EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

PANTECH CORPORATION and PANTECH WIRELESS, LLC,	§	
Plaintiffs,	§	
v.	§	CASE NO. 5:22-CV-00069-RWS [redacted]
ONEPLUS TECHNOLOGY (SHENZHEN) CO., LTD.,	§	
Defendant.	§	

ORDER

Before the Court is Defendant OnePlus Technology (Shenzhen) Co, Ltd.'s Rule 50(a) motion. Docket No. 422. The Court deferred its ruling on the Defendant's Rule 50(a) motion—because the Court did not grant this motion, the subject matter discussed therein was submitted to the jury for consideration and Defendant's Rule 50(a) motion (Docket No. 422) is **DENIED-AS-MOOT**.

Also before the Court are the parties' respective post-trial motions. Docket Nos. 464–66. The motions are fully briefed. Docket Nos. 472–74, 478–80, 484–86. The Court heard argument on these motions. Docket Nos. 492, 495. For the reasons set forth below,

- Defendant's Rule 50(b) Motion for Judgment as a Matter of Law (Docket No. 464) is **DENIED**;
- Plaintiffs' Corrected Motion for Entry of Judgment (Docket No. 466) is **GRANTED-IN-PART AS MODIFIED** and **DENIED-IN-PART**;
- Plaintiffs' Motion for Award of Attorneys' Fees and Enhancement (Docket No. 465) is **DENIED**; and

- The parties' respective motions that were subsequently corrected (Docket Nos. 421, 463) are **DENIED-AS-MOOT**.

BACKGROUND

A jury trial was held in March 2024, wherein Plaintiffs Pantech Corporation and Pantech Wireless, LLC asserted that Defendant OnePlus Technology (Shenzhen) Co., Ltd. willfully infringed U.S. Patent Nos. 10,869,247 ("the '247 patent"), 11,012,954 ("the '954 patent), 9,548,839 ("the '839 patent"), 9,063,654 ("the '654 patent), and 8,893,052 ("the '052 patent"). *See* Docket No. 258. Defendant denied all allegations of infringement and presented various defenses. *See id.*; Docket No. 228 at 10. The jury returned a unanimous verdict, finding in Plaintiffs' favor on all counts. Docket No. 258. The jury also awarded $10.26 million in damages, an amount that was significantly higher than any theory presented by Plaintiffs. *See id.* at 6.

Both parties filed post-trial motions, including a request by OnePlus for a new trial under Rule 59. Docket Nos. 299, 300, 301, 302, 303, 308. Upon consideration of the parties' motions, the Court found that there was no infringement of the '052 patent as a matter of law and that a new trial on damages was warranted. Docket No. 360. The Court otherwise upheld the jury's verdict. *See id.*

A retrial on damages for the '247, '954, '839, and '654 patents was held in October 2024. *See, e.g.*, Docket Nos. 430–434. The jury returned a verdict awarding $739,708.43 for the '247, '954, and/or '839 patents (the "SEPs") and $260,291.57 for the '654 patent. Docket No. 441. The parties filed the post-trial motions presently before the Court.

ONEPLUS - EX. 1053

LEGAL STANDARDS

I. Rule 50 Judgment as a Matter of Law

A renewed motion for judgment as a matter of law under Rule 50(b) may only raise arguments previously made in a motion for judgment as a matter of law under Rule 50(a). *OneBeacon Ins. Co. v. T. Wade Welch & Assocs*., 841 F.3d 669, 676 (5th Cir. 2016). A court's review of a jury's verdict is "especially deferential." *Id.* at 675 (citation omitted). The jury's verdict may not be overturned "unless the jury's factual findings are not supported by substantial evidence, or if the legal conclusions implied from the jury's verdict cannot in law be supported by those findings." *See E.E.O.C. v. Boh Bros. Const. Co.*, 731 F.3d 444, 452 (5th Cir. 2013) (citations omitted). "Substantial evidence is defined as evidence of such quality and weight that reasonable and fair-minded men in the exercise of impartial judgment might reach different conclusions." *Nelson v. Sunbeam Prods, Inc*., 579 F. Supp. 3d 857, 864 (E.D. Tex. 2022) (citation omitted).

