

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

M/A-COM TECHNOLOGY SOLUTIONS	:	
HOLDINGS, INC.,	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 14-181-LPS
	:	Public Version
LAIRD TECHNOLOGIES, INC.,	:	June 16, 2014
	:	
Defendant.	:	
	:	

MEMORANDUM ORDER

Pending before the Court is Plaintiff M/A-COM Technology Solutions Holdings, Inc.’s (“MACOM”) Motion for Preliminary Injunction. (D.I. 8) For the reasons set forth below, Plaintiff’s motion is GRANTED.

BACKGROUND

MACOM and Defendant Laird Technologies, Inc. (“Laird”) are competitors in the market for global positioning system (“GPS”) modules. (D.I. 43 ¶¶ 7, 9) In the late 1990s, MACOM began developing an integrated GPS receiver that would solve many of the then-existing problems facing GPS implementation in motor vehicles. (D.I. 10 ¶¶ 21-25) In 2001, MACOM was granted a patent for its device, U.S. Patent No. 6,272,349 (“the ‘349 Patent”), and it began marketing its product to various automotive companies. (D.I. 11 ¶ 11; *see also* ‘349 Patent) Since 2008, MACOM has been the sole supplier of GPS modules for Ford Motor Company (“Ford”) vehicles. (D.I. 11 ¶ 16)

In early 2011, Ford solicited price quotations for GPS modules for its planned 2015 production vehicles. Ford did so by issuing a Request For Quotation (“RFQ”) containing the

technical requirements to which any GPS supplier's module must conform. (See D.I. 12 ex. D) Laird responded to the RFQ and, in November 2011, was awarded a contract to supply GPS modules for Ford's 2015 [REDACTED]. (See D.I. 55 ex. 15) Laird is scheduled to send its first production quantity shipment to Ford on July 15, 2014. (See D.I. 55 ex. 13 at 13)

On February 11, 2014, MACOM filed this patent infringement action alleging that the GPS modules Laird intends to supply to Ford for its 2015 [REDACTED] infringe MACOM's '349 Patent. (See D.I. 43)¹ The next day, February 12, MACOM filed a motion seeking to preliminarily enjoin Laird from selling Laird's GPS modules to Ford. (D.I. 8) After providing a period for discovery and full briefing, the Court heard oral argument and witness testimony on the preliminary injunction motion on June 2, 2014. (D.I. 25; *see also* June 2, 2014 Hr'g Tr. ("Tr.")) Following the hearing, the Court required supplemental briefing regarding the issues of infringement and invalidity, which the parties filed on June 9 and 12, 2014. (D.I. 100, 101, 106, 107)

LEGAL STANDARDS

The standards applicable to requests to preliminarily enjoin alleged patent infringement are governed by Federal Circuit law. *See Hybritech, Inc. v. Abbott Labs.*, 849 F.2d 1446, 1451 n.12 (Fed. Cir. 1988). A preliminary injunction is "extraordinary relief." *Titan Tire Corp. v. Case New Holland, Inc.*, 566 F.3d 1372, 1375 (Fed. Cir. 2009). A "patentee's entitlement to such an injunction is a matter largely within the discretion of the trial court." *Id.* "[A] plaintiff seeking a preliminary injunction must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance

¹MACOM filed a First Amended Complaint on April 15, 2014. (D.I. 43)

of equities tips in his favor, and [4] that an injunction is in the public interest.” *Id.* at 1375-76 (quoting *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). “[A]ll findings of fact and conclusions of law at the preliminary injunction stage are subject to change upon the ultimate trial on the merits.” *Purdue Pharma L.P. v. Boehringer Ingelheim GmbH*, 237 F.3d 1359, 1363 (Fed. Cir. 2001).

DISCUSSION

I. Likelihood of Success

“With regard to the first factor – establishing a likelihood of success on the merits – the patentee seeking a preliminary injunction in a patent infringement suit must show that it will likely prove infringement, and that it will likely withstand challenges, if any, to the validity of the patent.” *Titan Tire*, 566 F.3d at 1376. Here, MACOM has met this burden.

