

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

EVOLVED WIRELESS, LLC,
Plaintiff-Appellant

v.

**SAMSUNG ELECTRONICS AMERICA, INC.,
SAMSUNG ELECTRONICS CO., LTD.,**
Defendants-Cross-Appellants

2024-2234, 2024-2280

Appeals from the United States District Court for the
Eastern District of Texas in No. 2:21-cv-00033-JRG, Judge
J. Rodney Gilstrap.

Decided: August 31, 2026

CHARLES E. FOWLER, JR., McKool Smith, P.C., Austin,
TX, argued for plaintiff-appellant. Also represented by
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FISHMAN MAROULIS, Redwood Shores, CA; SEAN S. PAK,
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Before CHEN, CUNNINGHAM, and STARK, *Circuit Judges*.

CHEN, *Circuit Judge*.

Evolved Wireless, LLC (Evolved) filed a patent infringement suit against Samsung Electronics America, Inc. and Samsung Electronics Co., Ltd. (collectively, Samsung) in the United States District Court for the Eastern District of Texas, alleging Samsung's products infringed U.S. Patent No. RE46,679 ('679 patent). At the end of discovery, the district court granted partial summary judgment of no infringement for Samsung's products that used Qualcomm chips, because those products were covered by a license. The district court then held a jury trial for the remainder of Samsung's accused products. The jury found claims 1, 3, 6, and 8 (Asserted Claims) of the '679 patent not invalid but not infringed, and Evolved filed a motion for a new trial on infringement which the district court denied. For its part, Samsung filed a motion for judgment as a matter of law (JMOL) for lack of written description, which the district court also denied. *Evolved Wireless, LLC v. Samsung Elecs. Co.*, No. 2:21-CV-00033-JRG, 2024 WL 3447914 (E.D. Tex. July 17, 2024) (*JMOL Decision*). Evolved appeals the grant of partial summary judgment and the denial of its motion for a new trial. Samsung cross-appeals the JMOL decision.

We *affirm* both appeals.

BACKGROUND

I

Evolved is the owner of the '679 patent, a reissue of U.S. Patent No. 8,219,097. The '679 patent issued from an application that is a continuation of U.S. Patent No. 7,809,373 ('373 patent).

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A

The '679 patent relates to “handover” of a terminal, i.e., the process of passing a mobile device from one base station to another in an LTE network.¹ See '679 patent col. 1 ll. 29–35. Handover occurs when a device, such as a phone, is moving while in use and loses signal with its “source” base station, the one with which it is connected. During handover, the device contacts a “target” base station by providing a “control message” or preamble using a Random Access Channel (RACH). *Id.* col. 5 ll. 1–14; *id.* col. 6 ll. 54–57. The preamble takes the form of a numeric code and enables the target base station to differentiate between devices. The LTE standard defines 64 preambles that mobile devices can send.

When a mobile device randomly selects one of the 64 preambles to send to the base station, this risks the possibility of “collision”—two devices sending the same preamble at the same time. J.A. 3680 [171:8–16]. Collision leads to delays in connection to the target base station and, ultimately, dropped calls. *Id.* at 3680–81 [171:24–172:2]; '679 patent col. 6 ll. 1–4.

The '679 patent seeks to eliminate the collision problem by enabling a target base station to select a “dedicated preamble” (or “index of the dedicated preamble”) for the mobile device for the duration of the handover process. '679 patent at claim 1. Evolved refers to the '679 patent’s handover process as “contention-free” handover and an improvement over a “contention-based” handover.

¹ The long term evolution (LTE) network is a wireless access network standard which enables wireless communications for mobile devices.

Claim 1 recites²:

A method of transmitting uplink data in a wireless communication system, the method comprising:

receiving in a terminal from a network, preamble information generated by the network, wherein the preamble information is received via dedicated signaling in downlink,

wherein the received preamble information is either a dedicated preamble or an index of the dedicated preamble, and wherein the preamble information is used for performing a random access channel (RACH) procedure, and

wherein the dedicated preamble is used for a specific terminal;

transmitting from the terminal to the network, the dedicated preamble on a random access channel (RACH) in uplink; [uplink]

receiving in the terminal, a random access response in response to the transmitted dedicated preamble, wherein the random access response includes at least one of time information for a handover operation, an uplink grant for the handover operation, time information for a downlink data arrival, or a random access preamble identifier; and

² The patent notes that “[m]atter enclosed in heavy brackets [] appears in the original patent but forms no part of this reissue specification.” ’679 patent col. 1 ll. 7–12.

