UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ERICSSON INC.

Petitioner

v.

KONINKLIJKE KPN N.V.

Patent Owner

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Case IPR2023-00524

U.S. Patent 9,372,098

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PATENT OWNER'S AUTHORIZED BRIEF ADDRESSING PETITIONER'S PROPOSED CLAIM CONSTRUCTIONS IN THE PARALLEL LITIGATION

Pursuant to the Board's email authorization of July 10, 2023, Patent Owner (1) files as Exhibits 2022–2024 the parties' proposed claim constructions from the parallel litigation involving the '098 Patent and (2) explains how Petitioner's proposed constructions "support or contradict a party's proposed claim construction in the proceeding at issue." Consolidated Trial Practice Guide, 48 (Nov. 2019).

The Petition does not expressly construe the term "non-signalling application data." The Petition instead argues that "Krco's secondary data … is 'non-signalling' data ***because it is data about the M2M sensors, not signals***." Pet., 37. Thus, according to Petitioner, whether data qualifies as "non-signalling" turns exclusively on whether the data is "about signals." Based on this implicit construction, Petitioner argued that the "secondary data" of Krco is "non-signalling" because it is not "about a signal"—it is instead "about a device" (e.g., device properties of the M2M sensor).

Patent Owner's Preliminary Response (Paper 6, "POPR") proves Petitioner is wrong. Whether data is "***non***-signalling" does not turn on whether the data is "about a signal"; it instead turns on whether the data is "concerned with the establishment and control of connections, and with management, in a telecommunications network." POPR, 6 (citing Ex. 2003, 25) (evidencing the established meaning of "signalling")). Thus, any data—whether "about a signal" and/or "about a device"—qualifies as "signalling data" if it meets that definition. *Id.* The POPR further explains that even though Krco's secondary data is "about a device," it is still

"signalling data" as it is used to establish, control, and manage the connection of the M2M device in the network. *Id.* at 6-12. Krco even refers to its "secondary data" as "**signalling** information." *Id.* at 10 (citing Ex. 1009, 3:14-16, 6:57-60). As Krco's "secondary data" is "signalling data," it is by definition not "***non***-signalling data."

On June 20—after the POPR was filed—Petitioner proposed its express construction for "non-signalling application data" in the litigation: "Data that is neither associated with a particular subscriber's connection nor used for setting up, maintaining or ending connections." Ex. 2022, 14. This express proposal clearly is different from, and contradicts, Ericsson's implicit construction in these proceedings as it does not necessarily preclude "data about a device" from being "signalling data." For example, "mobile identity" and "location area identification" is data "about a device" that is included in a Location Update Request and used to establish and manage the subscriber's connection with the network. POPR, 7-8 (citing Ex. 1009, 5:1-12). Such data is thus "associated with a subscriber's connection" and used to "setup" or "maintain" connections, making it "signaling data" even under Petitioner's express construction. Regardless, this contradictory construction should be rejected for the established meaning of "signalling data" in the art. *Id.* at 6.

On June 30, Petitioner further amended its litigation construction to also state that "Information about signals ***and about devices*** does not constitute non-signalling application data," which broadly excludes ***all*** data "about signals" and "about

devices" from the scope of "non-signalling data." Ex. 2023, 15. This new requirement flatly contradicts Petitioner's position that Krco's "secondary data" is "non-signalling application data." Irrespective, this categorical exclusion of *all* information "about signals" and "about devices" from "***non***-signalling application data" is wrong and unfounded. It improperly excludes data "about signals" or "about devices" *even if* said data is ***not*** used to establish, control, or manage connections.

Further, Petitioner apparently bases this requirement solely on a statement in the POPR addressing prosecution. POPR, 15. But that statement merely explains that the patentee argued during prosecution that an International Mobile Security Identity (i.e., "information about a device") and Temporary Logical Link Identity (i.e., "information about a signal") did not constitute "non-signalling application data," which is entirely consistent with Patent Owner's position that data "about a device" can be "signalling data" ***so long as*** it is used to establish, manage, and control a connection in a telecommunication network. In short, Patent Owner pointed to a specific example during prosecution where the patentee considered data "about a device" to ***be*** signalling data, undercutting Petitioner's implicit claim construction theory that signalling data must be "about a signal." Patent Owner clearly did not argue, either in the POPR or during prosecution, that ***all*** information about signals and devices is excluded from being "non-signalling application data." This contradictory new requirement thus lacks any merit.

Dated: July 17, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e)(4), the undersigned certifies that on June 16, 2023, a copy of the foregoing document and all referenced exhibits, was served via electronic mail on the following attorneys of record at the indicated e-mail address(es):

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