IN THE SUPERIOR OF THE STATE OF DELAWARE

LG ELECTRONICS INC., Plaintiffs, **v.** **INVENTION INVESTMENT FUND I, L.P., INVENTION INVESTMENT FUND II, LLC, INTELLECTUAL VENTURES I LLC, and INTELLECTUAL VENTURES II LLC,** Defendants.	)))))))))))))	**C.A. No. N22C-11-145 SKR CCLD** **REDACTED PUBLIC VERSION**

Submitted: March 20, 2025
Decided: May 15, 2025

Upon Plaintiff's Post-Trial Motion for Costs and Fees
GRANTED in part, DENIED in part.

MEMORANDUM OPINION

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RENNIE, J

I. INTRODUCTION

After a week-long trial, the jury found for Plaintiff LG Electronics Inc. ("LG"), on its claim that Defendants Invention Investment Fund I, L.P., Invention Investment Fund II, L.L.C., Intellectual Ventures I LLC, and Intellectual Ventures II LLC (collectively "IV"), breached the parties' 2019 patent license agreement (the "License Agreement").[1] The jury concluded that IV violated the License Agreement's release of LG's customers by suing Toyota and GM, two LG customers, for patent infringement based on their use of LG's telematics units (the "Patent Suits").[2]

As the prevailing party, LG filed a Motion for "an award of (1) costs incurred in prosecuting this case; (2) prejudgment and post-judgment interest on the damages awarded; and (3) attorneys' fees," (the "Motion").[3] IV argues the License

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[1] Transcript of Jury Trial Proceedings (hereafter "T.") at 1558:10-18.

[2] *See id.* at T.0995:3-T.1017:22 (LG's closing argument, articulating its theory of the case which the jury necessarily accepted in rendering its verdict); T.1158:10-18 (jury finding for LG); Plaintiff LG Electronics Inc.'s Opening Post-Trial Brief (hereafter "LG Mot."), Ex. 14 (hereafter "License Agreement") [redacted] (D.I. 427) (stating the License Agreement [redacted]

[3] LG Mot. at 1. IV suggests that LG may not be a "prevailing party" because it "lost two-thirds of its claims[.]" Defendants' Brief in Opposition to Plaintiff's Post-Trial Motion (hereafter "LG Mot. Opp'n") at 24 (D.I. 448). That argument, however, is contradicted by caselaw. The Supreme Court of Delaware "has defined 'prevailing party' as 'a party for whom final judgment has been entered in a civil action.'" *Cooke v. Murphy*, 2013 WL 6916941, at *3 (Del. Super. Nov. 26, 2013) (quoting *Graham v. Keene,* 616 A.2d 827, 828 (Del. 1991)). Delaware courts have rejected the argument that because a party lost some of its claims it should only receive "prorated . . . costs." *E.g., Adams v. Calvarese Farms Maint. Corp.*, 2011 WL 383862, at *5 (Del. Ch. Jan. 13, 2011). Therefore, LG is the prevailing party, and its recoverable costs and fees will not be reduced because it did not win every claim it originally asserted.

Agreement precludes LG from recovering any costs or fees.[4] If the License Agreement permits recovery of costs and fees, IV maintains that LG still cannot recover attorneys' fees.[5] Moreover, IV disputes specific aspects of LG's claimed costs and interest.[6] For the reasons discussed below, the Court **GRANTS** in part, **DENIES** in part, LG's motion.

II. DISCUSSION

LG requests its litigation costs, attorneys' fees, and pre- and post-judgment interest.[7] IV contends the License Agreement's [redacted] bars the award of any costs, fees, or interest. If the License Agreement allows LG to recover costs, fees, and interest, IV advances specific arguments in opposition to each of LG's claimed damage enhancements. The Court addresses each dispute in turn.