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transmitting the uplink data to the network using the uplink grant included in the random access response.

Id. col. 10 ll. 14–38 (emphases added).

B

The LTE standard defines the handover process in a series of steps. J.A. 11847–49. First, a mobile device sends a measurement report to the source base station indicating the signal strength of all surrounding base stations. *Id.* at 11847. Depending on the signal strength, the source base station decides whether to initiate the handover process to another base station. *Id.* at 11848. If the target base station decides to accept the new connection, it generates certain information including “a dedicated RACH preamble.” *Id.* The target base station packages this information into a message with two parameters: “RA Preamble Index” and “PRACH Mask Index.” *See id.*; J.A. 13325–26. The target base station sends the message to the source base station which forwards it to the mobile device. *Id.* at 11848. If the device receives the “RA Preamble Index,” it uses the index to generate a “dedicated preamble” and access the target base station. *Id.*

II

A

In 1993, LG Electronics Inc. (LG), the original owner of the ’373 and ’679 patents, granted a license to Qualcomm. This court has reviewed the LG-Qualcomm agreement (Agreement) before. *See Evolved Wireless, LLC v. HTC Corp.*, 840 F. App’x 586 (Fed. Cir. 2021) (*Evolved I*). The Agreement was amended in 1996, 1998, 2004, 2007, and

2010. *See id.* at 589. Section 15.5 of the original Agreement³ provides for the termination of “all licenses granted” under the Agreement “[u]pon any expiration or termination of this Agreement, whether for cause or not.” Agreement § 15.5, J.A. 2975.

Of particular importance to this appeal are amendments in 2004 (2004 Amendment) and 2010 (2010 Amendment). The 2004 Amendment replaced the initial license grant from LG to Qualcomm with LG’s “Covenant to Qualcomm,” *see* 2004 Amendment § 5.1, J.A. 3001, and “Covenant to Qualcomm’s Customers,” *see id.* § 5.2, J.A. 3001–03. Specifically, in these provisions, LG promised not to assert its rights in the ’373 and ’679 patents against Qualcomm or any Qualcomm customers.⁴ In addition, Section 5.3 of the 2004 Amendment states:

Neither Party or any of their Affiliates may sell, assign, or otherwise transfer any patent which is subject to the covenants granted in this Section 5 or the licenses granted in the License Agreement to any third party *unless such patent remains subject to the covenants granted in Sections 5.1 and 5.2 above* or the licenses in the License Agreement, as the case may be, *for the life of such patent.*

Id. § 5.3, J.A. 3003 (emphases added).

³ The Agreement and its Amendments were designated Confidential and filed under seal. After oral argument, the parties waived confidentiality for the provisions discussed in this opinion. *See* ECF No. 77.

⁴ As we noted in *Evolved I*, neither the Agreement nor the Amendments list which LG patents are covered by the covenants. *See* 840 F. App’x at 589. We found in *Evolved I* that the ’373 patent fell under the Agreement. *See id.* at 591–92. The parties do not dispute that the ’679 patent is also covered by the Agreement.

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Section 10.3 of the 2004 Amendment, titled “Effect of Termination or Expiration,” further states:

Upon any expiration or termination of this Amendment, all rights and/or obligations of both Parties under this Amendment shall also terminate (except for those set forth in Sections 1 (solely for purposes of using such definitions in the surviving sections), 4.2, 4.3, 5, 6, 8 and 9 of this Amendment) and the License Agreement shall remain in full force and effect as it existed prior to the Amendment Effective Date (except as amended by Sections 1 (solely for purposes of using such definitions in the surviving sections), 4.2, 4.3, 5, 6, and 8 of this Amendment).

