UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

KONINKLIJKE KPN N.V., Plaintiff, vs. TELEFONAKTIEBOLAGET LM ERICSSON and ERICSSON INC., Defendants.	Case No. 2:22-cv-282-JRG JURY TRIAL DEMANDED

ERICSSON'S 4-2 PRELIMINARY CLAIM CONSTRUCTIONS AND EXTRINSIC EVIDENCE

Pursuant to Patent Rule 4-2 and the Court's Docket Control Order (Dkt. 101), Defendants Ericsson Inc. and Telefonaktiebolaget LM Ericsson ("Ericsson") respectfully submit their Preliminary Proposed Claim Constructions and Extrinsic Evidence for the claim terms, phrases, or clauses contained in the asserted patents that the parties identified on May 30, 2023, for claim construction purposes pursuant to Patent Rule 4-1.

Ericsson base these constructions upon their current knowledge, understanding, and belief as to the facts and information available as of this date. Ericsson reserve the right to further amend these preliminary proposed claim constructions as the parties proceed with discovery and work toward the preparation of a final Joint Claim Construction Statement. In particular, Ericsson reserve the right to modify or supplement these P.R. 4-2 disclosures to facilitate agreement with KPN, to avoid duplication of terms or phrases, to reflect newly-received information, or in response to any changes in KPN's P.R. 3-1 and P.R. 3-2 disclosures. To the extent necessary to clarify the issues for the Court or otherwise avoid ambiguity or confusion, Ericsson reserve the right to address a word or phrase separately

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from the terms listed below, if addressing that word or phrase separately will assist in the resolution of the parties' disputes.

Ericsson also reserve their right to revise and include new proposals regarding claim terms in view of KPN's recently filed preliminary patent owner responses. KPN filed these responses late last week, over the Juneteenth holiday weekend and on the afternoon of the 4-2 exchange. Ericsson also reserve their right to revise their proposals regarding claim terms in view of KPN's proposals and as discovery proceeds. Ericsson specifically reserve the right to modify or supplement their preliminary proposed constructions once they have had an opportunity to review KPN's preliminary proposed constructions. Ericsson further reserve the right to rely on extrinsic evidence identified by KPN and to add additional extrinsic evidence, particularly for constructions on which the parties disagree. Furthermore, Ericsson reserve the right to update their citations to additional relevant extrinsic evidence, such as inventor testimony and testimony from attorneys responsible for prosecuting the asserted patents, as well as to identify additional dictionary definitions and prior art.

Ericsson also reserve the right to amend these disclosures to the extent KPN supplements or amends its infringement contentions or claim construction disclosures. KPN has not served infringement contentions that comply with P.R. 3-1 and/or Paragraph 3 of the Court's Discovery Order (Dkt. No. 44) and has otherwise not provided sufficient notice as to its infringement theories in this case. Ericsson are prejudiced in identifying the terms and constructions below in the absence of knowledge as to how KPN intends to assert its claim scope in this litigation. Ericsson specifically reserve the right to modify the

terms and proposed constructions identified herein within a reasonable time of KPN being permitted to serve any supplemental contentions.

Ericsson contends that various claim limitations are indefinite. To the extent that Ericsson provided proposed alternative claim constructions for these claim limitations and in the event that the claims are not found to be indefinite, such proposal is not an admission that these claims are amenable to proper construction and/or satisfy the definiteness requirement of 35 U.S.C. § 112, which Ericsson specifically deny. Moreover, nothing in these proposed terms should suggest that a particular limitation or claim is valid or construable, accurately described, enabled or definite within the meaning of 35 U.S.C. § 112.

To confirm the proper construction, in addition to the extrinsic evidence cited below, Ericsson may rely on the patents and other references cited during the prosecution of the asserted patents. Ericsson also may rely on one or more of the prior art systems and/or publications identified in their Invalidity Contentions to explain the state of the art and/or to show the ordinary meaning of certain claim terms. Furthermore, Ericsson may rely on any public statement of KPN and/or its representatives (including statements made in prosecution of foreign counterparts to the asserted patents), or any current or former employee of KPN; any of the named inventors and/or prosecuting attorneys; and/or any information from other sources, including discovery produced in this case. Ericsson may also rely on documents produced by KPN pursuant to Patent Local Rule 3-2 to the extent those documents evidence the ordinary meaning of claim terms and/or any different meaning assigned to claim terms by the inventors. Ericsson may also rely on testimony from one or more of the inventors and/or the prosecuting attorney elicited in ongoing

discovery in this case. Testimony from one or more of the inventors or the prosecuting attorney may be relevant to the meaning or indefiniteness of one or more of the contested claim terms.

