

Shawn M. McRoberts, RMR, CRR
Federal Official Court Reporter

Verizon Exhibit 1029
Verizon v. GAS IPR2023-00978

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

GENERAL ACCESS SOLUTIONS, LTD., (CAUSE NO. 2:22-CV-394-JRG
)
Plaintiff, ()
vs. ()
CELLCO PARTNERSHIP, d/b/a ()
VERIZON WIRELESS, et al., () MARSHALL, TEXAS
(JUNE 27, 2024
Defendants.) 8:30 A.M.

VOLUME 4

TRIAL ON THE MERITS
BEFORE THE HONORABLE RODNEY GILSTRAP
UNITED STATES CHIEF DISTRICT JUDGE
and a jury

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1 THE COURT: Be seated, please.

2 Are the parties prepared to read into the record those
3 items from the list of pre-admitted exhibits used during
4 yesterday's portion of the trial?

5 MR. SUMMERS: We are, Your Honor.

6 THE COURT: All right. Let's proceed to do so.

7 MR. HUGHES: Good morning. John Hughes for General
8 Access.

9 We move in JX 16, JX 59, JX 63, PX 120, PX 236, and PX
10 237, Your Honor.

11 THE COURT: Any objection from Defendants?

12 MR. LEE: No objections, Your Honor.

13 THE COURT: Do Defendants have a similar rendition
14 to offer? If so, please do so.

15 MR. LEE: Sung Bin Lee on behalf of Verizon.

16 Defendants move DTX 1, DTX 14, DTX 16, JX 9, JX 23.

17 THE COURT: All right. Any objections from
18 Plaintiff?

19 MR. HUGHES: There is no objection, Your Honor.

20 THE COURT: All right. Doctor Andrews, I assume
21 you're present. If you'll return to the witness stand, sir.
22 I remind you, you remain under oath.

23 Mr. Hughes, you may go to the podium and prepare for
24 cross examination.

25 MR. HUGHES: Thank you, Your Honor. May we

1 distribute binders?

2 THE COURT: You may do that as well.

3 Have you thought about talking slower today, Doctor
4 Andrews?

5 THE WITNESS: I'll do my best. I promise.

6 THE COURT: Please do.

7 MR. HUGHES: Ms. Brunson -- am I on the screen? May
8 I be on screen?

9 THE COURT: All right. Let's bring in the jury,
10 please.

11 (Whereupon, the jury entered the courtroom.)

12 THE COURT: Welcome back, ladies and gentlemen.
13 Please have a seat.

14 If you'll recall, we ended the day yesterday with the
15 examination of Dr. Jeffrey Andrews. The Defendants had
16 presented his direct examination, and we're now going to move
17 to the Plaintiff's cross examination of Doctor Andrews.

18 Mr. Hughes, you may proceed with cross examination.

19 MR. HUGHES: Thank you, Your Honor.

20 JEFFREY ANDREWS, PH.D., CONTINUED

21 CROSS EXAMINATION

22 BY MR. HUGHES:

23 Q. Doctor Andrews, my name is John Hughes. We haven't met.

24 It's a pleasure to meet you.

25 A. Good morning, sir.

1 Q. Doctor Andrews, you are getting paid for your time to
2 testify today. Correct?

3 A. Yes.

4 Q. At the rate of \$750 an hour. Correct?

5 A. Yes.

6 Q. And like Doctor Madisetti, you have spent hundreds of
7 hours working on this case and are getting paid for all of
8 those hours. Correct?

9 A. Yes.

10 Q. You have been retained by both Verizon and Ericsson in
11 this case. Correct?

12 A. Yes.

13 Q. And this is not the first time where you've been paid to
14 give sworn testimony by a telecom company. Correct?

15 A. No.

16 Q. These telecom companies are a very important part of both
17 your consulting work and your academic work. Correct? It's a
18 yes or no question.

19 THE COURT: Counsel, let him answer the
20 question -- just a minute. Counsel's not to prescribe to the
21 witness how the question is to be answered. If you think he
22 answers in an improper fashion or it's non-responsive, raise
23 it with the Court. But you're not to instruct the witness how
24 to answer the question. Just ask the question as you deem
25 best to present it.

1 Restate the question, Mr. Hughes.

2 Q. (BY MR. HUGHES) These telecom companies like Ericsson,
3 Samsung, Verizon, are an important part of both your
4 consulting work and your academic work. Correct?

5 A. No, that's not correct.

6 Q. Let's explore that. Let's start with your consulting
7 work. You have been previously retained by Ericsson and
8 Verizon for expert witness work in other matters. Correct?

9 A. That's true.

10 Q. And you are currently doing expert work for Samsung in a
11 matter related to the government of India and getting
12 compensated by Samsung. Correct?

13 A. That matter terminated last year. But, yes, I did help
14 Samsung with that dispute.

15 Q. You've been an expert and gotten paid by the telecom
16 industry for the last 10 years. Correct?

17 A. Yes.

18 Q. Okay. And consulting and expert work is not your only
19 ties to the telecom industry, is it, Doctor Andrews?

20 A. No.

21 Q. There are supporters of your academic career and the
22 research that you do in the engineering school at the
23 University of Texas. Correct?

24 A. They support our -- our research center, yes.

25 Q. You've received funding for your research at the

1 University of Texas from telecom companies -- from companies
2 like Ericsson and Samsung. Correct?

3 A. Yes.

4 Q. And, in fact, right on -- you have a bio on the
5 University of Texas website, your biography kind of talking
6 about the things that you teach and your areas of academic
7 research. Correct?

8 A. I haven't looked at it recently, but I'm sure I do.

9 Q. And right on your bio for the university, you indicate
10 you work closely with the telecom industry and that your work
11 is supported by Samsung, AT&T, Facebook, Invidia, Nokia,
12 Qualcomm, Ericsson, and others. That's true, right?

13 A. That's an old list, but yeah, the gist of it is still
14 true today.

15 Q. Those are the kind of companies that have supported your
16 research over the years. Correct?

17 A. Yes.

18 Q. And they make things called gifts to the university and
19 it's earmarked for your research. Right?

20 A. That's fair.

21 Q. And you provided us a list of those gifts and funding
22 that you receive from the telecom industry on your CV. You
23 provided that to us in this case. Correct?

24 A. Yes.

25 Q. And you can use those funds for research, student

1 stipends, traveling to conferences, and so forth. Correct?

2 A. That's right.

3 Q. And the gifts that the university receives from the
4 telecom industry also go to pay a portion of your summer
5 salary. Correct?

6 A. Yes.

7 Q. And your ties to the telecom industry are not only
8 important to you, but are important to your students, many of
9 whom go on to work for companies like Ericsson. Correct?

10 A. Yes. I mean, I think it's a two-way beneficial
11 relationship with them.

12 Q. It's important to your students to be able to find jobs
13 in the industry. Correct?

14 A. There's no shortage of demand for my students.

15 Q. I want to focus now on a research center at UT-Austin
16 called 6G at UT. You're familiar with this research center.
17 Correct?

18 A. Of course. I founded it.

19 Q. And you're an ongoing director in the center. Correct?

20 A. Yes.

21 Q. And you founded it. It's an important part of your
22 academic work and research at the University of Texas.
23 Correct?

24 A. Yes.

25 Q. And your -- the 6G at UT research center receives

1 funding, in part, from corporate sponsors, including Ericsson
2 and Samsung, the very people that make the equipment accused
3 of infringing in this case. Correct?

4 A. Yes. They are two of the many sponsors.

5 Q. And Ericsson is an important -- they're not -- Ericsson
6 is not just one of many sponsors. It's an important sponsor
7 and partner of 6G at UT, isn't it, Doctor Andrews?

8 A. I would say so, yes.

9 Q. In fact, Ericsson has sent its chief technology officer,
10 one of the top people in the whole entire company, to come
11 visit you at the University of Texas at least two times in
12 connection with your work on 6G at UT. Correct?

13 A. Yes. I'm very proud of that.

14 Q. Okay. And, in fact, just two months ago, I think back in
15 April, two months before this trial, 6G at UT had its third
16 annual forum which was a big event for 6G at UT which you said
17 is one of the primary focuses of your academic work right now.
18 Right?

19 A. Definitely.

20 Q. And that big third annual forum, you view that as a
21 success. Correct?

22 A. I do.

23 Q. And you were a co-host of that forum, weren't you?

24 A. I was.

25 Q. And the other co-host was Ericsson. Correct?

1 A. It was a woman named Elena Fersman from Ericsson was the
2 other co-host, yes.

3 Q. Okay. And Ericsson was, if not the financial sponsor, a
4 significant financial sponsor of that forum just two months
5 before this trial started. Correct?

6 A. Yes. They're an annual sponsor of that event.

7 Q. And the keynote speaker at the forum two months ago was
8 the chief technology officer of Ericsson, one of the keynote
9 speakers. Correct?

10 A. Yes. That's right.

11 Q. Okay. And you put a picture of him up on your Linked-in
12 page, and you called the forum supported by Ericsson and
13 others in the telecom industry a raging success. Correct?

14 A. I can't remember the exact article, but it wouldn't
15 surprise me. It sounds reasonable.

16 Q. Now, I want to turn to focus solely, solely, on your
17 non-infringement opinions. You've been here all week and seen
18 Verizon's lawyers make a big deal out of the notion that the
19 Raze system was fixed in opening and in examining witnesses.
20 You've been here the whole trial. Right?

21 A. The majority of it.

22 Q. And you've seen that focus on the concept that the Raze
23 system is fixed. Correct?

24 A. Yeah, it was fixed.

25 Q. And you even talked about that yesterday in your direct

1 examination with Ms. Dominguez. Right?

2 A. Yes.

3 Q. And do you think anyone watching this trial might have
4 the misimpression that Verizon is claiming it does not
5 infringe the '931 Patent or the '794 Patent because its
6 network is mobile and the patent claims are only directed to
7 fixed networks and devices? Do you think anybody has that
8 impression?

9 A. It's hard for me to speculate what other people think.
10 I'm happy to give my impression.

11 Q. But if anybody had that impression, that would be
12 absolutely wrong, wouldn't it?

13 A. Right. I mean, you have to examine, you know, what the
14 accused products in light of the claims of the '931 Patent.

15 Q. Right. And the reason it would be absolutely wrong is
16 because the Court has construed the claims to cover both fixed
17 and mobile devices. Correct?

18 A. That's my understanding, yes.

19 Q. Okay. And you don't offer a single non-infringement
20 opinion that is based on the notion that the claims only
21 extend to fixed networks or devices. Correct?

22 A. That is correct.

23 Q. You're non-infringement opinions literally have
24 absolutely nothing to do with the difference between a fixed
25 or mobile network or device. Correct?

1 A. That's correct.

2 Q. And that's because you applied the plain and ordinary
3 meaning of wireless access device, wireless network. Correct?

4 A. I mean, that's one reason.

5 Q. Okay. And let's -- I want to take a look at something
6 the jury has in its notebooks which is the Court's claim
7 constructions. I'm going to highlight, blow this up a little
8 bit.

9 You see that what the jury has in its notebook are a
10 series of terms that appear in the claim that the Court has
11 construed. Correct?

12 A. Yes.

13 Q. And I've got the pertinent ones here highlighted. These
14 are the terms that use the word 'wireless'. Do you see that?

15 A. Yes.

16 Q. And for each of those, the Court has instructed us to use
17 the plain and ordinary meaning of those terms. Correct?

18 A. Yes.

19 Q. And you faithfully applied the Court's claim construction
20 for all of your opinions in this case, both infringement and
21 validity. Correct?

22 A. Of course.

23 Q. And you agree -- I want to make sure this is crystal
24 clear. You agree that the plain and ordinary meaning of
25 wireless access and so forth includes both fixed and mobile.

1 There's no daylight. Right?

2 A. Right. I mean, that's -- I think that's what it means.

3 Q. So any time the jury hears anything about fixed, they can
4 be absolutely sure that it has nothing to do with any opinion
5 you are offering about whether or not Verizon infringes
6 General Access' patents. Correct?

7 A. I think that's right.

8 Q. Now, you also applied the plain and ordinary meaning as
9 you just mentioned of wireless -- the wireless terms to your
10 opinions that the '931 and '794 Patents are not enabled or
11 lack written description. Correct?

12 A. Yes.

13 Q. And for the enablement component of that for both
14 patents, you have an opinion that Patent Office got it wrong,
15 they are not enabled because they don't enable the operation
16 of the claims in a -- in a -- in a mobile environment, to
17 summarize high level your opinions.

18 A. That's a fair high level summary.

19 Q. Okay. And I want -- you showed some slides connected to
20 your enablement opinions where you quote language out of the
21 patents that says, you know, fixed wireless access, fixed
22 network, to support your enablement opinion. Correct?

23 A. Yes.

24 Q. Okay. And I want to show -- I made -- let me just put
25 something on the screen.

1 And these are two of the slides that you showed during
2 your direct testimony yesterday with Ms. Dominguez that
3 illustrate the concept I just talked about where the patent
4 uses -- the '931 on the left uses the word 'fixed' and you've
5 got the same thing on the '794 Patent on the right. Correct?

6 A. Yes.

7 Q. But you understand that there are instances in both
8 patents where the term 'wireless' is not preceded by fixed,
9 including the title. Right?

10 A. Yes, that's true. There are some instances.

11 Q. Okay. You see I've got Exhibit JX 1, which is the '931
12 Patent, which the title of it is Wireless Access. You see
13 that?

14 A. Yes.

15 Q. And when the word 'wireless' access is used right here in
16 the title in the spec and in the abstract and in the claims
17 means the same thing every single time. Correct?

18 A. I mean, I think that's a reasonable assumption. I think,
19 you know, it has to be -- I'd have to analyze, you know,
20 perhaps different instances in the context of the sentences
21 before them or figures they're referring to and so on.

22 Q. But it's fair to say the Court has ordered you to apply
23 the plain and ordinary meaning of wireless which includes
24 fixed and mobile. Correct?

25 A. That's right.

1 Q. And when that's not qualified or in context, it makes it
2 clear that it's limited to fixed any time the patent uses the
3 words 'wireless access' or 'wireless network', that includes
4 fixed and mobile. Correct?

5 A. Well, I think that, you know, the Court's construction
6 refers very specifically to the claim language, you know, with
7 regards to how it's used throughout the specification. Again,
8 I think, you know, for -- it's a plain and ordinary meaning
9 construction so I'd have to look at it in the context of the
10 paragraph that it's in, the figure it's describing, and so
11 on --

12 Q. So you understand claim construction is the meaning of
13 the terms as they would be viewed by a person of ordinary
14 skill in the art at the time. Right?

15 A. Yes.

16 Q. And the Court has determined that in the claims, wireless
17 access, wireless network, include both fixed and mobile.

18 A. Right, plain and ordinary meaning.

19 Q. That's what plain and ordinary meaning is, isn't it?

20 THE COURT: Just a minute. Yes?

21 MS. DOMINGUEZ: May we approach?

22 THE COURT: Approach the bench.

23 (The following was had outside the hearing of the
24 jury.)

25 MS. DOMINGUEZ: Your Honor, I don't think this line

1 of questioning is consistent with Your Honor's MIL that there
2 should be no reference to anything other than the actual
3 construction issued by the Court.

4 There was reasoning in the Court's opinion that did talk
5 about the fact that plain and ordinary meaning is broad enough
6 to cover fixed, but that's not in the actual chart. The chart
7 just says plain and ordinary meaning.

8 And my concern is that counsel is now violating or
9 getting very close to violating Your Honor's MIL by getting
10 into the reasoning and the discussion in the Court's claim
11 construction.

12 MR. HUGHES: There was no dispute in claim
13 construction that plain and ordinary covered fixed and mobile.
14 The question was whether we limited that, and we prevailed on
15 that. And he agrees. He already agreed under oath that plain
16 and ordinary --

17 THE COURT: He's agreed several times.

18 MR. HUGHES: Yeah, yeah. I'm going to move on, but
19 I've got a couple more questions.

20 THE COURT: I don't think the MIL's been violated at
21 this point.

22 MS. DOMINGUEZ: I just want to be clear. I agree he
23 agrees, but there have been references to the Court rather
24 than to just his agreement which is I agree there is nothing
25 wrong with that, his agreement that fixed and mobile are both

1 within the scope of the plain and ordinary meaning. There
2 have been a number of references to what the Court has said,
3 and that's the focus of my concern.

4 MR. HUGHES: It's in the binder from the Court, Your
5 Honor.

6 MS. DOMINGUEZ: And plain and ordinary meaning
7 without --

8 THE COURT: The Court didn't say fixed and mobile
9 are the same thing.

10 MR. HUGHES: I never said that.

11 THE COURT: And I know you didn't. But -- well, if
12 you're moving on, this may be a moot question anyway.

13 As to the specific objection, Ms. Dominguez, I don't find
14 the MIL's been violated at this time. Okay?

15 MS. DOMINGUEZ: Thank you, Your Honor.

16 THE COURT: Let's proceed.

17 MR. HUGHES: I'll try to keep this fast.

18 (The following was had in the presence and hearing
19 of the jury.)

20 THE COURT: Let's proceed.

21 MR. HUGHES: Thank you, Your Honor.

22 Q. (BY MR. HUGHES) So returning where we were, Doctor
23 Andrews, you can see that wireless access appears in the title
24 of the patent. Correct?

25 A. Yes.

1 Q. That qualified wireless access appears in the abstract of
2 the patent. Correct?

3 A. Yes. It looks like three times.

4 Q. And if we toggle through into the summary of the
5 invention, you can see it appears several times in the columns
6 following the summary of the invention. Correct?

7 A. Yes.

8 Q. And you can see that it appears following the detailed
9 description of the invention. Correct?

10 A. Yes.

11 Q. Okay. Now, your opinion -- let's move on to your
12 validity opinions.

13 Your opinion is that both the '931 and '794 Patents are
14 invalid as we've discussed. Correct?

15 A. Yes.

16 Q. And the upshot of that is that the Patent Office just got
17 it flat out wrong when it comes to the '931 and '794 Patents.
18 Correct?

19 A. Those are your words, not mine, but I do think they got
20 it wrong.

21 Q. Let's use your words. Yesterday your words were you were
22 here to set the record straight. Those are words you used.
23 Right?

24 A. Absolutely.

25 Q. And -- and you -- and I also wrote it down. You were

1 vehement and emphatic that these patents should be ripped up
2 for all time. That's -- those are your words yesterday,
3 vehement and emphatic. Correct?

4 A. I remember emphatic. But, yes, I do feel that way.

5 Q. Okay. And focusing on written description, written
6 description means the claims are supported by the disclosure.
7 Right?

8 A. Yes.

9 Q. And the disclosure is the thing at the beginning of the
10 patent, all the columns, the figures, and the text. Correct?

11 A. Yes.

12 Q. And the applicant in that portion sets out the background
13 of the invention, the problem being solved, the prior art
14 that's out there, what the inventor had come up with. Right?

15 A. That's the idea.

16 Q. And that's -- and then the claims are the numbered things
17 at the back of the patent as I think the jury -- the claims
18 are the things at the back. Right?

19 A. Yes.

20 Q. And to be clear, the written description requirement is
21 an exercise in making sure the claims are part of what the
22 applicant described in the disclosure. Correct?

23 A. That's a summary of it, but yes.

24 Q. And the Patent Office, when it's determining
25 written -- whether or not the written description requirement

1 is satisfied, they've got all of that information in front of
2 them. They've got the disclosure, they've got the claims.
3 Correct?

4 A. Presumably, yes.

5 Q. And you had that same information that the patent
6 examiners had for your analysis. You had the disclosure and
7 the claims. Correct?

8 A. Yes.

9 Q. Okay. And have you watched the patent video that the
10 jury watched at the beginning here on Monday?

11 A. I'm not sure exactly which video they watched, but I've
12 watched that one or a similar one sometime ago.

13 Q. And you understand from that video and your own
14 experience with your patents that the patent examiners at the
15 U.S. Patent and Trademark Office make the decision on whether
16 to award an inventor a patent. That's their decision. Right?

17 A. It is.

18 Q. And those patent examiners, they're not just anyone off
19 the street; they have a background in the field or art of the
20 invention. Correct?

21 A. You know, there's a wide variety of examiners with I
22 think a variety of background, but I think that's the hope.

23 Q. And the hope at least, you have no reason to doubt this
24 is accomplished as the patent examiners are people with skill
25 in the relevant art. Right?

1 A. At least familiarity, yeah.

2 Q. So after a patent application is assigned to the
3 appropriate examiner with experience in the relevant
4 technology, there is typically a back-and-forth between the
5 inventor and the Patent Office before the Patent Office issues
6 a patent. Correct?

