

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNWIRED PLANET, LLC,
Plaintiff,

v.

APPLE INC,
Defendant.

Case No. 13-cv-04134-VC

**ORDER DENYING MOTION FOR
ATTORNEY FEES**

Re: Dkt. No. 442

Apple's motion for attorney fees under 35 U.S.C. § 285 is denied. Apple contends this case should be deemed exceptional based on Unwired Planet's litigation conduct and its claim construction and infringement positions. But far from being a case "that stands out from others," *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. ----, 134 S.Ct. 1749, 1756 (2014), Unwired Planet, much like Apple, engaged in the type of litigation conduct that has come to be expected in a hard-fought patent infringement case, and although Unwired Planet did not prevail in its infringement case, none of its positions was especially weak from an objective standpoint. To the contrary, for each patent, Unwired Planet put forth claim construction and infringement theories that were within the range of reasonableness (although in some cases an admittedly wide range of reasonableness). Accordingly, considering the totality of the circumstances, this case is not exceptional, and Apple's motion for attorney fees is denied.

IT IS SO ORDERED.

Dated: August 28, 2015



VINCE CHHABRIA
United States District Judge