A. Infringement

The Court employs a two-step process in assessing whether MACOM is likely to prove infringement of its ‘349 Patent. First, the Court must determine “the meaning and scope of the patent claims asserted to be infringed.” *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995). Second, the Court must compare the properly construed claims to the accused device. *Id.*

Relying on the plain and ordinary meaning of the ‘349 Patent’s claims, MACOM asserts that Laird’s GPS module infringes claims 1 through 4 and 11 through 14. (D.I. 9 at 13)² In MACOM’s view, any product meeting the technical specifications Ford requires under the RFQ

²Like the parties, the Court focuses its analysis on claims 1 to 4 and Laird’s GPS module, without directly addressing claims 11 to 14 or Laird’s ATD product. (See D.I. 101 at 1 n.1)

would infringe the '349 Patent. (*Id.* at 11; D.I. 12 ¶¶ 24-25) Hence, because Laird's product was designed in accordance with the Ford RFQ, Laird's product infringes MACOM's patent. (D.I. 9 at 11) MACOM has presented the expert opinion of Scott Andrews, an electrical engineer and technical consultant, who analyzed the Laird product and concluded it contains each of the elements of the asserted claims of the '349 Patent. (*See* D.I. 74)

Laird counters by identifying two claim terms it insists require construction: "electrical conductors for interconnecting" and "the at least one integrated circuit." (D.I. 53 at 8; *see also* '349 Patent at col. 4 ll. 40-56) Laird asks the Court to construe the first of these terms – "electrical conductors for interconnecting" – as requiring "**directly** connecting components together using **only** electrical conductors." (D.I. 53 at 9) (emphasis added) Laird asks the Court to construe the second term – "the at least one integrated circuit" – as requiring that all integrated circuits must each perform the functions described in Claims 1, 2 and 3, and, hence, they all must be "interconnected," that is, "directly connected" to the GPS antenna. (*Id.* at 9-10; *see also* D.I. 55 ex. 23 ¶¶ 83-86) Laird's expert largely concedes that unless the Court adopts Laird's proposed claim constructions, having the effect of narrowing the scope of the asserted claims of the '349 Patent, then MACOM has shown that Laird's device likely infringes. (*See* Tr. at 276-79) (testimony of Dr. Goldberg)

The Court does not adopt Laird's proposed constructions. The claim language speaks of **multiple** "electrical **conductors** for interconnecting," indicating that more than one conductor can interconnect a GPS antenna with integrated circuits processing GPS signals, meaning the claims are not limited to a single, direct connection. Moreover, as MACOM observes, Laird's requirement of "direct connections" would exclude the embodiment disclosed in the '349 Patent.

(D.I. 73 at 4) Such a result is rarely correct – and here the Court finds it would not be. *See Accent Pckg., Inc. v. Leggett & Platt, Inc.*, 707 F.3d 1318, 1326 (Fed. Cir. 2013) (noting that constructions excluding preferred embodiments are rarely correct). Laird’s expert, Dr. Goldberg, acknowledged that the ordinary meaning of “interconnecting” is broad (*see* Tr. at 276) and his (and Laird’s) reasons for construing the term narrowly in the context of the ‘349 Patent are unconvincing.³

As an affirmative defense to infringement, Laird maintains that it is acting pursuant to a license MACOM granted to Ford giving Ford the right to “have made” by others the products allegedly covered by the ‘349 Patent. (D.I. 53 at 6-7; *see also* D.I. 55 exs. 7-9) MACOM agreed to Ford’s [REDACTED] in 2007 (“Terms”), which, in Laird’s view, give Ford the right to have MACOM’s GPS module made by Laird. (D.I. 53 at 6) MACOM does not contest that it is bound by the Terms. It contends, instead, that the Terms on which Laird relies do not apply to MACOM’s product because MACOM’s product is an “off-the-shelf” good. (D.I. 73 at 2) (citing Terms § 19.02) MACOM further argues that even if its GPS module is not an “off-the-shelf” good, the Terms do not give Ford the right to sub-license to others, including Laird, and, in any event, Ford has not done so. (*Id.* at 2-3)

Based on the record created to this point, the Court finds that it is likely MACOM will fail to show that its product is an “off-the-shelf” good within the meaning of the Terms, given the extensive amount of time and money expended by MACOM on its GPS module after it entered into its agreement with Ford. (*See* DX-28; Tr. at 207-09) Nonetheless, the Court further concludes that MACOM is likely to overcome Laird’s license defense because the Terms grant