A. [redacted] of the License Agreement Bars LG's Recovery of Costs, but Not Interest.

IV's overarching argument is that [redacted] of the License Agreement precludes LG from recovering any litigation costs, interest, or attorneys' fees.[8] [redacted] provides:

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[4] LG Mot. Opp'n at 6-8, 24-25, 30.
[5] *Id.* at 6-24.
[6] *Id.* at 24-34.
[7] LG Mot. at 1-35.
[8] LG Mot. Opp'n at 6-8, 24-25, 30. [redacted]'s impact on LG's request for attorneys' fees is a close call. IV relies on the recent *Surf's Up* decision to argue that the License Agreement's [redacted] precludes LG from recovering any attorneys' fees. LG Mot. Opp'n at 7-9 (citing *Surf's Up Legacy Partners, LLC v. Virgin Fest, LLC*, 2024 WL 1596021, at *28 (Del. Super. Apr. 12, 2024). Yet, *Surf's Up* is inapposite, because the plaintiff there sought attorneys' fees based on the contractual provision containing the applicable damage cap. *Surf's Up*, 2024 WL 1596021, at *28

[redacted]

IV asserts that this language precludes awarding LG's requested costs and fees for two reasons: (1) LG's recoverable damages [redacted]; and (2) any costs or fees constitute waived indirect damages.[10]

(noting the plaintiff "request[ed] [] attorney's fees under the APA."). LG bases its attorneys' fee claim on IV's alleged bad faith, not the License Agreement. *See* LG Mot. at 13-25. Therefore, the License Agreement's [redacted] does not preclude LG from recovering attorneys' fees. *See Cantor Fitzgerald, L.P. v. Cantor*, 2001 WL 536911, at *4-5 (Del. Ch. May 11, 2001) (awarding attorneys' fees for "bad faith" and "egregious" behavior, "despite a contractual provision purporting to" bar such fees). Yet, that does not end the inquiry, because IV also insists attorneys' fees are nonrecoverable consequential damages. LG Mot. Opp'n at 8-9. Attorneys' fees are typically considered consequential damages. *See Kramer v. American Pacific Corp.*, 1998 WL 442766, at *2 (Del. Super. July 28, 1998) ("[a]ttorneys' fees have been included in the category of special or consequential damages." (citing *Isti Delaware, Inc. v. Townsend*, 1993 WL 189467, at *6 (Del. Super. Mar. 31, 1993))). LG, however, raises several arguments as to why [redacted] does not bar attorneys' fees. LG Mot. Reply at 10-11. The Court need not address each of these arguments, however, because LG has not shown that IV litigated in bad faith such that LG can recover attorneys' fees. *See infra* II.C.

[9] License Agreement [redacted].

[10] LG Mot. Opp'n at 6-8, 24-25, 30. The Court notes that the parties dispute the size of the applicable [redacted]. *Compare* Defendants' Motion to Apply Contractual [redacted] (D.I. 426), *with* Plaintiff LG Electronics Inc.'s Answering Brief in Opposition to Defendants' Motion to Apply Contractual [redacted] (D.I. 444). The Court need not address that dispute to resolve LG's motion, because regardless of the applicable [redacted] *See* T.1560:6-9 (awarding LG [redacted] in damages); Defendants' Motion to Apply Contractual [redacted] (D.I. 426) (claiming the License Agreement [redacted]); Plaintiff LG Electronics Inc.'s Answering Brief in Opposition to Defendants' Motion to Apply Contractual [redacted] (D.I. 444) (arguing the License Agreement [redacted]).