7 A. That's my own personal experience and, you know, what
8 I've observed, yes.

9 Q. Okay. And one of the things the patent examiner does,
10 and I'm going to quote verbatim from the video the jury saw,
11 is to decide if the inventor's description of the invention is
12 complete and clear enough to meet the requirements for a
13 patent, including the requirement that the description enables
14 someone of ordinary skill in the field to make and actually
15 use it. That's the job of the patent examiner. Correct?

16 A. Yes.

17 Q. And here we've got one examiner for the '931 and two for
18 the '794 that decided that the claims that we're here in court
19 about satisfied the written description and enablement
20 requirements. Correct?

21 A. Well, ultimately, yes.

22 Q. Okay. And not all patents make it through the
23 back-and-forth with the patent -- not all claims make it
24 through the process. Right? Some just get rejected for all
25 time. Right?

1 A. Yes.

2 Q. And plenty of patent applications don't get any claims
3 issued. Some just -- they can't get through the Patent
4 Office. Right?

5 A. I presume so, yeah.

6 Q. And those patents examiners, they don't have any skin in
7 the game. They don't get paid more money if they issue more
8 patents. Right?

9 A. I have no idea how they're compensated.

10 Q. And you've got several of your own patents issued by the
11 U.S. Patent Office. Right?

12 A. Yes.

13 Q. And you're proud of the work you did to obtain those
14 patents. Right?

15 A. Sure.

16 Q. You're not a patent lawyer, are you?

17 A. No.

18 Q. And so when you get your patents, you work with patent
19 lawyers to handle the back-and-forth with the Patent Office.
20 Right?

21 A. Yes.

22 Q. You trust your patent lawyers to draft portions of the
23 patents, including the claims, and handle the prosecution of
24 the patents. Right?

25 A. Well, I usually work very closely with them at every

1 stage.

2 Q. But you trust them to get it right, don't you?

3 A. Not really, actually. I actually do look over everything
4 they do very carefully.

5 Q. And so you believe then in that case, I'm sure, that the
6 patents that you have been awarded are valid U.S. patents.
7 Correct?

8 A. Yeah, that's what I believe, you know, but I also don't
9 know all the prior art out there even being an expert in the
10 field.

11 Q. Now, many of your students have been awarded patents.
12 Right?

13 A. My former students? Yes, they've received thousands of
14 patents.

15 Q. Yeah. I was just going to point that out. In fact,
16 they've received thousands of patents and that's something
17 that you're proud of and you put that right on your website
18 biography for the University of Texas. Correct?

19 A. Yeah, very proud of my former students.

20 Q. And just like your own patents, you have no reason to
21 doubt the Patent Office had what it needed to do its job when
22 it awarded those thousand-plus patents to your former students
23 whom you're proud of. Right?

24 A. Right.

25 Q. Okay. And in this case you reviewed around a hundred

1 patents in the course of your work in this case across the
2 various issues that you've opined on. Right?

3 A. It's probably the right order of magnitude, yeah.

4 Q. And setting aside the '931 and '794 Patents that are
5 General Access', setting those aside, you assume the hundred
6 or so patents you reviewed in this case for purposes of your
7 analysis were valid. Correct?

8 A. It wasn't really pertinent to my analysis. You know, the
9 patents say what they say, and I was, you know, just using
10 them as sources of information usually.

11 Q. Well, Doctor Andrews, you've got your deposition
12 transcript. There's two sets of documents up there. One of
13 them includes a printout of your deposition transcript. Can
14 you find that for me?

15 A. Yeah, sure.

16 Q. It's in a coil bound --

17 A. A coil bound, yes.

18 Q. Turn to page 292.

19 A. Sorry. I don't actually -- these are my reports. I
20 haven't found my deposition transcript yet, sir. Ah, I think
21 I found it. Now, this is the March 19, 2024 one, sir?

22 Q. Yes. I believe so. Can you turn to page 292?

23 MS. DOMINGUEZ: I'm sorry, counsel. We didn't get a
24 copy in our binder, either.

25 MR. HUGHES: He's got a copy up there. You have a

1 copy of the witness' transcript?

2 MS. DOMINGUEZ: We're finding that.

3 THE COURT: Wait a minute. Let's go off the record.

4 (Discussion held off the record.)

5 THE COURT: All right. We're back on the record.

6 Q. (BY MR. HUGHES) Doctor Andrews, please review the
7 testimony you gave on page 292, lines 6 through 18.

8 A. Yes, I have.

9 Q. Okay. Does that refresh your recollection that for the
10 patents that weren't General Access' that you looked at in
11 this case, you assumed for the purposes of your analysis that
12 they were valid?

13 A. Yes. Like I say here, I would say that's true, but I
14 didn't do an invalidity analysis or have any reason to believe
15 they're not valid.

16 Q. So for your own patents, students' patents, and a hundred
17 or so patents you reviewed in this case, you assumed the
18 Patent Office got it right. But for the '931 and 794' General
19 Access patents, the Patent Office got it wrong. Right?

20 A. I mean, patents are presumed valid, and until I do an
21 invalidity analysis, I don't have an opinion one way or the
22 other. But I assume they're valid until I determine
23 otherwise.

24 Q. Okay. And you understand the '931 Patent application was
25 before the Patent Office for six years. It issued in 2007?

1 A. Well, I think a more accurate answer is it was before the
2 Patent Office for about six years, was rejected, an amendment
3 was filed, and then after a short period it was allowed.

4 Q. All right. And we've already been through this. Two
5 examiners for the '794, one for the '931, you say they all got
6 it wrong. Right?

7 A. Well, actually the '794 examiners did actually reject the
8 claims for lack of written description at one point. So I'd
9 say they got it right in that instance.

10 Q. And you're here in court, sir, saying the issued claims
11 that are presumed valid, they got it wrong. Right?

12 A. I mean, yeah, I think they eventually issued the claims.

13 Q. Okay. And one difference between those patent examiners
14 and you is that those patent examiners were not paid and
15 supported by companies accused of infringing the patents.
16 Correct?

17 THE COURT: All right. I've allowed this to go on,
18 but the Court precludes either denigrating or bolstering the
19 Patent Office, and I think we're beginning to cross that line,
20 counsel.

21 We're not here to talk about how great the Patent Office
22 is and the other side's not here to get up and talk about how
23 horrible the Patent Office is. The patents have been issued,
24 they're subject to challenge, and the jury's going to decide
25 whether that challenge is valid or not, whether that challenge

1 is successful or not.

2 But I'm not going to permit any further delving into the
3 pluses or the minuses of the examiners. That's been more than
4 covered. Okay?

5 MR. HUGHES: Thank you, Your Honor. That was my
6 last question so we can move on.

7 THE COURT: Let's do that. That's a good idea.

8 MR. HUGHES: Thank you.

9 Q. (BY MR. HUGHES) Doctor Andrews, you've been here since
10 the opening. You've seen most of the testimony. Correct?

11 A. Yes.

12 Q. And you recall in Mr. Krevitt's opening, he showed a
13 timeline of the prosecution of the patents. Do you recall
14 that?

15 A. Vaguely.

16 Q. Does that look familiar?

17 A. Yes.

18 Q. And one of the things Mr. Krevitt wanted to focus on and
19 you have focused on in your testimony with me this morning and
20 yesterday on direct is that there were claims that were
21 rejected and amended during the prosecution of the -- both
22 patents. Correct?

23 A. Right, yeah. This just shows the '931 timeline, but
24 that's right, there was back and forth in both case.

25 Q. Okay. And focusing on your opinion that Verizon does not

1 infringe, that opinion literally has nothing to do with
2 whether the claims that we're here in court about were amended
3 or added during prosecution. Your job is to compare the
4 issued claims to the accused product. Correct?

5 A. Yes.

6 Q. Okay. And returning to the timeline issue, I mean, are
7 you even just a little bit surprised that there's been so much
8 focus on the timeline of the prosecution of these patents in
9 this case?

10 A. I don't really have an opinion on that.

11 Q. I mean, you know there's absolutely nothing wrong with an
12 inventor obtaining claims years after he or she has filed a
13 patent application. Correct?

14 A. Generally speaking, yeah, I agree.

15 Q. And you know it's common for the Patent Office to reject
16 claims and for those claims to be amended. Correct?

17 A. Yes.

18 Q. And when claims are amended or claims are added and they
19 ultimately issue, by definition they are different from the
20 originally filed claims. Correct?

21 A. Yes.

22 Q. And there's nothing sinister or nefarious about that.
23 Right?

24 A. No.

25 Q. And one of the reasons you know it's common is because

1 it's true for your own patents, isn't it?

2 A. Yes.

3 Q. And I think we've covered this. You've issued -- you had
4 at least four issued U.S. patents. One of them is the '138
5 Patent. Correct?

6 A. I'm not familiar with the numbers of my patents.

7 Q. Well, if you turn to -- there's a binder there that says
8 Andrews cross, I think, and if you turn to tab 26 -- A-26.
9 I'm sorry, Doctor Andrews.

10 A. Mine seems to go from AC -- no, AC -- I'm sorry. I'm
11 not -- this might be the wrong binder.

12 Q. I'm sorry. Look at Andrews '138 and '194 patents.
13 There's two binders. Sorry. Wrong binder.

14 A. I'm sorry. This one says Andrews cross. So not that
15 one?

16 Q. There is another binder that says Andrews '138 and '194
17 Patents.

18 A. Okay. Great. I have it.

19 Q. And look at the first tab, A-26.

20 A. Yes.

21 Q. And does that refresh your recollection that you have an
22 issued U.S. patent ending in the numbers 138?

23 A. Yes.

24 Q. Does it refresh your recollection that you filed for that
25 patent on -- in November of 2009?

1 A. That sounds right.

2 Q. And it was issued in July of 2015. Correct?

3 A. Yeah, that's what it says here.

4 Q. Okay. So I want to put something on the screen here,
5 which is a demonstrative. So we made a timeline --

6 A. Okay.

7 Q. -- of the prosecution of your patents.

8 MS. DOMINGUEZ: Objection, Your Honor. This has no
9 relevance to the case and is highly confusing and prejudicial.

10 Q. (BY MR. HUGHES) We've been subject --

11 THE COURT: Just a minute. You're going to have to
12 speak up, Ms. Dominguez.

13 MS. DOMINGUEZ: Your Honor, this timeline has
14 nothing whatever to do with this case. It is irrelevant and
15 it is highly confusing to the jury to be introducing a
16 timeline of the prosecution of one of Doctor Andrews' patents.

17 THE COURT: Have you not seen this before?

18 MS. DOMINGUEZ: No, I have not.

19 MR. HUGHES: We have not been disclosing cross
20 examination demonstratives, Your Honor. We've been here all
21 week hearing about amendments and new claims as if there is
22 something sinister about that. And that exact same thing
23 happened in the prosecution of many of Doctor Andrews'
24 patents. I think we've got to give some context to this.

25 THE COURT: Some context, maybe, but these are not

1 patents in this case. I don't want to put irrelevant material
2 before the jury. I understand your point, Mr. Hughes. I'll
3 give you a little bit of latitude.

4 If you want to show that Doctor Andrews has patents and
5 there's been a length of time between filing and issuance,
6 that's fine, but we're not going to dwell on this. All right?
7 We need to get back to the patents in this case, the claims in
8 this case.

9 MR. HUGHES: That's where I want to go, Your Honor,
10 but I do think --

11 THE COURT: I'll overrule the objection at this
12 point, but I want you to understand you don't have a blank
13 check here. We're going to cover this quickly and then move
14 on.

15 MR. HUGHES: Okay.

16 Q. (BY MR. HUGHES) Doctor Andrews, we've already looked at
17 the actual patent, and you know that the time frame between
18 filing the application, the issuing of the patent was from
19 2009 to 2015 for your '138 Patent. Correct?

20 A. Yeah, it's been a while since I looked at or thought
21 about this, but this all looks right.

22 Q. You told me a few minutes ago you were very involved with
23 all the back-and-forth with the Patent Office. Right?

24 A. I was.

25 Q. And you've been sitting here all week in court watching

1 these timelines. You didn't refresh yourself on the back and
2 forth for your own patents before you came here to testify?

3 A. Why would I? I don't see the relevance, but --

4 Q. So you don't have any reason to disagree that what I've
5 got here on the screen is not an accurate recitation of what
6 happened during the prosecution of the '138 Patent. Correct?

7 A. Yeah. I mean, I don't remember either way. But if you
8 represent to me that this is an accurate timeline of the
9 Patent Office's actions and our amendments, I believe you.

10 Q. Yeah. That will help us follow the Court's instruction
11 which is, you know, you look at February 22, 2014; you added
12 new claims; claims were rejected throughout the prosecution;
13 you amended claims; and the things that ultimately came out
14 that were in the issued patents were amended and claims that
15 were added during the prosecution. And there's literally
16 nothing wrong with that. Right?

17 MS. DOMINGUEZ: Objection.

18 THE COURT: What's the objection?

19 MS. DOMINGUEZ: Same objection, Your Honor. This
20 is --

21 THE COURT: Approach the bench, counsel.

22 (The following was had outside the hearing of the
23 jury.)

24 MS. DOMINGUEZ: This has become a side lawsuit
25 about Mr. --

1 THE COURT: No. No. We're done with this. You
2 need to move on.

3 MR. HUGHES: Okay. Can I get an answer to that last
4 question?

5 THE COURT: That was a speech asking for a yes at
6 the end of it. I don't know that I'd call it much of a
7 question. But, no, we need to move on.

8 MR. HUGHES: Okay.

9 THE COURT: Let's move on.

10 (The following was had in the presence and hearing
11 of the jury.)

12 Q. (BY MR. HUGHES) All right, Doctor Andrews. I think
13 we're ready to change topics here.

14 Let's now focus on '931 Patent, and I'm going to put up a
15 slide from your presentation. This is one of the slides you
16 showed the jury yesterday in your infringement analysis.
17 Correct?

18 A. Yes.

19 Q. And this goes to the -- whether -- this is your opinion
20 related to the broadcast beam signal issue. Correct? Or a
21 slide related to that?

22 A. Yes.

23 Q. And one of the things that's going on here in the patent
24 is that broadcast beam signal to wireless access devices
25 within more than one of said sectors is an important part of

1 the claim for your analysis. Correct?

2 A. Yes.

3 Q. And I want to just highlight something on your slide that
4 you didn't highlight because those broadcast beams are
5 transmitted. Right?

6 A. Of course.

7 Q. And they're transmitted by a transceiver. Correct?

8 A. That's -- yeah, I would agree.

9 Q. Okay. And I want to put up another demonstrative, and
10 I've got on the left-hand side what the jury has in its
11 notebook from the Court, the Court's claim construction and
12 I've got on the right-hand side a chart that's taken out of
13 your rebuttal report at paragraph 13 where you list terms that
14 were construed by the Court. Do you see that?

15 A. Yes.

16 Q. And one difference between the Court's chart that the
17 jury has and your chart from your report is that your report
18 does not have the term 'a transceiver' in it, does it?

19 A. I'd have to review my reports --

20 Q. It's right there in front of you, sir?

21 THE COURT: Wait a minute. What's the objection,
22 Ms. Dominguez?

23 MS. DOMINGUEZ: May we approach?

24 MR. HUGHES: Your Honor, I'm on a clock here.

25 THE COURT: What's your objection?

1 MS. DOMINGUEZ: The construction that counsel is
2 referring to was not in the Court's table at the end of the
3 claim construction order which is what Doctor Andrews put in
4 his report for the reason, as Your Honor is aware of, in
5 connection with what was prepared for the jury why that was
6 put in.

7 THE COURT: The jury has the complete constructions
8 of the Court. Whether all of them are included in Doctor
9 Andrews' report or none of them were included, his report is
10 what it is. I really don't see the probative value of the
11 question and I don't see any merit to the objection.

12 Let's just move on.

13 Q. (BY MR. HUGHES) So my only point, I'm going to go back
14 to your slide now, Doctor Andrews, is that when a transceiver,
15 when it's used in the patent -- I'm sure -- I'm not in any way
16 implying you didn't understand this. It means one or more
17 transceivers. That's a common -- that's true in this case.
18 Correct?

19 A. Depends.

20 Q. Are you -- did you -- well, let me just ask you this.
21 When you were rendering your opinions in this case, did you
22 assume that transceiver meant one or more transceivers?

23 A. It depends on the context.

24 Q. Did you apply the construction that we see on the
25 left-hand side of the slide that is from the Court, the jury

1 has in its notebook?

2 A. I honestly don't remember being provided that
3 construction.

4 Q. So you're learning about it right now for the first time.

5 A. I don't recall, but it wasn't pertinent to my analysis.

6 Q. All right. So let's go back to your slide. And so now
7 that we have transceiver, we've looked at the definition of
8 transceiver, we'll get back to that, but let's take this step
9 by step.

10 One or more transceivers can beam a broadcast signal.
11 Correct? Just --

12 A. No. I mean, that's -- that's just -- like those are
13 different things, transceivers and broadcast signals.

14 Q. The thing that transmits the broadcast signal is a
15 transceiver.

16 A. Yeah. I mean, a transceiver refers to both a transmitter
17 and a receiver and can have many constituent parts. I would
18 argue that what ultimately transmits the broadcast beam signal
19 is the antenna array.

20 Q. And that's different than the transceiver in your mind?
21 It's not -- transceiver isn't inclusive of antenna?

22 A. It could be.

23 Q. Okay. And let's take this step by step. You agree that
24 Verizon's equipment sends synchronization signal blocks to
25 each sector in a Verizon cellular site associated with the

1 base station?

2 A. That's right. SSBs are sent to each sector.

3 Q. And you agree the SSB is sent for the purposes of initial
4 access for users in a sector and it is a broadcast signal.

5 Correct?

6 A. Yes.

7 Q. And the SSBs are transmitted by each antenna or
8 transceiver to the sector serviced by that antenna. Correct?

9 A. Yes.

10 Q. And the SSBs are sent at the same time across the
11 sectors. Correct?

12 A. That's currently how it's done, yes.

13 Q. And the TDD frames that you talked about in Verizon's
14 equipment, they all have the system frame number. Correct?

15 A. That all sounds right, yeah.

16 Q. And the SSBs are transmitted simultaneously to all
17 sectors in a cell site in the same system frame number.

18 Correct?

19 A. That's the typical implementation, yes.

20 Q. And let me put up JX 40, which has been admitted. Doctor
21 Andrews, you're familiar with this image. You either have it
22 or a version of it in your report. Right?

23 A. Yes.

24 Q. And you agree this is one way to illustrate the
25 components of an SSB. Correct?

1 A. Yes.

2 Q. And the SSBs that are -- you've already agreed are
3 simultaneously transmitted in the same system frame number to
4 the sectors in a Verizon cell network, they've got some common
5 information, don't they?

6 A. You mean inside the SSB, some of the underlying
7 information?

8 Q. Yes, sir.

9 A. Yes.

10 Q. The SSS, the thing in red here, that is transmitted in
11 the same system frame number to all sectors is identical.
12 Correct?

13 A. No.

14 Q. No?

15 A. No. That's a mistake that Doctor Madisetti made.

16 Q. Okay. We'll have to ask him about that. But you agree
17 there is common information in the SSB that is transmitted to
18 all the sectors. Correct?

19 A. Right. Some of the information that's carried in the
20 physical broadcast channel, you know, identifies key things
21 like the band width that's used, the subcarrier spacings. And
22 those are typically the same from sector to sector, in fact
23 over the whole system.

24 Q. So some information is common and some information is not
25 common. Correct?

1 A. Yes. I just want to emphasize, though, that that's the
2 underlying information in there. All of this is then
3 scrambled so the signals are completely unique.

4 Q. I'm not talking about the scrambling or signals. I'm
5 talking about the actual underlying information in the SSB.
6 Some is common, some is not common. Correct?

7 A. Yes.

8 Q. And you understand that this is a comprising claim. So
9 if the jury found potentially that the things that were common
10 satisfied the claims, they wouldn't necessarily have to find
11 that it's all common. Correct? You understand the concept of
12 comprising.

13 A. I understand the concept of comprising.

14 Q. Now, at the end of the day you and Doctor Madisetti just
15 have different views of what the evidence shows here. Your
16 view is that the evidence shows separate TDD frames to each
17 sector and you can't send the same broadcast beam signal to
18 more than one sector. Right?

19 A. That's a compound question, but, no, I don't agree that
20 we just have different views.

21 Q. Well, your view is that the evidence shows that Verizon's
22 equipment does not use the invention of the '931 or '794
23 Patents. Correct?

24 A. Absolutely.

25 Q. Okay. And Doctor Madisetti has a different view.

1 Correct?

2 A. That is also true.

3 Q. Okay. And at the end of the day, it's not up to Doctor
4 Madisetti or Doctor Andrews or Mr. Hughes to decide. The jury
5 is going to resolve the difference in dispute based on the
6 evidence that's before us. Correct?