³Laird’s other claim construction positions fare no better.

rights to Ford, not to Laird; and even if Ford were permitted to extend its rights to Laird, there is no evidence that Ford has done so.⁴ (See D.I. 55 ex. 7 § 19.01) (defining license as extending only to Ford and its related companies); *id.* § 45.01 (disclaiming third-party rights)) There is not even evidence that Ford believes it has a license for itself to the '349 Patent. (See Tr. at 224) Moreover, the portion of the Terms granting Ford the right to sub-license others applies only to intellectual property conceived of, acquired, or developed **during** the course of performing work under a purchase order. (*Id.* at § 19.03(a)) This provision would not apply to the technology claimed by the '349 Patent, which was granted well before MACOM contracted with Ford. (See D.I. 55 exs. 8-9) (showing Ford's selection of MACOM for GPS occurred in 2007) Additionally, Laird is seeking to supply Ford with a product Laird contends is the result of **Laird's** design efforts, **not** a product designed and owned by the "licensee," that is, Ford. In sum, the Terms do not appear to give Laird the rights it claims protect it from liability for infringement.

Therefore, the Court finds MACOM has demonstrated that it is likely to prove infringement.

B. Validity

Laird argues that MACOM cannot show a likelihood of success because the '349 Patent is anticipated and was also obvious in light of the prior art. (D.I. 53 at 11)⁵ As the challenger to

⁴The parties have not enlightened the Court as to Ford's view of its rights vis-a-vis MACOM or Laird; nor is there any indication of Ford's position, if any, on whether the Court should grant MACOM its requested relief. The parties themselves may not know Ford's views. (See *generally* Tr. at 11) (MACOM's counsel: "Ford has chosen to sit it out.")

⁵In its supplemental brief, Laird focuses on one anticipation reference and two obviousness combinations. (D.I. 100 at 1 n.1) Laird has presented argument and evidence as to many more invalidity defenses (*see, e.g.*, D.I. 53 at 11-17) and the Court has considered all of that evidence in reaching its conclusions.

the patent's validity, Laird bears the burden to present evidence of invalidity. *See Titan Tire*, 566 F.3d at 1377. In the present context, Laird must show at least a "substantial question" concerning invalidity. *AstraZeneca LP v. Apotex, Inc.*, 633 F.3d 1042, 1050 (Fed. Cir. 2010). Laird has failed to do so.

Laird contends that Claims 1, 2, 11, and 12 of the '349 Patent are anticipated by numerous prior art patents and publications: (i) U.S. Patent No. 5,668,563 ("Ogino"); (ii) PCT Patent Application WO 95/21386 ("Trimble"); and (iii) U.S. Patent No. 5,523,761 ("Gildea"). (D.I. 53 at 12) A patent claim is invalid as anticipated if a single prior art reference discloses, expressly or inherently, all of the limitations of the patent claim. *See Impax Labs., Inc. v. Aventis Pharm. Inc.*, 468 F.3d 1366, 1381 (Fed. Cir. 2006). Laird has failed to demonstrate that any prior art reference discloses each and every element of any of the asserted claims of the '349 Patent.

Laird's best "anticipatory" reference is Ogino, which describes an integrated, flat-type antenna, not a GPS receiver. When Ogino discusses a GPS module, it is one that is not tied into the electronic circuitry of a vehicle. (D.I. 74 ¶¶ 61-62) Ogino does not disclose the '349 Patent claim element (claim 1) of "at least one integrated circuit disposed on the printed circuit board substrate for processing signals from the GPS antenna." (*See* D.I. 56 ex. 30 (Ogino Patent); *see also* D.I. 74 ¶ 67)⁶ To the extent Laird is contending that Ogino anticipates this element because "it at least *inherently* discloses [integrated circuits] for processing GPS signals" (D.I. 100 at 3 n.2) (emphasis in original), the Court concludes that Ogino's reference to this possibility (among others) – that integrated circuits *may* form part of the process which converts frequency signals

⁶As MACOM notes, "Laird does *not* allege that Ogino anticipates Claims 3 and 4" (D.I. 107 at 4)