Regarding LG's claimed costs, a non-prevailing party "must pay ordinary court costs and fees which are beyond the [contractual] limits of liability."[11] IV does not meaningfully dispute that fact.[12] Rather, IV contends that LG's requested costs are [redacted]

Delaware caselaw provides that "'[c]osts are allowances in the nature of incidental damages awarded by law to reimburse the prevailing party for expenses necessarily incurred in the assertion of [its] rights in court.'"[13] While LG asserts that courts equating costs and incidental damages rely on "the same inapplicable dictum from a 1939 case," it provides no contrary authority.[14] Nor does LG address the fact that multiple courts have recently reaffirmed that classification.[15] Accordingly, caselaw suggests litigation costs are incidental damages. This comports with the definition of incidental damages – those damages "which are reasonably foreseeable, but which do not result directly from the act of a party; *rather from the consequences of the*

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[11] *State Farm Mut. Auto. Ins. Co. v. Enrique*, 2011 WL 1004604, at *2 (Del. 2011); *see* LG Mot. Reply at 1-2.

[12] *See* LG Mot. Opp'n at 5-6, 24-25.

[13] *Donovan v. Delaware Water and Air Resources Commission*, 358 A.2d 717, 723 (Del. 1976) (quoting *Peyton v. William C. Peyton Corporation*, 8 A.2d 89, 91 (Del. 1939)).

[14] LG Mot. Reply at 1-2.

[15] *See, e.g.*, *In re Bracket Holding Corp. Litigation*, 2020 WL 764148, at *11 (Del. Super. Feb. 7, 2020); *Harrison v. Dixon*, 2015 WL 757819, at *5 (Del. Ch. Feb. 20, 2015); *Dewey Beach Lions Club v. Longacre*, 2006 WL 2987052, at *1 (Del. Ch. Oct. 11, 2006) (citing *Comrie v. Enterasys Networks, Inc.,* 2004 WL 936505, at *4 (Del. Ch. Apr. 27, 2004)).

act."[16] Accordingly, LG's requested litigation costs are incidental damages precluded by [redacted].

Regarding LG's request for pre- and post-judgment interest, IV does not argue that the License Agreement's incidental damage disclaimer applies.[17] Rather, IV contends that any interest award would exceed the contractual [redacted].[18] While IV relies on cases that generally analogize interest to "damages,"[19] it cites no case where a court declined to award interest based on a contractual [redacted]. Recent Supreme Court of Delaware precedent held, "[a]s a litigation cost, prejudgment interest does not constitute an element of damages controlled by the [contractual] coverage limit[.]"[20] IV's attempt to cabin that holding to the insurance context is unavailing. IV provides no policy rational or textual basis justifying such a distinction.[21] IV also does not discuss cases that applied the Supreme Court of Delaware's reasoning outside the insurance context.[22] Hence, [redacted] does not preclude the Court from awarding LG pre- or post-judgment interest.

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[16] *Murphy Marine Services of Delaware, Inc. v. GT USA Wilmington, LLC*, 2022 WL 4296495, at *16 (Del. Ch. Sept. 19, 2022) (emphasis added).
[17] *See* LG Mot. Opp'n at 30-31.
[18] *Id.*
[19] *See Ripsom v. Beaver Blacktop, Inc.*, 1988 WL 32071, at *21 (Del. Super. Apr. 6, 1988) ("allowance of interest is in the nature of damages"); *Chris Episcopo Const. Co., Inc. v. Int'l Ins. Underwriters, Inc.*, 1994 WL 555381, at *3 (Del. Super. Aug. 31, 1994).
[20] *Enrique*, 2011 WL 1004604, at *2.
[21] *See* LG Mot. Opp'n at 30-31.
[22] *See Noramco LLC v. Dishman USA, Inc.*, 2023 WL 1765566, at *6-7 (D. Del. Feb. 3, 2023) (applying *Enrique*), *vacated-in-part on other grounds*, 2024 WL 3423711 (3d Cir. July 16, 2024).

[redacted] plain text precludes LG from recovering litigation costs, but not pre- or post-judgment interest. Accordingly, the Court **DENIES** LG's Motion as it relates to costs.

B. LG Can Recover Post-Judgment Interest, but Pre-Judgment Interest Would be an Impermissible Windfall.

Having found the License Agreement permits LG's claim for pre- and post-judgment interest, the Court now evaluates the parties' substantive arguments concerning interest.