7 A. Yes.

8 MR. HUGHES: I pass the witness.

9 THE COURT: Redirect?

10 MS. DOMINGUEZ: Briefly, Your Honor.

11 THE COURT: All right. Proceed with redirect.

12 REDIRECT EXAMINATION

13 BY MS. DOMINGUEZ:

14 Q. Good morning, Doctor Andrews.

15 A. Good morning, Ms. Dominguez.

16 Q. You were asked about your 6G at UT research center. Do
17 you recall that?

18 A. Yes.

19 Q. You were asked about the fact that some of the most
20 important companies in wireless support your research center.
21 Correct?

22 A. Yes.

23 Q. Why do those organizations choose to support your
24 research center?

25 A. Well, UT Austin is known as being one of the world's

1 greatest wireless research centers. We've had a rich history
2 of innovation and ideas that have led to some of the things in
3 LTE and 5G. So the companies like to see the research we're
4 doing and they've benefited greatly from hiring our students
5 who have gone on to be some of their most innovative
6 employees.

7 Q. Are there other entities or organizations who also
8 support your research center?

9 A. Yes. The industry support is roughly 20 percent of our
10 center's budgets, and the rest comes from the federal
11 government, the Department of Defense, those types of sources.

12 Q. You mentioned that you've turned down roughly 30
13 opportunities to work as an expert witness this year?

14 A. That's right.

15 Q. Were any of those cases you turned down from telecom or
16 tech companies?

17 A. Yes, nearly all of them.

18 Q. You were asked a number of questions about your analysis
19 of the patents' discussion of fixed wireless technologies. Do
20 you recall that?

21 A. Yes.

22 Q. And you were asked about the relationship to
23 non-infringement. Do you recall that?

24 A. Yes.

25 Q. Does the fact that the patents focused on fixed wireless

1 impact your invalidity opinions?

2 A. It does, in particular the enablement opinion.

3 Q. Counsel asked you about references in the '931 Patent to
4 wireless access. Do you recall?

5 A. Yes.

6 Q. Does the fact that the patent sometimes says wireless
7 access rather than fixed wireless access impact your
8 invalidity opinions in any way?

9 A. No, not at all. You know, often back in that time frame
10 wireless access networks were -- you know, they were assumed
11 to be fixed networks. They were networks trying to bring
12 internet to homes. That was the common terminology was an
13 access network, access to the internet.

14 Q. You were asked about what information the patent examiner
15 had in examining the patents. Do you recall that?

16 A. Yes.

17 Q. Were you here in the courtroom when Mr. Struhsaker
18 testified that he did not write down in the '794 Patent
19 anything about the transceiver routing?

20 A. Yes.

21 Q. Did the Patent Office have Mr. Struhsaker's testimony?

22 A. No.

23 Q. Did the Patent Office have Mr. Struhsaker's testimony
24 that it took years after the filing of the '931 Patent to make
25 mobile beamforming work?

1 A. No.

2 Q. Did the Patent Office have Mr. Struhsaker's testimony
3 that he thought someone would be smoking crack if they thought
4 you could build a mobile system using a fixed wireless
5 protocol?

6 A. I'm sure they did not have that.

7 Q. Only the jury has seen that evidence. Right?

8 A. As far as I know.

9 Q. Counsel asked you whether there was anything wrong with
10 amending the claims. Do you recall?

11 A. Yes.

12 Q. There's nothing wrong with amending claims. Right?

13 A. No.

14 Q. There's nothing unusual about engaging in years of
15 prosecution.

16 A. Yeah, that's normal.

17 Q. But there are rules. Right?

18 A. Yes.

19 Q. Do limitations have to be supported in the patent
20 application?

21 A. Yes. You can't just change the claims to anything you
22 want. They have to be consistent with the original filing.

23 Q. And are there consequences for infringement if certain
24 limitations are added?

25 A. What do you mean?

1 Q. If a limitation through an amendment is added into the
2 claims, what, if any, consequence does that have for the
3 infringement analysis?

4 A. Well, that that limitation would need to be infringed to
5 infringe the patent, that new added limitation.

6 Q. You were asked about your own prosecution. Right, Doctor
7 Andrews?

8 A. Yes.

9 Q. And counsel accurately pointed out that you were
10 personally involved in those amendments.

11 A. I was on that patent, yes.

12 Q. You were actually involved in writing your claims.

13 A. Yes.

14 Q. We heard in this case, though, that Mr. Struhsaker did
15 not write these claims. Do you recall?

16 A. Yes.

17 Q. Do you recall the prosecuting attorney testified he had
18 no record of even speaking with Mr. Struhsaker in connection
19 with drafting claims 28 and 29?

20 A. Yes, I do remember that.

21 Q. Counsel asked you about the SSBs that have been accused
22 in this case. Do you recall?

23 A. Yes.

24 Q. Did you notice counsel asked you about SSBs, plural?

25 A. I think he asked me a few times about SSB, SSBs. But,

1 yes, I did try to pay attention whether it was singular or
2 plural.

3 Q. Why would he have used the plural?

4 A. Well, I'm not sure.

5 MR. HUGHES: Your Honor, speculating about my --

6 THE COURT: Sustained. Sustained.

7 Q. (BY MS. DOMINGUEZ) Counsel asked you about underlying
8 information transmitted in the SSBs. Do you recall that?

9 A. Yes.

10 Q. And he said he was not asking about the signal; he was
11 asking about the underlying information. Right?

12 A. Yes.

13 Q. Does the claim language refer to underlying information
14 or the signal?

15 A. It refers to the transmitted signal.

16 Q. You were asked about differences of opinion between
17 yourself and Doctor Madisetti. Do you recall that?

18 A. Yes.

19 Q. Is whether the SSB is transmitted to multiple sectors a
20 matter of opinion or a matter of fact?

21 A. It's a matter of fact that these SSBs sent to each sector
22 are completely different signals in each sector. Nothing
23 about them is the same at the signal level when it's actually
24 transmitted.

25 Q. Counsel also asked you about your testimony that you

1 wanted to set the record straight. Do you recall that?

2 A. Yes.

3 Q. Can you explain for the jury what you meant by wanting to
4 set the record straight?

5 A. Well, yeah. I guess, you know, it bothers me when people
6 try to take claim -- claim credit for other people's
7 inventions and hard work, and that's what I think's happening
8 here.

9 MS. DOMINGUEZ: Nothing further.

10 THE COURT: Further cross examination?

11 MR. HUGHES: Briefly, Your Honor.

12 THE COURT: Proceed with additional cross.

13 RECROSS EXAMINATION

14 BY MR. HUGHES:

15 Q. I just want to make sure something's crystal clear based
16 on that last answer, Doctor Andrews.

17 The opinions you've given in court about the validity of
18 the '931 and '794 Patents are limited to written description
19 and enablement. Correct?

20 A. Yes.

21 Q. Here in court you are not offering the opinion that
22 either patent is not novel, there's obviously -- that's not an
23 opinion that you're offering in this trial. Correct?

24 MS. DOMINGUEZ: Objection, Your Honor.

25 THE COURT: Approach the bench, counsel.

1 (The following was had outside the hearing of the
2 jury.)

3 MS. DOMINGUEZ: Your Honor, this once again violates
4 the MIL about raising dropped defenses.

5 MR. HUGHES: He just said taking credit for other
6 people's work. It kicked the door wide open.

7 THE COURT: He can answer the question, but then
8 that's where it stops. Go ahead. He can answer that
9 question.

10 (The following was had in the presence and hearing
11 of the jury.)

12 Q. (BY MR. HUGHES) In this trial you were not offering an
13 opinion that either the '794 or the '931 Patent are not novel
14 or, in other words, obvious. That's not an opinion you are
15 giving in this trial. Correct?

16 A. It is my opinion they're not novel. But, no, I've not
17 presented that in this trial.

18 MR. HUGHES: Your Honor, I move to strike the -- the
19 preamble.

20 THE COURT: I'll strike the portion of the answer
21 down to I've not presented that in this trial. That portion
22 of the answer will survive. The remainder of it, I'll strike.

23 MR. HUGHES: Thank you, Your Honor. No further
24 questions. I pass the witness.

25 THE COURT: All right. Any additional direct?

1 MS. DOMINGUEZ: No, Your Honor. Thank you.

2 THE COURT: Doctor Andrews, you may step down, sir.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: You're quite welcome.

5 MR. DACUS: Your Honor, may Doctor Andrews be
6 excused?

7 THE COURT: Any objection?

8 MR. HUGHES: No, Your Honor.

9 THE COURT: Doctor Andrews is excused.

10 MR. DACUS: Thank you, Your Honor.

11 THE COURT: Defendants, call your next witness.

12 MR. DACUS: At this time, Your Honor, Verizon and
13 Ericsson rest their case.

14 THE COURT: All right. The Defendant and intervenor
15 having rested their case in chief, is there a rebuttal case to
16 be presented by the Plaintiff?

17 MS. FAIR: Yes, Your Honor.

18 THE COURT: Call your first rebuttal witness.

19 MS. FAIR: Your Honor, our first rebuttal witness is
20 by deposition video, Mr. Aldrich Gamboa. He is a Verizon
21 distinguished member of the technical staff, and this video is
22 1 minute.

23 THE COURT: Proceed with this witness by deposition.
24
25

1 ALDRICH GAMBOA

2 BY VIDEO DEPOSITION,

3 Q. And then after measuring the sensitivity of the client
4 device, does that radio or transceiver then route information
5 to the user accordingly?

6 A. It's reported as the RSSI from the client.

7 Q. Understood, sir. My question was a little different,
8 which is, after measuring or receiving the sensitivity of the
9 RSSI from the client device, does the radio or transceiver
10 then route information to that client device accordingly?

11 A. For clarity, are you saying when there is currently data
12 to be transmitted? Because it won't just send data unless
13 there's something to be sent.

14 Q. Yes. With the assumption that there's data to be
15 transmitted.

16 A. As long as there's an association, it's always sending
17 data. So it will update any bandwidth to send based upon the
18 RSSI.

19 THE COURT: Does that complete this witness by
20 deposition?

21 MS. FAIR: Yes, Your Honor.

22 THE COURT: Call your next rebuttal witness.

23 MR. KNOBLOCH: Your Honor, the Plaintiff calls
24 Dr. Vijay Madiseti.

25 THE COURT: All right. If you'll come forward,

1 Doctor Madisetti, return to the witness stand, and I remind
2 you, you remain under oath.

3 THE WITNESS: Yes, Your Honor. Can I move these?

4 THE COURT: You can just put them behind you, yes.

5 All right, counsel. Proceed with direct examination.

6 MR. KNOBLOCH: Thank you, Your Honor.

7 VIJAY MADISETTI, Ph.D.,

8 having been previously duly sworn, testified further under
9 oath as follows:

10 DIRECT EXAMINATION

11 BY MR. KNOBLOCH:

12 Q. While I continue to get set up here, Doctor Madisetti,
13 can you explain to the jury why you're back on the stand?

14 A. Okay. Good morning.

15 I'm here to provide a rebuttal to Doctor Andrews'
16 testimony on validity and infringement. So first when I came
17 here, I talked about infringement and technical benefits.
18 Now, having heard Doctor Andrews' testimony, I will provide a
19 rebuttal.

20 Q. And what is validity, Doctor Madisetti?

21 A. Validity means that the patent is as issued by the U.S.
22 Patent Office is valid and that it's not either anticipated or
23 obvious or has written description and is enabled, among other
24 things.

25 Q. In your opinion are the asserted claims of the '931

1 Patent and the '794 Patent valid?

2 A. Yes.

3 MR. KNOBLOCH: And if I may present my screen,
4 please. Is it connected? See if I can get this to work. My
5 apologies. I may need to switch computers here. My
6 apologies. Just a moment.

7 Q. (BY MR. KNOBLOCH) All right. I think we've got it now.
8 My apologies.

9 Doctor Madisetti, what in a nutshell are the bases for
10 your opinions that the asserted claims of the '931 Patent and
11 the '794 Patent are valid?

12 A. Yes. I'm here to rebut Doctor Andrews' opinions on
13 written description. In the summary, Doctor Andrews is
14 incorrect as I will show. The '931 Patent provides written
15 description support for claims 28 and 29, including the
16 following--that the broadcast beam signal is transmitted to
17 devices in more than one sector and that the directed scanning
18 beam signals transmitted in the same portion of the same TDD
19 frame to wireless access devices in different sectors.

20 With respect to enablement of the '931, it's my opinion
21 that the patent is enabled, the claims are enabled, and Doctor
22 Andrews is incorrect. The '931 Patent enables a person of
23 skill in the art to practice the invention without undue
24 experimentation. And Doctor Andrews is incorrect. The patent
25 enables both dynamic beamforming and beamforming with TDD in a

1 mobile nomadic or fixed network.

2 Q. Now, Doctor Madisetti, what is a person of ordinary
3 skill? Can you explain that concept briefly to the jury?

4 A. Yes. The claims are viewed in the light of a person who
5 is of ordinary skill. And in this case it's someone with a
6 Bachelor of Science in computer science, computer engineering,
7 or electrical engineering, and has two years or more of
8 industry or economic experience. So we have to view the
9 claims in the light of that person's view.

10 Q. And did you view the claims and analyze their validity
11 from the perspective of a person of ordinary skill?

12 A. Yes.

13 Q. Now, we're going to talk first about the '931 Patent and
14 then about the '794 Patent. But before we get to that, I
15 actually think there's one issue -- well, let me ask you. Is
16 there an issue that is actually common in Doctor Andrews'
17 opinions between the two patents?

18 A. That's -- you're referring to --

19 Q. Well, let me -- why don't I -- I'm going to pull up the
20 claim constructions that are in the jurors' notebooks.

21 A. Yes.

22 Q. What are the Court's constructions of the terms 'wireless
23 access network' and 'wireless access devices'?

24 A. Yes. These terms are construed by the Court with respect
25 to the '931 and the '794 as to have the plain and ordinary

1 meaning.

2 Q. So I've highlighted here the two places where
3 those -- the term 'wireless access network' and 'wireless
4 access devices' are construed by the Court in the context of
5 the '931 Patent. Right?

6 A. Yes.

7 Q. And in both of those cases, the Court has applied the
8 plain and ordinary meaning?

9 A. Yes.

10 Q. And in your view --

11 A. The Court has ruled; I applied it.

12 Q. Okay. The Court has ruled that the plain and ordinary
13 meaning applies.

14 A. That's right.

15 Q. And the plain and ordinary meaning that you applied, what
16 was that plain and ordinary meaning?

17 A. It's, for example, that it would include fixed access
18 devices and also mobile wireless access devices.

19 Q. And how about for the '794 Patent? I'm going to
20 highlight here wireless communication devices. What is the
21 Court's construction of that term?

22 A. It's, again, the plain and ordinary meaning.

23 Q. And what is the Court's construction of first wireless
24 transceiver operable to communicate with a base station?

25 A. It's one or more transceivers.

1 Q. In -- now, not just a transceiver, Doctor Madisetti.
2 Just in context of the '794 Patent here at the bottom, the
3 first wireless transceiver, what is the Court's construction
4 of that term?

5 A. It, again, would be the plain and ordinary meaning.

6 Q. And does the plain and ordinary meaning of the terms
7 'wireless communication device' and 'first wireless
8 transceiver' apply to both fixed and mobile devices?

9 A. Yes. That's my understanding of the plain and ordinary
10 meaning in the light of one of ordinary skill in the art.

11 Q. And you heard from Doctor Andrews just now. He applies
12 the same plain and ordinary meaning. Correct?

13 A. Yes.

14 Q. So everyone agrees that in both the '931 Patent and in
15 the '794 Patent, the devices in the claims can be both fixed
16 or mobile. Correct?

17 MR. ROSENTHAL: Objection, Your Honor; leading.

18 THE COURT: Sustained.

19 Q. (BY MR. KNOBLOCH) Doctor Madisetti, what does -- what
20 would be the plain and ordinary meaning of the devices in the
21 claims of both the '931 Patent and the '794 Patent?

22 A. As I said earlier, in my opinion it would include both
23 fixed and mobile devices.

24 Q. Now, as people of ordinary skill, did the -- do you
25 believe that the examiners, when they reviewed the

1 applications of the '931 Patent and the '794 Patent, had the
2 same understanding?

3 A. Yes. Based on the review of the file history, yes.

4 Q. Now, you are familiar with the patent application
5 process. Right?

6 A. Yes.

7 Q. How many patents do you have?

8 A. Myself, I have about 55 issued patents and 30 in the
9 prosecution.

10 Q. Before granting patents, do the examiners at the Patent
11 Office consider whether the specification describes the
12 inventions in the claims?

13 A. Yes, that's my understanding.

14 Q. And what conclusion did the examiners reach about the
15 written description of the claims in the '931 Patent and in
16 the '794 Patent?

17 A. That both these were present and hence the reason for
18 allowance or issuance of the patents and the claims.

19 Q. And when the examiners reach that conclusion, they -- did
20 they understand whether the claims covered both fixed and
21 mobile?

22 MR. ROSENTHAL: Objection, calls for speculation, no
23 foundation.

24 THE WITNESS: Based on -- oh, sorry.

25 THE COURT: Just a minute, Doctor Madisetti. I'm

1 going to sustain that objection unless you can lay a
2 foundation, Mr. Knobloch.

3 Q. (BY MR. KNOBLOCH) Doctor Madisetti, as people of -- you
4 understand that people of ordinary -- how people of ordinary
5 skill would understand the terms in the patents. Correct?

6 A. Yes.

7 Q. And that's the perspective from which you considered the
8 meaning and scope of the claims. Correct?

9 A. Yes.

10 Q. And are -- to your understanding, are the examiners in
11 the Patent Office people of ordinary skill who would have that
12 same understanding?

13 A. Yes, that's my understanding.

14 Q. Based on that, when the examiners determined that the
15 '931 Patent and the '794 Patent had adequate written
16 description, do you believe that they have the same
17 understanding of the claims that you do?

18 MR. ROSENTHAL: Objection, Your Honor. He's asking
19 the witness to speculate about what was in the minds of the
20 examiners.

21 THE COURT: I'll sustain the objection. I think
22 that's what's being called for here.

23 Q. (BY MR. KNOBLOCH) Now, Doctor Madisetti, when the
24 examiners examined the claims of the '794 Patent and the '931
25 Patent, what did they conclude about whether or not they were

1 enabled?

2 A. I reviewed the file history and that tells me what
3 happened. And the examiners introduced references that dealt
4 with mobile devices. That tells me that they construed mobile
5 devices as well as part of their understanding of the wireless
6 access devices. So I have based my opinions on objective
7 evidence in the file history.

8 Q. And what did the examiners conclude about whether or not
9 the claims of the '794 Patent and '931 Patent were enabled?

10 A. It is my understanding based on the review of the file
11 history that they allowed the patents and the claims and,
12 therefore, they concluded that the written description and
13 enablement requirements were met.

14 Q. Do you agree with the patent examiners' conclusion that
15 the written description and enablement requirements were met
16 for both the '794 Patent and the '931 Patent?

17 A. Yes, and I would like -- I can show that.

18 Q. And just briefly, what is your -- does Doctor Andrews
19 agree that -- with the examiners that the '794 Patent
20 and -- that the claims of the '794 Patent and the '931 Patent
21 met the written description and enablement requirements?

22 A. I think he vehemently disagrees.

23 Q. All right. So turning to claims 29 of the '931 Patent
24 and the relevant limitations of claim 28 as well, what are the
25 limitations that Doctor Andrews opines lack written

1 description support?

2 A. Specifically with respect to claim 29, it is similarly
3 with claim 28, 19[d] and 29[b] as I describe here, are what he
4 has argued is -- doesn't have written description and
5 support -- written description support.

6 Q. What specifically in element 19[d] does Doctor Andrews
7 say is missing from the written description of the '931
8 Patent?

9 A. He focuses on the limitation and specifically on the
10 portion that says "plurality of sectors," which means two or
11 more.

12 Q. And so -- and so let's discuss the plurality of sectors
13 issue.

14 Will you be able to show where the patent discusses a
15 broadcast beam signal sent to two or more sectors?

16 A. Yes. The specification clearly discloses that and
17 discloses that to a person of ordinary skill in the art.

18 Q. Okay. Now I'd like to turn to the patent specification,
19 and I'm going to pull up a portion of that if you give me a
20 moment.

21 This is from column 20, lines 5 through 7. Can you
22 explain the relevance of this portion of the specification,
23 please?