(Ogino, col. 7 ll. 8-10) – falls short of inherent anticipation. See *In re Montgomery*, 677 F.3d 1375, 1380 (Fed. Cir. 2012) (“Inherency . . . may not be established by probabilities or possibilities.”), *cert. denied*, 133 S. Ct. 788 (U.S. 2012); *Bettcher Industries, Inc. v. Bunzl USA, Inc.*, 661 F.3d 629, 639 (Fed. Cir. 2011) (“Inherency can be established when prior art necessarily functions in accordance with, or includes, the claimed limitations.”) (internal quotation marks omitted).⁷

Nor are any of the patent claims likely to be found obvious due to any combination of prior art Laird has cited, including Ogino.⁸ (See D.I. 53 at 14) (arguing ‘349 Patent is nothing more than combination of elements already familiar to one of skill in the art). See also *In re Mayne*, 104 F.3d 1339, 1341 (Fed. Cir. 1997) (patent claims are invalid as obvious if differences between them and prior art “are such that the subject matter as a whole would have been obvious at the time the invention was made to a person of ordinary skill in the art”); *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 415-16 (2007) (“[A] patent for a combination which only unites old elements with no change in their respective functions . . . obviously withdraws what is already known into the field of its monopoly.”) (internal quotation marks omitted). Even assuming (without deciding) that there would have been a motivation to combine Laird’s prior art references, Laird has failed to show that each of the elements of any asserted claim of the ‘349

⁷For purposes of the pending motion, the Court disagrees with Laird that it is “critical” or even “important[.]” that the European Patent Office required additional limitations to be added to the claims of the European counterpart to the ‘349 Patent due to a prior art European counterpart to Ogino. (D.I. 100 at 3) Even assuming there is relevance to the actions this non-U.S. patent office took (under different standards) in connection with a non-U.S. patent, due to another non-U.S. patent, here those actions do not alter the Court’s conclusions.

⁸See generally D.I. 53 at 14-17 (listing combined prior art references).

Patent is disclosed in some piece of prior art. Moreover, as MACOM has shown, at least several of Laird's prior art references teach away from the '349 Patent's solution. (See D.I. 73 at 8-11) (discussing, e.g., Gildea, col. 3 ll. 45-48) (teaching that antenna should be separate from GPS receiver) MACOM also presented strong evidence of secondary considerations of non-obviousness, including unrebutted evidence of industry skepticism of its device, as well as evidence of commercial success (sales of nearly [REDACTED] units since 2008, producing over [REDACTED] in revenue) and copying. (See, e.g., Tr. at 87-89, 167) MACOM has also adduced evidence of a nexus – particularly the RFQ, which supports a finding that the claimed features are what is driving demand for MACOM's GPS modules and are what Ford wanted Laird to copy. The Court has considered Laird's contrary evidence, including the expert opinion of Dr. Steven Goldberg (see D.I. 55 ex. 23 ¶ 103), a technology consultant with a Ph. D. in electrical engineering, and the fact that MACOM's commercial success falls substantially short of its one-time goals (see Tr. at 89-90), but finds that this evidence does not alter the outcome.

Therefore, the Court finds that Laird has not raised a substantial question of patent validity.

II. Irreparable Harm

MACOM has met its burden to show that it will be irreparably harmed in the absence of preliminary relief. Depending on the circumstances, “[p]rice erosion, loss of goodwill, damage to reputation, and loss of business opportunities are all valid grounds for finding irreparable harm.” *Abbott Labs. v. Sandoz, Inc.*, 544 F.3d 1341, 1362 (Fed. Cir. 2008). The Federal Circuit has further explained: “The patent statute provides injunctive relief to preserve the legal interests of the parties against future infringement which may have market effects never fully

compensable in money.” *Reebok Int’l Ltd. v. J. Baker, Inc.*, 32 F.3d 1552, 1557 (Fed. Cir. 1994). Additionally, “[b]ecause the principal value of a patent is its statutory right to exclude, the nature of the patent grant weighs against holding that monetary damages will always suffice to make the patentee whole.” *Hybritech*, 849 F.2d at 1456-57.