LG requests "prejudgment interest in the amount of [redacted] through November 2024 and [redacted] per day through entry of judgment."[23] To support this figure, LG asserts prejudgment interest "began to accrue on October 19, 2021, when IV breached the License Agreement by filing" the Patent Suits.[24] LG's requested prejudgment interest is based on a "fluctuating interest rate," which more accurately compensates it for the loss of funds.[25] Moreover, LG seeks "compound interest . . .

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[23] LG Mot. at 6-11 (citing *Citadel Holdings Corp. v. Roven*, 603 A.2d 818, 826 (Del. 1992)). That calculation assumes the License Agreement [redacted]. *Id.* As discussed, IV disputes that figure and maintains the proper [redacted]. *Compare* Defendants' Motion to Apply Contractual [redacted] (D.I. 426), *with* Plaintiff LG Electronics Inc.'s Answering Brief in Opposition to Defendants' Motion to Apply Contractual [redacted] (D.I. 444). The Court resolves the parties' [redacted] dispute in a separate opinion. Should the Court conclude IV's asserted [redacted] is correct, LG's recoverable interest, if any, will need to be recalculated consistent with this opinion.

[24] *Id.* at 7 (citing T.0130:6-14; LG Post-Trial Br., Exs. 42, 45; *Rexnord Indus. LLC v. RHI Holdings, Inc.*, 2009 WL 377180 (Del. Super. Feb. 13, 2009)).

[25] *Id.* at 7-8. Because "the Federal Reserve's discount rate fluctuated between 0.25% and 5.50% during the period from October 2021 to November 2024 . . . [the court] should use the fluctuating statutory rates between 5.25%[] and 10.50%[.]" *Id.* at 8 (citing LG Post-Trial Br., Ex. 10).

[because] the evidence showed IV unnecessarily prolonged this dispute[.]"[26] At a minimum, LG requests simple interest.[27]

IV argues prejudgment interest is inappropriate because "LG was not deprived of any money."[28] Therefore, IV insists that any prejudgment interest would be an impermissible windfall.[29] IV also disputes LG's position that interest should be calculated starting when the Patent Suits were filed.[30] Rather, IV contends interest should start to accrue when LG filed this suit or "when IV actually received payments from GM and Toyota[.]"[31] Additionally, IV argues compound interest is inappropriate, because it did not litigate in "bad faith."[32]

The Court first addresses IV's arguments that pre-judgment interest would be a windfall for LG. In Delaware, "prejudgment interest is awarded as a matter of right."[33] Prejudgment interest serves two distinct purposes: (1) "it compensates the

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[26] *Id.* at 8-10.
[27] *Id.* at 11 (citing LG Post-Trial Br., Ex. 10 ¶¶ 3-6). In its reply brief, LG notes that IV does not dispute "LG's alternative simple interest calculation at an average 8.85% rate." LG Mot. Reply at 9. Accordingly, if LG is entitled to interest, but the Court rejects LG's other arguments, it will award simple interest at 8.85%.
[28] LG Mot. Opp'n at 31-32 (citing *O'Riley v. Rogers*, 2013 WL 4773076, at *1 (Del. Super. Sept. 4, 2013) (stating the purpose of prejudgment interest is to "compensate the plaintiff for additional losses resulting from being deprived of the use of the money during the period between injury and payment.")). IV notes it is undisputed that [redacted]." *Id.* at 32 (citing T.0217:21-22).
[29] *Id.*
[30] *Id.* at 32-33.
[31] *Id.* (citing *Ripsom*, 1988 WL 32071, at *21; *Schneider's National Carrier's, Inc. v. Kuntz*, 2022 WL 1222738, at *2 (Del. Super. Apr. 25, 2022)).
[32] *Id.* at 33-34.
[33] *Citadel*, 603 A.2d at 826.

plaintiff for the loss of the use of his or her money; and [(2)] it forces the defendant to relinquish any benefit that it [] received by retaining plaintiff's money in the interim."[34]

While [redacted] is an "injury in fact,"[35] because [redacted] Given LG's contractual arrangement with Toyota and GM, [redacted].