Id. § 10.3, J.A. 3006 (emphases added).

Section 17.2 of the 2010 Amendment also introduces terms guiding “Transfer of [LG’s] Intellectual Property.” 2010 Amendment § 17.2, J.A. 3050. This section states, “[i]n the event of the assignment, sale or transfer of any of [LG’s] Intellectual Property to a third party, [LG] shall: (1) notify the proposed third party assignee . . . of the existence of the License Agreement . . . ; and (2) obtain a written agreement . . . containing an acknowledgement by [LG’s] Assignee that such assignment or transfer of [LG’s] Intellectual Property is subject to [LG’s] Covenant.” *Id.*

B

In 2014, an entity known as TQ Lambda bought a portfolio of LG patents consisting of five patent families, including one family with both the ’679 patent and ’373 patent. J.A. 103. TQ Lambda assigned the portfolio to Evolved soon after. *See id.*

In 2015, Evolved sued Samsung and several others in the District of Delaware, alleging infringement of the ’373 patent. *Evolved I*, 840 F. App’x at 589–90. Evolved con-

tended the '373 patent was incorporated in the LTE standard, and thus Defendants' devices which implemented the standard infringed the '373 patent. *See id.* at 588. In particular, the accused devices incorporated Qualcomm chips that allegedly practice the patented invention. *Id.* at 590. The Delaware court granted summary judgment for Samsung and its co-defendants, finding that the Agreement "authorized Qualcomm's use of the '373 patent and that the doctrine of patent exhaustion precluded an infringement action against Qualcomm's customers," i.e., Samsung and its co-defendants. *Id.*

We agreed with the district court that the Agreement barred Evolved's infringement claims. *Id.* at 592. However, we vacated the summary judgment decision and remanded for the district court to reassess infringement after December 31, 2018—the undisputed day the Agreement terminated—because the court had not addressed the effect of the Agreement's termination on Samsung and its co-defendants' liability for activities after that date. *Id.* at 594; *see also* J.A. 104 ("The parties do not dispute that [LG] terminated the [LG]-Qualcomm Agreement[.]"). Evolved dismissed the Delaware suit against Samsung with prejudice on remand from *Evolved I*. J.A. 104.

C

Soon after our decision in *Evolved I*, Evolved filed suit against Samsung in the Eastern District of Texas alleging infringement of the '679 patent by Samsung mobile devices. J.A. 104. Evolved sought damages for activities "occurring on or after January 1, 2019." *Id.*

Samsung moved for partial summary judgment as to accused products with Qualcomm chips, arguing that the license arising from the LG-Qualcomm Agreement survived the Agreement's termination and, thus, infringement was still barred. *Id.* On August 31, 2023, the district court denied the motion, in part because the produced versions of the Agreement were heavily redacted. *Id.* at 107–08.

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Qualcomm later produced unredacted versions of the Agreement, and, upon reconsideration, the district court granted partial summary judgment. *Id.* at 108–13, 114–19.

The court relied on §§ 5.3 and 10.3 of the 2004 Amendment, determining that the provisions supported a reading that Qualcomm’s license rights were intended to survive the termination of the Agreement. *Id.* at 117–19. It further dismissed an argument that LG’s failure to follow the procedural steps laid out in § 17.2 of the 2010 Amendment upon selling the patents to TQ Lambda meant that Qualcomm’s license automatically terminated when those patents changed hands.⁵ *See id.* at 118.

The case continued to trial on whether Samsung’s devices incorporating non-Qualcomm chips infringed the ’679 patent. At trial, the jury found that the Asserted Claims were not infringed and not invalid. *JMOL Decision*, 2024 WL 3447914, at *1. Evolved moved for a new trial on infringement. *See* J.A. 120. Samsung moved for JMOL of invalidity of the ’679 patent. *See JMOL Decision*, 2024 WL 3447914, at *1. The district court denied each motion.

