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- VOLUME F -

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF DELAWARE

- - -

BELDEN TECHNOLOGIES, INC. : CIVIL ACTION
and BELDEN CDT (CANADA) :
INC., :

Plaintiffs, :

vs. :

SUPERIOR ESSEX INC. and :
SUPERIOR ESSEX :
COMMUNICATIONS LP, :

Defendants. : NO. 08-063 (SLR)

- - -

Wilmington, Delaware
Tuesday, September 14, 2010
8:00 o'clock, a.m.

- - -

BEFORE: HONORABLE SUE L. ROBINSON, U.S.D.C.J., and a jury

- - -

Valerie J. Gunning
Kevin Maurer
Official Court Reporters

CommScope v. Belden
IPR2023-01061, -01062
CommScope Ex. 1062

1 APPEARANCES:

2
3 YOUNG, CONAWAY, STARGATT & TAYLOR LLP
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7 -and-

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22 NATASHA H. MOFFITT, ESQ.,
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25 (Atlanta, Georgia)

Counsel for Defendants

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1 P R O C E E D I N G S

2

3 (Proceedings commenced in the courtroom,
4 beginning at 8:00 a.m.)

5

6 THE COURT: All right. I usually go through
7 instruction by instruction. I don't think you've changed
8 any until the parties and their contentions, unless I'm
9 mistaken.

10 MS. HAWKINS: That's correct, your Honor.

11 THE COURT: All right. With respect to that,
12 generally I don't believe it's at all productive to have me
13 read the names of the infringing products. I'm happy to
14 accept argument, at least for purposes of the record, as to
15 why that's truly relevant.

16 Anything question the jury is going to have
17 to answer on the verdict sheet, which we need to get to?

18 MR. LOWRIE: I understand the issue or I guess
19 what we should talk about is we do have a stipulation of
20 some kind. I'm unclear as to how stipulations go into the
21 record. But Mr. Hawkins and I talked yesterday about having
22 a stipulation about which products line up with which
23 patents, and I appreciate that the instruction, it wasn't
24 helpful in that regard. But I do think that we do need
25 something that lines up the sales that Mr. Waldner testified

Horenstein - cross

1 patent.

2 A. Okay.

3 MR. BLYTHE: The next-to-last paragraph there at
4 the bottom, if we can get that up, Jim?

5 BY MR. BLYTHE:

6 Q. Are you with me, JTX-301?

7 A. Yes, sir.

8 Q. This is the paragraph that talks about twisting the
9 cable, and that's what we've spent some time looking at,
10 this paragraph.

11 Do you recall that?

12 A. Well, Mr. Baxter says it's twisting the cable. I say
13 this paragraph is about twisting the individual twisted
14 pairs.

15 Q. Understood.

16 Let's look at this part of the sentence there in
17 the middle that says, stranding of the conductor pairs one
18 and/or longitudinal reshaping of the conductor pairs one.

19 Do you see that?

20 A. Yes.

21 Q. Is one way to use that stranding of the conductor
22 pairs and/or longitudinal reshaping of the conductor pairs?

23 A. If there were a comma after the words pairs one, that
24 would be true.

25 Q. Under the plain English of that sentence, the

1 evidence to be invalid, either as anticipated, or as
2 obvious.

3 In addition, your Honor, I don't know if I need
4 to do it, but just in case, we would also move for judgment
5 as a matter of law for the reasons articulated in our
6 summary judgment briefing, some of which the evidence --
7 there was sort of evidence about it. I mean, there was
8 evidence there about what things were. It wasn't presented
9 as an argument that was being brought to the jury.

10 So, for example, if we take core, which is
11 interpreted to be an element that separates transmission
12 media, we would contend that the '485 patent has four
13 separate tapes and that those four things are not a core.
14 They are not an element that separates. I understand the
15 Court has ruled against us on that. But to the extent
16 we needed to preserve that argument, we would move for
17 judgment as a matter of law on the issues raised in our
18 summary judgment brief. And I can articulate those as
19 well.

20 THE COURT: I certainly don't want you
21 rearguing summary judgment and I don't know that I'm
22 reserving judgment on those because I think I've already
23 entered judgment on those at least informally, not by
24 paper yet.

25 MR. LOWRIE: Right.

1 THE COURT: All right. All right. Counsel,
2 thank you very much. We'll work to get this back to you.

3 MS. HAWKINS: One point of clarification for
4 closings tomorrow?

5 THE COURT: Yes.

6 MS. HAWKINS: Obviously, I assume the defendants
7 will go first in closing. Will we have an opportunity to do
8 a short rebuttal, if necessary, for example, to talk about
9 secondary consideration?

10 THE COURT: Yes. Usually, I allow a short
11 rebuttal.

12 MS. HAWKINS: Thank you, your Honor.

13 THE COURT: All right. Thank you very much.

14 (Court recessed at 1:38 p.m.)

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