II. Attorneys' Fees

"The court in exceptional cases may award reasonable attorney fees to the prevailing party" if the fee-seeking party shows it is entitled to such fees by a "preponderance of the evidence." 35 U.S.C. § 285; *Bayer CropScience AG v. Dow AgroSciences LLC*, 851 F.3d 1302, 1305 (Fed. Cir. 2017). An exceptional case is "simply one that stands out from others with respect to the substantive strength of a party's litigating position (considering both the governing law and the facts of the case) or the unreasonable manner in which the case was litigated." *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545, 554 (2014). "District courts may determine whether a case is 'exceptional' in the case-by-case exercise of their discretion, considering the totality of the circumstances." *Id*. at 545.

ONEPLUS - EX. 1053

III. Enhanced Damages

It is within the Court's discretion "to determine whether the conduct is sufficiently egregious to warrant enhanced damages." *SRI Int'l, Inc. v. Cisco Sys., Inc.*, 14 F.4th 1323, 1330 (Fed. Cir. 2021). "As with any exercise of discretion, courts should continue to take into account the particular circumstances of each case in deciding whether to award damages, and in what amount." *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 579 U.S. 93, 106 (2016). While the Court may consider the non-exclusive *Read* factors to evaluate whether enhancement is appropriate, the Court's analysis ultimately focuses on "egregious infringement behavior" as the "touchstone for determining an award of enhanced damages." *Lone Star Tech. Innovations, LLC v. ASUSTek Computer Inc.*, No. 6:19-CV-00059-RWS, 2022 WL 4494312, at *6 (E.D. Tex. Aug. 18, 2022).

ANALYSIS

I. Defendant's Motion for Judgment as a Matter of Law is DENIED

Defendant argues it is entitled to judgment as a matter of law as to damages. Docket Nos. 464, 489. With respect to the SEPs, Defendant focuses on Dr. Jonathan Putnam's allegedly flawed forward citation methodology, which Defendant asserts relies on flawed assumptions of which patents in Plaintiffs' portfolio are "actually" essential and improperly attributed value to other unasserted family members. *See, e.g.*, Docket No. 464 at 12–17. Defendant also reiterates arguments from summary judgment and the previous post-trial about the sufficiency of Dr. Putnam's apportionment methodology, whether Plaintiffs complied with their obligation to offer a fair, reasonable, and non-discriminatory ("FRAND") rate, the comparability of the [redacted] license, and Plaintiffs' failure to consider the [redacted] licenses. *Id.* at 17–20. In addition, Defendant argues that Plaintiffs failed to prove any damages for the '654 patent because Plaintiffs concede the '247 and '654 patents are not technically comparable and no expert conducted any

ONEPLUS - EX. 1053

analysis comparing whether the ’247 and ’654 patents were economically comparable. *Id.* at 5–11.

Plaintiffs respond that most of Defendant’s arguments are waived and the rest do not warrant judgment as a matter of law. Docket Nos. 473, 484. For example, Plaintiffs assert that Defendant waived its challenges to Plaintiffs’ reliance on the [redacted] license and Dr. Putnam’s forward citation analysis, especially with respect to arguments that were not raised in Defendant’s Rule 50(a) motion. *See, e.g.*, Docket No. 473 at 14–16, 25–28. Plaintiffs also characterize Defendant’s criticism of Charles Mauro’s testimony as a re-urged *Daubert* challenge that should be denied, especially because Mauro’s testimony about the qualitative value of the ’654 patent was uncontroverted. *Id.* at 11–13. In addition, Plaintiffs challenge Defendant’s motion on its merits, citing substantial evidence in support of Dr. Putnam’s analysis of the SEPs and the ’654 patent. *Id.* at 7–14, 16–22. Plaintiffs explain that the damages for the SEPs were supported by substantial evidence, specifically Dr. Putnam’s consideration of relevant licenses, including the [redacted] licenses and his calculation of a reasonable royalty using the comparable licenses he identified as having built-in apportionment, and his further apportionment through his patent citation methodology. *See, e.g.*, *id.* at 16–31. With respect to the ’654 patent, Plaintiffs rely on the testimony of several witnesses—including Mauro, Dr. Putnam, Dr. Yang-Won Jung, and Defendant’s expert, Dr. Mario Lopez—to show that the jury was presented substantial evidence in support of damages and Dr. Putnam’s analysis. *Id.* at 7–14. At the hearing, Plaintiffs further explained that the jury, like Dr. Putnam, could have relied on Mauro’s qualitative analysis of the ’654 patent and found it comparable to Dr. Todor Cooklev’s testimony about the frequency of use and essentiality of the ’247 patent. Docket No. 495 at 29:17–31:16.