MACOM’s relationship with Ford is being damaged in a manner that money damages will not fully remedy, and in an amount not entirely calculable. (*See* D.I. 11 ¶ 27) (engineer-to-engineer relationships between MACOM and Ford have been damaged). *See also Trebro Mfg., Inc. v. Firefly Equipment, LLC*, 748 F.3d 1159, 1170 (Fed. Cir. 2014) (“Even though Trebro may be able to estimate [lost sales and profits], that does not automatically mean money damages are adequate.”). Nearly all of MACOM’s sales for its patented technology are made to Ford (*see* D.I. 75 ¶ 4), and these sales generate more than a quarter of all revenues to MACOM (*see id.*; *see also* D.I. 11 ¶ 7). MACOM has proven that it has had to give price concessions to Ford, which were required at least in large part because of the emergence of a competitor for technology previously sold only by MACOM. (*See* D.I. 11 ¶¶ 22-24; D.I. 75 ¶¶ 16-17) Ford demanded and achieved these price decreases by leveraging Laird as a second source and, ultimately, awarding some business to Laird. (*See* PTX1; *see also* Tr. at 180-82) Laird is also in the process of obtaining, and competing for, additional Ford business [REDACTED] that would otherwise have been nearly certain to have gone to MACOM. (*See* D.I. 77 ex. O) Evidence has also been presented that denying the preliminary injunction could impair MACOM’s ability to pursue research and development and lead to layoffs. (*See* D.I. 75 ¶ 4; *see also* Tr. at 190)

In assessing whether MACOM’s harm in the absence of the requested preliminary relief is truly irreparable, the Court has carefully considered how MACOM’s own actions (and

inaction) have contributed to the situation in which it currently finds itself. Laird accuses MACOM of having delayed filing this lawsuit for such a length of time as to undermine any argument that the imminent harm that will befall MACOM in the absence of a preliminary injunction is truly irreparable. (See D.I. 89 at 5) To some extent, the Court agrees with Laird: MACOM did wait a long time to file suit and MACOM's delay does need to be factored into an assessment of whether, as a matter of equity, the Court should treat the imminent harm as "irreparable" in a manner warranting extraordinary relief. *See generally High Tech Med. Instrumentation, Inc. v. New Image Indus., Inc.*, 49 F.3d 1551, 1557 (Fed. Cir.1995) (finding that unjustified 17-month delay in bringing suit, combined with other factors, "militate[d] against" issuance of injunction because it suggested there was "no apparent urgency to the request for injunctive relief").

But the record here does not demonstrate delay that is so unduly lengthy and so unwarranted as to defeat MACOM's showing of irreparable harm. The record evidence shows that MACOM did not know until 2013 – sometime between March and December – that Laird had the technical capability actually to provide GPS modules to Ford. (See D.I. 56 ex. 40 (March 2013 email informing MACOM that Laird has been awarded FY2015 Ford [REDACTED]); Tr. at 172 (Mr. Nist testifying "it was late 2013 when we really knew for sure that they [Laird] were going to be a supplier and had a product"); *id.* at 293 (arguing that MACOM did not know Laird's product was ready until December 2013)) MACOM moved promptly thereafter (in February 2014) to file suit and seek a preliminary injunction. Importantly, MACOM filed its preliminary injunction motion more than five full months before Laird was scheduled to begin shipping the infringing product to Ford.

The Court, however, remains troubled by MACOM's pre-suit conduct. Although MACOM knew by 2011, when Ford issued its RFQ⁹ that any party seeking to fulfill Ford's request would necessarily infringe the '349 Patent, and MACOM further knew by April 2011 that Laird had been selected by Ford as a backup supplier for GPS modules (*see* D.I. 55 at 17), at no point prior to the February 2014 court filings did MACOM give written notice to Ford or Laird of MACOM's patent infringement allegations. Sometime in 2012 MACOM learned that a second supplier had been chosen for the 2015 Ford [REDACTED] (Tr. at 171-72), and by March 2013 MACOM learned for certain that this supplier was Laird (D.I. 56 ex. 40). Throughout this time, as MACOM was trying (and failing) to fend off Ford's pressure for price concessions (*see* D.I. 75 ¶ 16; D.I. 55 ex. 16; D.I. 11 ¶¶ 22-23), MACOM's Mr. Nist was in frequent contact with Ford's buyer, Ms. Wang, including through multiple electronic mail messages regarding Ford's demands for price concessions from MACOM and Ford's efforts to find a second source supplier of GPS modules (*see* PTX1; D.I. 56 exs. 42-43). In not one of these messages, or in any other document, did MACOM share with Ford MACOM's belief that what Ford was engaged in was a search for an entity to infringe MACOM's patent. (Tr. at 228-31) Although Mr. Nist evidently told Ms. Wang "a few times," verbally, of MACOM's concerns about how the RFQ process would lead to patent infringement, the record contains no evidence of the specifics of Mr. Nist's