As noted below, Ericsson may also rely on testimony from one or more expert witnesses, including any identified by KPN. Such expert evidence may address the relevant field of art, the level of ordinary skill in the art, whether certain terms connote sufficient structure to perform the claimed functions, whether the patents' specifications disclose and clearly link sufficient structure to perform the claimed functions, the definiteness of certain terms, and the meaning that certain claim terms would have to a person of ordinary skill in the art based on the asserted patents' disclosure and associated prosecution history, including any extrinsic evidence offered by KPN or Ericsson.

Dated: June 20, 2023

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CERTIFICATE OF SERVICE

I hereby certify that counsel of record are being served with a copy of this document via email, on June 20, 2023.

/s/ Nicholas Mathews
Nicholas Mathews

I. U.S. Patent No. 7,092,705

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
1.	operational parameter	1, 2, 6, 22, 23	a setting impacting the technical operation of the network, such as power level	U.S. Patent No. 5,434,798 cited in body of '705 patent. *See*, e.g., 8:37-42; 12:5-14; 16:60-17:55
2.	a deviation from the setting requirement	1, 22	a deviation from the technically sufficient parameter setting requirement that guarantees a more reliable operation	U.S. Patent No. 6,085,335 cited during prosecution of the '705 patent at 3:59-62; 5:50-54; 6:21-34; 7:38-46; 8:51-57; 9:51-54; 11:65-12:23; 12:12-23; 13:20-35; 14:67-15:6; Figs. 7 and 8.
3.	a rule checker	22	This is a means-plus-function term subject to § 112, ¶ 6 <u>Function</u>: check the modified parameter on the basis of a rule so as to yield a result. <u>Structure</u>: a processor programmed to run a script.	U.S. Patent No. 5,434,798 cited in body of '705 patent. *See*, e.g., 13:26-14:16; 14:67-15:6. U.S. Patent No. 6,085,335 cited during prosecution of the '705 patent at 5:50-54; 13:18-33
4.	technically sufficient parameter setting requirement	1, 22	indefinite	U.S. Patent No. 5,434,798 cited in body of '705 patent. *See*, e.g., 8:37-42; 12:5-14; 16:60-17:55. U.S. Patent No. 6,085,335 cited during prosecution

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
				of the '705 patent at 3:59-62; 5:50-54; 6:21-34; 11:65-12:23; 12:12-23; 13:20-29; Figs. 7 and 8.
5.	a data transferrer	22	This is a means-plus-function term subject to § 112, ¶ 6. The term is indefinite for lack of sufficiently definite corresponding structure. <u>Function</u>: store the modified parameter in the network such that subsequent network operation will respond to the modified parameter.	

II. U.S. Patent No. 8,660,560

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
1.	Preamble	1	Preamble is limiting	
2.	configured for	1, 6, 7	includes the necessary hardware and software for performing the functionality recited in the claim without the need to rebuild, rewrite or recompile the code for, or redesign any of	

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
			that hardware or software	
3.	updating means	1	This is a means-plus-function term. **Function**: updating at least one of the first neighbour cell list and the second neighbour cell list using the received cell information. **Structure**: "updater 14" disclosed in the '560 Patent and equivalents thereof.	

III. U.S. Patent No. 8,886,772

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
1.	manageable electronic device	1, 10	Electronic device that can be configured over a network	Prior Claim Construction Order in *Koninklijke KPN N.V. v. Samsung Electronics Co., Ltd., et al.*, Case No. 2:15-CV-948-JRG, D.I. 197 (E.D. Tex. May 6, 2013) at 38-42.
2.	configuration data	1, 10	data for configuring the	Prior Claim Construction Order in *Koninklijke KPN*