24 A. This is column 20, lines 1 through 7, of the '931 Patent.
25 And as described here in the portion, it states the SOF field,

1 or start of frame field, is followed by downlink management
2 messages broadcast from the base station to all subscribers
3 using the lowest modulation or FEC index or orthogonal
4 expansion. So this confirms that -- several things.

5 Q. What does it confirm?

6 A. First, it confirms that the downlink management messages,
7 which is part of the broadcast beam signal, are broadcast. It
8 confirms that this is broadcast from the base station, which
9 has all the transceivers, the three transceivers or the four
10 transceivers for each sector. It doesn't say a sector. And
11 it says to all subscribers of the base station; it does not
12 limit it to a sector.

13 So a person of ordinary skill in the art reviewing this
14 explicit disclosure, column 20, lines 5 through 10, confirms
15 that these broadcast messages are from the base station to all
16 subscribers -- that include all subscribers in more than two
17 sectors; in this case in the examples, four sectors of the
18 base station.

19 Q. So, Doctor Madisetti, how do you know that when the
20 specification refers to a base station or a broadcast message
21 from the base station, that it's referring to a message that
22 goes to multiple sectors?

23 A. Because it says "all subscribers," and when you have a
24 base station with four sectors, that means subscribers
25 belonging to all four sectors. This confirms that the message

1 is broadcast to all sectors.

2 Q. And what does figure 2 of the patent show?

3 A. Figure 2 describes the network of base stations in the
4 '931 Patent, and it describes there, for example, that 110A is
5 a base station, and the base station here has four sectors.

6 Q. How do you know the base station here has four sectors?

7 A. You can see the four sectors, which are right there, 1,
8 2, 3, 4. You can zoom in on that. You'll see that it has
9 four antennas here. Each of them is directing to one
10 particular sector.

11 Q. And when the specification describes transmitting a
12 broadcast message from the base station to all subscribers,
13 what does that mean?

14 A. All the subscribers, that means more than one sector. In
15 this case, four. So that is explicit disclosure that the
16 written description confirms that these -- broadcast beam
17 signal, the messages that are inside there, which are
18 orthogonally expanded, which is a form of scrambling, are
19 reaching all sectors.

20 Q. And there is -- in the portion we've been looking at, we
21 were just looking at earlier, this SOF field, what is the SOF
22 field?

23 A. The SOF field in this example is called start of frame
24 field.

25 Q. And does the patent have figures that show the SOF field?

1 A. Yes. In the same example you will see that it refers to
2 figure 14, and there is a start of frame field here, right
3 there, and that is the -- sorry. How do you delete it? Yeah.
4 Thank you.

5 So the start of the frame field is there and there. That
6 provides the context.

7 Q. Now, I'd like to --

8 MR. KNOBLOCH: Your Honor, may I put up the board of
9 the patent?

10 THE COURT: You may.

11 Q. (BY MR. KNOBLOCH) Now, Doctor Madisetti, claim 29 and
12 claim 19 from which it depends, what are the two signals that
13 it describes sending?

14 A. The first that it sends is the broadcast beam signal,
15 which is in the transmitting limitation of 19[d], as in David,
16 and the second one is the directed scanning beam signal
17 disclosed in limitations 19[f] and 29[c].

18 Q. And this sequence of a broadcast beam signal and then a
19 directed scanning beam signal, is that shown in figure 14
20 which is on the screen?

21 A. Yes.

22 Q. Okay. Now, what does the patent describe as a
23 key--sorry; I'm just going to get to where we are--a key
24 aspect of the present invention?

25 A. Yes. And when I say 'does it disclose', I always mean

1 disclosed in the eyes of a person of ordinary skill in the
2 art.

3 In the case of column 16, the specification discloses
4 that a key aspect of the present invention is that the timing
5 of the downlink and uplink portions of each TDD frame must be
6 precisely aligned in order to avoid interference between
7 sectors within the same cell and/or to avoid interference
8 between cells.

9 Q. How is this relevant to your conclusion that the '931
10 Patent claims have adequate written description?

11 A. This, again, confirms that you are talking about aligning
12 in order to avoid interference between sectors. So this
13 information is present and used across sectors based on the
14 TDD frame, which is this schedule.

15 So, therefore, the information with respect to the TDD
16 frame's schedule is sent to multiple sectors. This confirms
17 that the information from the broadcast beam signal is
18 provided to multiple sectors.

19 Q. So let's -- you mentioned the TDD frame. Let's move on
20 to the TDD frame. Is that the other limitation that Doctor
21 Andrews says lacks written description support?

22 A. Yes.

23 Q. And what does the patent specification teach about the
24 TDD frame?

25 A. Yes. In column 14 it describes that a TDD frame is based

1 on a fixed period of time during which access to the channel
2 is controlled by the transceiver base station.

3 Q. How is that relevant to your conclusions about the '931
4 Patent?

5 A. This means that the base station is determining the
6 access; it is not a particular subset of the base station, the
7 base station itself, which is the baseband unit and the set of
8 radio receivers and antennas, one per each sector. So it is a
9 centrally centralized controlled TDD transmission frame, which
10 is the common schedule across multiple sectors.

11 Q. Now, Doctor Madisetti, then in your opinion does the '931
12 Patent specification provide written description support for
13 both the elements 19[d] and 29[b] that Doctor Andrews
14 disagrees with you about?

15 A. Yes, it does provide clear and explicit disclosures to
16 one of ordinary skill in the art.

17 Q. So I'd like to move on to enablement.

18 Do you recall what are the features that Doctor Andrews
19 says are not enabled?

20 A. I believe he questions, number one, dynamic beamforming,
21 and the second is mobile beamforming.

22 Q. In your opinion, does the '931 Patent disclose dynamic
23 beamforming?

24 A. Yes. The intrinsic record of the '931 Patent, including
25 its specification, provide disclosure to one of ordinary skill

1 in the art, and does support my opinions about written
2 description being present.

3 Q. How does the disclosure in the '931 Patent include
4 dynamic beamforming?

5 A. Yes. In column 27 of the '931 Patent, there is a
6 disclosure that the digital baseband beamforming systems
7 provide the most flexible configuration. Flexible means
8 adaptive and able to change and not fixed, and provide all
9 antenna data to receiver circuits to allow for rapid
10 calculation of adaptive calculation. Adaptive means, again,
11 that it's dynamic, it changes, and it allows it to do rapidly.
12 So this, again, discloses that you have dynamic beamforming.

13 Q. So I've underlined the words 'adaptive cancellation'
14 because you stressed that in your testimony.

15 What is adaptive cancellation?

16 A. 'Adaptive' means responsive to different conditions that
17 include different channels, different parts, whether the car
18 is behind the building or it's coming back into focus.

19 Q. Now, moving on to mobile beamforming, does the
20 specification of the '931 Patent enable mobile beamforming?

21 A. Yes.

22 Q. And what specifically in that specification enables
23 beamforming?

24 A. Here first let's reference a particular reference that is
25 in the intrinsic record. In this case it was discussed in the

1 file history. It's called Scott.

2 Q. So turning to Scott -- sorry. This is the Scott patent
3 you referenced?

4 A. Yes. The Scott patent is the U.S. Patent 6,094,421.

5 Q. And does the Scott patent disclose beamforming?

6 A. Yes.

7 Q. And -- go ahead.

8 A. It discloses here that you have a selection of a
9 particular antenna beam or permitting minor adjustments to the
10 angle of a directional antenna at the base station 302. So
11 this confirms that it also discloses beamforming with
12 adjusting or adaptive.

13 Q. And are the specific -- does it disclose mobile
14 beamforming?

15 A. Yes. As you can see in this figure, you will see those
16 little things there that are drawn. They are disclosed as
17 automobiles, so cars. So they can drive at 70 miles an hour.
18 And you can have adaptive beamforming in figure 3A of Scott
19 that is part of the intrinsic record that tells one of
20 ordinary skill in the art that that mobile beamforming was
21 supported and provided written description with in the '931.

22 Q. In your opinion, Doctor Madisetti, are these disclosures
23 sufficient to support enablement even though they don't
24 include every detail of 5G?

25 A. Yes, because the patent claims, when combined with the

1 knowledge of one of ordinary skill in the art, provide you
2 then the standing so that you can without undue
3 experimentation understand what was enabled.

4 Q. All right. Now I'd like to move on to the written
5 description issue on the '794 Patent. Do you believe that the
6 '794 Patent provides written description support for
7 monitoring signal characteristics?

8 A. Yes.

9 Q. So I'd like to turn to the '794. Let me get there real
10 quick.

11 What does the '794 Patent teach about monitoring signal
12 characteristics?

13 A. Yes. In the -- I believe in the bottom of the column I
14 have excerpted this portion. It says that determination of
15 when you initiate hand over of communications is made
16 responsive to measurements of signal characteristics of
17 communication signals communicated between the WLAN
18 transceiver and the mobile station.

19 In one implementation, signal characteristics are
20 measured or otherwise determined at the mobile station and the
21 results of such measures or determinations are reported back
22 to the WLAN transceiver and appropriate control circuitry.
23 This discloses to one of ordinary skill in the art that the
24 measurements are at the mobile station of the downlink signal
25 and they are reported back as an example to the device that is

1 claimed, and that is an example of monitoring.

2 And, further, it says here that if appropriate, the
3 handover of the communications is effectuated. So that shows
4 that there is a decision that's made on those signal
5 characteristics that are reported back. So that goes to the
6 next limitation disputed which is routing.

7 Q. Now, Doctor Madisetti, I'd like to move on to the brief
8 time we have left to the issue of infringement. You were here
9 for Doctor Andrews' testimony. Do you agree with him about
10 the infringement issues?

11 A. With Doctor Andrews? No.

12 Q. And what specifically are the limitations that Doctor
13 Andrews says are not met?

14 A. He, again, says that, for example, that the broadcast
15 beam signal that I point to is not sent to more than one
16 sector.

17 Q. And that's element 19[d]?

18 A. Yes.

19 Q. And what's the other element that he says is not met?

20 A. I think he refers to the said TDD frame.

21 Q. And is that element 29[b]?

22 A. Yes.

23 Q. Okay. So turning to -- on element 19[d], what does the
24 claim actually require that the broadcast beam signal do?

25 A. The claim requires, as in the claim, it requires that it

1 has to be broadcast, it has to be -- it has to contain
2 information for synchronization, and this information has to
3 be sent to more than one sector, at least. I'm simplifying
4 the claim, but those are the main features.

5 Q. Is the SSB broadcast?

6 A. Yes. Based on Mr. Faxer's testimony from yesterday, he
7 confirms that does Ericsson use broadcast beams in its 5G TDD
8 products. He says, yes, we do.

9 Q. Is the SSB a signal?

10 A. Yes. He confirms that SSB is the broadcast signal of 5G.
11 And so he confirms that, and he says that it's transmitted.

12 Q. Is the SSB transmitted to devices in more than one
13 sector?

14 A. He confirms that -- he confirms here that -- he does not
15 dispute that they're all synchronized, that means the SSB
16 signal sent, and they are all time aligned.

17 Q. Do they convey some of the same information?

18 A. Yes. He confirms that they contain the system frame
19 number, which is the common information.

20 Q. And what is this -- how is this testimony -- well, let me
21 ask it this way.

22 Does Mr. Faxer's testimony support your conclusion that
23 the downlink signals sent in different sectors are part of the
24 same TDD frame?

25 A. Yes.

1 Q. How so?

2 A. Because they're controlled by the single baseband unit
3 that controls all of the three transceivers in the accused
4 Verizon products. So it's a single baseband unit, as we have
5 confirmed with the Court, and, therefore, it is a signal that
6 is sent by that single baseband unit through the respective
7 transceivers and antennas for each sector to all sectors.

8 Q. All right. And what did -- what about Mr. Rice's
9 testimony? Is this relevant to your analysis?

10 A. Yes. Mr. Rice, who is the Verizon representative, also
11 confirms that the SSBs are precisely coordinated in time as
12 close as humanly possible at the same time and that are used
13 to synchronize.

14 Q. And what did all of this testimony from Mr. Rice and Mr.
15 Faxer lead you to conclude?

16 A. First of all, it's a comprising claim. And as we have
17 seen here, both Mr. Rice from Verizon and Mr. Faxer from
18 Ericsson confirm that the SSB that is generated by the
19 baseband unit contains information that is identical across
20 all sectors: It's broadcast at the same time; it's
21 synchronized, same time means the frame; it has common
22 information such as the system frame number; it is sent to all
23 three sectors by the sector antennas. So transceiver is one
24 or more transceivers. And the transceiver is a baseband unit
25 and three radios. So we have unquestioned evidence that

1 supports my opinions.

2 Q. Now, right before you took the stand again, we heard a
3 little bit more from Mr. Gamboa. Do you recall that?

4 A. Yes. This was part of my original report. I had missed
5 this in the deposition.

6 Q. What is the relevance of the additional testimony that
7 Mr. Gamboa provided this afternoon -- this morning?

8 A. This is specifically relevant to limitation 1[d.2] of the
9 '794 Patent where Mr. Gamboa confirms that, if you start at
10 the top, he says that the client device which is the mobile
11 station measures the RSSI, which is the received signal
12 strength, and sends that measurement of signal characteristics
13 to the accused device, which is the mobile hotspot.

14 So, therefore, this shows that the mobile hotspot is
15 actually receiving the signal characteristics. The signal
16 characteristics are of the downlink signal and, therefore, and
17 it also -- he also confirms that the signal is then routed
18 based on the signal characteristics.

19 MR. KNOBLOCH: And I pass the witness, Your Honor.

20 THE COURT: All right. If you'll take a board down,
21 please, Mr. Knobloch.

22 Ladies and gentlemen of the jury, we're going to take a
23 short recess before we move to cross examination of the
24 witness by the Defendants. If you'll simply close and leave
25 your notebooks in your chairs, follow all the instructions

1 I've given you, including not to discuss the case among
2 yourselves, and we'll be back shortly to proceed with cross
3 examination of Doctor Madisetti.

4 The jury's excused for recess.

5 (Whereupon, the jury left the courtroom.)

6 THE COURT: Counsel, Plaintiff has 10 minutes
7 remaining of the designated trial time. The Defendant has an
8 hour and 47 minutes remaining. We'll take about a 10- or
9 12-minute recess.

10 The Court stands in recess.

11 (Brief recess.)

12 THE COURT: Be seated, please.

13 Are you prepared for cross examination, Mr. Rosenthal?

14 MR. ROSENTHAL: Yes, Your Honor.

15 THE COURT: All right. You may go to the podium.

16 MR. ROSENTHAL: Thank you.

17 THE COURT: Let's bring in the jury, please.

18 Are there binders to distribute that haven't already been
19 distributed?

20 MR. ROSENTHAL: I believe there are, Your Honor.

21 THE COURT: Let's get those passed out.

22 MR. ROSENTHAL: They are coming out right now.

23 (Whereupon, the jury entered the courtroom.)

24 THE COURT: Please be seated.

25 All right, ladies and gentlemen. We're going to proceed

1 with cross examination of Doctor Madisetti by Defense counsel.

2 Mr. Rosenthal, you can proceed with cross examination.

3 MR. ROSENTHAL: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. ROSENTHAL:

6 Q. Good morning, Doctor Madisetti. And I'm eager to ask you
7 some more questions. Good to see you again.

8 A. Good morning.

9 Q. You talked about a number of topics in your direct
10 examination today. I'd like to start with where you left off,
11 which was some additional information that you provided about
12 infringement. Do you recall that?

13 A. Yes.

14 Q. And one of the things that you did is we watched some
15 additional deposition testimony from Mr. Gamboa this morning,
16 and you explained that you had inadvertently forgotten to talk
17 about that earlier in the trial. Right?

18 A. Yes. It was in my report, but the deposition was not
19 played so I couldn't rely on it.

20 Q. Right. And you testified a moment ago that you
21 inadvertently didn't talk about it a couple of days ago.
22 Correct?

23 A. Yes, because the deposition was not played.

24 Q. Okay. And so I want to talk about that testimony because
25 that testimony related to something called the RSSI. Correct?

1 A. It included that, yes.

2 Q. Right. So, first of all, let's take a look at the '794
3 Patent. And let's take a look at claim 1. And claim 1
4 requires in the last paragraph there, the last limitation, it
5 says, "The second transceiver monitors first signal
6 characteristics of the second downlink signal."

7 Do you remember that discussion, sir?

8 A. Yes.

9 Q. Okay. So what's important here is whether the accused
10 device measures or I should say monitors the downlink signal.
11 Fair?

12 A. Yes, it should monitor the first signal characteristics
13 of the second downlink signal.

14 Q. That's right. It doesn't say uplink. Right? It says
15 downlink?

16 A. Yes.

17 Q. And so when the jury has to determine whether or not the
18 product infringes, what they're -- the question they are
19 asking is, does the product monitor the downlink signal, not
20 does it monitor the uplink signal. Right?

21 A. I'm not sure what you're asking. It has to meet the
22 claim limitation.

23 Q. That's right. And the claim limitation refers to the
24 downlink signal. Right?

25 A. As in the claim, yes.

1 Q. Yes. Now, you put up Mr. Gamboa's testimony, but let's
2 take a look at your trial transcript testimony from two days
3 ago and see what you said about Mr. Gamboa's testimony.

4 MR. ROSENTHAL: Could you please bring up the trial
5 transcript from page 294? Okay. And take a look at line 6.

6 Q. (BY MR. ROSENTHAL) There was when I was questioning you
7 about Mr. Gamboa's testimony about the RSSI. Do you remember
8 this testimony, sir?

9 A. Yes.

10 Q. And I said, "The testimony Mr. Gamboa gives, in
11 particular, you are referring to the accused devices
12 monitoring the uplink channel from the mobile station to the
13 accused devices, aren't you, sir?"

14 And you answered, "Yes."

15 Right?

16 A. For that portion that I relied on for that day. Today's
17 testimony is different.

18 Q. And you also said that the claim requires monitoring the
19 downlink. Correct? Sir?

20 A. I said that it can -- you asked me, and I said, yes, the
21 monitoring.

22 Q. Yes. The claim requires monitoring the downlink. You
23 testified that Mr. Gamboa was testifying about the uplink.
24 That's what you said two days ago. Right?

25 A. Yes.

1 Q. Okay. Now, I'd like to bring up your slide, and, in
2 particular, 27 that you just put up on the screen. And here
3 is the testimony that you just put up on the screen to show
4 the jury. Do you recall that, just a moment ago?

5 A. Yes.

6 Q. Okay. And Mr. Gamboa -- again, this is literally the
7 next question after the testimony that you showed two days
8 ago. You understand that. Right? It's part of the same
9 conversation.

10 A. Yes.

11 Q. Okay. And so it says, "After measuring the sensitivity
12 of the client," and then what does Mr. Gamboa testify? "It's
13 reported as the RSSI from the client." Do you see that?

14 A. Yes.

15 Q. From the client means from the client device up to the
16 second transceiver. Correct?

17 A. No. It is -- if you look at the question, the question
18 says that the sensitivity is measured at the client device.

19 Q. Yes. It says measuring the sensitivity of the RSSI from
20 the client device. Do you see that?

21 A. That is the answer. But the question says that you're
22 measuring the RSSI at the client device, so that shows that
23 it's the downlink signal.

24 Q. I'm sorry. It says measuring the sensitivity at the
25 client device? That's not what the question is, sir.

1 A. It says after measuring the sensitivity of the client
2 device.

3 Q. Of the client device.

4 A. Yes.

5 Q. The thing that's doing the measuring is the Verizon
6 product, and it's measuring the sensitivity of the client
7 device. And Mr. -- you understand a question is not evidence,
8 answers are evidence. Right?

9 A. Yes, in combination. Depends on the question and then
10 you understand the answer.

11 Q. And the answer was, "It's reported as the RSSI from the
12 client." Correct?

13 A. Yes.

14 Q. Now, you prepared these slides. Correct?

15 A. Yes.

16 Q. And you understand that the night before, we get a copy
17 of those slides. Right?

18 A. Yes.

19 Q. And you had another slide prepared about this very topic.
20 Right?

21 A. Yes.

22 Q. And you didn't show that to the jury. Correct?

23 A. I showed that the last time, I believe.

24 Q. Well, you had a slide that talked about the testimony
25 from another Verizon witness named Andy Youtz. Correct?

1 A. Yes.

2 Q. But you didn't show the jury your slide on Mr. Youtz's
3 testimony today, did you?

4 A. I believe I was very short of time, but I'm not sure.

5 Q. Well, let's take a look at what Mr. Youtz said that you
6 did not show to the jury.

7 A. Okay.

8 Q. Okay. This is a slide that simply has trial testimony
9 that this jury heard earlier this week from Mr. Youtz.
10 Correct?