The sparse caselaw indicates that prejudgment interest is inappropriate when the prevailing party "has not been deprived of any funds."[36] Additionally, "court[s] [] avoid awarding excessive interest because doing so 'would constitute an inequitable windfall.'"[37] While LG's request is defensible,[38] in a close call, the Court declines to exercise its discretion to award LG prejudgment interest.[39] The Court concludes

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[34] *Brandywine Smyrna, Inc. v. Millenium Builders, LLC*, 34 A.3d 482, 486 (Del. 2011).

[35] *Connorex-Lucinda, LLC v. REX RES Holdings, LLC*, 2022 WL 17543209, at *5 (Del. Super. Nov. 29, 2022)

[36] *Fleet Financial Group, Inc. v. Advanta Corp.*, 2003 WL 22707336, at *5 (Del. Ch. Nov. 7, 2003) ("[c]ontrary to its argument, Advanta has not been deprived of any funds. Courts award prejudgment interest in order to compensate parties for their lost opportunity cost. Here, there is no lost opportunity cost for Advanta. The only loss Advanta will encounter is the spread between the amount of interest it must pay under the Interest on the Entire Claim Rule versus the Interest on Balance Rule. This is not the type of loss . . . prejudgment interest is designed to remedy.").

[37] *Levey v. Brownstone Asset Management, LP*, 2014 WL 4290192, at *1 (Del. Ch. Aug. 29, 2014) (quoting *Gentile v. Rossette*, 2010 WL 3582453, at *1 (Del. Ch. Sept.10, 2010)).

[38] LG's request for prejudgment interest is not unreasonable given that prejudgment interest is a "right" and the second public policy rational for awarding such interest exists even if the prevailing party was not deprived of money. *See Brandywine*, 34 A.3d at 486.

[39] *See Summa Corp. v. Trans World Airlines, Inc.*, 540 A.2d 403, 409 (Del. 1988) (holding courts have broad discretion to award prejudgment interest).

that pre-judgment interest would be a windfall, given [redacted].[40] Because the Court concludes that LG is not entitled to prejudgment interest, it need to address the parties' disputes concerning pre-judgment interest calculation. LG's Motion is **DENIED** regarding pre-judgment interest.

Turning to post-judgment interest, IV does not specifically challenge that LG is entitled to such interest under 6 *Del. C.* § 2301(a).[41] Under Delaware law, "[p]ost-[j]udgment [i]nterest is a right belonging to the prevailing plaintiff and is not dependent upon the trial court's discretion."[42] Post-judgment interest "begins to accrue when the judgment is entered as final[,]"[43] and accrues at the legal rate – i.e. 5% above the federal discount rate.[44] Accordingly, the Court **GRANTS** LG's Motion regarding post-judgment interest and awards LG interest of 8.85%[45] from the date the final judgment was entered.

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[40] T.0217:21-22 (LG's corporate witness admitting [redacted]).
[41] LG Post-Trial Br. at 11-12; 6 Del. C. § 2301(a) (imposing "post-judgment interest of 5% over the Federal Reserve discount rate.").
[42] *Wilmington Country Club v. Cowee*, 747 A.2d 1087, 1097 (Del. 2000).
[43] *Id.*
[44] *Noranda Aluminum Holding Corp. v. XL Insurance America, Inc.*, 269 A.3d 974, 978 (Del. 2021). Additionally, the Supreme Court of Delaware recently held "that prejudgment interest is part of the judgment upon which post-judgment interest accrues under Section 2301(a)." *NGL Energy Partners LP v. LCT Capital, LLC*, 319 A.3d 335, 345 (Del. 2024). Therefore, if the Court awards prejudgment interest, post-judgment interest will also accrue on that award.
[45] The Court awards interest at 8.85%, because that is the uncontested legal rate. *See Rexnord*, 2009 WL 377180, at *21 (noting the baseline for judgment interest is the "legal rate"); 6 *Del. C.* § 2301(a) (providing the legal rate is 5% above the Federal Reserve discount rate); LG Mot. Reply at 9 (noting IV does not dispute "LG's alternative simple interest calculation at an average 8.85% rate.").

C. LG is Not Entitled to Attorneys' Fees, because IV Did Not Litigate in Bad Faith.

LG argues it should recover attorneys' fees based on IV's alleged bad faith before and during this litigation.[46] Under well-settled precedent, "litigants in Delaware are generally responsible for paying their own counsel fees, absent" specific exceptions.[47] The "bad faith" exception provides that "[a]ttorneys' fees are appropriate only where the losing party has acted vexatiously, wantonly, or for oppressive reasons."[48] The inquiry is whether the non-prevailing party "acted in 'subjective bad faith.'"[49] Courts apply the bad faith exception "only in 'extraordinary cases.'"[50] Therefore, the party seeking attorneys' fees "bears the

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Regarding LG's request for compound interest, "Delaware court have traditionally disfavored compound interest." *Gotham Partners, L.P. v. Hallwood Realty Partners, L.P.*, 817 A.2d 160, 173 (Del. 2002). While the Court of chancery has discretion to award compound interest, this Court typically does not award compound interest absent "bad faith." *See Brown v. Court Square Capital Management, L.P.*, 2024 WL 1655418, at *3-4 (interpreting Delaware law as providing that "the Court of Chancery can award compound interest, but the Superior Court cannot," and that compound interest is appropriate when "simply interest [is] manifestly unfair[.]"); *Fortis Advisors, LLC v. Dematic Corp.*, 2023 WL 2967781, at *2 (Del. Super. Apr. 13, 2023) (awarding compound interest because of bad faith); *Balooshi v. GVP Global Corp.*, 2022 WL 576819, at *14 (Del. Super. Feb. 25, 2022) (declining to award compound interest because of a lack of bad faith). As discussed, LG has not shown that IV litigated in bad faith. *Supra* n.51. Accordingly, even if the Court has discretion to award compound interest, it declines to do so here because of the lack of evidence regarding IV's alleged bad faith. *See infra* II.C.

[46] LG Mot. at 13-25.

[47] *Scion Breckenridge Managing Member, LLV v. ASB Allegiance Real Estate Fund*, 68 A.3d 665, 686 (Del. 2013) (quoting *Burge v. Fidelity Bond & Mortg. Co.,* 648 A.2d 414, 421 (Del. 1994)).

[48] *Newport Disc, Inc. v. Newport Electronics, Inc.*, 2013 WL 5797350, at *9 (Del. Super. Oct. 7, 2013) (internal quotes omitted).

[49] *In re Bracket*, 2020 WL 764148, at *17 (quoting *Arbitrium (Cayman Islands) Handels AG v. Johnston,* 705 A.2d 225, 232 (Del. Ch. 1997)).

[50] *Lawson v. State,* 91 A.3d 544, 552 (Del. 2014) (quoting *Dover Historical Soc'y, Inc. v. City of Dover Planning Comm'n,* 902 A.2d 1084, 1093 (Del. 2006)).

stringent evidentiary burden of producing clear evidence of bad-faith conduct."[51] Courts award attorneys' fees "where parties have unnecessarily prolonged or delayed litigation, falsified records, or knowingly asserted frivolous claims."[52] Notably, however, "if there is a colorable basis for a claim, the award of attorneys' fees and costs is unwarranted.'"[53]