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
			manageable electronic device	*N.V. v. Samsung Electronics Co., Ltd., et al.*, Case No. 2:15-CV-948-JRG, D.I. 197 (E.D. Tex. May 6, 2013) at 54-57 EP 2106079 at ¶¶2, 3, 8, 17, 51, cited in U.S. File History, Information Disclosure Statement, dated May 31, 2013 TR-069, CPE WAN Management Protocol v1.1 (Nov. 2006) at pp. 8, 14, 15 RFC 2131 (March 1997) at pp. 5, 6 U.S. Pat. Pub. 2007/0011301 at ¶¶ 43-45, 54, 55, cited in U.S. File History, March 25, 2013 Final Office Action.
3.	relay	1, 2, 10, 11	send **<u>Alternatively:</u>** "change, process, or otherwise manage [*the request / the reply*] based at least in part on its payload *before transferring* [*the request / the reply*]"	Prior Claim Construction Order in *Koninklijke KPN N.V. v. Samsung Electronics Co., Ltd., et al.*, Case No. 2:15-CV-948-JRG, D.I. 197 (E.D. Tex. May 6, 2013) at 59-61. Joint Claim Construction Chart for U.S. Patent No[s]. … 8,886,772 in *Koniklijke KPN N.V., v. Xiaomi Corp., et al*. Case No. 21-cv-41-LPS-CJB, D.I. 46 (DDE Mar. 11, 2022) at 8. Joint Claim Construction Brief in *Koniklijke KPN N.V., v. Xiaomi Corp., et al*. Case No. 21-cv-41-LPS-

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
				CJB, D.I. 57 (DDE June 10, 2022) at fn. 10 (pg. 52).
4.	plurality of auto-configuration servers	1, 10	Two or more systems of hardware and/or software, each of which is capable of automatically configuring a manageable electronic device	Prior Claim Construction Order in *Koninklijke KPN N.V. v. Samsung Electronics Co., Ltd., et al.*, Case No. 2:15-CV-948-JRG, D.I. 197 (E.D. Tex. May 6, 2013) at 42-46.
5.	auto-configuration server managing device (ACSMD)	1, 10	hardware and/or software that relays configuration requests to the auto-configuration servers	Prior Claim Construction Order in *Koninklijke KPN N.V. v. Samsung Electronics Co., Ltd., et al.*, Case No. 2:15-CV-948-JRG, D.I. 197 (E.D. Tex. May 6, 2013) at 46-48.
6.	controlling access	1, 10	remaining in contact with the manageable electronic device and the ACS, and controlling whether the manageable electronic device gains access	Prior Claim Construction Order in *Koninklijke KPN N.V. v. Samsung Electronics Co., Ltd., et al.*, Case No. 2:15-CV-948-JRG, D.I. 197 (E.D. Tex. May 6, 2013) at 51-54.
7.	Preamble	10	limiting	Prior Claim Construction Order in *Koninklijke KPN N.V. v. Samsung Electronics Co., Ltd., et al.*, Case No. 2:15-CV-948-JRG, D.I. 197 (E.D. Tex. May 6, 2013) at 36-38.
8.	configured to	1, 2, 3, 10, 11	includes the necessary hardware and software for performing the functionality recited in	

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
			the claim without the need to rebuild, rewrite or recompile the code for, or redesign any of that hardware or software	

IV. U.S. Patent No. 9,372,098

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
1.	Preamble	17	Preamble is limiting	
2.	configured for	17, 20	includes the necessary hardware and software for performing the functionality recited in the claim without the need to rebuild, rewrite or recompile the code for, or redesign any of that hardware or software	
3.	said node	17	one or more nodes, each of which must perform the receiving, retrieving, terminating, and transferring functions	
4.	machine-to-machine	17, 20	communication between devices without human intervention	Applicant Remarks to the EPO Concerning EP3457090, including Applicant's September 21, 2021 Reply to Communication from the Examining

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
				Division[1] M2M Communications in 3GPP LTE/LTE-A Networks: Architectures, Service Requirements, Challenges, and Applications IEEE Journals & Magazine IEEE Xplore, https://ieeexplore.ieee.org/document/6916986
5.	non-signalling application data	17, 20	Data that is neither associated with a particular subscriber's connection nor used for setting up, maintaining or ending connections	

V. U.S. Patent No. 10,924,500

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
1.	configured to	1, 5, 10	includes the necessary hardware and software for performing the functionality recited in the claim without the need to rebuild, rewrite or recompile the code	

[1] Ericsson does not concede that the evidence identified herein is "extrinsic evidence" under the case law.

Term #	Claim Term	Claim(s)	Preliminary Construction	Preliminary Identification of Extrinsic Evidence
			for, or redesign any of that hardware or software	
2.	normal processing of signals	1, 10	Indefinite	