ONEPLUS - EX. 1053

OnePlus fails to persuasively show that judgment of no damages or damages at the rate opined by its expert is required as a matter of law. Plaintiffs are correct that some of Defendant's motions are untimely *Daubert* motions or exceed the scope of Defendant's Rule 50(a) motion. For example, Defendant's request that the damages be set at zero based on Dr. Putnam's allegedly faulty forward citation methodology is procedurally and substantively analogous to *Wirtgen Am., Inc. v. Caterpillar, Inc.*, No. 1:17-CV-00770-JDW, 2024 WL 4216057, at *12–14 (D. Del. Sept. 17, 2024). In *Wirtgen*, the defendant's request for judgment as a matter of law of no damages, based on a challenge to an allegedly faulty forward patent citation analysis, was determined to be an untimely *Daubert* motion. *Id.* The time to file a *Daubert* challenge "was well before the trial"—here, well before the *retrial*. *See id.* at *12. Moreover, Plaintiffs provided substantial evidence in support of Dr. Putnam's forward citation analysis, which they tied to the patents at issue and was subject to thorough cross-examination. The jury was free to credit or discredit Dr. Putnam's analysis. The fact that the jury disagreed with Defendant does not make the jury's verdict unreasonable.

Similarly, Defendant fails to show that the damages for the '654 patent should be set at zero. Plaintiffs provided sufficient evidence for a reasonable juror to award these damages as to the '654 patent. A reasonable jury could consider Dr. Putnam's testimony, Mauro's qualitative analysis, and Dr. Lopez's own methodology to determine that the awarded damages were no less than a reasonable royalty for the sales subject to this suit. This is not a case where there is *no* evidence of damages for the '654 patent—this is a case where there is evidence that Defendant simply disagrees with.

In summary, Defendant's judgment as a matter of law does not show that a reasonable jury could not have provided the ultimate reward, especially because the jury awarded damages within

ONEPLUS - EX. 1053

the range presented by the parties. Accordingly, OnePlus's motion for judgment as a matter of law of no damages is **DENIED.**

II. Plaintiffs' Motion for Entry of Judgment, Interest, and Supplemental Damages is GRANTED-IN-PART, AS MODIFIED

Plaintiffs seek entry of judgment, pre-judgment interest, post-judgment interest, and supplemental damages. Docket No. 466. Defendant opposes Plaintiffs' motion. Docket No. 472.

A. Pre-Judgment Interest is GRANTED, as Modified

Plaintiffs request that the Court award pre-judgment interest at the prime rate compounded quarterly from January 21, 2021 for the $739,708.43 award for the infringement of the '247, '954, and '839 patents and June 3, 2022 for the $260,291.57 award for the '654 patent through the date the Court enters final judgment. *See, e.g.*, Docket Nos. 466 at 2–3, 479 at 3–4, 466-1 at 1.

Defendant argues pre-judgment interest is inappropriate here because it would result in a "windfall" to Plaintiffs and Plaintiffs failed to meet their burden. Docket No. 472 at 6–11. Defendant argues Plaintiffs fail to explain whether pre-judgment interest will be applied to the damages as a lump sum or a running royalty, why the prime rate should be applied rather than the treasury rate, why interest should be compounded quarterly rather than annually, and what prime rate should be selected. *Id.* at 7–11. Defendant also questions why the January 21, 2021 starting date should be the date for the interest to accrue for *all* the SEPs when the stipulated notice dates for the '247 patent was July 9, 2021 and for the '954 patent June 3, 2022. *Id.* at 8–9. Defendant contends awarding Plaintiffs' proposed pre-judgment interest period would improperly allow Plaintiffs to collect pre-judgment interest on sales that occurred before the notice date. *Id.* Defendant also believes pre-judgment interest would overcompensate Plaintiffs because the presentation of the multiplier inflated the final damages number. *Id.* at 6–7.