In denying Evolved’s motion for new trial, the district court first determined that Evolved *only* presented a standards-based infringement theory at trial, i.e., the ’679 patent is an LTE-standard-essential patent and Samsung’s accused products operate according to that standard. *See* J.A. 128. That is, Evolved’s expert, Mr. Jones, did not compare the accused products to the patent claims themselves. To establish that its patent is a standard-essential patent,

⁵ The district court additionally found that Evolved waived its contract interpretation arguments, given that they, if correct, would have been dispositive for the case in *Evolved I*, but had not been raised in that litigation. J.A. 118.

Evolved needed to prove that “it is *not possible* on technical grounds . . . to *comply with the LTE standard without infringing* the ’679 patent.” *Id.* at 130 (citation modified). Since the district court determined Samsung presented evidence that the ’679 patent was not standard essential because it demonstrated the possibility of an LTE-compliant product that did not infringe the patent, the court noted it could have denied the motion purely on this basis. *Id.* at 130–31. The district court further found that, even if it agreed Evolved presented an infringement case that did not rely on the standard, Samsung still “presented a tenable non-infringement argument” to defeat Evolved’s motion for a new trial. *Id.* at 131.

In denying Samsung’s motion for JMOL of invalidity, the district court highlighted un rebutted testimony from Evolved’s expert, Dr. Laneman, that the discussion of “information of the signature and the preamble” in the parent ’373 patent specification provided written description support for the child ’679 patent’s “dedicated preamble.” *JMOL Decision*, 2024 WL 3447914, at *3–5. For the claim term “index of the preamble,” the district court noted that references to prior art disclosures by Dr. Laneman were appropriate to show that a skilled artisan would have understood that the ’373 patent’s “information of the signature and the preamble” could consist of an “index of the dedicated preamble.” *Id.* at *8–9 (citing *Bos. Sci. Corp. v. Johnson & Johnson*, 647 F.3d 1353, 1366 (Fed. Cir. 2011)).

Evolved timely appealed. Samsung timely cross-appealed. We have jurisdiction under 28 U.S.C. § 1295(a)(1).

STANDARD OF REVIEW

This court reviews decisions on motions for summary judgment under the law of the regional circuit, *MobileMedia Ideas LLC v. Apple Inc.*, 780 F.3d 1159, 1164 (Fed. Cir. 2015) (citation omitted), which under the Fifth Circuit is de novo, *Favela v. Collier*, 91 F.4th 1210, 1212 (5th Cir. 2024) (citation omitted).

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“We review denials of motions for judgment as a matter of law and for a new trial under regional circuit law.” *Freshub, Inc. v. Amazon.com, Inc.*, 93 F.4th 1244, 1249 (Fed. Cir. 2024) (citation omitted). Under Fifth Circuit law, we review the denial of a judgment as a matter of law de novo, asking if the underlying jury findings “lacked a legally sufficient evidentiary basis to find for the prevailing party.” *Bear Ranch, L.L.C. v. Heartbrand Beef, Inc.*, 885 F.3d 794, 801 (5th Cir. 2018) (internal quotation and citation omitted).

We review the denial of motion for a new trial for abuse of discretion. *Wellogix, Inc. v. Accenture, L.L.P.*, 716 F.3d 867, 881 (5th Cir. 2013) (quoting *Seidman v. Am. Airlines, Inc.*, 923 F.2d 1134, 1140 (5th Cir.1991)). “[D]enial will be affirmed unless there is a clear showing of an absolute absence of evidence to support the jury’s verdict.” *Function Media, L.L.C. v. Google, Inc.*, 708 F.3d 1310, 1317 (Fed. Cir. 2013) (quoting *Rivera v. Union Pac. R.R. Co.*, 378 F.3d 502, 506 (5th Cir. 2004)).

“Interpretation of contract terms is a matter not unique to our exclusive jurisdiction and is therefore reviewed under regional circuit law.” *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 469 F.3d 1005, 1013 (Fed. Cir. 2006) (citation omitted). The Fifth Circuit reviews contract interpretation de novo. *Gonzalez v. Denning*, 394 F.3d 388, 392 (5th Cir. 2004) (citation omitted). The Agreement states California law governs. *See* J.A. 2978. Under California law, contract interpretation is a question of law reviewed de novo. *Another Planet Ent., LLC v. Vigilant Ins. Co.*, 548 P.3d 303, 320 (Cal. 2024) (citation omitted).

