

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

SAINT LAWRENCE COMMUNICATIONS §  
LLC, §

*Plaintiff,* §

v. §

ZTE CORPORATION, ZTE USA, INC., and §  
ZTE (TX) INC., §

*Defendants.* §

CASE NO. 2:15-CV-349-JRG  
**(LEAD CASE)**

SAINT LAWRENCE COMMUNICATIONS §  
LLC, §

*Plaintiff,* §

v. §

MOTOROLA MOBILITY LLC, §

*Defendants.* §

CASE NO. 2:15-CV-351-JRG

**ORDER**

Before the Court is Defendant Motorola Mobility LLC’s (“Motorola”) *Daubert* Motion to Strike the Expert Reports of Drs. Ogunfunmi and Sinha (Dkt. No. 279), along with ZTE USA, Inc. and ZTE (TX), Inc.’s (“ZTE”) Notice of Joinder. (Dkt. No. 288.)

Saint Lawrence Communications LLC (“SLC”) has retained Drs. Kondo, Sinha, and Ogunfunmi as experts on infringement of the accused products in the present suit. On December 21, 2016, Motorola moved to strike the expert reports of Drs. Ogunfunmi and Sinha on the grounds that they are “not based on sufficient facts and data and are not the product of reliable principles and methods.” (Dkt. No. 279 at 1.) On February 15, 2017, the parties filed a notice indicating that

they had reached an agreement with respect to Dr. Sinha. (Dkt. No. 426.) Accordingly, the only remaining live dispute ripe for resolution pertains to Dr. Ogunfunmi.

Motorola alleges that Dr. Ogunfunmi provides opinions regarding two types of source code: the “Qualcomm source code,” and the “Reference Code.” (*Id.* at 4, 7.)


The Court first takes up Motorola’s arguments regarding the opinions pertaining to the Qualcomm source code. Motorola argues that Dr. Ogunfunmi’s opinions regarding the Qualcomm source code should be stricken for failure to include sufficient analysis explaining how such source code meets the limitations of the corresponding claims identified in the proffered claim charts. (*Id.* at 4.) The Court disagrees. In his expert report, Dr. Ogunfunmi has provided claim charts identifying specific portions of the Qualcomm source code alleged to infringe on a claim by claim basis. This is sufficient.

Motorola next argues that the Court should strike the opinions of Dr. Ogunfunmi because he has provided conclusory opinions regarding the “Reference Code.” (*Id.* at 6–7.) According to Motorola, Dr. Ogunfunmi fails to provide citations or analysis to support his opinion that the Reference Code and the Qualcomm source code are functionally the same and implement the algorithms corresponding to the functionality covered by the asserted claims in functionally the same way. (Dkt. No. 279-2 at 2–3; 279-10 at 3.) The Court finds that Motorola’s complaints do not warrant striking the report. As an initial note, the Court observes that Dr. Ogunfunmi’s opinions regarding the Reference Code appear to be largely ancillary to his opinions regarding the Qualcomm source code. Indeed, his report and claim charts overwhelmingly focus on how the Qualcomm source code meets the relevant claim limitations. The ancillary nature of Dr. Ogunfunmi’s Reference Code opinions is supported by the fact that SLC has retained a separate expert, Dr. Kondoz, whose report Motorola admits “includes more targeted infringement charts

with specific line numbers from the reference source code and the snippets of source code that allegedly practice the asserted claim limitations.” (Dkt. No. 279 at 6.) Nonetheless, Dr. Ogunfunmi has indicated that he reviewed the relevant code and reached the conclusion that the Reference Code and Qualcomm source code are functionally the same and that they both implement the algorithms that correspond to the functionality covered by the asserted claims in functionally the same way. With these disclosures, Motorola has what it needs to effectuate the proper remedy for its complaint: vigorous cross examination at trial. Striking the entirety of the report on these grounds would not be an appropriate exercise of this Court’s discretion.

For these reasons, Motorola’s *Daubert* Motion to Strike the Expert Reports of Drs. Ogunfunmi and Sinha (Dkt. No. 279) is **DENIED**. Nothing in this Order shall affect or modify the parties’ obligation to comply with Rules 26 and 37 of the Federal Rules of Civil Procedure regarding the permissible scope of expert testimony at trial.

**So ORDERED and SIGNED this 16th day of February, 2017.**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE