

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

GENERAL ACCESS SOLUTIONS, LTD.,

Plaintiff,

v.

CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS, VERIZON SERVICES CORP.,
VERIZON BUSINESS GLOBAL LLC,
VERIZON BUSINESS NETWORK
SERVICES LLC, VERIZON CORPORATE
SERVICES GROUP INC., VERIZON DATA
SERVICES LLC, and VERIZON ONLINE
LLC,

Defendants,

ERICSSON INC.

Intervenor-Defendant.

C.A. No. 2:22-394-JRG

DEFENDANTS' INVALIDITY CONTENTIONS

Pursuant to the Local Patent Rule 3-3, Defendants¹ provide their Invalidity Contentions.

I. INTRODUCTION

On January 5, 2023, Plaintiff General Access Solutions, Ltd. (“GAS”) served its Infringement Contentions (“Infringement Contentions”) and asserted the following claims:

- U.S. Patent No. 7,230,931 (“’931 patent”): Claims 28, 29; and
- U.S. Patent No. 9,426,794 (“’794 patent”): Claims 1-2, 4-6

(collectively, the “Asserted Patents” or “Patents-in-Suit” and the “Asserted Claims”). Verizon contends that each of the Asserted Claims are ineligible subject matter under 35 U.S.C. § 101, and that each of the Asserted Claims is invalid under at least 35 U.S.C. §§ 102, 103, and/or 112. Ericsson contends that each Asserted Claim of the ’931 patent is invalid under at least 35 U.S.C. §§ 102, 103, and/or 112.

These Invalidity Contentions address the claims identified in GAS’s Infringement Contentions. Defendants reserve the right to modify, amend, or supplement these Invalidity Contentions to the extent the Court permits GAS to amend, supplement, or otherwise modify its Infringement Contentions, including by modifying the claims asserted, and to the full extent permitted by the Local Patent Rules.

Further, GAS’s Infringement Contentions are deficient and fail to provide allegations as to how the accused products infringe each and every claim limitation; rather, they simply parrot the claim language and then cite various documents—and in some circumstances, point to no evidence

¹ Defendants are Cellco Partnership d/b/a Verizon Wireless, Verizon Services Corp., Verizon Business Global LLC, Verizon Business Network Services LLC, Verizon Corporate Services Group Inc., Verizon Data Services LLC, and Verizon Online LLC (collectively, “Verizon”) and, with respect to the ’931 Patent, Intervenor Ericsson Inc. (“Ericsson”), collectively. Because GAS has not accused any Ericsson product or service of infringing the ’794 Patent, Ericsson provides these invalidity contentions only with respect to the ’931 Patent.

- U.S. Patent No. 6,400,699, issued June 4, 2002 (“Airy ’699”)
- U.S. Patent No. 6,600,776, issued July 29, 2003 (“Alamouti ’776”)
- U.S. Patent No. 6,795,409, issued Sept. 21, 2004 (“Youssefmir ’409”)
- U.S. Patent No. 6,804,521, issued Oct. 12, 2004 (“Tong ’521”)
- U.S. Patent No. 6,977,919, issued Dec. 20, 2005 (“Stanwood ’919”)
- U.S. Patent No. 7,158,493, issued Jan. 2, 2007 (“Uhlik ’493”)
- U.S. Pat. Appl. Publ. No. 2002/0021684, published Feb. 21, 2002 (“Toshimitsu ’684”)
- Vornefeld et al., “SDMA Techniques for Wireless ATM,” IEEE Communications Magazine, November 1999, pp. 52-57 (“Vornefeld 1999”)
- TR 101 146 V3.0.0 (1997-12), “UTRA Concept Evaluation,” published December 1997 (“TR 101 146”)

b. Prior Art Systems

Defendants identify the following systems—including constituent software, hardware, methods, and processes—as prior art that anticipate or render obvious the Asserted Claims of these patents. Each system (1) was known or used in this country before the alleged invention of the claimed subject matter of the patent-in-suit; (2) was in public use and/or on sale in this country more than one year before the filing date of the application for the patent-in-suit; and/or (3) was invented and not abandoned, suppressed, or concealed prior to the alleged invention of the Asserted Patents.

Evidence of public use and/or sale of the listed system art includes webpages from the time of the alleged invention, for example as saved on the Internet Archive, and/or certain patents related to these systems. Exemplary examples of such webpages have been produced herewith. Discovery is ongoing and Defendants will supplement as discovery continues.

- Navini Networks System: On information and belief, the Navini Networks System was used and/or on sale as of at least October 2001. *See, e.g.*, exemplary webpages from the Internet Archives and press releases provided to Plaintiff; *see also, e.g.*, U.S. Patent Nos.

6,122,260; 6,157,340; 6,496,535; 6,834,076; 6,907,246; 7,062,276; 7,068,977; and 7,151,755.

- ArrayComm Inc. System: On information and belief, the ArrayComm Inc. System was used and/or on sale as of at least July 1997. *See, e.g.*, exemplary webpages from the Internet Archives and press releases provided to Plaintiff; *see also, e.g.*, U.S. Patent Nos. 5,828,658; 6,154,661; 7,158,493; 6,141,567; 6,795,409.
- BeamReach Networks, Inc. System: On information and belief, the BeamReach Networks System was used and/or on sale as of at least December 2000. *See, e.g.*, exemplary webpages from the Internet Archive provided to Plaintiffs; *see also, e.g.*, U.S. Patent Nos. 6,128,276; 6,512,737; 7,110,349.
- Iospan Wireless Inc. System: On information and belief, the BeamReach Networks System was used and/or on sale as of at least November 2000. *See, e.g.*:
 - https://web.archive.org/web/20001109012800/http://www.iospanwireless.com:80/solutions/so_home.html;
 - <https://web.archive.org/web/20010205010600/http://www.iospanwireless.com:80/technology/technology.html>;
 - https://web.archive.org/web/20010208181246mp_/http://www.iospanwireless.com/technology/tech_link3.html;
 - https://web.archive.org/web/20010417174106mp_/http://www.iospanwireless.com/technology/tech_link4.html;
 - https://web.archive.org/web/20010208181653mp_/http://www.iospanwireless.com/products/pro_access.html;
 - https://web.archive.org/web/20010208181720mp_/http://www.iospanwireless.com/products/pro_base.html;
 - https://web.archive.org/web/20010208182422mp_/http://www.iospanwireless.com/products/pro_system.html;
 - https://web.archive.org/web/20001109012800/http://www.iospanwireless.com:80/solutions/so_home.html
 - https://web.archive.org/web/20001109012800/http://www.iospanwireless.com:80/products/pro_home.html
 - U.S. Patent Nos. 6,067,290; 6,298,092; 6,351,499; 6,377,632; 6,377,636; 6,377,819; 6,400,699; 6,442,214; 6,567,387; 6,757,265; 6,760,882; 7,058,146; 7,773,564; and USRE44959.

c. Prior Invention Under § 102(g)

For any of the prior art that Defendants have identified, Defendants may argue that the authors or inventors of that prior art invented the subject matter claimed in the '931 Patent prior to

the filing date of the '931 Patent. Discovery has not started and Defendants will supplement as discovery begins.

d. Obviousness and Secondary References

Defendants identify each of the references listed above as primary references that render this patent anticipated, or at least obvious in view of the knowledge of a person of ordinary skill in the art. In addition, these primary references may be combined with each other or with the secondary references listed below to render this patent obvious under 35 U.S.C. § 103. One of ordinary skill in the art would be motivated to combine these references as explained in Section II.D:

- U.S. Patent No. 5,684,491, issued Nov. 4, 1997 (“Newman ’491”)
- U.S. Patent No. 5,828,658, issued Oct. 27, 1998 (“Ottersten ’658”)
- U.S. Patent No. 5,828,695, issued Oct. 27, 1998 (“Webb ’695”)
- U.S. Patent No. 6,067,290, issued May 23, 2000 (“Paulraj ’290”)
- U.S. Patent No. 6,128,276, issued Oct. 3, 2000 (“Agee ’276”)
- U.S. Patent No. 6,154,661, issued Nov. 28, 2000 (“Goldburg ’661”)
- U.S. Patent No. 6,160,800, issued Dec. 12, 2000 (“Atsuta ’800”)
- U.S. Patent No. 6,470,177, issued Oct. 22, 2002 (“Andersson ’177”)
- U.S. Patent No. 6,496,535, issued Dec. 17, 2002 (“Xu ’535”)
- U.S. Patent No. 6,512,737, issued Jan. 28, 2003 (“Agee ’737”)
- U.S. Patent No. 6,636,488, issued Oct. 21, 2003 (“Varma ’488”)
- U.S. Patent No. 6,650,623, issued Nov. 18, 2003 (“Varma ’623”)
- U.S. Patent No. 6,654,384, issued Nov. 25, 2003 (“Reza ’384”)
- U.S. Patent No. 6,693,887, issued Feb. 17, 2004 (“Stanwood ’887”)
- U.S. Patent No. 6,760,882, issued July 6, 2004 (“Gesbert ’882”)

- U.S. Patent No. 6,782,277, issued Aug. 24, 2004 (“Chen ’277”)
- U.S. Patent No. 6,785,252, issued Aug. 31, 2004 (“Zimmerman ’252”)
- U.S. Patent No. 6,804,211, issued Oct. 12, 2004 (“Klein ’211”)
- U.S. Patent No. 6,819,657, issued Nov. 16, 2004 (“Varma ’657”)
- U.S. Patent No. 7,039,441, issued May 2, 2006 (“Reudink ’441”)
- U.S. Patent No. 7,068,639, issued June 27, 2006 (“Varma ’639”)
- U.S. Patent No. 7,110,349, issued Sept. 19, 2006 (“Branlund ’349”)
- U.S. Patent No. 7,366,133, issued Apr. 29, 2008 (“Majidi-Ahy ’133”)
- U.S. Prov. Appl. No. 60/249,065 (“US Prov. ’065”)
- U.S. Prov. Appl. No. 60/248,867 (“US Prov. ’867”)
- U.S. Appl. No. 09/652,064 (“US. Appl. ’064”)
- U.S. Pat. Appl. Publ. No. 2001/0001609, published May 24, 2001 (“Mikuni ’609”)
- U.S. Pat. Appl. Publ. No. 2011/0077034, published March 31, 2011 (“Klein ’034”)
- U.K. Pat. Appl. Publ. No. GB2313237A, published Nov. 19, 1997 (“GB ’237”)
- U.K. Pat. Appl. Publ. No. GB2341757A, published March 22, 2000 (“GB ’757”)
- DE Pat. Appl. Publ. No. DE19851288C1, published March 2, 2000 (“DE ’288”)
- JP Pat. Appl. Publ. No. JPH11284567A, published Oct. 15, 1999 (“JP ’567”)
- JP Pat. Appl. Publ. No. JP2000232457A, published Aug. 22, 2000 (“JP ’457”)
- PCT Patent Application No. WO9428643A1, published Dec. 8, 1994 (“WO ’643”)
- PCT Patent Application No. WO2000028757A1, published May 18, 2000 (“WO ’757”)
- PCT Patent Application No. WO2001067620A2, published Sept. 13, 2001 (“WO ’620”)
- Fong et al., “Radio Resource Allocation in Fixed Broadband Wireless Networks,” IEEE Transactions On Communications, Vol. 46, No. 6, June 1998 (“Fong 1998”)
- Rainer Grunheid, et al., “Adaptive Modulation and Multiple Access for the OFDM Transmission Technique” (“Grunheid 2000”)

- Tangemann et al., “Influence of the User Mobility on the Spatial Multiplex Gain of an Adaptive SDMA System,” IEEE PIMRC ’94, pp. 745-749 (“Tangemann 1994”)
- Walke, et al., “IP over Wireless Mobile ATM-Guaranteed Wireless QoS by HiperLAN/2,” by Walke et al. (“Walke 2001”)
- J.H. Winters, “Smart Antennas for Wireless Systems,” IEEE Pers. Commun., Feb. 1998, pp. 23–27 (“Winters 1998”)

2. U.S. Patent Nos. 9,426,794

a. Prior Art Patents and Publications

- PCT Patent Application No. WO2000060885A1, published Oct. 12, 2000 (“Douglas ’885”)
- U.S. Patent No. 6,970,927, issued Nov. 29, 2005 (“Stewart ’927”)
- U.S. Patent No. 7,024,196, issued Apr. 4, 2006 (“Kotzin ’196”)
- U.S. Patent No. 7,099,295, issued Aug. 29, 2006 (“Doyle ’295”)
- PCT Patent Application No. WO2000059142A1, published Oct. 5, 2000 (“Komara ’142”)
- U.S. Patent No. 6,956,840, issued Oct. 18, 2005 (“Proctor ’840”)
- U.S. Patent No. 6,374,078, issued April 16, 2002 (“Williams ’078”)
- U.S. Patent No. 5,424,859, issued June 13, 1995 (“Uehara ’859”)

b. Prior Art Systems

Defendants identify the following systems—including constituent software, hardware, methods, and processes—as prior art that anticipate or render obvious the Asserted Claims of these patents. Each system (1) was known or used in this country before the alleged invention of the claimed subject matter of the patent-in-suit; (2) was in public use and/or on sale in this country more than one year before the filing date of the application for the patent-in-suit; and/or (3) was