ONEPLUS - EX. 1053

Plaintiffs respond that their request for pre-judgment interest—with a prime rate set at the date of final judgment and compounded quarterly—matches the "standard practice of [the] District," relies on publicly available information, and is being applied to a damages model that undisputably relied on a reasonable royalty, not a lump sum. Docket No. 479 at 2–3. Plaintiffs further assert that Defendant is the one who suggested the format of the verdict form so it cannot now object to the differing dates for the different SEPs. *Id.* at 4. Plaintiffs also contend that their presentation of a multiplier during closing did not affect damages because the jury's award of $1 million was less than the maximum damages presented by Dr. Putnam without any multipliers. *Id.* at 2.

First, there is no question here that the damages award was based on a reasonable royalty. The parties only heard expert testimony opining as to what a reasonable royalty would be and were instructed to award a reasonable royalty. *See* Docket No. 439 at 8–10. The jury was not instructed to award a lump sum. *Id.* Defendant's arguments to the contrary are without merit.

It is necessary, however, to address the appropriate period of the pre-judgment interest. Normally pre-judgment interest is awarded "from *the date of infringement* to the date of payment, since only such award will satisfy 'Congress' overriding purpose [in section 284] of affording patent owners complete compensation.' " *Bio-Rad Lab'ys, Inc. v. Nicolet Instrument Corp.*, 807 F.2d 964, 967 (Fed. Cir. 1986) (emphasis added) (citing *General Motors Corp. v. Devex Corp.*, 461 U.S. 648, 655 (1983)); *see also Imperium IP Holdings (Cayman), Ltd. v. Samsung Elecs. Co.*, No. 4:14-CV-00371, 2017 WL 1716589, at *3 (E.D. Tex. Apr. 27, 2017) (recognizing that the purpose of pre-judgment interest is "to compensate the patent owner for infringement"). Plaintiffs offer insufficient authority in support of its position that pre-judgment interest for the '247 and '954 patents should run before their respective infringement periods based on the format of the

ONEPLUS - EX. 1053

verdict form. Plaintiffs' request would result in around six months of pre-infringement interest for the '247 patent and about 18 months of additional interest for the '954 patent.[1] Plaintiffs fail to convince the Court that there is no methodology available that would fairly allocate the award to each asserted patent and, indeed, they have never adequately addressed Defendant's concerns about this issue since the first trial. *See*, *e.g.*, Docket No. 309 at 9. Defendant persuasively show that Plaintiffs' proposed period of pre-judgment interest would result in an inappropriate excess. Weighing both parties' arguments and the delay caused by retrial, the pre-judgment interest period for the SEPs shall run from June 3, 2022 to the date of entry of judgment. Even though this adjusted period includes the delay caused by the retrial,[2] the removal of the months-long pre-infringement period mitigates the risk of overcompensation while balancing Plaintiffs' right to be fully compensated.

After resolving the pre-interest period issue, the only remaining dispute is whether the Court should follow the common practice of the Eastern District of Texas or apply Defendant's alternative proposal. The "[c]ommon practice in the Eastern District of Texas is to apply a prejudgment interest rate that compounds the prime rate quarterly." *Imperium*, 2017 WL 1716589, at *4. Having considered both parties' arguments, Defendant does not persuasively show that the Eastern District of Texas's common practice of compounding quarterly at the prime rate in effect at the entry of judgment is inappropriate here, especially because Defendant's concerns about overcompensation are sufficiently addressed by the Court's adjustment of the pre-judgment interest period. Accordingly, the Court finds it appropriate to otherwise follow the common

[1] In addition, the need for a retrial further delayed entry of judgment by at least seven months.

[2] Defendant did not ask for the pre-judgment interest period to be capped at the first trial date until it filed its surreply. *Compare* Docket No. 472 at 8–9 *with* Docket No. 486 at 5 n.1. Accordingly, Defendant's request for this additional relief is waived.