11 A. Okay.

12 Q. And you prepared to show the jury this slide, but you did
13 not. And what does he say when he is asked, "Does the WiFi
14 modem measure any aspects of the signal to the mobile device?"
15 Right? So he's asked about the downlink.

16 And what does he say? He says the uplink signal coming
17 from the LAN-side device, the access point may measure the
18 signal strength of its receiver of those, the signal coming
19 from those devices.

20 So Mr. Youtz is saying very clearly that the signal that
21 is measured is the uplink signal. Correct?

22 A. Yes. So both are measured.

23 Q. He doesn't say anything about a downlink.

24 A. He didn't say the downlink is not, which is why I say
25 both are measured.

1 Q. So when someone doesn't say that the downlink is
2 measured, you think that that's evidence that the downlink is
3 measured?

4 A. No.

5 Q. No. You have to show evidence of infringement. Correct?

6 A. I showed Mr. Gamboa confirming that the uplink is
7 measured. I showed Youtz, Mr. Youtz, confirming the downlink
8 is measured, and -- sorry, the uplink is measured for Mr.
9 Youtz. And for Gamboa, that the downlink is measured.

10 And using Mr. Youtz's testimony, I use reciprocity to say
11 that since the channel is the same, when you measure the
12 signal one way, it provides characteristics about the signal
13 the other way as well, because if I am speaking to you, you
14 can hear me, then I can hear you.

15 Q. Let's talk about the '931 Patent, sir.

16 MR. ROSENTHAL: You can bring all that down and
17 clear it up, please.

18 THE WITNESS: Sure.

19 Q. (BY MR. ROSENTHAL) You also testified a moment ago about
20 the '931 Patent and whether or not it is infringed. Correct?

21 A. Yes.

22 Q. And you showed the jury testimony from this trial that
23 you believe confirms your opinion that the '931 Patent is
24 infringed. Correct?

25 A. Yes. It provides additional confirmation.

1 Q. And that testimony included testimony from Mr. Rice and
2 Mr. Faxer. Correct?

3 A. Yes.

4 Q. So let's take a look at your slide 42. So this is the
5 slide that you showed just a moment ago that you believe shows
6 infringement. Correct?

7 A. Yes, it confirms infringement, additional confirmation.

8 Q. Now, I want to be very clear. This is not a chart that
9 lists out the elements of the claims. Correct?

10 A. It lists out the disputed element.

11 Q. This is not a chart that lists out the elements of the
12 claims. Correct?

13 A. It's not a complete chart.

14 Q. No, it's not a complete chart. This doesn't show what
15 the claims require; this shows some things that you think are
16 important to the claims. Right?

17 A. I disagree. I believe that this was the disputed element
18 so I showed this.

19 Q. I'm going to put up, if there's no objection from the
20 Plaintiff, to using your board.

21 MR. ROSENTHAL: Would you mind if I use it?

22 MR. KNOBLOCH: No objection, Mr. Rosenthal.

23 MR. ROSENTHAL: Thank you very much.

24 I didn't ask you for permission.

25 THE COURT: No, you didn't.

1 MR. ROSENTHAL: I'm so sorry.

2 THE COURT: You can use Mr. Knobloch's board.

3 MR. ROSENTHAL: It's been four days. Thank you very
4 much. I appreciate it, Your Honor.

5 Can the jury see this? Is it far enough --

6 THE COURT: You can move it forward.

7 MR. ROSENTHAL: Is this a little better? All right.
8 Thank you.

9 Q. (BY MR. ROSENTHAL) Now, just to be clear, what the jury
10 has to do in this case is compare the accused products against
11 these words as construed by the Court. Correct?

12 A. Yes.

13 Q. Right. So I'd like to be really clear about what these
14 words say. Okay? On your slide, you have something about
15 same time. Same time isn't in this claim, is it?

16 A. It is not. The words are not.

17 Q. And the -- there's nothing in this claim that says the
18 information has to be the same. That's not in the claim.
19 Right?

20 A. All these terms are covered by the claim; it's just that
21 the specific language was made simpler.

22 MR. ROSENTHAL: I move to strike the answer as
23 non-responsive.

24 THE COURT: I think it's responded to your question.
25 Overruled.

1 Q. (BY MR. ROSENTHAL) The word 'information' does not
2 appear in this claim, does it, Doctor Madisetti?

3 A. The English word doesn't.

4 Q. No. There's no other language in some other language
5 that means information in here, is there, sir?

6 A. I believe that when you talk about communication of
7 broadcast signal, that includes information.

8 Q. The word in the claim is 'signal', not information.
9 Correct?

10 A. The English word is 'signal'. It includes information.

11 Q. This claim is written in English. Right?

12 A. Yes. The English word 'signal'.

13 Q. Okay. And there's nothing in this claim about the
14 same -- what did you write down in your slide, system frame
15 number, SFN. That's not in here, is it?

16 A. It is from the accused product, counsel.

17 Q. That's not what I --

18 MR. ROSENTHAL: I'm sorry. I move to strike the
19 question as non-responsive.

20 THE COURT: Sustained.

21 Q. (BY MR. ROSENTHAL) Sir, there is nothing in this claim
22 that refers to a system frame number. Correct?

23 A. Yes, it does not.

24 Q. Okay. There's nothing in this claim that states sector
25 antennas. Correct?

1 A. The word 'sector antennas' is not present.

2 Q. What the claim does require, and we talked about this for
3 four days, is a broadcast beam signal, a signal that goes to
4 more than one sector. A plurality means more than I guess
5 more than two. Right?

6 A. Two or more.

7 Q. Two or more. I'm sorry. More than one. Right? So it
8 requires a broadcast beam signal that goes to more than one
9 sector. The signal itself has to go to more than one sector.
10 Correct?

11 A. As written in the claim.

12 Q. Right. And the claim language is what's important, not
13 your summary of what you think is important. What's important
14 is what's written down in the claim. Correct?

15 A. Yes. The claim is -- as construed by the Court is what I
16 applied.

17 Q. That's right. And the Court did not construe broadcast
18 beam signal to mean information sent at the same time with a
19 common system frame number. Nobody construed that to mean
20 that. Correct?

21 A. It's not construed that way?

22 Q. It's not construed at all. Correct?

23 A. It's not construed that way.

24 Q. It's not construed at all. Correct?

25 A. I couldn't understand.

1 Q. Okay. Now, what you testified a moment ago is that you
2 believe there is infringement because when Mr. -- when your
3 General Access' lawyer asked you about this, you said that you
4 believed that that claim element is infringed because the SSBs
5 contain information that is common. Do you remember
6 testifying? I wrote it down--that you said those words?

7 A. Yes, as an example of infringement.

8 Q. And there is nothing in the claim that says common
9 information. Correct? Those words don't appear in this
10 claim.

11 A. The English words don't.

12 Q. Right. So what you did is you simplified the claims.
13 Right?

14 A. No. I provided example of how the claim is met.

15 Q. I wrote it down. You said you simplified the claim.
16 That's not what you said, sir?

17 A. I simplified the claim language for purposes of the
18 demonstrative, but I provided examples of how these meet the
19 claim language itself as issued.

20 Q. Now, you have testified, sir, that the Verizon --

21 MR. ROSENTHAL: You can take this down, Mr. Eaton.

22 Q. (BY MR. ROSENTHAL) You have testified that the Verizon
23 5G base stations infringe this claim, and that requires
24 showing that it meets all the limitations that are written
25 down here. Correct?

1 A. Yes, as construed by the Court.

2 Q. Including what's written down in claim 19 because that's
3 included within 29. Right?

4 A. Yes.

5 Q. Now, you agree, sir, that the Verizon 5G network, in your
6 view, is not a one-to-one system. Right? It communicates to
7 lots of different mobile stations. Correct?

8 A. Yes.

9 Q. And in your view, nonetheless, that still meets all the
10 requirements of claim 19. Right?

11 A. Yes. It includes one or more, the Verizon base station
12 communicates with one or more.

13 Q. So you've testified earlier --

14 A. Yes.

15 Q. -- that you didn't think that claims 19 or claim 1 had
16 any value because they required only one device. You remember
17 that?

18 A. No, I didn't say that. I said they do not have technical
19 value because they focus on a point-to-point connection.

20 Q. That's what I meant. You said that they focused on a
21 point-to-point connection, and yet you agree, sir, that claim
22 1 and 19 cover a connection between a base station and many
23 mobile devices. They're not limited to point to point, are
24 they?

25 A. I don't want to comment on anything other than the claim

1 language.

2 Q. Yes. I'd like you to comment on the claim language
3 because you have to show that the Verizon infringing -- or
4 accused devices infringe each and every one of these
5 limitations written down in claim 19 and 1 in order for you to
6 show that they meet the dependent claim. Right?

7 A. Which is what I did.

8 Q. Okay. And so my question is, you agree that claims 1 and
9 19 are not limited to a point-to-point system; they cover a
10 system that goes to many devices. Right?

11 A. They don't require that you communicate with multiple
12 devices and, furthermore, they don't have the specific
13 limitation of 29[b], which is in the same downlink portion of
14 the said TDD frame that minimizes interference which is the
15 main technical benefit.

16 MR. ROSENTHAL: Move to strike the answer as
17 non-responsive, Your Honor.

18 THE COURT: Sustained.

19 Q. (BY MR. ROSENTHAL) Sir, you agree that claims 1 and 19
20 cover a system that is not point-to-point where the base
21 station communicates with many mobile units. Correct?

22 A. Yes.

23 Q. Okay. Thank you.

24 Let's go to your opinions on validity.

25 MR. ROSENTHAL: And with the Court's permission, I'm

1 going to take this down. Thank you.

2 THE COURT: You may.

3 Q. (BY MR. ROSENTHAL) Now, you were sitting here during the
4 cross examination of Doctor Andrews. Correct?

5 A. Yes.

6 Q. You agree he's an expert in wireless communication.
7 Right?

8 A. Yes.

9 Q. And cellular systems like 5G. Right?

10 A. Yes.

11 Q. He's written papers and books on those subjects. Right?

12 A. Yes. That's my understanding.

13 Q. Okay. Now, he was asked by General Access' lawyers
14 whether he wants to rip up these patents. Do you remember
15 that language?

16 A. I may not have heard that.

17 Q. I heard it.

18 MR. ROSENTHAL: I'm sorry, Your Honor.

19 Q. (BY MR. ROSENTHAL) Doctor Andrews is not asking to rip
20 up anybody's patents, is he, sir?

21 A. I don't know, counsel.

22 Q. He never said that he wants to rip up anybody's patents.
23 Right?

24 A. I mean, he sounded pretty upset, but I don't know.

25 Q. Sir, at issue in this case are two claims and only two

1 claims of the '931 Patent. Correct?

2 A. Yes.

3 Q. And what's at issue in this case is three claims and only
4 three claims of the '794 Patent. Correct?

5 A. Three asserted claims, yes.

6 Q. That's right. And the only issue on validity that is
7 decided in this case is the validity of those five claims.
8 Nobody in this case, in this result of this case, is ripping
9 up anybody's patents. Correct?

10 A. I don't know what he's planning.

11 Q. I'm sorry?

12 A. I'm not sure. You're asking me to understand what he's
13 thinking, so I don't know.

14 Q. No. I'm asking the issue to be resolved in this case on
15 validity doesn't have to do with any of the other claims that
16 are written down in this patent; it's only the claims that are
17 asserted. Right?

18 A. That I agree.

19 Q. Okay. Now, you agree that in order to be valid, the
20 claim has to be supported by the written description.
21 Correct?

22 A. Yes.

23 Q. And, in fact, what that means is that every single
24 requirement that's written down in the claim, you have to find
25 that limitation in the specification. Correct?

1 A. Yes. At a high level, yes.

2 Q. All the limitations must appear in the specification.
3 Correct?

4 A. Yes. You have to show possession of the invention.

5 Q. And you testified, and I wrote this down, that there are
6 clear and explicit disclosures in the patents of the claim
7 limitations that are at issue. Right?

8 A. Yes, to one of ordinary skill.

9 Q. All right. Now, with respect to the '794 Patent --

10 MR. ROSENTHAL: Could we bring up claim 1 again,
11 please?

12 Q. (BY MR. ROSENTHAL) Now, you understand that Doctor
13 Andrews has rendered the opinion, he has testified that this
14 claim that's written down at the end of the '794 Patent does
15 not have support in the specification. Right?

16 A. Yes.

17 Q. And one of the reasons that he was very clear about when
18 he testified yesterday is that there is -- the last two lines
19 of this claim, which were added during prosecution, are that
20 the second transceiver has to route to the first and second
21 mobile stations. You remember that that's his opinion.
22 Right?

23 A. Yes, as in the claim.

24 Q. As it's written in the claim. That has to be found in
25 the spec. Right?

1 A. Yes.

2 Q. Okay. And you, in your direct testimony a moment ago,
3 did not address this limitation at all.

4 A. I disagree.

5 Q. Correct?

6 A. I disagree.

7 Q. You think you did?

8 A. I did. I mentioned handover.

9 Q. Okay. Well, let's take a look. You were here in Court
10 when Mr. Struhsaker testified about this very limitation and
11 whether it's written down in the patent. Correct?

12 A. I don't remember.

13 Q. You don't remember. Well, you've been sitting in the
14 back. You've been paying attention to the testimony. You've
15 quoted some. Right?

16 A. I mean, I don't remember the entirety.

17 Q. No, but you remember that you've been sitting in the back
18 of this courtroom and you've been watching the testimony and
19 you've been preparing slides with testimony that you think is
20 favorable to you and putting this them up to show the jury.
21 Right?

22 A. I mean, I was looking, I was following, but I don't
23 remember everything.

24 Q. No, I understand. But you know that Mr. Struhsaker, the
25 inventor of this patent, testified about what his patent says.

1 Right?

2 A. He testified, yes.

3 Q. Okay. Let's take a look at what he said about this very
4 issue.

5 A. Okay.

6 MR. ROSENTHAL: If we could, please, bring up the
7 trial transcript from Monday at page 269.

8 Q. (BY MR. ROSENTHAL) And I asked Mr. Struhsaker, "Sir,
9 very simply, you did not write in this patent anything about
10 the second transceiver performing routing to the first and
11 second mobile stations."

12 His answer was, "It is not written like that."

13 Do you see that?

14 A. Yes, I see that.

15 Q. Was that part of the testimony that you remember or that
16 you heard, or did you not hear that part?

17 A. As I said, I don't remember what he said, but you have
18 refreshed my memory, and if this is the transcript, he said
19 what he said.

20 Q. And then I asked him, "Well, let me ask you this." This
21 is at the --

22 MR. ROSENTHAL: Thank you, Mr. Eaton.

23 Q. (BY MR. ROSENTHAL) "The patent doesn't describe at all
24 the WLAN performing this function. Right?"

25 And after some discussion with the Court, his answer was,

1 "It is -- no, it did not say that."

2 Do you see that?

3 A. I mean, he's wrong.

4 Q. So you disagree with the inventor, the guy who wrote the
5 patent with his lawyers, the guy who actually says he came up
6 with this, when he says that there's nothing in this patent
7 about this, just disagree with him?

8 A. No. I said -- I mean, it's 24 years ago. I don't know
9 if he remembers.

10 Q. So I want to be clear. You disagree with the inventor.

11 A. I disagree with this statement. It does show that. I
12 showed it right now.

13 Q. Okay. You disagree with a lot of what Mr. Struhsaker
14 says. Right?

15 MR. KNOBLOCH: Objection, Your Honor. The full
16 answer has not been published. I request the full answer be
17 published.

18 THE COURT: You can address it on redirect.

19 Q. (BY MR. ROSENTHAL) So -- now, you agree, sir, that the
20 written --

21 MR. ROSENTHAL: You can take that down, Mr. Eaton.

22 Q. (BY MR. ROSENTHAL) You agree, sir, that the written
23 description requirement is here. The purpose of it
24 is -- let's see here. It is to make sure that the full scope
25 of what is written down in the claims is in line with what's

1 written down in the patent specification. Right?

2 A. At a high level, yes.

3 Q. All right. And you agree, sir, that the written
4 description requirement shows -- requires that all the
5 limitations must appear in the specification. Right?

6 A. Again, at a high level. I don't wish to offer a legal
7 opinion, but at a high level, yes.

8 Q. And if the jury believes the inventor about the fact that
9 he didn't write this down in his patent, that means the patent
10 is not supported by written description. Right?

11 A. I disagree. I believe that he didn't remember.

12 Q. That's not what I -- well, let me ask a different
13 question. I understand you disagree with him. I'm asking if
14 the jury believes the inventor rather than your testimony and
15 believes that it's not written down in that patent, you agree
16 the claim's invalid then. Right?

17 A. Again, it's up to the jury, counsel. I've shown where
18 it's present. So I believe that the jury has seen me present
19 it. So...

20 MR. ROSENTHAL: Move to strike as non-responsive.

21 THE COURT: The portion of the answer that says,
22 "Again, it's up to the jury" is responsive. The remainder of
23 the question or the answer, rather, is not. I'll retain,
24 "Again, it's up to the jury." After that, I'll strike it as
25 non-responsive.

1 MR. ROSENTHAL: Thank you, Your Honor.

2 Q. (BY MR. ROSENTHAL) It is up to the jury. Correct?

3 A. Yes.

4 Q. All right. One of the things the jury does is weighs the
5 credibility of various witnesses. Right?

6 A. Yes.

7 Q. Okay. Now, let's talk about enablement for the '794
8 Patent.

9 You understand that Doctor Andrews got up and testified
10 at length yesterday that there is nothing in the '794 Patent
11 that says anything about how to implement the system in a
12 mobile network. Do you recall that?

13 A. You have to refresh my memory, counsel.

14 Q. You don't remember that Doctor Andrews testified that the
15 '794 Patent is not enabled?

16 A. I don't remember his exact words.

17 Q. I'm not asking for his exact words. I'm really
18 trying -- you understand an issue in this case is the
19 enablement of the '794 Patent. Right?

20 A. Yes.

21 Q. And General Access is asking for \$270 million on this
22 patent. Right?

23 A. I believe so.

24 Q. Right. And Doctor Andrews testified for a long time
25 yesterday about these issues. Right?

1 A. Yes.

2 Q. And you were watching him. Right?

3 A. Yes.

4 Q. Okay. And he testified that the '794 Patent is not
5 enabled because it does not tell you anything about how to do
6 this in -- in mobile. Right?

7 A. Are you talking the '794 or the '931?

8 Q. I'm talking about the '794?

9 A. Yes.

10 Q. Okay.

11 A. Uh-huh.

12 Q. And you didn't address that -- I mean, I know you put up
13 a slide that said you disagree with him.

14 A. Yes.

15 Q. But you didn't show anything in the '794 Patent about
16 mobile in your direct testimony, did you?

17 A. No. I believe that because of the written description,
18 it is enabled.

19 Q. Sir, you --

20 MR. ROSENTHAL: Move to strike the answer as
21 non-responsive.

22 THE COURT: Sustained.

23 Q. (BY MR. ROSENTHAL) You didn't show this jury a moment
24 ago when General Access' lawyer asked you your questions
25 anything in the '794 Patent that dealt with mobile. Correct?

1 A. I disagree. I was -- I disagree.

2 Q. Can you please show me where in your presentation you
3 pointed to evidence from the '794 Patent about mobile a moment
4 ago?

5 MR. KNOBLOCH: Objection, Your Honor. Counsel has
6 not provided the witness with his presentation from the
7 direct.

8 THE COURT: I'm not going to require the witness to
9 have to furnish specific evidence in response to the question.
10 If the witness can identify where in his testimony he
11 addressed that, that's fine, but I'm going to allow the
12 witness to respond in a very general sense, not a targeted or
13 specific sense.

14 MR. ROSENTHAL: I understand, Your Honor. Thank
15 you.

16 Q. (BY MR. ROSENTHAL) Let me ask you a different question.
17 I would like to go to the '931 Patent. Doctor Andrews also
18 renders the opinion and testified that the '931 Patent doesn't
19 teach anything about mobile. Right?

20 A. He specifically talks about mobile beamforming and
21 dynamic beamforming.

22 Q. And you understand that the patent -- the law requires
23 that the patent specification enable the claimed invention to
24 its full scope. Correct?

25 A. Again, at a general level, yes, but I'm not a

1 legal -- I'm not a legal expert so I will leave that to you.
2 If that's what you're representing, I will say I agree at a
3 technical level.

4 Q. You agree that the critical question -- this is the
5 standard you applied. The critical question is what would
6 have enabled a person of skill to utilize the full scope of
7 the invention of the '931 Patent. Right?