⁹An RFQ, notably, that MACOM has always read as an invitation to infringe its '349 Patent. (*See* Tr. at 171) (Mr. Nist stating that RFQ describes MACOM's "GEN 3 GPS module") The RFQ was effectively the sole basis for MACOM's allegation of infringement in its original complaint as well as in its opening brief and expert declaration in support of its motion for a preliminary injunction. MACOM did not have Laird's accused product in its possession for analysis until after it filed suit and its motion.

statements, including their content, their timing, or their strength.¹⁰ There is no indication that MACOM really tried to protect its intellectual property rights as it negotiated with Ford.

The most plausible conclusions to be drawn from MACOM's pre-suit conduct are that either MACOM did not believe that any harm that would occur were Laird to infringe would be irreparable to a degree warranting judicial relief, or MACOM made a calculated gamble that standing up to Ford and to Laird would cause more harm to MACOM than would result from keeping quiet. It is obvious that MACOM found itself in an undesirable situation, and it may well be that MACOM chose the best available of bad options.¹¹ But it was a course of action not free from risks, including the risk that the day would come when MACOM would have to seek injunctive relief, and a court would at that point have difficulty fully accepting MACOM's protestations of irreparable harm.

In the end, the Court is persuaded that the harm that would come to MACOM in the absence of a preliminary injunction – especially in the form of price erosion and damage to its relationship with Ford – is irreparable and this factor favors MACOM, notwithstanding MACOM's pre-suit conduct. *See generally Butamax Advanced Biofuels LLC v. Gevo, Inc.*, 868 F. Supp. 2d 359, 374 (D. Del. 2012) (“[D]irect competition in a marketplace weighs heavily in

¹⁰In his direct testimony, Mr. Nist stated, generally, that “[i]n . . . 2002, we had [the ‘349 Patent] in our presentations [including to Ford] . . . [and] I certainly mentioned it to the [Ford] buyers in the discussions in 2011 also.” (Tr. at 188) He provided no details about these references to MACOM's intellectual property and the issue was not explored on cross-examination. The Court then inquired of Mr. Nist about this topic, and he elaborated that he “certainly . . . did have discussions” with Ford about MACOM's patent issues, having mentioned it “two or three times.” (Tr. at 229-31) While the Court finds this testimony credible, it is not especially helpful to MACOM, given the lack of specificity and lack of documentary corroboration.

¹¹Certainly, the Court does not wish to invite premature or unnecessary patent lawsuits.

favor of a finding of irreparable injury.”) (internal quotation marks omitted).

III. Balance of Harms

It follows from what the Court has already found that it is likely, at the end of the case, that Laird will be found to be an infringer of a valid patent. Still, any harm to Laird that would result from being preliminarily enjoined must be factored into the decision whether to award such relief.

There will be significant harm to Laird from being preliminarily enjoined from selling its GPS modules to Ford. Laird will, for at least some time, lose some amount of business, which may not be fully compensable by money damages and may not be easily calculable. Laird has invested substantial time and money in developing its GPS module to compete with MACOM; at least ██████████ over the course of several years. (*See* D.I. 55 ex. 13 ¶ 9) The expected return on this investment will be diminished and possibly eliminated by the injunction being granted.

The Court is also mindful of the lack of evidence that Laird had any knowledge of the ‘349 Patent prior to this lawsuit. (*See id.* at ¶¶ 8-9) In weighing the harms to the parties, it is an important factor that Laird did not knowingly pursue business that it understood infringed MACOM’s patent.