ONEPLUS - EX. 1053

practice of this district. *See, e.g.*, *id.*; *see also Fractus, S.A. v. Samsung Elecs. Co.*, 876 F. Supp. 2d 802, 856 (E.D. Tex. 2012); *Georgetown Rail Equip. Co. v. Holland L.P.*, No. 6:13-CV-366, 2016 WL 3346084, at *10 (E.D. Tex. June 16, 2016), *aff'd*, 867 F.3d 1229 (Fed. Cir. 2017).

For these reasons, the pre-judgment interest on the jury award shall accrue from June 3, 2022 to the date of entry of judgment, compounded quarterly at the prime rate.[3]

B. Post-Judgment Interest is GRANTED

The parties do not dispute that post-judgment interest is available if there are damages. *See, e.g.*, Docket Nos. 472 at 11, 486 at 7 (opposing post-judgment interest only if OnePlus's Rule 50(b) motion is granted). Given that there are damages, the Court awards post-judgment interest at the statutory rate from the date of the Court's final judgment until the date of payment.

C. Plaintiffs' Request for Supplemental Damages is DENIED

Plaintiffs also ask the Court to assess whether they are owed supplemental damages. *See, e.g.*, Docket Nos. 466 at 3–4, 479 at 4–6. The jury's damages award was based on stipulated sales through the end of 2023, and Plaintiffs request seeks supplemental damages "for all infringing sales from Q1 of 2024 through the date of judgment." Docket No. 466 at 4. Plaintiffs argue the supplemental damages can be calculated by the Court at a future time, applying the methodology used in *Genband US LLC v. Metaswitch Networks Corp.*, 2018 WL 11357619, at *14 (E.D. Tex. Mar. 22, 2018). Docket No. 479 at 4–6.

Defendant responds that Plaintiffs' request for supplemental damages should be rejected in its entirety for failure of proof or, at the very least, for the period between the March trial and the October retrial. Docket No. 486 at 8. First, Defendant criticizes Plaintiffs' failure to provide a

[3] The Court recognizes that the parties may need to meet and confer further to implement Defendant's requested relief of a truncated pre-judgment interest period. If there any further disputes about this issue the parties **SHALL** meet and confer **in person** before seeking further relief from the Court.

ONEPLUS - EX. 1053

"concrete proposal" for calculating supplemental damages. Docket No. 472 at 11–12. Defendant further argues that the methodology proposed in *Genband* is inapplicable because it arises from an unrelated case and was rejected by Plaintiffs' own expert. Docket No. 486 at 7–8.[4] Defendant also believes that supplemental damages are inappropriate because it would be impossible to determine how the jury calculated damages based on Plaintiffs' presentation of multipliers during closing. *See, e.g.*, *id.* at 5 n.2. Finally, Defendant notes that Plaintiffs acknowledge that whether to award supplemental damages is within the Court's discretion, which the Court should not exercise given that the Court previously ruled Pantech could not reopen the closed record with OnePlus's 2024 sales data *after* the first trial. *See* Docket No. 472 at 12–13.

It is within the Court's discretion whether to award supplemental damages. *Whitserve, LLC v. Computer Packages, Inc.*, 694 F.3d 10, 38 (Fed. Cir. 2012) ("District courts have discretion to award damages for periods of infringement not considered by the jury."); *see also Genband*, 2018 WL 11357619, at *12 ("The Court's ability to award supplemental damages based on the jury's verdict is squarely within the province of the Court."). Plaintiffs fail to persuade the Court supplemental damages are appropriate here, given the posture of this case. Defendant convincingly shows that awarding supplemental damages now would be an end run around the Court's previous rulings and reward Plaintiffs for their behavior that lead to a retrial. There was no dispute over the sales period in the first trial—Plaintiffs did not move to compel additional sales data before discovery closed and did not move for supplemental damages after the first jury verdict. *See, e.g.*, Docket No. 302. Only after the Court ordered a retrial on damages did Plaintiffs seek relief for damages incurred in 2024, asking to reopen discovery to seek information that could have been

