

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS, MARSHALL DIVISION

Vasu Holdings, LLC v. Samsung Electronics Co., Ltd., Samsung
Electronics America, Inc.

Vasu Holdings · No. 2:24-cv-00034-JRG-RSP · Decided February 5, 2026

SUMMARY

The United States District Court for the Eastern District of Texas grants in part and denies in part Vasu Holdings, LLC’s motion to strike portions of Mark R. Lanning’s invalidity expert report. The court strikes five late-disclosed invalidating references and related opinions because disclosure in parallel inter partes review proceedings did not provide sufficient notice that the references would be asserted in the litigation. The court declines to strike the reference patents used in the obviousness-type double patenting analysis.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas, Marshall Division
WRITING FOR THE COURT	Roy S. Payne
JURISDICTION	United States District Court for the Eastern District of Texas, Marshall Division
DECIDED	February 5, 2026
DOCKET	2:24-cv-00034-JRG-RSP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to strike and exclude the invalidity expert report of Mark R. Lanning in a patent-infringement action.
STANDARD OF REVIEW	The district court applies Federal Rule of Evidence 702 and Daubert to determine whether expert testimony is relevant, reliable, and helpful to the trier of fact. The court has broad discretion in making admissibility determinations, but its gatekeeping role does not permit it to weigh competing expert evidence or replace the jury's fact-finding function.
PRECEDENTIAL VALUE	unknown

TOPICS

expert testimony

daubert standard

patent law

discovery dispute

civil procedure

PRACTICE AREAS

patent litigation

expert evidence

civil procedure

QUESTIONS PRESENTED

1. Whether five prior-art references disclosed for the first time in an invalidity expert report after the close of fact discovery should be stricken when the references were not identified in the invalidity contentions.
2. Whether the expert's use of reference patents for an obviousness-type double-patenting analysis should be excluded.

HOLDINGS

1. Five invalidating references and any opinions based on them must be stricken from the invalidity expert report because disclosure of the references in parallel inter partes review proceedings did not provide notice that they would be asserted as prior art in the present litigation.
2. The expert's use of reference patents was not excluded because the other purpose of obviousness-type double patenting—to prevent double harassment—remained at issue.
3. Expert opinion testimony is admissible under Federal Rule of Evidence 702 when the expert's specialized knowledge will assist the trier of fact, the testimony is based on sufficient facts or data, it results from reliable principles and methods, and the expert reliably applies those principles and methods to the facts.

KEY QUOTATIONS

“the trial judge must have considerable leeway in deciding in a particular case how to go about determining whether particular expert testimony is reliable” (II)

“When, as here, the parties’ experts rely on conflicting sets of facts, it is not the role of the trial court to evaluate the correctness of facts underlying one expert’s testimony.” (II)

“the trial court’s role as gatekeeper [under Daubert] is not intended to serve as a replacement for the adversary system.” (II)

“Vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking shaky but admissible evidence.” (II)

FACTUAL BACKGROUND

Vasu Holdings asserted four patents against Samsung: U.S. Patent Nos. 8,886,181, 10,206,154, 10,368,281, and 10,419,996. Samsung's invalidity expert, Mark R. Lanning, relied on five references that Vasu contended were disclosed for the first time in the expert report after fact discovery closed. Although the references had appeared in a parallel inter partes review filing involving the parties, they had not been identified as prior art in the invalidity contentions for this litigation. The report also relied on reference patents for an obviousness-type double-patenting analysis.

PROCEDURAL HISTORY

Vasu Holdings moved to strike portions of Defendants' invalidity expert report, arguing that five invalidating references were disclosed for the first time in the expert report after the close of fact discovery and were not identified in the invalidity contentions. Defendants argued that Vasu had notice because the references appeared in a parallel inter partes review filing. The court granted the motion as to the five invalidating references and denied it as to reference patents.

DISPOSITION

other

CASES CITED

- Kumho Tire Co. v. Carmichael, 526 U.S. 137, 149, 152 (1999)
- Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579, 592-93, 596 (1993)
- United States v. Valencia, 600 F.3d 389, 424 (5th Cir. 2010)
- Micro Chem., Inc. v. Lextron, Inc., 317 F.3d 1387, 1391-92 (Fed. Cir. 2003)
- Pipitone v. Biomatrix, Inc., 288 F.3d 239, 249-50 (5th Cir. 2002)
- Mathis v. Exxon Corp., 302 F.3d 448, 461 (5th Cir. 2002)
- Cummins-Allison Corp. v. SBM Co., LTD., 2009 WL 763926 (E.D. Tex. March 19, 2009)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION VASU HOLDINGS, LLC, § Plaintiff, § v. § § Case No. 2:24-cv-00034-
JRG-RSP SAMSUNG ELECTRONICS CO., LTD., § SAMSUNG ELECTRONICS AMERICA, §
INC., § Defendants. § MEMORANDUM ORDER Before the Court is Plaintiff Vasu Holdings,
LLC's Corrected Motion to Strike and Exclude Portions Mark R. Lanning's Invalidity Report.