Based on that standard, LG has not shown it is entitled to attorneys' fees. LG asserts that IV "repeatedly made claims without any evidentiary basis and took actions designed to delay and obstruct this case."[54] Specifically, LG asserts that IV engaged in pre-litigation bad faith by: (1) asserting the "unreasonable" [redacted] argument"; (2) focusing on "discovery disputes" rather than "litigating the merits"; (3) attempting "to transform this straightforward breach-of-contract case into a full blown patent litigation"; and (4) ignoring "evidence from LG, GM, and Toyota" regarding LG's damages.[55] Additionally, LG maintains "IV's bad faith

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[51] *Beck v. Atl. Coast PLC,* 868 A.2d 840, 851 (Del. Ch. 2005).

[52] *Kuratle Contracting, Inc. v. Linden Green Condo., Ass'n,* 2014 WL 5391291, at *8, *12 (Del. Super. Ct. Oct. 22, 2014).

[53] *In re Bracket*, 2020 WL 764148, at *17 (quoting *Kuratle,* 2014 WL 5391291, at *11); *see Affordable Autos, Inc. v. Dietert*, 2016 WL 1169244 (Del. Super. Mar. 24, 2016) ("[i]f a plaintiff could argue that it should be awarded attorney's fees merely because the defendant's actions or inactions prompted plaintiff to file the suit . . . every plaintiff would be successful in its claim for attorney's fees.").

[54] LG Mot. at 25-35 (citing *Montgomery Cellular Holdings Co., Inc. v. Dobler*, 880 A.2d 206, 227-28 (Del. 2005) (holding Delaware courts have awarded fees for bad faith litigation where "the defendants had: (i) defended the action despite their knowledge that they had no valid defense, (ii) delayed the litigation and asserted frivolous motions, [sic] (iii) falsified evidence, and (iv) changed their testimony to suit their needs.").

[55] *Id.* at 26-29.

continued at trial" by: (1) "injecting new theories on the eve of trial"; (2) attempting "to introduce inadmissible hearsay"; (3) "advancing a "baseless combination products theory"; and (4) arguing "a lack of causation precluded LG's recovery of any damages."[56]

Yet, IV had a plausible basis, supported by evidence, for each of the arguments it raised throughout the course of this litigation.[57] That IV vigorously litigated its case, modified its position based on the evidence produced in discovery, and adapted its arguments to comply with the Court's rulings, does not evidence bad faith.[58] IV did not act contrary to "an uncontroverted legal right," "substantial legal authority, the advice of its own independent counsel [or] a judicial declaration."[59] This was a litigation dispute "between two sophisticated parties . . . [that did] not rise to the extraordinary level that would be necessary to impose attorneys' fees based on bad faith[,]" and hence, LG is not entitled to attorneys' fees.[60] Therefore, the Court **DENIES** LG's Motion regarding attorneys' fees.

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[56] *Id.* at 32-35.

[57] *See* LG Mot. Opp'n at 9-24 and sources cited therein.

[58] *See Baltimore Pile Driving and Marine Construction, Inc. v. Wu & Associates, Inc.*, 2022 WL 3466066, at *3-4 (Del. Super. Aug. 18, 2022) (finding a party changing positions throughout the litigation did not evidence bad faith where the party have a reasonable basis to make its arguments); *In re Bracket*, 2020 WL 764148, at *17.

[59] *Black v. Staffieri*, 2014 WL 814122, at *3-4 (Del. 2014); *Judge v. City of Rehoboth Beach*, 1994 WL 198700, at *5 (Del. Ch. Apr. 29, 1994).

[60] *In re Bracket*, 2020 WL 764148, at *17.

III. CONCLUSION

For the foregoing reasons, LG's Motion is **GRANTED** in part, **DENIED** in part. The parties are instructed to draft an order consistent with this ruling and the Court's subsequent ruling on the applicable contractual [redacted].

IT IS SO ORDERED THIS 15th DAY OF MAY 2025.

Sheldon K. Rennie, Judge