[4] Defendant further contends that Plaintiffs' attempt to propose the methodology from *Genband* is waived because it was raised for the first time in Plaintiffs' reply. *Id.*

ONEPLUS - EX. 1053

obtained before the *first* trial. *See, e.g.*, Docket No. 369. The Court denied such relief given that it would not have been available absent the need for a retrial. *See* Docket Nos. 377, 386. There has been no change in fact or posture since Plaintiffs originally moved for such relief, and the Court sees no basis to award relief that would not be available absent Plaintiffs causing a retrial. Accordingly, Plaintiffs' motion for supplemental damages is **DENIED.**

III. Plaintiffs' Request for Attorneys' Fees and Enhancement is DENIED

Plaintiffs seek treble damages and attorneys' fees from August 28, 2023 through the initial post-trial hearing on June 27, 2024.[5] Docket Nos. 465, 478. Plaintiffs allege Defendant exploited the FRAND process by practicing holdout tactics, such as [redacted], and refusing to make counter offers. *See, e.g.*, Docket No. 465 at 8–9. Plaintiffs characterize Defendant's litigation tactics as "unreasonable," criticizing, for example: Defendant's refusal to stipulate using representative products or produce certain licenses; the preparedness of Defendant's 30(b)(6) witnesses; the production of "inaccurate" sales data; the pursuit of discovery after its close; Defendant's behavior during trial; and Defendant's repeated attempts to raise untimely new defenses and theories—including the issue of constitutional standing. *See id.* at 11–35. Relying on all the *Read* factors, Plaintiffs also argue enhancement is appropriate based on Defendant's litigation behavior, in addition to Defendant's recklessness towards possibility of copying, its willful infringement, its financial size and strength, Plaintiffs' belief that this case was not close, Defendant's ongoing conduct and failure to remediate, and that Defendant's "holdout behavior" shows a motivation for harm and attempts to conceal its conduct. *See id.* at 39–52.

[5] Plaintiffs' request specifically excludes fees related to the retrial. *Id.*

ONEPLUS - EX. 1053

Defendant responds that Plaintiffs complain about "run-of-the-mill" disputes in a hard-fought, close case. Docket Nos. 474, 485. For example, Defendant explains it had a good faith basis for not agreeing to the representative products, produced all relevant license agreements, prepared its 30(b)(6) witnesses, provided accurate sales data in the form it was maintained, reasonably participated in discovery, narrowed and focused its case, and resolved disputes and objections. *See, e.g.*, Docket Nos. 474 at 33–54, 485 at 10–12. Defendant also argues this was a close case, pointing to the length of the jury's deliberations in the first trial, the overturning of the jury's verdict as to the '052 patent and the original damages verdict, and the jury's award in the retrial. *See, e.g.*, Docket Nos. 474 at 10–13, 52–54, 485 at 10–13.

Defendant argues that enhancement is inappropriate and would overcompensate Plaintiffs when the jury award itself already overcompensates Plaintiffs. Docket No. 474 at 9–24. Defendant also relies on the *Read* factors to show this case does not warrant enhancement. *See id.* at 24–33. First, Defendant states there is no evidence of Defendant performing any copying, because any such copying would have been performed by Google or Qualcomm who provide the infringing code and components. *See id.* at 24–26. Second, Defendant argues it had a good faith belief in noninfringement and invalidity, emphasizing the closeness of the case. *See id.* at 10–14, 25–26. Third and fifth, Defendant reiterates that its litigation conduct was unremarkable and common place and that the case was close. *Id.* at 27–28. Fourth, Defendant argues that its "stable financial condition" should not weigh in favor enhancement. *Id.* at 28. Defendant also maintains the sixth *Read* factor weighs against enhancement because the infringement period was relatively short, the infringing components were off the shelf, and some of the features were subsequently removed. *Id.* at 29–31. Seventh, Defendant argues that it has taken remedial action by seeking mediation in December 2023. *Id.* at 31. Defendant argues that the "holdout" evidence does not show a

ONEPLUS - EX. 1053

motivation to harm and is mainly evidence that Defendant was unwilling to agree to a non-FRAND offer. *Id.* at 31–32. Finally, Defendant argues there was no concealment because its phones are publicly available, it disclosed that its use of off-the-shelf components and software, and Defendant was within its rights to refuse to produce licenses within its possession that did not involve Defendant. *Id.* at 32–33.