8 A. Yes.

9 Q. Okay.

10 A. That's the guidance that was provided.

11 Q. And that's the guidance you applied.

12 A. Yes.

13 Q. And you agree there was a lot of discussion earlier in
14 your direct about what the claims cover and what they don't.
15 Everyone agrees in this trial that the claims as interpreted
16 by the Court include not only fixed but also mobile
17 beamforming. Right?

18 A. Yes, I agree with that.

19 Q. Okay. And so the specification of the patent has to
20 enable not only fixed but also mobile beamforming. Right?

21 A. Yes.

22 Q. Okay. So just to be real clear, you have to point to
23 something that provides -- that describes the invention and
24 the manner and process of making or using it in sufficiently
25 full, clear, concise, and exact terms to enable a person of

1 ordinary skill to make and use the full scope of that
2 invention. Correct?

3 A. Yes, at a high level.

4 Q. Okay. And you also agree that the question is not what's
5 taught to us or experts in the field today, 25 years later,
6 it's not whether someone knows how to do mobile beamforming
7 today; it's from the perspective of 2001.

8 A. Yes.

9 Q. Okay. You don't look back and ask if people know how to
10 do mobile beamforming today. You ask what did people know in
11 2001, what was described in this patent in 2001. Correct?

12 A. Yes.

13 Q. All right. Now, you did not point to anything in the
14 patent that uses the word 'mobile'. Correct?

15 A. I believe I did.

16 Q. Sir, the '931 Patent doesn't use the word 'mobile', does
17 it?

18 A. I pointed to the references that were incorporated by
19 reference in their entirety.

20 Q. Well, let's take a look. You pointed, if I recall, to a
21 patent by a gentleman named Scott. Correct?

22 A. Yes, that's one.

23 Q. All right. Let's take a look at what the Scott patent
24 is.

25 MR. ROSENTHAL: First of all, could you please bring

1 up the cover, before you bring that up, Mr. Eaton, of the '931
2 Patent, JX 1.

3 Q. (BY MR. ROSENTHAL) The Scott patent is listed right in
4 the front of the patent. Correct?

5 A. Yes.

6 Q. Now, that's not incorporated into the patent. It's a
7 different patent. Right?

8 A. Yes.

9 Q. Okay. And this -- the reason it's listed here is because
10 the examiner rejected the claims based on the Scott patent.
11 Right?

12 A. Yes.

13 Q. Okay. So when you were talking about what the Scott
14 patent shows, you're not trying to confuse the jury into
15 thinking that the Scott patent is the '931 Patent, are you?

16 A. No.

17 Q. No.

18 A. I was showing that the examiner construed Scott, which
19 was mobile beamforming, to be relevant to the '931; therefore,
20 it would enable and provide a description.

21 Q. So -- I'm sorry. Let's take a look, please, at your
22 slide No. 31.

23 A. Yes.

24 Q. So you showed this picture and you pointed to cars and
25 you said, ah, it's mobile. I remember that testimony. Right?

1 That's what you just said.

2 A. Yes. It was an example of how mobile user stations are
3 disclosed through cars.

4 Q. Now, this is not the '931 Patent that we're looking at,
5 even though your title says '931 on it. Right? This is a
6 different patent. Right?

7 MR. KNOBLOCH: Objection, Your Honor. This slide
8 was actually not shown during the direct, and so this title
9 that Mr. Rosenthal is referring to is not accurate.

10 MR. ROSENTHAL: I'll withdraw the question and ask a
11 different one -- different question.

12 THE COURT: All right.

13 MR. ROSENTHAL: Can we please take a look at figure
14 3A of Scott? Take the slide down, Mr. Eaton. Thank you.

15 Q. (BY MR. ROSENTHAL) I want to be really clear. You
16 showed this figure to the jury and you highlighted the cars
17 and said, This is mobile. Correct?

18 A. Yes. Cars are -- the user stations are within cars, and
19 cars are in the eyes of one of ordinary skill in the art
20 mobile.

21 Q. This patent is not the patent that is at issue in this
22 case. Correct?

23 A. Yes, that's correct.

24 Q. Okay. So the question for the jury is, what does the
25 '931 Patent enable, not what does some other patent enable.

1 Correct?

2 A. Yes, but --

3 Q. Okay.

4 A. Yes.

5 Q. So isn't it true, sir, that in 2001, at the time the
6 enablement question is being asked, no one, no one in the
7 world, had ever developed a mobile beamforming system in
8 cellular?

9 A. I disagree.

10 Q. Isn't it true, sir, that there was no commercially viable
11 operation of beamforming wireless network, period, in 2001?

12 A. Commercially.

13 Q. Okay. And isn't it true, sir, that in 2001 adaptive
14 beamforming algorithms like the one that you pointed to were
15 just theoretical, they were not deployed in real systems?

16 A. Yes. I said theoretical.

17 Q. In fact, they were just academic concepts and algorithms
18 which were calculations. Correct?

19 A. Yes.

20 Q. And they did not and could not result in a practical
21 wireless efficient network. Correct?

22 A. Yes. The key word is 'practical'.

23 Q. And in fact, in 2001, beamforming was just an academic
24 concept that was not tied to a realizable efficient commercial
25 wireless network. Correct?

1 A. Yes. That's from my report.

2 Q. And you heard Mr. Struhsaker testify that in 2001 when he
3 wrote this patent, nobody knew how to do mobile beamforming,
4 period. Correct?

5 A. I disagree. He said it was not part of the standards.

6 Q. Oh, all right. Let's take a look at what Mr. Struhsaker
7 actually said and see -- maybe this will refresh your memory.

8 MR. ROSENTHAL: Could we take a look at the trial
9 transcript at page 299?

10 Q. (BY MR. ROSENTHAL) Starting at line 23, again this is me
11 asking Mr. Struhsaker on Monday of this week when you were
12 sitting there watching, "Well, sir, to the best of your
13 knowledge, in 2001 people had not figured out how to do
14 beamforming in a cellular system. Right?

15 "That's correct.

16 "Okay. So they didn't know how to do it in cellular,
17 meaning they didn't know how to do it in fixed and they didn't
18 know how to do it in mobile."

19 Answer, "Correct."

20 That's what Mr. Struhsaker testified to. Right?

21 A. At least in this section that's what it says.

22 Q. When he was testifying under oath and you were watching.
23 Right?

24 A. Yes.

25 Q. And do you disagree with Mr. Struhsaker again?

1 A. No. What I said is that he's talking about a commercial
2 standards based cellular system. That's my understanding.

3 MR. ROSENTHAL: I move to strike everything after
4 no, Your Honor.

5 THE COURT: Overruled. It's responsive.

6 Q. (BY MR. ROSENTHAL) Doctor Madisetti, there is nothing in
7 this question that says anything about 5G, about commercial.
8 The question is, they didn't know how to do it in mobile.
9 That's all the question says, and he says correct. Right?

10 A. I disagree.

11 Q. You disagree that that's what's written down here?

12 A. Yes, I disagree because it says in a cellular system, so
13 he's referring to a real cellular system.

14 Q. Okay. Do you remember hearing Mr. Struhsaker testify
15 that if you thought in 2001 that you could take a fixed system
16 like the one that's described in the '931 Patent, and turn it
17 into a mobile system, that you would be, in his words, smoking
18 crack? Do you remember that testimony?

19 A. Yeah. But as I said, that's not the correct depiction.
20 I heard --

21 THE COURT: Doctor Madisetti, you're going to have
22 to limit your answers to the questions asked, and Mr. Knobloch
23 is going to get a chance to ask you follow-up questions. So
24 when you said yes, you answered it fully, or no, whatever it
25 may be. This question did not call for the explanation you

1 started to give.

2 So unless counsel asks for an explanation, you're not to
3 volunteer one. Okay?

4 THE WITNESS: Sorry, Your Honor.

5 THE COURT: All right. Let's continue.

6 Q. (BY MR. ROSENTHAL) Did you hear when you were sitting
7 here Mr. Struhsaker say, you'd have to be smoking crack to
8 think you can take a fixed wireless system and turn it into a
9 mobile wireless system?

10 A. Can I see the testimony?

11 Q. Sure.

12 MR. ROSENTHAL: Let's take a look at the trial
13 transcript at page 303. I'm sorry. Could you just bring it
14 up on the transcript? Let's look at exactly what it says.
15 303, line 6.

16 Q. (BY MR. ROSENTHAL) "Sir" -- this is again me questioning
17 Mr. Struhsaker on Monday of this week. "Sir, isn't it true,
18 in your words, that you thought that if you could take an
19 existing fixed wireless air interface and use it for mobile
20 phones, in your words, you're smoking crack?"

21 And he said, "The existing ones at the time? Yes."

22 And I said, "That's in 2001. Now, of course, they solved
23 that problem."

24 And he said, "They solved it probably by 2007."

25 Do you see that?

1 A. Yes. I agree with what -- I agree that it said that.

2 Q. Okay. And you disagree with him, though.

3 A. No. I said I agree with how he said it, that it is a
4 fixed wireless interface and moving to mobile phone won't
5 work.

6 Q. Okay. So if you take a fixed wireless interface and you
7 try to use it with mobile devices, that wouldn't work. Right?

8 A. That's what he said.

9 Q. And if you thought that you could do that, you'd be a
10 little out of your mind. Right? That's what he said.

11 A. Yes, that's what he said.

12 Q. And they didn't figure out how to do this until six years
13 later, according to Mr. Struhsaker. Correct?

14 A. No. I mean, as I said -- do you want me to explain what
15 he said or what do you want me to do?

16 Q. Just answer my question.

17 A. Yeah. I mean, I would just say that he said that.

18 Q. Okay.

19 A. Yeah.

20 Q. So that's what the inventor said.

21 A. Yes.

22 Q. All right. Now, you are aware, sir, that 4G had mobile
23 beamforming in it. Right?

24 A. In some form, yes.

25 Q. And you would agree that 4G was the product of a lot of

1 work. Right?

2 A. The standard? Yes.

3 Q. Yeah. And the way they designed the standard and the
4 technologies that went into the standard was the result of
5 hundreds or thousands of engineers working together to create
6 that standardized technology. Correct?

7 A. Yes.

8 Q. Yes. And it took a long time, many years for them to
9 develop that. Right?

10 A. The standard, yes.

11 Q. Yes. And you agree, sir, that 5G also has mobile
12 beamforming. Right?

13 A. Yes.

14 Q. And you saw when Mr. Faxer testified about some of the
15 work and innovations that Ericsson had done to develop the
16 technology going into that standard all through the 2010s.
17 Right?

18 A. Yes.

19 Q. And you don't disagree with Mr. Faxer that Ericsson
20 worked really hard to develop this technology, do you?

21 A. I don't. I believe that there was a lot of work done for
22 the standard.

23 Q. For the people that worked on the standard and developed
24 this technology, they worked really hard for a really long
25 time to make this work. Right?

1 A. To make the standard work.

2 Q. And to develop new methods of beamforming in mobile
3 systems just like Mr. Faxer testified about. Right?

4 A. Yes.

5 Q. And they got patents on those techniques. Right?

6 A. Yes.

7 Q. And other companies got patents, hundreds, thousands of
8 patents on this technology that was developed years after Mr.
9 Struhsaker wrote his patent. Right?

10 A. I disagree. The technology was developed earlier.

11 Q. Okay.

12 THE COURT: Counsel, approach the bench, please.

13 (The following was had outside the hearing of the
14 jury.)

15 THE COURT: I'm trying to determine whether I need
16 to provide lunch to the jury or not. How much time -- I know
17 you've got eight minutes, Mr. Knobloch, and I expect you to
18 use all eight of them.

19 But you've got over an hour. How much more do you have
20 on this cross?

21 MR. ROSENTHAL: I think 20, 25. I mean, nowhere
22 near what I have left. I need to take a look, but I think
23 maybe 20 more.

24 THE COURT: Okay. Maybe even less than?

25 MR. ROSENTHAL: No, no, no. I think 20 more.

1 THE COURT: Okay. Well, that puts us to 11:30 and
2 then 8 or 10 minutes puts us to 11:40. Okay. That tells me
3 what I need to know.

4 MR. ROSENTHAL: Thank you, Your Honor.

5 (The following was had in the presence and hearing
6 of the jury.)

7 THE COURT: Let's continue, please.

8 MR. ROSENTHAL: Thank you, Your Honor.

9 Q. (BY MR. ROSENTHAL) So let me get back to where I was.
10 So you agree, sir, that if you were designing a mobile
11 beamforming system, that is a very different thing than
12 designing a fixed wireless beamforming system. Right?

13 A. Can you quantify what you mean by 'very'?

14 Q. You don't know what very means?

15 A. I don't believe the differences are significant.

16 Q. Don't you agree, sir, that going from fixed to wireless
17 in 2001 would take years of work?

18 A. From fixed to wireless? No.

19 Q. And you don't agree that it would take a significant
20 investment of resources and time to do that?

21 A. As I said, it depends on what you're trying to do,
22 whether it's a standard or something else. I mean, the
23 concepts and technologies were known 30, 40 years ago.

24 Q. Academically.

25 A. Concepts, academics, technologies, simulations--all these

1 were done. It's a standard that takes a lot of time.

2 Q. Okay. Were you here when Mr. Struhsaker testified that
3 in 2001, going to fixed -- from fixed to wireless would take a
4 tremendous amount of work?

5 A. Again, he's the best judge. As I said, the concepts,
6 technology, all there. I've been in this area for 30 years, I
7 have books in this area, I know this technology well.

8 Q. Mr. Struhsaker is the best judge, though. Right?

9 A. It's up to you, counsel, but I believe that I provided an
10 opinion based on my knowledge and experience that this
11 technology was well-known.

12 Q. I know you provided your opinion, but Mr. Struhsaker was
13 actually working on these ideas on a fixed wireless system,
14 was in the industry, it was -- his whole life was wireless
15 and -- and cellular communication throughout this time frame,
16 wasn't it? I mean, that's what we heard.

17 A. Okay. So what is the question?

18 Q. Isn't that true that he was immersed in this technology
19 at that time? Right?

20 A. Yes, he was immersed in the technology.

21 Q. And he's the inventor of this very patent that we're
22 talking about. Right?

23 A. Yes.

24 Q. And his testimony is it would take years and years and
25 years of effort. Right?

1 A. I mean, I would like to look at his testimony.

2 Q. All right. Let's take a look.

3 MR. ROSENTHAL: Let's go to the trial transcript at
4 page 299.

5 Q. (BY MR. ROSENTHAL) Mr. Struhsaker -- again, I'm
6 questioning Mr. Struhsaker here. Right?

7 And I said, "Now you agree that a designing a mobile
8 wireless system is a very different thing than designing a
9 fixed wireless system."

10 And I used the word 'very', and he didn't ask me what it
11 meant. He just said, "Yes." Right?

12 A. That's what it looks like.

13 Q. Okay. And I asked him, "You agree that in 2001 when you
14 wrote this patent, going from fixed to wireless would take a
15 tremendous amount of work."

16 MR. KNOBLOCH: Objection, Your Honor. May we
17 approach?

18 THE COURT: Approach the bench.

19 (The following was had outside the hearing of the
20 jury.)

21 MR. KNOBLOCH: Your Honor, I believe that counsel is
22 creating the impression that in order for the patent to be
23 enabled, a commercial system or a standard system would have
24 to be enabled, and that is not the standard. And I think
25 counsel is creating the misimpression that the

1 standard -- that the enablement requirement is much higher
2 than it actually is.

3 THE COURT: What's your response?

4 MR. ROSENTHAL: This line of questioning has nothing
5 to do with standardization, commercialization. I'm asking
6 whether he agrees with the inventor. Those questions weren't
7 about that. When he said from going from fixed to wireless at
8 that time took years of work to figure out how to do that.

9 MR. KNOBLOCH: Doctor Madisetti has already made
10 clear that he understands this testimony to mean in the
11 context of standards and commercial systems, not the
12 relevant -- which is not relevant to the enablement inquiry at
13 all.

14 THE COURT: Well, if he understand it that way, I
15 mean, he's not entitled to set the premise for counsel's
16 question. If counsel makes it clear that the premise for his
17 question is not dependent upon standards or commercialization,
18 the witness can't change the premise.

19 And you can certainly make it clear on redirect that
20 commercial -- an actual functioning marketed commercial system
21 is not necessary to show enablement.

22 At this point I don't see the questions from Defense
23 counsel as actually imposing that requirement on him.

24 MR. KNOBLOCH: I think the way that counsel is
25 asking these questions, Your Honor, is creating exactly that

1 impression because that -- because this testimony is all about
2 the standards.

3 THE COURT: Well, you may very well believe that
4 that's an impression Defendants' counsel is trying to create.
5 But at this point, given the context of what we're talking
6 about, I don't think that there's anything improper about what
7 is being done. If you want to reurge this at a later date,
8 something else happens, fine. But right now, I'm going to
9 overrule you.

10 MR. KNOBLOCH: Thank you, Your Honor.

11 MR. ROSENTHAL: Thank you, Your Honor.

12 (The following was had in the presence and hearing
13 of the jury.)

14 THE COURT: Let's proceed.

15 Q. (BY MR. ROSENTHAL) Let's continue, Doctor Madisetti.

16 Mr. Struhsaker said that in 2001 when he wrote this
17 patent, going from fixed to wireless would take a tremendous
18 amount of work. And he agreed with me. Right?

19 A. Yes, he seems to agree with that question as per the
20 transcript.

21 Q. And I asked whether it would take years to do that work,
22 and he said correct. Correct?

23 A. That's what it appears.

24 MR. ROSENTHAL: You can take that down.

25 Q. (BY MR. ROSENTHAL) So the enablement question asks

1 whether, in light of what's written down in the patent and in
2 light of what people knew in the industry, would it take undue
3 experimentation to build what's written down in the claims?

4 Do you recall that that's generally the test?

5 A. Yes.

6 Q. And your testimony is that you don't think it would take
7 undue experimentation. Right?

8 A. Yes, that's right, because the -- yes.

9 Q. And the inventor's testimony is that it would take years
10 and years and years of effort. Right?

11 A. Again, the inventor speaks for himself. I just saw what
12 you showed me.

13 Q. Okay. Let's turn, please, to the '931 Patent, and in
14 particular, I now want to talk about written description. And
15 this is my last subject.

16 Now, you recall, we've all seen that General Access added
17 claims 28 and 29 during the prosecution. Right?

18 A. These were added, yes.

19 Q. And when those amendments and additions were made, they
20 added the requirements of a broadcast beam signal that goes to
21 multiple sectors and transmitting directed scanning beam
22 signals to different sectors in the same TDD frame. Right?

23 A. Yes, I believe so.

24 Q. Okay. Now, the patent laws require -- there's nothing
25 wrong with adding requirements to a claim. Right?

1 A. No.

2 Q. I'm sure that's happened in your applications, too.
3 Right?

4 A. Yes.

5 Q. Okay. But there is a rule that says when you make those
6 additions, you have to be able to show where it is in the
7 patent. Right?

8 A. Yes. Most of the time they make amendments based on
9 that.

10 Q. And most of the time. Right? But you have found --
11 remember you talked a couple of days ago about how many cases
12 you've worked on. You have found in many cases that even
13 though the Patent Office looked at the patent, granted the
14 patent, examined the patent, that, nonetheless, the Patent
15 Office made a mistake and you believe the patent is invalid.
16 Right?

17 A. I didn't say that. I just said that there are cases
18 where I provided an opinion that the patent may have been
19 invalid.

20 Q. Not may; is invalid. Right?

21 A. Yes. In some cases, yes.

22 Q. In every single one of those cases, the Patent Office
23 granted the patent. Right?

24 A. Yes.

25 Q. Okay. So let me try it again. You have opined on

1 several occasions that even though the Patent Office looked at
2 the patent, examined the patent, considered the patent,
3 granted the patent, nonetheless, the patent was invalid.
4 Right?

5 A. In some cases, yes.

6 Q. Okay. And you understand that that is the province, the
7 job of this jury is to assess -- regardless of what the Patent
8 Office did, to assess for itself whether or not the patent is
9 supported -- the claims are supported. Correct?

10 MR. KNOBLOCH: Objection, Your Honor. Counsel's
11 suggestion that regardless of what the Patent Office did is
12 incorrect.

13 THE COURT: The Court will be the sole source of
14 instructions on the law to the jury, and I will give them my
15 instructions before they deliberate. I'm not going to curtail
16 the examination at this point. I don't believe he's asking or
17 projecting any legal doctrine as much as he is trying to
18 establish whose responsibility it is to make a decision.

19 Your objection's overruled.

20 Q. (BY MR. ROSENTHAL) Doctor Madisetti, the purpose of that
21 written description requirement is to ensure that the scope of
22 the right to exclude in the claims does not overreach the
23 scope of the inventor's contribution as described in the
24 patent specification. Correct?