“Whether a claim satisfies the written description requirement is a question of fact.” *Nuvo Pharms. (Ireland) Designated Activity Co. v. Dr. Reddy’s Lab’s Inc.*, 923 F.3d 1368, 1376 (Fed. Cir. 2019) (citation omitted). “[W]e review a jury’s determinations of facts relating to compliance with

the written description requirement for substantial evidence.” *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1355 (Fed. Cir. 2010) (quoting *PIN/NIP, Inc. v. Platte Chem. Co.*, 304 F.3d 1235, 1243 (Fed. Cir. 2002)).

DISCUSSION

I. Evolved’s Appeal

We first address Evolved’s appeal of the district court’s denial of new trial on infringement for Samsung devices with non-Qualcomm chips and grant of partial summary judgment for Samsung devices with Qualcomm chips.

A. New Trial on Infringement

Evolved argues it is entitled to a new trial on infringement because it proved the LTE standard’s handover procedure meets the ’679 patent’s “dedicated preamble . . . used for a specific terminal” claim limitation. Appellant Br. 46, 48–56. Evolved argues Samsung’s non-infringement theory is incorrect and claims Dr. Mahon, Samsung’s expert, cited no technical documents and provided “no evidence that collision ever occurred” in LTE handovers. *Id.* at 51–54. Evolved also suggests that the district court’s requirement that “every possible implementation of the LTE standard” must infringe is incorrect—rather, infringement should be based on whether an LTE-compliant phone is “reasonably capable” of contention-free handover. *Id.* at 56. These arguments must fail.

Before the district court, Evolved presented an infringement case that mapped the ’679 patent’s handover process to the LTE standard’s handover process. *See* J.A. 128. Mr. Jones, Evolved’s expert, mapped the standard’s descriptions of the “dedicated RACH preamble” to the ’679 patent’s “dedicated preamble.” *See* J.A. 3695–3700 [186:4–191:6]; J.A. 11847–49. He also testified that the ’679 patent’s “dedicated preamble” requires (1) the preamble be reserved for a mobile device for the entire duration of the RACH procedure, and (2) “zero probability of collisions.”

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J.A. 132–33 (first citing J.A. 3826–27 [317:25–318:18]; and then citing J.A. 3834 [325:15–25]).

The district court denied Evolved’s motion for a new trial, finding that Samsung presented evidence that two mobile devices could share preambles during the handover process under the standard. *See* J.A. 135. It further highlighted evidence that Samsung presented that collisions were possible even when complying with the LTE standard. *Id.* The district court also dismissed Evolved’s arguments because they amounted to criticisms of Samsung’s evidence-grounded noninfringement theory that were already considered and rejected by the jury. *See id.* at 135–37.

We agree with the district court’s analysis. Rather than an “absolute absence of evidence,” Samsung provided ample evidence supporting noninfringement. Dr. Mahon opined that, as an alternative to the ’679 patent’s “dedicated preamble,” the LTE standard selects different timeslots to send preambles to prevent collision. *See id.* at 135 (citing J.A. 4269–73 [42:19–46:22]). Dr. Mahon further testified that, because different timeslots are used under LTE, two devices could have the same preamble during the process, and collisions were still possible even when complying with LTE. *Id.* Moreover, Evolved’s expert Mr. Jones conceded that the LTE standard allows the same preamble to be assigned to two different devices during the same RACH procedure. *See* J.A. 3833–34 [324:10–325:14]. The district court further cited testimony from a Samsung engineer who testified based on his experience working with Samsung LTE products that two terminals could use the same preamble. *See* J.A. 135.

Based on the evidence provided by Samsung and highlighted by the district court that the LTE standard does not necessarily require a “dedicated preamble,” we cannot find that the district court abused its discretion. *Cf. Provisur Techs., Inc. v. Weber, Inc.*, 119 F.4th 948, 957–58 (Fed. Cir.

