexus between that success and the invention. Mot. 15 (citing *ABT Sys.*, 797 F.3d at 1361). Plaintiffs complain that CH supported its argument by citing the “Court’s permanent injunction analysis.” Opp. 14 n.11. But the Court’s analysis detailed the utter “absence” of trial evidence on this precise issue. ECF No. 286 at 38.

At bottom, CH’s proof on invalidity showed how every purported advance was apparent in the prior art. Plaintiffs failed to identify any inventive insight and repeatedly contradicted the plain language of both the patents and prior art. The Court should enter JMOL in favor of CH.

II. THE EVIDENCE DID NOT SHOW INFRINGEMENT OF THE ’140 PATENT

The evidence at trial showed that the LT2600 chips detect proper installation based on “change of grid impedance,” rather than pulses in voltage. Mot. 15-17 (citing DX107; Day 2 Tr. 233:3-241:13). That takes the chips outside the ’140 patent—indeed, Plaintiffs’ invalidity expert distinguished prior art on the ground that it “detect[s] the impedance,” and uses that “detection result” to determine “whether or not the switch turns on.” Day 3 Tr. 91:9-19. If that testimony is credited to defeat invalidity, then it must also be credited to find that the LT2600 chips do not infringe. *Data Engine*, 10 F.4th at 1381. Plaintiffs never address this contradiction.

Plaintiffs instead seek to “[i]mmediately [d]ispatch[]” this argument by contending that CH failed to raise non-infringement in their motion under Rule 50(a). Opp. 4, 14.⁶ But CH specifically moved for JMOL of non-infringement, citing “insufficient evidence to establish . . . that Defendants infringe any claim of” the ’140 patent. Day 2 Tr. 100:14-24. That motion preserves CH’s arguments. *Navigant Consulting, Inc. v. Wilkinson*, 508 F.3d 277, 288 (5th Cir. 2007). Plaintiffs’ contention that CH did not “raise any of the specific arguments . . . they are now making” misstates the standard. Opp. 4. “Rule 50(b) is construed liberally, and [courts] may excuse ‘technical noncompliance’ when the purposes of the rule are satisfied.” *Navigant*, 508 F.3d at 288. CH’s motion satisfied those purposes. It “alert[ed]” Plaintiffs to the “insufficiency” of their case and enabled the Court to “re-examine the question” later. *Id.*⁷ Indeed, Plaintiffs’ closing argument invoked the same evidence they cite in their opposition. Compare Day 4 Tr. 66:14-20, with Opp. 15-16.

III. THE EVIDENCE WAS INSUFFICIENT TO SUPPORT WILLFULNESS

CH’s motion explained that Plaintiffs based their willfulness arguments not on contemporaneous evidence of “wanton” or “malicious” infringement, but instead on inflammatory comments about litigation conduct, which the Court later found unsupported. Mot. 17-20. Plaintiffs abandon their arguments regarding CH’s alleged copying or failure to redesign. Mot. 18-19. They never reckon with the Court’s finding that, contrary to their argument, PX 326 neither im-

⁶ Plaintiffs also contend that their infringement expert testified that PX128.11 showed that the LT2600 “generated pulses to control switch CP2,” Opp. 16, but his actual testimony regarding that exhibit admitted that, “once the lamp is properly installed,” the “orange line” showing pulses “flatlines, it goes to zero,” Day 1 Tr. 183:20-184:8. As Dr. Zane testified, the LT2600 chip causes its “pulse generator” to “short out” and relies on detection results. Day 2 Tr. 234:16-235:13.

⁷ Even if CH had failed to raise this issue, the Court could still correct the “manifest miscarriage of justice” that would result from allowing Plaintiff to prevail on an infringement argument that contradicted its position on invalidity. *Goodner v. Hyundai Motor Co.*, 650 F.3d 1034, 1043 (5th Cir. 2011); see also *Data Engine*, 10 F.4th at 1381.

peaches testimony by a CH witness nor shows misconduct. ECF No. 286 at 28.

Plaintiffs contend that they could inform the jury of CH's stipulation to infringement. Opp. 5-6. That mischaracterizes what Plaintiffs did. They proclaimed a supposed "admission" *15* times, wrongly characterizing it as evidence of *willfulness*. Mot. 17-19. Plaintiffs next argue that Caiying Gan gave "myriad inconsistent stories" regarding three emails Plaintiffs sent. Opp. 6. But there is no inconsistency between her statements that she did not check email, did not receive or open Plaintiffs' emails, could not have read them in English, and does not know how to use her laptop. Day 1 Tr. 213:13-216:16. Plaintiffs urge that the Court's jury instruction regarding when CH "learned of" the patents-in-suit supports willfulness. Opp. 6-7. But "knowledge," even coupled with infringement, is "not sufficient." *Bayer Healthcare LLC v. Baxalta Inc.*, 989 F.3d 964, 988 (Fed. Cir. 2021). Finally, Plaintiffs argue that Jack Jiang left their company to join CH, and took another employee with him. Opp. 7. But absent evidence of copying, ECF No. 286 at 7, that argument has no bearing on infringement, let alone willfulness.

Plaintiffs' contention that CH failed to preserve its Rule 50(b) motion on willfulness, Opp. 4, again fails. CH specifically moved for JMOL because the evidence was "insufficient . . . to establish that Defendants willfully infringed any asserted claim of any asserted patent." Day 2 Tr. 100:25-101:11. That motion easily satisfies the purposes of Rule 50(b). *Navigant*, 508 F.3d at 288.

CONCLUSION

The Court should enter JMOL in favor of Defendants. If the Court grants JMOL on any claim, it should order a new trial on damages. *Verizon Servs. Corp. v. Vonage Holdings Corp.*, 503 F.3d 1295, 1310 (Fed. Cir. 2007); ECF No. 230.

Dated: September 16, 2022

Respectfully submitted,

By: /s/ Jeffrey A. Lamken
Jeffrey A. Lamken (*Pro Hac Vice*)
California State Bar No. 154217
jlamken@mololamken.com
Caleb Hayes-Deats (*Pro Hac Vice*)
New York State Bar No. 5029384
chayes-deats@mololamken.com
MOLOLAMKEN LLP
The Watergate, Suite 500
600 New Hampshire Avenue, N.W.
Washington, D.C. 20037
Tel.: (202) 556-2000
Fax: (202) 556-2001

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument was served via electronic mail to all counsel of record on September 16, 2022.

/s/ Jeffrey A. Lamken
Jeffrey A. Lamken