Dkt. No. 104. For the reasons discussed below, the Motion is GRANTED with respect to the five invalidating references and DENIED with respect to the reference patents. I. BACKGROUND Plaintiff Vasu seeks to strike the invalidity expert report of Mark Lanning. Mr. Lanning's report is relevant to Defendant's Invalidity claims for four asserted patents, U.S. Patent Nos. 8,886,181 ("the '181 Patent"), 10,206,154 ("the '154 Patent"), 10,368,281 ("the '281 Patent"), and 10,419,996 ("the '996 Patent").

II. LEGAL STANDARD An expert witness may provide opinion testimony if "(a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case." Fed.

R. Evid. 702. Rule 702 requires a district court to make a preliminary determination, when requested, as to whether the requirements of the rule are satisfied with regard to a particular expert's proposed testimony. See *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 149 (1999); *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 592-93 (1993). District courts are accorded broad discretion in making Rule 702 determinations of admissibility.

Kumho Tire, 526 U.S. at 152 (“the trial judge must have considerable leeway in deciding in a particular case how to go about determining whether particular expert testimony is reliable”). Although the Fifth Circuit and other courts have identified various factors that the district court may consider in determining whether an expert's testimony should be admitted, the nature of the factors that are appropriate for the court to consider is dictated by the ultimate inquiry—whether the expert's testimony is sufficiently reliable and relevant to be helpful to the finder of fact and thus to warrant admission at trial.

United States v. Valencia, 600 F.3d 389, 424 (5th Cir. 2010). Importantly, in a jury trial setting, the Court's role under *Daubert* is not to weigh the expert testimony to the point of supplanting the jury's fact-finding role; instead, the Court's role is limited to that of a gatekeeper, ensuring that the evidence in dispute is at least sufficiently reliable and relevant to the issue before the jury that it is appropriate for the jury's consideration.

See *Micro Chem., Inc. v. Lextron, Inc.*, 317 F.3d 1387, 1391-92 (Fed. Cir. 2003) (applying Fifth Circuit law) (“When, as here, the parties' experts rely on conflicting sets of facts, it is not the role of the trial court to evaluate the correctness of facts underlying one expert's testimony.”); *Pipitone v. Biomatrix, Inc.*, 288 F.3d 239, 249-50 (5th Cir. 2002) (“[t]he trial court's role as gatekeeper [under *Daubert*] is not intended to serve as a replacement for the adversary system.’...”).

Thus, while exercising its role as a gate-keeper, a trial court must take care not to transform a *Daubert* hearing into a trial on the merits,” quoting Fed. R. Evid. 702 advisory committee note). As the Supreme Court explained in *Daubert*, 509 U.S. at 596, “Vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking shaky but admissible evidence.” See *Mathis v. Exxon Corp.*, 302 F.3d 448, 461 (5th Cir.

2002). III. ANALYSIS In the Motion, Plaintiff argues that Mr. Lanning's report improperly adds new invalidating references, because it was served after the close of fact discovery. Dkt. No. 104 at 1. Plaintiff argues that EDTX Patent Rules 3-3 and 3-4 require references to be charted in a party's invalidity contentions to qualify as prior art. *Id.* at 6. Plaintiff argues that because these additional references were first disclosed in this litigation in Mr. Lanning's invalidity report, rather than in the invalidity contentions, they are not admissible as prior art. *Id.* They argue that they would not otherwise receive proper notice.

Id. at 9. In their response, Defendants argue that Plaintiff was already on notice, because this prior art was disclosed in a parallel IPR filing between the same parties as this litigation. Dkt. No. 116 at 5-6. In its Brief, Defendants quote the IPR filing, which mentions the five references at issue from Mr. Lanning's report. Id. Defendant argues that these IPR filings constitute proper notice, because they were filed prior to the close of fact discovery.

Id. at 8. The Court finds persuasive Plaintiff's argument to strike the five new references from Mr. Lanning's report. In *Cummins-Allison Corp. v. SBM Co., LTD.*, late-disclosed art was stricken, despite knowledge of the same art in parallel USPTO proceedings. 2009 WL 763926 (E.D. Tex. March 19, 2009).

The court reasoned that under EDTX Patent Rule 3-3 mere knowledge of the prior art was insufficient to provide notice to the patentee, because the patentee was not put on notice that the art was to be asserted in the instant litigation. Id. at *4.

The same holds true here. While Plaintiff was aware of the art Mr. Lanning used, it was not on notice that it was to be used against them in this litigation. As Cummins makes clear, this is not sufficient notice. Therefore, the references to the late-served invalidating references, and any opinions based thereon, are hereby stricken from Mr. Lanning's report.

Finally, the Court finds unavailing Plaintiff's reference patent argument. As discussed in the Court's Report and Recommendation (Dkt. No. 252), the Court finds persuasive that because the other purpose of ODP — to prevent "double harassment" — remains at issue, Mr. Lanning's use of reference patents is proper for an ODP analysis. IV. CONCLUSION For the reasons discussed above, the Motion is GRANTED with respect to the five invalidating references, and DENIED with respect to the reference patents.

SIGNED this 4th day of February, 2026. ROY S. PAYNE UNITED STATES MAGISTRATE JUDGE