2024) (finding abuse of discretion in the district court’s denial of new damages trial where the damages theory was based on conclusory expert testimony which provided “no evidence” that the patented feature drove customer demand).

Though we may affirm the district court’s denial of new trial without addressing Evolved’s final argument that the district court applied the wrong infringement standard for claims directed to capability, we also find this argument unavailing. The district court determined that Evolved only presented an infringement theory that the ’679 patent claims are essential to the LTE standard, a finding which Evolved does not appeal. *See* J.A. 128; Oral Arg. at 2:56–3:02 (stating Evolved presented a standard-based infringement theory for all Samsung devices)); Appellant Reply Br. 21 (“Evolved agrees that it based infringement on the LTE standard.”).

Thus, Evolved was required to prove that “all implementations of [the LTE] standard infringe the claim” and the ’679 “patent covers every possible implementation of a standard.” *INVT SPE LLC v. Int’l Trade Comm’n*, 46 F.4th 1361, 1377 (Fed. Cir. 2022) (citation omitted). The district court’s jury instruction—to which Evolved failed to object at trial or in a post-trial motion before the district court—echoed the *INVT* rule. *See* J.A. 215 [40:2–10]; *id.* at 130. Evolved’s legal error argument is too late. *See* FED. R. CIV. P. 51; *see also Tandy Brands, Inc. v. Harper*, 760 F.2d 648, 653 (5th Cir. 1985) (determining that a party’s failure to object to a jury instruction waived a challenge to the alleged resulting error on appeal). We therefore affirm the district court’s denial of Evolved’s motion for a new trial.

B. Partial Summary Judgment

Because we affirm the district court’s denial of new trial on infringement and Evolved’s counsel conceded there is no record evidence suggesting a different infringement theory is available for Samsung’s devices with Qualcomm

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chips, we may affirm Evolved’s appeal as to those accused devices on the basis of the new trial decision. *See* Oral Arg. at 4:36–5:27; *Glaxo Grp. Ltd. v. TorPharm, Inc.*, 153 F.3d 1366, 1371 (Fed. Cir. 1998) (“[A]n appellate court may affirm a judgment of a district court on any ground the law and the record will support so long as that ground would not expand the relief granted.”). We have nonetheless considered Evolved’s license-based arguments and find them unpersuasive.

Evolved first argues that the district court erred in granting partial summary judgment, because § 15.5 of the Agreement terminates all licenses when the Agreement terminates. Appellant Br. 33–34. Evolved argues 2004 Amendment § 10.3—which the district court relied upon to determine that the Qualcomm license survived termination—by its plain language, applies only to a termination of the 2004 Amendment that does not also terminate the underlying Agreement. *Id.* at 35.

Under California law, “[i]f the contract language is clear, we give effect to its plain meaning.” *Navarro v. Mukasey*, 518 F.3d 729, 734 (9th Cir. 2008) (citing *Bank of the W. v. Superior Ct.*, 833 P.2d 545, 552 (Cal. 1992)). “Language in a contract must be construed in the context of that instrument as a whole, and in the circumstances of that case, and cannot be found to be ambiguous in the abstract.” *Cnty. of San Diego v. Ace Prop. & Cas. Ins. Co.*, 118 P.3d 607, 612 (Cal. 2005) (citation omitted) (alteration adopted).

We begin with the words of the relevant provisions. Evolved and Samsung’s dispute boils down to whether 2004 Amendment §§ 5.3 and 10.3 override the original Agreement’s § 15.5. “Under California law, the parties to a contract have the power to add, change or cancel provisions so long as the purpose and effect of the original contract are left undisturbed.” *Han v. Mobil Oil Corp.*, 73 F.3d 872, 876–77 (9th Cir. 1995) (citation omitted). “Such a

modification only supersedes those terms to which it relates.” *Id.* at 877 (citations omitted). Here, if there is a conflict between the Amendment and Agreement provisions, the Amendment provisions will supersede. *See id.*; 2004 Amendment § 12, J.A. 3006–07 (“In the event of any conflict between the terms of this Amendment and the License Agreement, the terms of this Amendment shall govern.”). In the absence of conflict, the provisions should be harmonized. *See Bravo v. RADAC Enters., Inc.*, 245 Cal. Rptr. 3d 399, 401 (Cal. Ct. App. 2019) (citation omitted).

