

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

KONINKLIJKE KPN N.V.,

Plaintiff,

v.

TELEFONAKTIEBOLAGET LM
ERICSSON and ERICSSON INC.,

Defendants.

C.A. No. 2:22-cv-282-JRG

JURY TRIAL DEMANDED

PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANTS

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Koninklijke KPN N.V. ("Plaintiff") hereby requests that Telefonaktiebolaget LM Ericsson and Ericsson Inc. (together, "Defendants" or "You") answer the following interrogatories separately, fully, and under oath in the manner required by the Federal Rules of Civil Procedure within thirty (30) days of service.

DEFINITIONS

1. "Defendants" or "You" shall include (i) any subsidiary of Defendants (either wholly or partly owned), subcontractor, division, branch or department; (ii) any entity under the control of Defendants; (iii) any proprietorship, joint venture, partnership or other business cooperation involving Defendants; (iv) all Defendants' predecessors-in-interest, representatives, and successors-in-interest; (v) the present and former directors, officers, accountants, affiliates, attorneys, partners, managers, agents, employees, representatives, in-house and outside counsel or other persons under the control of Defendants, regardless of their affiliation or employment; and (vi) any other person acting or purporting to act on behalf of Defendants. Where appropriate, the terms "Defendants" or "You" operate in the singular to refer separately to any of the entities

identified above, together with any parent company thereof or any other related entity thereto as defined in (i) through (vi) above.

2. The term “this litigation” refers to *Koninklijke KPN N.V. v. Telefonaktiebolaget LM Ericsson*, Case No. 2:22-cv-282-JRG (E.D. Tex.), filed on July 25, 2022.

3. The terms “Patent-in-Suit” and “Patents-in-Suit” refer to each of the following patents, jointly and severally: U.S. Patent No. 7,092,705 B2; U.S. Patent No. 8,660,560 B2; U.S. Patent No. 8,886,772 B2; U.S. Patent No. 9,372,098 B2; U.S. Patent No. 10,924,500 B2; and any other patents asserted by Plaintiff in this litigation. When any patent is referred to, that reference is intended to include the application on which it issued, its entire prosecution history, and all foreign counterparts, including foreign applications and foreign prosecution histories.

4. The term “Asserted Claim” or “Asserted Claims” refers to each of the claims of the Patents-in-Suit, jointly and severally, identified in Plaintiff’s P.R. 3-1 disclosures and any subsequent amendments thereto.

5. The terms “Accused Instrumentality” and “Accused Instrumentalities” refer to:

- (a) each product, instrumentality, and service identified in Plaintiff’s P.R. 3-1 disclosures and any subsequent amendments thereto;
- (b) each version, model, or variation of such products, instrumentalities, and services; and
- (c) each product, instrumentality, and service that is similar to,¹ or performs similar functions as, the products, instrumentalities and services identified in subparts (a) and (b) to this definition, that are sold by, provided by, manufactured by, employed by, imported and/or exported by, or

¹ See *DDR Holdings, LLC v. Hotels.com, L.P.*, No. 2:06-CV-42-JRG, 2012 WL 2935172, at *2 (E.D. Tex. July 18, 2012) (discussing discovery of “products ‘reasonably similar’” to those accused in infringement contentions).

otherwise associated with any Defendant, including but not limited to commercial or pre-commercial variants thereof. This includes, in addition to the foregoing products, all products identified in response to any of Plaintiff's Interrogatories.

6. The term "document" or "documents" means the originals, drafts, and any and all copies bearing notations or marks not found on the original or draft, of any and all written, printed, typed, electronic or otherwise recorded matter, however produced or reproduced, in whatever form, including, but not limited to, writings, typed or printed matter, microfilm, photographs, videotapes, maps, correspondence, letters, PowerPoint presentations, communications, diaries, calendars, memoranda, insurance policies, contracts, checks, statements of account, receipts, summaries, notes, minutes, papers, files, books, records, telegrams, messages, e-mails, telecopy transmissions, text messages, instant messages, voicemail messages, reports, tables, graphs, tape recordings, charts, logs, ledgers, surveys, studies, manuals, consultant or expert reports, resumes and curriculum vitae, exhibits, notices, instructions, minutes, purchase orders, invoices, financial records, accounting records, tax records, accounting or tax work sheets, as well as all metadata associated with such documents. In addition, "document" or "documents" shall include all electronic media on which information has been stored or recorded, including, but not limited to, magnetic, electronic or optical storage media, hard drives and any other data compilations from which information can be obtained or translated. To the extent electronic files are produced, they shall be produced in native file format with their associated metadata.

7. The term "communication" or "communications" means, unless otherwise specified, any of the following: (i) any written letter, memorandum, email or other document; (ii) any telephone call between two or more persons, whether or not such call was by chance or prearranged, formal or informal; (iii) any conversation or meeting between two or more persons,

whether or not such contact was by chance or prearranged, formal or informal; and (iv) any transmittal of information (in the form of facts, ideas, inquiries, or otherwise), oral or written.

8. The term “relating to” or “related to” shall mean concerning, pertaining to, referring to, describing, discussing, memorializing, reflecting, containing, evidencing or constituting.

