

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TQ DELTA LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 14-954-RGA
	:	Consolidated
ADTRAN, INC.,	:	
	:	
Defendant.	:	

ORDER ON MOTION TO RECONSIDER

Adtran moves to reconsider an opinion denying its summary judgment that the asserted claims of two of the Family 4 patents were obvious on the basis of Jones. (D.I. 1136). TQ Delta replies. (D.I. 1168).

Usually, there are three possible grounds for reconsideration: new evidence, an intervening change in the controlling law, or a clear error of fact or law by the court. Adtran asserts that the third of these applies. Essentially, the clear error is supposed to be that there were only two ways for a number generator to generate numbers – pseudo-randomly and by periodic sequence. Defendant says it made this argument in its opening brief. (*See* D.I. 967 at 8-9). I have looked at the cited opening brief. I do not think it makes this argument.¹ Thus, I decline to reconsider my earlier decision.

¹ The entire obviousness argument relating to the reference Jones is one page. (D.I. 967 at 8-9). In a twenty-page brief, Defendant made an anticipation argument based on Stopler, an obviousness argument based on Hwang and Hayashino, an obviousness argument based on Shively and Hayashino, and a combined anticipation/obviousness argument based on Jones. If Jones is the winning argument that Defendant now says it is, Defendant might have considered spending the full brief (or at least more of the brief) on that argument and developing the argument so that I could see its purported merits. But as it was, Defendant made an anticipation argument based on Jones with an underdeveloped obviousness argument as an afterthought.

The motion to reconsider (D.I. 1136) is **DENIED**.

IT IS SO ORDERED this 10th day of December 2020.

/s/ Richard G. Andrews
United States District Judge