Section 5.3 of the 2004 Amendment bars the transfer, assignment, or sale of the ’679 patent unless it remains subject to the §§ 5.1 and 5.2 covenants, i.e., the Qualcomm license. 2004 Amendment § 5.3, J.A. 3003. That requirement is for the life of the ’679 patent. *Id.* Most importantly, § 10.3 states, “Upon *any* expiration or termination of this Amendment,” certain provisions (including the entirety of § 5) remain in effect. *Id.* § 10.3, J.A. 3006 (emphasis added). Section 10.3 imposes no limit to the circumstances that cause the termination of the 2004 Amendment, and, by its plain language, includes when the Agreement and Amendment are terminated at the same time. In this aspect, the 2004 Amendment conflicts with § 15.5 of the Agreement—which terminates all licenses granted when the Agreement is terminated—and, therefore, the Amendment must supersede. Accordingly, when the Agreement terminated, as both parties agree occurred on December 31, 2018, *see* Appellant Br. 8; Appellee Br. 1, the Qualcomm license survived.

Even though § 10.3, as Evolved highlights, specifically discusses the scenario when the Amendment is terminated but the Agreement remains in force, *see* Appellant Br. 35–36, the effect of § 10.3 is not so limited. Both LG and Qualcomm, when drafting the 2004 Amendment, would have been aware that the underlying Agreement had several different termination clauses. *See, e.g.*, §§ 15.1–15.4, J.A. 2974–75. They also would have known that termination of

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the underlying Agreement would likewise terminate the 2004 Amendment. Thus, the parties could have limited the effect of § 10.3's survival clause to "any expiration or termination of this Amendment" which *does not terminate the underlying Agreement*, but they chose not to do so. 2004 Amendment § 10.3, J.A. 3006. The parties instead chose to preserve the Qualcomm covenants contained in section 5 upon "*any . . . termination*" of the 2004 Amendment. Thus, we read the broad language in § 10.3 as capturing the parties' intent that the Qualcomm license survive the Agreement's December 2018 termination.

Evolved finally contends that § 5.3 created affirmative duties for patent transfers by barring transfers unless the "patent remain[s] *subject to* the covenants granted." Appellant Br. at 41 (emphasis added). Evolved argues that because LG undisputably did not satisfy these affirmative duties—identified as the steps listed in 2010 Amendment § 17.2—upon the 2014 sale of patents to TQ Lambda, TQ Lambda "did not take the '679 patent subject to Qualcomm's license." *Id.* at 41–43. This argument is also unavailing.

We note that, though this argument was not made in *Evolved I*, if correct, it would have been dispositive in that case; despite Evolved and Samsung's dispute over the scope of the Qualcomm license, the parties and the court operated under the assumption that the license was in effect until December 2018. *See* 840 F. App'x at 590–91. Moreover, Evolved's repeated assertions, in *this* case, that the Agreement—and subsequently the Qualcomm license—terminated in 2018 directly clashes with its § 17.2-based argument that would lead to a termination of the license when the patents were sold in 2014. *See, e.g.*, Appellant Br. 1, 8, 10, 13, 27. Samsung urges us to find this argument was forfeited, as the district court did below. *See* Appellee Br. 32–36; J.A. 118.

Despite the confusion and possible waiver in this case, by the plain language of the 2004 and 2010 Amendments, this argument falls short. 2010 Amendment § 17.2 lists no consequence to a failure to “notify the proposed third party assignee . . . of the existence of the License Agreement” or failure to include “an acknowledgment” in the written agreement with the third party assignee. 2010 Amendment § 17.2, J.A. 3050. There is no express link between § 17.2 and the covenants granted six years earlier in 2004 Amendment §§ 5.1 and 5.2, and we decline to read one into the Agreement. Evolved’s attempt to read such a link into the “subject to” language in 2004 Amendment § 5.3 is speculative at best. The fact that this argument has first been raised in this litigation rather than in *Evolved I*—where, again, its acceptance by the district court or by us on appeal, would have won the case for Evolved—also suggests any link is rather flimsy. Since “we give effect to [a contract’s] plain meaning,” *Navarro*, 518 F.3d at 734, we find the TQ Lambda sale did not disturb the Qualcomm license.