This is not an exceptional case. The alleged litigation misconduct Plaintiffs complain of does not warrant fees. For example, at the hearing, Plaintiffs focused on Defendant's refusal to stipulate to representativeness. This argument is without merit. It is Plaintiffs' burden to prove representativeness and Defendant agreed to an alternative stipulation—that the accused products used stock Qualcomm chipsets and Android code. *See, e.g.*, Docket No. 485 at 10. Defendant's decision not to stipulate to representativeness was further supported by its evidence that later versions of the Android code removed some of the infringing functionalities. And while it is true that Defendant shifted its strategy and raised some theories and defenses out-of-time, so did Plaintiffs. *See, e.g.*, Docket No. 474 at 21–23. Moreover, as Defendant points out, there were many issues in this case the Court found to be close calls. *See, e.g.*, *id*. at 10–13. Plaintiffs fail to show by a preponderance of evidence that this case is exceptional.

Similarly, Plaintiffs fail to persuasively show that enhancement is appropriate here. Whether Defendant committed "egregious infringement behavior" is the "touchstone for determining an award of enhanced damages." *Lone Star Tech. Innovations*, No. 6:19-CV-00059-RWS, 2022 WL 4494312, at *6. Plaintiffs' best evidence is Defendant's relative [redacted] and the first jury's willfulness finding. But given the closeness of this case, and the ultimate outcome, there is simply not enough to persuade the Court that Defendant's infringement behavior is egregious. Moreover, most of the *Read* factors are either neutral or do not weigh

ONEPLUS - EX. 1053

towards enhancement. There is no evidence that Defendant itself performed any copying. Further, Plaintiffs fail to persuade the Court that there is sufficient evidence to show that Defendant was motivated to harm Plaintiffs or that Defendant attempted to conceal its conduct. As already discussed, many aspects of this case were close, and Defendant's litigation conduct was not exceptional. Further, Defendant's stable financial condition is a neutral factor that itself alone, does not warrant punishment. *See id.* at *7. Finally, while there was a willfulness finding by the jury, the infringement period was not long, and the accused products used on the off-the-shelf components and publicly available code, and Defendant's pre- and post-trial behavior as to the SEPs was tied closely to its reasonable belief that Plaintiffs' offer was not FRAND. In summary, Plaintiffs fail to convincingly show that the *Read* factors, when considered in the context of Defendant's overall infringement behavior, warrant enhancement.

For these reasons, Plaintiffs' motion for attorneys' fees and enhancement is **DENIED**.

CONCLUSION

For these reasons, it is

ORDERED that Defendant's Rule 50(a) motion (Docket No. 422) is **DENIED-AS-MOOT**. It is further

ORDERED that Defendant's Rule 50(b) Motion for Judgment as a Matter of Law (Docket No. 464) is **DENIED**. It is further

ORDERED that Plaintiffs' Corrected Motion for Entry of Judgment (Docket No. 466) is **GRANTED-IN-PART AS MODIFIED** and **DENIED-IN-PART**. It is further

ORDERED that Plaintiffs' Motion for Award of Attorneys' Fees and Enhancement (Docket No. 465) is **DENIED.** It is further

ONEPLUS - EX. 1053

· **ORDERED** that the parties' respective motions that were subsequently corrected (Docket Nos. 421, 463) are **DENIED-AS-MOOT**. It is further

ORDERED that, within **seven (7) days** of this Order's entry, the parties **SHALL** jointly move to file a redacted version of this Order. The parties' joint motion **SHALL** provide proposed redactions, describe the confidential information in those proposed redactions, and provide good cause for each redaction. Or, if no redactions are necessary, the parties **SHALL** jointly file an unsealed and unredacted version of the Order with a cover page stating no redactions are needed.

So ORDERED and SIGNED this 23rd day of January, 2025.

Robert W Schroeder III

ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE

ONEPLUS - EX. 1053