9. The term “including” means including, but not limited to.

10. The words “and” and “or” shall be construed in the conjunctive or disjunctive, whichever makes the request more inclusive.

11. The use of the singular form of any word includes the plural and vice versa.

12. The terms “any” and “all” are interchangeable.

INSTRUCTIONS

1. In addition to the specific instructions set forth below, these discovery requests incorporate the instructions set forth in Federal Rules of Civil Procedure 26 and 33 and any other applicable orders and rules.

2. Each interrogatory shall be answered separately and fully in writing under oath, and Your answers are to be signed under oath by the person making them.

3. Each response shall be numbered in the same manner and sequence as the corresponding interrogatory. Please respond to each interrogatory separately by setting forth the interrogatory followed by your response to the interrogatory.

4. Each interrogatory shall be construed independently, and no interrogatory shall be viewed as limiting the scope of any other interrogatory unless the request so specifies.

5. Where specific items are listed as being included within a general category of requested information, address both the listed items and any other items falling within the general category.

6. Whenever an interrogatory may be answered by referring to a document, that

document shall be identified in the response by its production number or, if the document has not previously been produced, that document shall be attached as an exhibit to the response and referred to in the response. If the document has more than one page, refer to the page and section where the answer to the interrogatory can be found.

7. If You elect to produce business records in response to an interrogatory pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, produce the records as they are kept in the usual course of business or organize and label them to correspond with the interrogatory. For all documents produced pursuant to Rule 33(d), identify the employee, officer, or agent certifying the documents as a business record. Further, if You choose to respond to an interrogatory pursuant to Rule 33(d), provide a list specifying, for each document responsive to the interrogatory that once existed but has been destroyed or discarded, or otherwise is not capable of being produced: (i) the date of the document; (ii) a description of the subject matter of the document; (iii) the name and last known address of each person who prepared or participated in the preparation of the document; (iv) the name and last known address of each addressee or other person to whom the document, or any part thereof, was sent or to whom the document or its contents, or any part thereof, was disclosed; (v) the name and last known address of any person not covered by items (iii) and (iv) who had possession, custody or control of the document or a copy thereof; (vi) the date on which the document was destroyed or discarded and a statement of the reasons why the document was destroyed or discarded or why such document is not capable of being produced; and (vii) the interrogatory to which the document is responsive.

8. If an interrogatory is objected to, state the reasons for objection and answer to the extent the interrogatory is not objectionable. All grounds for an objection to an interrogatory shall be stated with specificity. If only a part of a discovery request is objectionable, the remainder of the request shall be answered.

9. If You withhold any information under a claim of privilege, identify the nature of the privilege (including work product) which is being claimed and:

(a) For documents, (i) the type of document, e.g., letter or memorandum; (ii) the subject matter of the document; (iii) the date of the document; and (iv) the author of the document, the addressees of the document, and any other recipients, and, where not apparent, the relationship of the author, addressees, and recipients to each other;

(b) For oral communications, (i) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (ii) the date and place of communication; and (iii) the subject matter of the communication.

10. If no information is being withheld in response to an interrogatory under a claim of privilege, so state.

11. The obligation to answer these interrogatories is continuing pursuant to Federal Rule of Civil Procedure 26(e). If at any time after answering these interrogatories you discover additional information that will make your answers to these interrogatories more complete or correct, amend your answers as soon as practicable.

INTERROGATORIES

INTERROGATORY NO. 1: State in detail how and when You first became aware of each of the Patents-in-Suit, identifying (a) the persons who learned of each Patent-in-Suit, including their title(s); (b) the patent or patent application of which they became aware; (c) the date on which they became aware; and (d) the circumstances under which they became aware.

RESPONSE:

INTERROGATORY NO. 2: Identify the three persons, whether or not currently employed by you, who are the most knowledgeable about the design, research, testing, and/or development of each Accused Instrumentality; the use of each Accused Instrumentality by customers and/or end user; and/or the sales and marketing of each Accused Instrumentality.

RESPONSE:

INTERROGATORY NO. 3: Identify each change and/or modification that You have made, or plan to make, to the design, operation, or use of each Accused Instrumentalities as a result of or in relation to any litigation by KPN, and identify all persons with knowledge, and sources of information relied upon in answering this Interrogatory.

RESPONSE:

INTERROGATORY NO. 4: Identify all revenue received by You, directly or indirectly, related to the sale or distribution of each of the Accused Instrumentalities in the United States or to a United States person, by year, quarter, and month, including by identifying which Accused Instrumentality the received revenue relates to, whether the revenue is obtained as one-time payments, subscriptions, royalties, and/or otherwise, and whether the revenue is obtained through

sales, leasing, or licensing of each of the Accused Instrumentalities or the sale, leasing, or licensing of a product or service other than an Accused Instrumentality.

RESPONSE:

INTERROGATORY NO. 5: Identify by Bates number all agreements in which You granted, or in which others granted You, any license or covenant rights under any patents that relate to any Accused Instrumentality and/or You assert to be relevant to the determination of any damages in this litigation, and describe the basis for Your assertion, if any.