We find that the Qualcomm license survived the Agreement’s termination and uphold the district court’s grant of partial summary judgment for Samsung’s devices with Qualcomm chips. See *Quanta Comput., Inc. v. LG Elecs., Inc.*, 553 U.S. 617, 638 (2008).

II. Samsung’s Cross Appeal

Finally, we review Samsung’s cross appeal. Samsung argues that no reasonable jury could have found written description support for the claim limitation “the received preamble information is . . . a dedicated preamble.” Appellee Br. 53–57. Samsung contends that certain testimony from Mr. Jones amounted to an “admi[ssion]” that the claimed requirement lacks written description. *Id.* at 54 (citing J.A. 3815–16 [306:17–307:9]). Samsung further argues that the asserted claims of the ’679 patent are invalid due to a lack of written description for “index of the dedi-

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cated preamble,” because the specification citations highlighted by Evolved’s expert describe prior art rather than this claim limitation. *Id.* at 59–60.

The written description requirement is satisfied “only if the inventor conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention, and demonstrates that by disclosure in the specification of the patent.” *Nuvo Pharms. (Ireland) Designated Activity Co. v. Dr. Reddy’s Lab’s Inc.*, 923 F.3d 1368, 1376 (Fed. Cir. 2019) (cleaned up) (citation omitted). Because the lack of written description must be proved by clear and convincing evidence, Samsung’s “burden on appeal is doubly high,” as it “must show that no reasonable jury could have failed to conclude that [Samsung’s] case had been established by clear and convincing evidence.” *Duke Univ. v. Sandoz Inc.*, 160 F.4th 1305, 1310 (Fed. Cir. 2025) (citations omitted).

The court denied Samsung’s motion for JMOL, noting Samsung had the burden to prove by clear and convincing evidence that either claim term lacked written description. *JMOL Decision*, 2024 WL 3447914, at *1. The district court determined Samsung failed to rebut testimony from Evolved’s invalidity expert which provided written description support for both terms. *Id.* at *5–6, *8–9. We agree.

Dr. Laneman testified that the ’373 parent patent’s discussion of “information of the signature and the preamble” provided written description support for both terms in the ’679 patent. *Id.* at *5, *8. Samsung does not contest this testimony but merely attempts to recharacterize a cross-examination response into an “admission[]” that the ’679 patent lacks written description. As the district court noted, read in context, Mr. Jones’s response is not a clear admission, and the jury was entitled to weigh the testimony. *See id.* at *5–6; *see also* J.A. 3815–17 [306:12–308:25].

Furthermore, Samsung’s argument that Dr. Laneman’s reference to disclosures describing prior art as providing written description support for the “index of the dedicated preamble” fails. As the district court noted, Dr. Laneman referred to disclosures describing “index[es]” utilized by prior art to demonstrate a skilled artisan would be well aware of representing a large value, e.g., a preamble, as an index. *See JMOL Decision*, 2024 WL 3447914, at *8. This usage is in accord with our precedent. *See, e.g., Bos. Sci. Corp. v. Johnson & Johnson*, 647 F.3d 1353, 1366 (Fed. Cir. 2011) (“[I]n some circumstances, a patentee may rely on information that is ‘well-known in the art’ for purposes of meeting the written description requirement.”) (citation omitted). Substantial evidence supports the jury’s fact finding, and we agree the district court’s denial of JMOL was appropriate.

CONCLUSION

We have reviewed Evolved’s and Samsung’s remaining arguments and find them unpersuasive. For the foregoing reasons, we affirm the district court’s grant of partial summary judgment, denial of Evolved’s motion for new infringement trial, and denial of Samsung’s JMOL of invalidity.

AFFIRMED

COSTS

No costs.