25 A. At a high level, yes.

1 Q. And if the jury believes or concludes after looking at
2 all the evidence that there's nothing in the patent that
3 describes a broadcast beam going -- signal going to multiple
4 sectors, or two directed scanning beams going to multiple
5 sectors in the same TDD frame, you agree that the patent's
6 invalid.

7 A. Yes. As I said, I trust the jury.

8 Q. Now, you put on the screen four things from the patent to
9 show the jury that you think that there's written description
10 for the patent -- for the claims. And I wrote down each one
11 of those four things, and I'd like to go through each one of
12 those things and see what it says. Okay?

13 A. Okay.

14 Q. So let's start with the '931 Patent, column 20, line 5 to
15 7.

16 The first thing that you looked at was this sentence that
17 says, The SOF field is followed by downlink measurement [sic]
18 messages broadcast from the base station to all subscribers.
19 Do you see that?

20 A. Yes.

21 Q. Now, first of all, let me be clear. This sentence
22 doesn't say anything -- it doesn't use the word 'broadcast
23 beam signal'. Correct?

24 A. It does not use the English word 'broadcast beam signal'.

25 Q. And this sentence doesn't say anything -- does not use

1 the word 'sector'. Correct?

2 A. It does not use the word 'sector', which is --

3 Q. And it doesn't say 'multiple sectors'. Correct?

4 A. It does not use the word 'multiple sectors'.

5 Q. And you, in explaining this passage, said, Well, let's
6 look at figure 14 because figure 14 actually depicts this
7 start of frame field. Do you remember that?

8 A. I provided it as an example. I said this language itself
9 discloses that 'all subscribers' meant 'all sectors'.

10 Q. So let's go -- that was your interpretation of the
11 passage. Right?

12 A. In the eyes of a person of ordinary skill in the art.

13 Q. All right. Now let's look at the figure that you then
14 showed the jury. You showed the jury figure 14, and you said
15 see, Figure 14 is an example of where this start of frame
16 field is, and that's -- I think you circled SOF 1 and SOF 2.
17 Right?

18 A. Yes.

19 Q. Sir, isn't it true that figure 14 is showing a broadcast
20 beam signal that conveys timing and control information to all
21 the users in a sector?

22 A. No.

23 Q. You submitted a report in this case, didn't you?

24 A. Yes.

25 Q. Let's take a look at what you said in your report about

1 this subject?

2 A. Yes. I --

3 Q. I'll bring it up.

4 A. Oh.

5 Q. Please take a look at your infringement report. It's in
6 one of your binders.

7 When you get to your infringement report, I'd like you to
8 please turn to paragraph 137.

9 MR. ROSENTHAL: I don't believe we should publish it
10 yet.

11 THE COURT: No.

12 MR. ROSENTHAL: The answer is no, Mr. Eaton.

13 THE WITNESS: I am on paragraph 137.

14 Q. (BY MR. ROSENTHAL) Now, in paragraph 137 I would like
15 for you to look at where you paste figure 14, and underneath
16 it you have a sentence that begins "As shown above."

17 Please read that sentence to yourself.

18 A. Yes, I read that.

19 Q. This was your report where you wrote down your opinions
20 that you've reached in this case. You provided them to us so
21 that we knew what your opinions were. Right?

22 A. Yes.

23 Q. Okay. That's part of the trial--you tell us in advance
24 what your opinions are so we have notice and we can properly
25 prepare to test those opinions. Right?

1 A. Yes.

2 Q. And in this document -- well, let me ask the question
3 differently.

4 Isn't it true, sir, that in figure 14, and in the other
5 example frames depicted in the specification of the '931
6 Patent, the frames are bounded by broadcast signals that
7 convey timing control information to all the users in a
8 sector.

9 A. No.

10 Q. All right. Let's take a look.

11 MR. ROSENTHAL: I'd like to publish the text of what
12 he wrote down in his report, Your Honor.

13 THE COURT: You have leave --

14 MR. ROSENTHAL: Thank you.

15 THE COURT: -- in light of that answer.

16 Q. (BY MR. ROSENTHAL) Sir, this is your infringement
17 report, and you pasted figure 14 from the '931 Patent right
18 there in black and white. Right?

19 A. Yes.

20 Q. And underneath it you say, "As shown above" -- you are
21 talking about figure 14?

22 A. Yes.

23 Q. And you say not just figure 14, "...and in other example
24 frames depicted in the specification." Do you see that? Do
25 you see that, sir?

1 A. Yes.

2 Q. And you wrote, "individual frames are bounded by
3 broadcast signals that convey timing and control information
4 to all the users"--and let's please emphasize the very end
5 here--"in a sector."

6 That's what you wrote down, sir. Right?

7 A. No. If you just look at the previous line above the
8 figure, I continued from there. You're not showing the entire
9 paragraph. If you show the line just before this figure on
10 the top --

11 MR. ROSENTHAL: I move to strike the answer as
12 non-responsive.

13 THE COURT: Sustained.

14 Q. (BY MR. ROSENTHAL) Sir, you wrote down in describing
15 this figure that the broadcast signals convey timing and
16 control information to all the users in a sector. Correct?

17 A. In this portion of the report, yes.

18 Q. Thank you.

19 Let's see what the patent actually says. I'd like to now
20 go to the next thing that you put up on the screen from the
21 patent.

22 You put up column 16, line 4 through 8. Let's take a
23 look. You put this passage up and said, Here is another
24 portion of the patent that shows me that the broadcast beams
25 go to multiple sectors. Do you recall that?

1 A. I was referring to -- yes. That's one of the reasons I
2 pointed here.

3 Q. I wrote it down. This is the next one you pointed to.

4 A. Yes.

5 Q. Right?

6 So let's see what it says. It says, "A key aspect, a key
7 aspect of the present invention is that the timing of the
8 downlink and uplink portions of each TDD frame must be
9 precisely aligned in order to avoid interference between
10 sectors."

11 It is talking about each TDD frame, each one in each
12 sector. Right?

13 A. No.

14 Q. It doesn't say "each TDD frame"?

15 A. It does say 'each', but not for each sector; it says
16 there's a single TDD frame and that's the time schedule that's
17 globally mandating across sectors.

18 Q. I'm sorry. It says single TDD frame.

19 A. No. "Each TDD frame" means each TDD frame of a periodic
20 set of sequences because it keeps repeating.

21 Q. It says each TDD frame must be aligned to avoid
22 interference between the sectors. Right?

23 A. Yes.

24 Q. That's what it says.

25 A. Yes.

1 Q. Now, let me ask you this. If -- isn't it true, sir, that
2 the teaching of the '931 Patent is aligning the TDD frames
3 between different sectors of the cell site?

4 A. As I describe here, I disagree with that. It says TDD
5 frame is globally controlled by the base station.

6 Q. Let's take a look at your deposition. It's in your book.

7 A. Okay.

8 Q. Please turn to page 109 of your transcript.

9 A. Which volume?

10 Q. Your transcript from 2024.

11 A. Which volume?

12 Q. I'm sorry. I didn't know there are two. I'll check.

13 So in the back of your book this should say --

14 THE COURT: This is volume 1. Correct?

15 MR. ROSENTHAL: I believe so.

16 Q. (BY MR. ROSENTHAL) The date of the deposition is March
17 12, 2024. Is that the one that you've got in front of you,
18 sir?

19 A. Yes.

20 Q. Okay. Yeah. Could you please turn to page 109?

21 And when you get there, please read line 6 through 13.

22 A. Yes.

23 Q. Okay. Sir, is one reason that aligning the TDD frames
24 between different sectors of a cell site is useful so that you
25 reduce interference between the downlink portion of one TDD

1 frame in one sector with the uplink portion of a TDD frame in
2 another sector?

3 A. Yes.

4 Q. Okay.

5 A. But --

6 Q. So that's what the patent describes as the teaching of
7 the '931 Patent is aligning a TDD frame in one sector with a
8 TDD frame in another sector. Correct, sir?

9 A. I would --

10 Q. That's the teaching of the patent. Right, sir?

11 A. I would defer to the language in my deposition.

12 Q. When you said this is the teaching of the '931 Patent?

13 A. Yeah. Exactly as I said here. It's is same TDD frame.

14 Q. Okay. It says this is the teaching of the '931 Patent.
15 That's what you said. Right, sir?

16 A. Yes.

17 Q. Okay. Now, let's take a look at column 14 of the '931
18 Patent, line 44. This is the last portion of the patent that
19 you put up on the screen.

20 Right at around line 44 you said --

21 MR. ROSENTHAL: I don't remember which part of this
22 you pointed to, but I think it was just above where you are,
23 Mr. Eaton. Yes.

24 Q. (BY MR. ROSENTHAL) You said a TDD transmission frame is
25 based on a fixed period of time, and it goes on. Do you see

1 that?

2 A. Yes.

3 Q. Now, this is describing the TDD frame in the patent.

4 Right?

5 A. It is describing a TDD frame as -- it's describing a TDD
6 frame, yes.

7 Q. And you pointed to this as -- this is where we should
8 look to see how TDD frames are explained in this patent.

9 Right?

10 A. Yes.

11 Q. Okay. You didn't show what continues after this, so
12 let's take a look at what continues after this.

13 MR. ROSENTHAL: If you could scroll down, Mr. Eaton.

14 Q. (BY MR. ROSENTHAL) It then goes on to describe part of
15 that TDD frame as the frame heading 330. Do you see that?

16 A. Yes.

17 Q. And that's part of the TDD frame. Right?

18 A. For that example, TDD frame 321 is a frame header, yes.

19 Q. The example you pointed the jury to.

20 A. In this example, yes.

21 Q. And the frame header is a broadcast message that
22 synchronizes the start of the frame and sends access control
23 information on how the remainder of the TDD frame is
24 configured. Right?

25 A. That's what I pointed to as the SOF.

1 Q. Right. That's the SOF you pointed to.

2 A. Yes.

3 Q. But you didn't point to the next sentence. "The
4 modulation of the frame header is chosen so that all
5 subscribers in a sector of the transceiver base station can
6 receive the frame header."

7 In a sector. You didn't show the jury that, did you?

8 A. No. This is just an example. The other -- this is just
9 one example.

10 Q. It's the example you pointed to, sir.

11 A. No. I pointed to the previous paragraph.

12 Q. You just -- okay. Let's move on.

13 In the '931 Patent, there is, in fact, a description of a
14 broadcast beam. Correct?

15 A. I'm not sure what you're asking, counsel.

16 Q. I'm sorry. In the '931 Patent there is, in fact, a
17 description of a broadcast beam. Correct?

18 A. You have to show that to me.

19 Q. Let's take a look.

20 MR. ROSENTHAL: Let's take a look, please, at figure
21 13A.

22 Q. (BY MR. ROSENTHAL) This is a broadcast beam as described
23 in the patent. Correct?

24 A. That's an example.

25 Q. And it's a full sector coverage broadcast beam. Correct?

1 A. It's an example, yes.

2 Q. And it covers the entirety of a sector. Correct?

3 A. That's a broadcast beam that covers a sector, yes.

4 Q. All right. Now --

5 A. In that example.

6 Q. Right. In that example.

7 Okay. I would like to do one last line of questions in
8 this area and that is this.

9 MR. ROSENTHAL: If we could, please, take a look at
10 our Demonstrative No. 11.

11 Q. (BY MR. ROSENTHAL) I have put together a slide --

12 MR. ROSENTHAL: Are there builds on this? Is there
13 a build before that? Okay. Thank you, Mr. Eaton.

14 Q. (BY MR. ROSENTHAL) If you could, please, I would like to
15 use this demonstrative to walk through a comparison of what's
16 written down in the patent claims with what's written down in
17 the patent specification, and I'd like to start with what I've
18 highlighted in yellow.

19 On the left hand of the screen is the claims showing the
20 new material added during prosecution and highlighting in
21 yellow the old material that was in the original claims. Do
22 you see that, sir?

23 A. Okay.

24 Q. On the right side of the screen, I'm showing a paragraph
25 from the patent from column 9, line 23 to 29. Do you see

1 that, sir?

2 A. I do.

3 Q. Now, if you look at the language from the original claim
4 that's highlighted in yellow, you see that language almost
5 verbatim, almost identical, written down at column 9, line 23
6 to 29. Correct? You can take your time and compare that
7 language.

8 A. Okay.

9 Q. Do you agree, sir, that the original claim language that
10 was rejected by the Patent Office is written almost
11 word-for-word right there in column 9 of the patent?

12 A. I can say that the language looks similar, but I can't
13 say more than that.

14 Q. It's extremely similar. Right? I mean, it's hard for me
15 to -- it's very difficult to actually find a difference in the
16 language between the claims and what's written down in that
17 paragraph, isn't it?

18 A. It speaks for itself. I don't have anything else to say.

19 Q. Well, do you agree that it's awfully close?

20 A. It is similar.

21 Q. It's not difficult to find support in the patent
22 specification for that highlighted language. That's very
23 easy. All you have to do is put it up on the screen, compare
24 it with the language in the claim, and any ordinary person can
25 see that the same thing is disclosed in the patent. Right?

1 A. I mean, all I say is the language is similar, counsel.
2 They are very similar, yes.

3 Q. Okay. And you don't -- I mean, you don't -- a written
4 description requirement is not something where it's like a
5 treasure hunt where you have to go and pick and hunt and peck
6 and try to piece things together; there is supposed to be a
7 clear and explicit description of the limitations in the
8 claim, in the patent. Right?

9 A. I disagree. I believe that one of ordinary skill in the
10 art should be able to identify based on what is present in the
11 specification and the intrinsic evidence that the inventor had
12 possession of the invention, and that's what I applied.

13 Q. All the limitations of the claim must appear in the
14 specification. Correct?

15 A. That -- what is disclosed in the specification must
16 provide a person of ordinary skill in the art that the
17 inventor possessed the invention.

18 Q. So could you please show me and show the jury somewhere
19 that it is written down in this patent in plain English--and
20 I'm not saying it has to be identical language; that's not
21 what I'm saying; it doesn't have to be identical to what's
22 written down in the claim--but please show me something in the
23 patent--and I'm happy to show you the patent--show me
24 something in this patent that says in plain English that we
25 can all look at that shows a broadcast beam signal goes to

1 multiple sectors and that shows a TDD frame with beams that go
2 to multiple sectors?

3 A. I've already shown that in column 20 that it goes from
4 the base station to all subscribers, and 'all subscribers'
5 means 'all subscribers in all sectors'. That was very clear
6 and it's plain English. It couldn't be clearer than that.

7 Q. Okay. You got anything else?

8 A. I pointed to all those I could show. I mean, it's --

9 Q. That's all you could show. Right?

10 A. No. It's 15 pages and -- sorry. 15 -- 30 columns, 15
11 figures, there's thousands of words. I mean, it's all over
12 the place.

13 Q. But those words that you showed the jury, those are the
14 best ones. Right? I mean, we're here, it's a \$500 million
15 case on this patent alone --

16 A. Yeah.

17 Q. -- and you agree that Doctor Andrews is saying that the
18 patent claims are invalid because they're not written down in
19 this document. Right?

20 A. I disagree with him. I show clearly that the base
21 station is sending to all subscribers. It's so clear, plain
22 English. It doesn't even require any skills to figure out
23 that when you send something to all subscribers -- you're
24 sending to all subscribers of the base station means all
25 sectors.

1 MR. ROSENTHAL: I move to strike the answer as
2 non-responsive.

3 THE COURT: Overruled.

4 Q. (BY MR. ROSENTHAL) Doctor Madisetti, you have spent 600
5 hours in this case, you've been working on it for --

6 A. Two years.

7 Q. You've been working on the case for two years, you've
8 spent over 600 hours on this case, you know that the issue in
9 this case is written description, and what you have shown the
10 jury today is your best evidence that this limitation is
11 written down in the patent. Fair?

12 A. I showed my -- the most accessible evidence. I will not
13 limit my answer. I will say these are examples of how clear
14 the specification is.

15 Q. Okay. Thank you.

16 MR. ROSENTHAL: I pass the witness.

17 THE COURT: All right. Redirect?

18 MR. KNOBLOCH: Yes, Your Honor.

19 THE COURT: You have about eight minutes of trial
20 time.

21 MR. KNOBLOCH: Thank you, Your Honor.

22 THE COURT: Please proceed.

23 REDIRECT EXAMINATION

24 BY MR. KNOBLOCH:

25 Q. Now, Doctor Madisetti, a few times during your

1 examination, your cross examination, Mr. Rosenthal asked you
2 to reiterate or to show the evidence that you presented to the
3 jury on the issue of validity. Do you recall that?

4 A. Yes.

5 Q. Now, I just want to be very clear. Who has the burden of
6 proof on the issue of validity?

7 A. The patent is presumed valid so the challenger has the
8 burden; in this case Doctor Andrews and Verizon.

9 Q. General Access has the burden on the issue of
10 infringement. Right?

11 A. Yes.

12 Q. But it's Verizon and Doctor Andrews that have the burden
13 on the issue of validity.

14 A. Yes. And it has to be clear and convincing.

15 Q. Now, with regards to written description, did the Patent
16 Office have all the information that it needed to determine
17 whether there was written description support for the asserted
18 claims?

19 A. Yes.

20 Q. Is there any new information that has been presented to
21 the jury on that issue that is in any way relevant to the
22 issue of whether there is written description support for the
23 claims?

24 A. I don't believe so.

25 Q. The Patent Office also had everything it needed to know

1 whether the claims were enabled. Right?

2 A. Yes.

3 Q. You also were asked, Doctor Madisetti, about some of
4 Mr. Struhsaker's testimony concerning the systems that existed
5 at the time of the '931 Patent. Do you recall that?

6 A. Yes.

7 Q. And you were asked about your testimony about whether
8 there was a practical and efficient way to do beamforming in a
9 network -- in a cellular network before the '931 Patent. Do
10 you recall that, those questions?

11 A. Yes.

12 Q. And what -- in your opinion, was there a practical and
13 efficient way to do beamforming in a network before the '931
14 Patent?

15 A. Could you please repeat your question?

16 Q. Sure. In your opinion, Doctor Madisetti, was there a
17 practical and efficient way to do beamforming in a cellular
18 network before the '931 Patent?

19 A. With respect to the TDD network, wireless access network
20 that includes a cellular network, there was no practical way
21 because the inventors of the '931 recognized that the
22 interference could create serious problems and they were the
23 first to provide a practical way of realizing it.

24 Q. Once a person of ordinary skill in the art was furnished
25 with the teachings of the '931 Patent, could that person have

1 built an efficient beamforming system with TDD?

2 A. Yes, because it simplifies many of these problems through
3 use of the asserted claims.

4 Q. Now, Doctor Madisetti, to be clear, does enablement --
5 the enablement requirement we've been talking about, does it
6 require that the patent teach how to build out an entire
7 commercial system?

8 A. No. It would allow somebody to realize based on the
9 knowledge the scope of the claims without undue
10 experimentation.

11 Q. And you were asked also towards the end of your
12 examination to compare some of the language in the
13 specification of the '931 Patent to the language of the
14 claims. Do you recall that?

15 A. Yes.

16 Q. And in comparing that, I just want to be really, really
17 clear. Does the written description requirement require that
18 the exact words shown in the claims also appear in the
19 specification?

20 A. No.

21 Q. Why not?

22 A. Because one of ordinary skill in the art should
23 understand that what is disclosed in the specification would
24 allow them to understand the inventor had the possession of
25 the full scope of the claim. That's all they require. Exact

1 language need not be present.

2 MR. KNOBLOCH: Ms. Brunson, may I present my screen,
3 if I can try that?

4 Q. (BY MR. KNOBLOCH) Okay. Now, Doctor Madisetti, I want
5 to talk briefly about the issue of infringement and
6 specifically the broadcast beam signal limitation.

7 In Verizon's network, is the same information conveyed on
8 the broadcast beam signal to users in multiple sectors?

9 A. Yes. The same information with respect to the system
10 frame number, with respect to the SSS and others and, as I
11 said, the corporate representatives or designees Faxer and
12 Rice also agree.

13 Q. And is that information sent at the exact same time to
14 users in multiple sectors?

15 A. Yes. They're coordinated by the base station itself, and
16 Mr. Rice confirms that--"as close as humanly possible."

17 Q. Now, the SSBs that we've been talking about, they're sent
18 from multiple antennas. Right?

19 A. Yes.

20 Q. Why is that important?

21 A. Because the Court's construction requires that each
22 sector receive transmissions from its own antenna.

23 Q. In your opinion, Doctor Madisetti, when Verizon's base
24 stations transmit the same information at the exact same time
25 to users in multiple sectors, are they transmitting a

1 broadcast beam signal as required by the '931 Patent?