RESPONSE:

INTERROGATORY NO. 6: Identify by name and product number any products, instrumentalities, and services made, used, offered for sale, and/or sold by You in the United States, and/or imported by You into the United States, from July 25, 2016, to present that were and/or are configured to verify a modified parameter of a component of a radio network, including but not limited to using machine learning to make predictions. Examples of such products include Ericsson's Expert Analytics and associated hardware; Ericsson's software probe and associated hardware; any product incorporating or designed to work with the above; as well as any other products, instrumentalities, or services that operate in a similar manner or utilize a similar technology.

RESPONSE:

INTERROGATORY NO. 7: Identify by name and product number any products, instrumentalities, or services made, used, offered for sale, and/or sold by You in the United States, and/or imported by You into the United States, from July 25, 2016, to present that were and/or are

configured to perform minimization of drive tests (MDT) functions and/or update a neighbor cell list in a telecommunications architecture. Examples of such products include Ericsson's Radio System; Ericsson's 5G Radio Access Network; LTE Radio Access Network; WCDMA Radio Access Network components; gNB, eNB, and NB base stations; as well as any other products, instrumentalities, or services that operate in a similar manner or utilize a similar technology.

RESPONSE:

INTERROGATORY NO. 8: Identify by name and product number any products, instrumentalities, or services made, used, offered for sale, and/or sold by You in the United States, and/or imported by You into the United States, from July 25, 2016, to present that were and/or are configured for remote device management of electronic devices in a network. Examples of such products include Ericsson's 5G Core and Radio Access Networks; Packet Core Controller; Hardware Security Module; Cloud Core Subscription Manager; Cloud Core Data-Storage Manager; gNB base stations; as well as any other products, instrumentalities, or services that operate in a similar manner or utilize a similar technology.

RESPONSE:

INTERROGATORY NO. 9: Identify by name and product number any products, instrumentalities, or services made, used, offered for sale, and/or sold by You in the United States, and/or imported by You into the United States, from July 25, 2016, to present that are or are configured to utilize a node (including an eNB and/or gNB) to transfer data from a communication apparatus to a machine-to-machine server. Examples of such products include Ericsson's Massive Internet of Things (IoT) Radio Systems; eNB, gNB, and/or ng-eNB components supporting NB-IoT; the NR Radio Access Network and NR Core Network; the LTE Radio Access Network and Core

Network; all associated equipment for the above; and any other products, instrumentalities, or services that operate in a similar manner or utilize a similar technology.

RESPONSE:

INTERROGATORY NO. 10: Identify by name and product number any products, instrumentalities, or services made, used, offered for sale, and/or sold by You in the United States, and/or imported by You into the United States, from July 25, 2016, to present that are or are configured to utilize a telecommunications network to identify mobile telecommunications devices. Examples of such products include Ericsson's NR Radio System; NR Radio Access Network, NR Core Network, and associated equipment; gNB base stations; as well as any other products, instrumentalities, or services that operate in a similar manner or utilize a similar technology.

RESPONSE:

INTERROGATORY NO. 11: To the extent that You claim there are one or more non-infringing alternatives to the systems, devices, and/or methods disclosed in an Asserted Claim, identify in detail the complete basis for Your contention, including (i) the nature of the alleged non-infringing alternative, whether previously implemented or not; (ii) Your basis for contending the alleged non-infringing alternative is an acceptable alternative, including any differences between the functionality of the Accused Instrumentalities and any identified non-infringing alternatives; (iii) the identity of any product, whether made by You or any other person, that You contend is as an example of a non-infringing alternative; (iv) the date range within which You contend the alleged non-infringing alternative was or is available to You; and (v) the reason You did not or have not incorporated and/or implemented each identified non-infringing alternative.

RESPONSE:

INTERROGATORY NO. 12: To the extent that You contend that any Patent-in-Suit is a standard-essential patent and/or otherwise subject to any limitation on the terms by which it may be licensed, including any requirement that it be licensed on reasonable, non-discriminatory, FRAND, and/or RAND terms, describe in detail the complete basis for Your contention.

RESPONSE:

INTERROGATORY NO. 13: To the extent that You contend that Plaintiff's damages should be limited under 35 U.S.C. § 287, describe in detail the complete basis for your contention, including by identifying any product You contend represents an unmarked patented article and, for each such product, Your complete basis for contending that this product practices the Patent-in-Suit, including each Asserted Claim You contend it practices and Your basis for asserting it practices each such Asserted Claim.

RESPONSE:

INTERROGATORY NO. 14: For each Asserted Claim, state the complete basis for Your contention that You do not infringe and have not infringed that Asserted Claim, including an identification of each claim limitation You contend is not present in each Accused Instrumentality and an explanation for each such contention.

RESPONSE:

INTERROGATORY NO. 15: State the complete basis for each of Your defenses and counterclaims in this action, including any affirmative defenses.

RESPONSE:

Dated: January 19, 2023

Respectfully submitted,

/s/ Savannah Ezelle

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel who are deemed to have consented to electronic service. E.D. TEX. LOCAL RULE CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email on January 19, 2023.

/s/ Savannah Ezelle