Despite all this, the Court concludes that, on balance, the harms to MACOM in the absence of a preliminary injunction (already discussed) outweigh the harms to Laird from being delayed from entering this business. Laird has not yet shipped production volumes of its allegedly infringing products and presently derives no revenues from GPS module sales to Ford.

(See Tr. at 244-45) MACOM has met its burden.¹²

IV. Public Interest

Finally, the Court must weigh the impact of MACOM's requested preliminary relief on the public interest. *See Hybritech*, 849 F.2d at 1458. "[I]n a patent infringement case, although there exists a public interest in protecting rights secured by valid patents, the focus of the district court's public interest analysis should be whether there exists some critical public interest that would be injured by the grant of preliminary relief." *Id.*

There are competing public interests at play here. Plainly, the public has an interest in enforcement of valid patents that are infringed by others. *See Sanofi-Synthelabo v. Apotex, Inc.*, 470 F.3d 1368, 1383 (Fed. Cir. 2006). As the Court has found that MACOM has shown that Laird's device likely infringes the likely valid '349 patent, it follows that this public interest favors granting the preliminary injunction.

There is further some public interest in not promoting unnecessary patent litigation, and in that regard the public interest would not support a court ruling that encourages patentees to threaten litigation – including against their own customers – when such litigation may never ripen into a concrete dispute, given uncertainties such as the technical capabilities of a potential infringer. There is also a public interest in favor of patent litigation – even necessarily expedited patent litigation – proceeding at a reasonable pace, so as not to unduly burden already overburdened trial courts. In this case, these interests, too, favor MACOM, which refrained from rushing to Court before it was certain it needed judicial intervention and, once it filed suit,

¹²The parties will be required to address the bond that MACOM will be need to post, and the amount of bond that will be necessary to protect Laird in the event that this preliminary injunction turns out to have been improvidently granted.

promptly moved for a preliminary injunction yet agreed to permit Laird (and the Court) three months to take discovery, write briefs, and prepare for a reasonably-scheduled preliminary injunction hearing.

On the other hand, the Court continues to feel that MACOM should have found a more effective way of communicating to Ford, and to Laird, MACOM's belief – which it has held since 2011, when Ford issued the RFQ – that any supplier meeting the requirements of the RFQ would infringe MACOM's '349 Patent. Some action more forceful than the evidently ineffectual verbal statements Mr. Nist made to Ford's buyer, yet something less than the filing of a lawsuit, could, it seems possible, have avoided the situation in which the parties (and the Court) now find themselves.

Laird's argument that the Court should consider the "disruptive" effect the injunction will have on Ford (D.I. 53 at 25) is unpersuasive. Ford has not appeared and nothing in the record would support a finding that Ford (and, through Ford, the public) will be harmed as a result of the Court's order. To the contrary, MACOM has represented that it stands ready and able to fulfill the Ford orders for GPS modules that Laird has been contracted to provide, and no contrary evidence has been presented.

On the whole, then, the public interest favors granting the preliminary injunction sought by MACOM.

CONCLUSION

Accordingly, for the reasons stated above, IT IS HEREBY ORDERED that:

1. Plaintiff's Motion for Preliminary Injunction (D.I. 8) is GRANTED.
2. Plaintiff's Motion to Strike the Declaration of Leonard S. Tedesco (D.I. 68) is

DENIED, as stated during the hearing on June 2 (*see* Tr. at 8-9), and Plaintiff's Motion to Exclude the Hearing Testimony of Mr. Tedesco (D.I. 68) is DENIED AS MOOT, as Defendant did not call Mr. Tedesco to testify at the hearing (*see* Tr. at 233).

3. Because this Memorandum Order is being filed under seal, the parties shall provide the Court with a proposed redacted version of this Memorandum Order by no later than June 16 at 12:00 p.m. Thereafter, the Court will file a publicly-available version.

4. The parties shall provide the Court with a joint status report, attaching a proposed form of order requiring MACOM to post a bond, no later than June 16 at 12:00 p.m.

5. The Court will hold a teleconference with counsel on June 16 at 2:00 p.m. to discuss the joint status report and to hear brief argument on Defendant's motion to dismiss or for a more definite statement (D.I. 51).

June 13, 2014
Wilmington, Delaware


UNITED STATES DISTRICT COURT