2 A. Yes.

3 MR. KNOBLOCH: I pass the witness, Your Honor.

4 THE WITNESS: By the claims of the '931 Patent.

5 THE COURT: Any further cross examination?

6 MR. ROSENTHAL: Very briefly, Your Honor.

7 THE COURT: All right.

8 RE CROSS EXAMINATION

9 BY MR. ROSENTHAL:

10 Q. Doctor Madisetti --

11 MR. ROSENTHAL: I'm sorry. May I proceed?

12 THE COURT: You may proceed.

13 MR. ROSENTHAL: I'm almost getting it.

14 Q. (BY MR. ROSENTHAL) Doctor Madisetti, you testified a
15 moment ago that the Patent Office had all the information they
16 needed to consider enablement and written description.

17 Correct?

18 A. That's my belief.

19 Q. We have all just sat through four days of testimony.

20 Correct?

21 A. Yes.

22 Q. Mr. Struhsaker is the inventor of these patents.

23 Correct?

24 A. Yes.

25 Q. Mr. Struhsaker was one of ordinary skill in the art in

1 2001, wasn't he?

2 A. Yes.

3 Q. I mean, he was the inventor. Presumably he has enough
4 information to know what he's talking about. Right?

5 A. Again, I cannot say one way or another, but I believe he
6 is one of ordinary skill in the art.

7 Q. You can't say whether the inventor has enough in
8 information to know?

9 A. No. This was 25 years ago. He didn't remember, he
10 didn't -- it has been 25 years.

11 Q. He didn't remember? I didn't -- did you see him on the
12 stand tell me he didn't remember what was going on?

13 A. Again, I don't recall specifically, but it's been 25
14 years since the patent.

15 Q. But it wasn't 25 years since you saw him testify. That
16 was three days ago. Right?

17 A. Yes.

18 Q. Okay. And during his testimony do you recall that
19 General Access' lawyers asked him step by step by step to
20 recount what happened 25 years ago?

21 A. Okay.

22 Q. Do you remember that, sir?

23 A. Yes.

24 Q. Okay. You were paying attention to his testimony.
25 Right?

1 A. Yes.

2 Q. Okay. And General Access' lawyers put him up on the
3 stand. Right?

4 A. Yes.

5 Q. And they asked him to tell the jury what happened 25
6 years ago.

7 A. Yes, but he was talking about the Raze system, I think.

8 Q. And he remembered those details. Right?

9 A. Of the system; not the claims or the patent, I believe.
10 He was talking about his Raze SkyBeam, SkyFire, and all that.

11 Q. He talked about the patent as well, didn't he, sir?

12 A. I believe that -- I don't recall specifics, unless you
13 show me, but I recall a lot about the Raze SkyBeam and
14 SkyFire.

15 Q. And at any time during that testimony did he say,
16 Counsel, I'm sorry, it's 25 years ago and I just can't
17 remember what we were doing back then? Did he ever say that?

18 A. Again, I don't recall specifics, counsel, but it's been
19 25 years and I believe he was talking about the systems that
20 he was building.

21 Q. When I asked him questions about the patent, did he once
22 say, I don't remember what people were doing back in 2001?

23 A. I don't remember those portions of the testimony. If you
24 can refresh my memory, that will be great.

25 Q. I don't have any -- are you aware -- I don't know how to

1 ask that question.

2 You are up here saying that Mr. Struhsaker, the inventor
3 of the patent, who General Access' counsel put up to tell the
4 jury about the patent, should not be believed about what he
5 said about the patent because you think it was too long ago
6 for him to recall. Is that what you're telling the jury?

7 A. Yes. I'm saying that he spoke about a system, he has
8 been busy with a lot of stuff, and my understanding is that he
9 was speaking about SkyBeam, SkyFire, and all the business
10 aspects. I don't remember him talking about claims, I don't
11 even believe he was in the -- I don't believe he was asked
12 about the claims.

13 Q. I asked him about the claims, didn't I, sir?

14 A. Again, you have to show me, counsel. I don't remember.

15 Q. I see Mr. Struhsaker isn't here to hear all this. You
16 don't recall Mr. Struhsaker in your conversations with him
17 about this patent ever telling you, I don't remember?

18 MR. KNOBLOCH: Objection, Your Honor. May we
19 approach?

20 THE COURT: Approach the bench.

21 (The following was had outside the hearing of the
22 jury.)

23 MR. KNOBLOCH: I'd like to strike counsel's comment
24 about Mr. Struhsaker's absence from the courtroom right now.
25 I don't think that's an appropriate comment. The Court has a

1 standing motion in limine about --

2 THE COURT: Against trying the empty chair, but we
3 are not trying Mr. Struhsaker; we are trying Doctor Madisetti.

4 MR. KNOBLOCH: And I think the -- okay, Your Honor.

5 THE COURT: We are out of time. Let's -- we've got
6 to bring this to a close.

7 MR. ROSENTHAL: I'm just about done, Your Honor.
8 Thank you.

9 (The following was had in the presence and hearing
10 of the jury.)

11 THE COURT: Let's proceed.

12 MR. ROSENTHAL: Thank you.

13 Q. (BY MR. ROSENTHAL) I really am almost done, Doctor
14 Madisetti.

15 The Patent Office did not have an opportunity to hear
16 Mr. Struhsaker testify that he didn't write these things down
17 in his patent, that it would be too difficult for people to do
18 this, that it took years for people to do it, that it would be
19 smoking crack to think you could do it, to weigh that
20 testimony against your opinion. The Patent Office didn't have
21 that opportunity, did they, sir?

22 A. As I said -- I mean, I have no comment. As I described,
23 I do not agree that he said all those things.

24 Q. The Patent Office did not have the chance to weigh
25 Mr. Struhsaker's credibility and memory against your

1 testimony, did they, sir?

2 A. Again, I don't believe the Patent Office reviewed that,
3 yes.

4 Q. This jury gets to review it, don't they?

5 A. Yes.

6 Q. Thank you.

7 MR. ROSENTHAL: I pass the witness.

8 THE WITNESS: Thank you, counsel.

9 THE COURT: Any addition direct? You have two
10 minutes of trial time.

11 REDIRECT EXAMINATION

12 BY MR. KNOBLOCH:

13 Q. Doctor Madisetti, on the issue of written description, is
14 the relevant inquiry whether a person of ordinary skill in the
15 art would understand the patent claims were described, or is
16 the inquiry what the inventor testified about 25 years later?

17 A. It's the former. I believe the inventor has no place in
18 this process.

19 Q. And in your infringement and validity analysis, did you
20 compare the SkyFire or SkyBeam systems to Verizon's products?

21 A. That's improper. I did not.

22 Q. What did you compare?

23 A. I compared the claims, as instructed by the Court,
24 against the accused products.

25 Q. And what did you conclude from the language of the claims

1 as compared to Verizon's accused products?

2 A. That all limitations were met for both claims.

3 MR. KNOBLOCH: I pass the witness, Your Honor.

4 THE COURT: Anything further?

5 MR. ROSENTHAL: No, Your Honor. Thank you.

6 THE COURT: You may step down, Doctor Madisetti.

7 THE WITNESS: Thank you, Your Honor.

8 May I be excused?

9 THE COURT: Is there any objection to Doctor
10 Madisetti being excused?

11 MR. ROSENTHAL: Not from my perspective.

12 THE COURT: Yes, you are excused, Doctor Madisetti.
13 You are free to stay; you are free to leave. It's up to you.

14 Plaintiff, call your next rebuttal witness.

15 MR. SUMMERS: Your Honor, at this time the Plaintiff
16 rests.

17 THE COURT: All right. Both parties rest and close,
18 subject to final instructions to the jury and closing
19 argument. Correct?

20 MR. DACUS: Your Honor, may we approach on one
21 procedural matter that will take two seconds?

22 THE COURT: I'm asking a question of your side of
23 the case. Do they rest and close?

24 MR. DACUS: Well, we rest and close subject to the
25 offer of proof that we talked about with Your Honor in

1 chambers.

2 THE COURT: And why is it you've not raised that
3 until now? You've had many opportunities to since you said
4 you were going to.

5 MR. DACUS: Understood, Your Honor. My perception
6 is we raised it with the Court previously, but that's my only
7 reservation, Your Honor, is subject to that.

8 THE COURT: Well, when you tell me you want to raise
9 an offer of proof and then the complete day goes by and then
10 we get to the end of the evidence the next day and both sides
11 say they're through and then you say, now it's time, I want to
12 make my offer of proof --

13 MR. DACUS: I understand, Your Honor. I'm trying to
14 be most efficient with the jury's time, Your Honor, since this
15 is a matter to take up outside --

16 THE COURT: I'll take that matter up outside the
17 presence of the jury.

18 MR. DACUS: Thank you, Your Honor.

19 THE COURT: Ladies and gentlemen of the jury, you've
20 now heard all the evidence in this case.

21 There are several things I need to attend to with the
22 parties through their counsel that don't involve the jury, and
23 I will probably be spending the rest of the day doing that.
24 The good news is you're through for the day as of now.

25 And Ms. Clendening has your lunch in the jury room, if

1 you'd like to have it. If you'd like to skip lunch and go on
2 about your business, you can do that as well.

3 I do need you back in the morning ready to go at 8:30 as
4 usual. What you do the rest of the day is completely up to
5 you. You are still under all the limitations and instructions
6 that I've given you about your conduct. It is critical that
7 you not communicate with anyone in any way about this case or
8 anything that's happened during this trial, including among
9 the eight of yourselves.

10 I'm going to excuse you. If you'll take your notebooks
11 and leave them in the jury room. You're welcome to stay for
12 lunch, you're welcome to leave. Please be back ready to go at
13 8:30 in the morning. Please conscientiously follow the
14 instructions I've given you.

15 And with that, ladies and gentlemen, you are excused for
16 the remainder of the day.

17 (Whereupon, the jury left the courtroom.)

18 THE COURT: Be seated, please.

19 Mr. Dacus, make your offer of proof.

20 MR. DACUS: Thank you, Your Honor.

21 THE COURT: Next time don't lead me to believe
22 you've waived it or forgotten about it. I thought this was
23 water under the bridge.

24 MR. DACUS: My apologies, Your Honor. My
25 understanding was that we had raised it with the Court staff.

1 I personally did not do it, so that was my understanding and I
2 thought we were --

3 THE COURT: Let's go ahead and do the offer of
4 proof.

5 MR. DACUS: Understood.

6 MR. TOLLE: Griffin Tolle on behalf of Intervenor
7 Ericsson -- Defendants. Excuse me. Griffin Tolle on behalf
8 of Defendants. Thank you, Your Honor.

9 Defendants respectfully submit the following offer of
10 proof regarding evidence related to the attempted reissues of
11 the '931 Patent by General Access.

12 Plaintiff's offer to surrender asserted claims 28 and 29
13 of the '931 Patent is relevant to several issues in the case,
14 including written description and infringement. For example,
15 Plaintiffs contend that the asserted claims of the '931 Patent
16 constitute fundamental enabling technology and that you cannot
17 do TDD in modern cellular networks without the clients. The
18 fact that the Plaintiff has offered to surrender these claims
19 in view of other claims cuts directly against this point.

20 Additionally, the fact that the Plaintiff was willing to
21 surrender the asserted claims is also directly relevant to the
22 value of the claims.

23 Further, the proposed revisions reflected in the claims
24 pursued in the reissue applications directly contradict the
25 manner in which General Access is applying the '931 claims in

1 this trial.

2 In particular, Plaintiff contends the broadcast beam
3 signal claim limitation has an ordinary meaning that covers a
4 first broadcast beam signal being sent to a first sector and a
5 second broadcast beam signal being sent to a second sector.
6 Excuse me. A first broadcast beam being sent to a first
7 sector and a second broadcast beam being sent to a second
8 sector.

9 In its reissue applications, however, Plaintiff sought
10 claims that, unlike the asserted claims 28 and 29, actually
11 recite sending multiple broadcast beams to different sectors
12 as opposed to sending a single broadcast beam.

13 Doctor Andrews analyzed these reissues and related
14 evidence. Based off his analysis and experience in the
15 relevant field, Doctor Andrews concluded the reissue
16 application evidence supports his understanding of the
17 broadcast beam signal limitations' ordinary meaning.

18 Had Doctor Andrews testified at trial on this evidence,
19 he may have testified at least to the following:

20 The patent counsel who filed the reissue applications
21 identified the claim term 'a broadcast signal' as problematic
22 and filed the reissue applications two weeks after that to fix
23 that limitation, which is recited in independent claims 1 and
24 19 on which asserted claims 28 and 29 depend;

25 That Plaintiff submitted three signed affirmations to the

1 U.S. Patent Office stating, "I verily believe the original
2 patent to be wholly or partially inoperative or invalid;"

3 That the named inventor of the '931 Patent -- excuse me.
4 That the applicant of the -- excuse me. That the named
5 inventor of the '931 Patent wrote a contemporaneous email
6 after the U.S. Patent Office rejected the reissue application
7 claims in view of the prior art. The named inventor of the
8 '931 Patent observed that the reissue application claims were
9 intended to try to more closely cover LTE systems;

10 That the named inventor of the '931 Patent observed that
11 the prior art on which the rejections based was excellent, and
12 that Plaintiff was never successful in obtaining these broader
13 reissue application claims.

14 In particular, Doctor Andrews would have testified
15 consistent with the following exemplary paragraphs and
16 exhibits of his two reports:

17 Doctor Andrews' opening report, paragraphs 355 and 356;
18 Doctor Andrews' rebuttal report, paragraphs 20 through 22.

19 Finally, Defendants would have presented additional
20 relevant deposition testimony of the patent counsel who
21 prosecuted the '931 Patent, Mr. Venglarik, that would have
22 provided the factual foundation for the reissue applications
23 about which Doctor Andrews would have testified. This
24 includes the following portions of Mr. Venglarik's deposition:

25 Page 79, lines 10 through 14; page 79, lines 25 through

1 page 80, line 4; page 81, line 14 through page 82:9; page
2 82:14 through line 22; page 84, line 4 through page 85:5; page
3 85:14 through page 87, line 1; page 92, line 25 through page
4 93, line 9.

5 Thank you, Your Honor.

6 THE COURT: All right, counsel. Your offer of proof
7 has been received. The Court's maintains its prior rulings
8 based on Rule 403 and other bases, but I accept the offer of
9 proof.

10 All right. We're going to recess for lunch, and at 1:30
11 I will be back on the bench and hear motions from either party
12 that either party cares to offer pursuant to Rule 50(a).

13 After I've heard and ruled on motions under Rule 50(a),
14 I'll undertake to conduct an informal charge conference with
15 counsel regarding the most current iteration of the proposed
16 final jury instruction and verdict form. Those of you that
17 are presenting closing arguments are not required to be here
18 this afternoon.

19 Can the parties identify for the Court who will be
20 presenting closings at this time?

21 Mr. Summers?

22 MR. SUMMERS: Your Honor, for the Plaintiff, we
23 currently anticipate splitting the closing with Mr. Knobloch
24 doing the first portion and me handling the rebuttal.

25 THE COURT: What's the thinking on Defendants' side?

1 MR. DACUS: As of now, Mr. Krevitt and I will split
2 it, Your Honor.

3 THE COURT: All right. Well, if you are not
4 involved in closing, you're welcome to be here. The bottom
5 line is, as long as I have adequate counsel to staff those
6 proceedings you're not -- if you're not otherwise
7 participating, you're not required to be here. You are
8 certainly welcome but not required to be.

9 Any questions before we recess for lunch?

10 MR. SUMMERS: No, Your Honor.

11 MR. KREVITT: No, Your Honor. Thank you, Your
12 Honor.

13 THE COURT: All right. We stand in recess.

14 (Lunch recess.)

15 THE COURT: Be seated, please.

16 All right, counsel. At this time the Court will hear
17 motions from either party that either party may care to offer
18 pursuant to Rule 50(a) of the Federal Rules of Civil
19 Procedure.

20 The Court's typical practice is to have each side
21 identify substantively the matters they care to move for
22 relief on under Rule 50(a). And then after I've identified by
23 subject matter both Plaintiff and Defendants' proposed areas
24 seeking relief under the rule, we'll then go back and I'll ask
25 for targeted argument.

1 It is often the case that motions of this type are
2 diametrically opposed and concurrent argument for and against
3 by both parties is easily selected if they are moving for the
4 exact opposite relief.

5 So let me ask whoever's going to speak for Plaintiff to
6 go to the podium and identify for me by topic what areas it
7 seeks relief upon under Rule 50(a).

8 MR. KELSON: Good afternoon, Your Honor. Taylor
9 Kelson for the Plaintiff General Access.

10 THE COURT: Good afternoon.

11 MR. KELSON: Good afternoon.

12 The Plaintiff has only one Rule 50(a) motion, which is a
13 motion for a finding that Doctor Andrews' testimony and
14 opinions cannot support a verdict of non-infringement on claim
15 28 of the '931 Patent because Doctor Andrews did not apply the
16 Court's claim construction of the term 'a transceiver'.

17 THE COURT: All right. That's the only matter
18 you're seeking relief under the rule on?

19 MR. KELSON: Yes, it is, Your Honor.

20 THE COURT: All right. Thank you.

21 Let me hear then from whoever's going to speak for
22 Defendants. What matters does Defendant, being both Verizon
23 and Ericsson, move for relief on?

24 MR. ROSENTHAL: Good afternoon, Your Honor. Brian
25 Rosenthal.

1 We seek relief on the '931 Patent, on non-infringement on
2 several grounds, and invalidity, both enablement and written
3 description.

4 On the '794 Patent, we seek relief on non-infringement
5 and no written description.

6 And on damages on the '931 Patent, we seek relief of no
7 damages. And one note I wanted just to make for the record,
8 the parties have agreed that General Access will withdraw its
9 claim for willfulness on the condition that we do not raise
10 with the jury the fact that they have withdrawn their claim
11 for willfulness.

12 THE COURT: All right. Is that correct, Mr. Hughes?

13 MR. HUGHES: Yes, Your Honor. Just so long as it's
14 crystal clear we don't want to hear anything about us dropping
15 willfulness or anything related to that in closing. That is
16 the agreement Mr. Rosenthal and I reached over the break.

17 THE COURT: All right. Well, as I heard from this
18 same bench many times when I was where you are, the Court
19 exists the resolve disputes, not to resolve agreements. So if
20 you've agreed, we'll take willfulness out of the case and
21 there will be absolutely no mention of it or its being dropped
22 before the jury.

23 MR. HUGHES: Thank you, Your Honor.

24 MR. ROSENTHAL: Thank you, Your Honor.

25 THE COURT: All right. Let me hear from Plaintiff

1 first on its motion under Rule 50(a) seeking judgment as a
2 matter of law that there is no non-infringement defense to
3 claim 28 of the '931 Patent because Doctor Andrews did not
4 allegedly use the Court's adopted claim construction.

5 Plaintiff, let me hear from you on it.

6 MR. KELSON: Yes, Your Honor. Taylor Kelson.

7 Plaintiff moves the Court for relief to find that Doctor
8 Andrews' testimony and opinions cannot support a verdict of
9 non-infringement on claim 28 of the '931 Patent because Doctor
10 Andrews did not apply the Court's claim construction of the
11 term 'a transceiver'.

12 Doctor Andrews testified earlier today that he did not
13 recall being provided with that construction by counsel, and
14 that that construction was not relevant to his analysis. But
15 the term 'a transceiver' is a limitation of claim 28 which
16 Doctor Andrews opined to the jury that Verizon does not
17 infringe.

18 Doctor Andrews' testimony therefore failed to apply the
19 Court's claim construction and is legally insufficient to
20 support a jury verdict of non-infringement of claim 28 of the
21 '931 Patent.

22 THE COURT: All right. Thank you, counsel.

23 What does Defendant say in response?

24 MS. DOMINGUEZ: Thank you, Your Honor. Kate
25 Dominguez for Defendants.

1 What Doctor Andrews said was that whether a transceiver
2 means one or more was not pertinent to his analysis because
3 his analysis was that there isn't a broadcast beam signal sent
4 to multiple sectors or a TDD frame sent to multiple sectors,
5 irrespective of whether sent by one or more transceivers.

6 And he did analyze whether the three separate antennas or
7 transceivers in the accused network sent one broadcast beam
8 signal or one TDD frame to multiple sectors, and he concluded
9 those multiple antennas did not so send. So it was
10 not -- there was nothing about the analysis that turned on
11 whether a transceiver meant one or more transceivers.

12 And, additionally, that construction was merely the
13 agreement of the parties that the normal rule that (a) means
14 one or more applied. So there was nothing inconsistent in his
15 analysis with that rule. He wrote in his report that he
16 applied all the usual rules of claim construction, and there
17 was simply nothing inconsistent in his analysis with that.

18 THE COURT: All right. Thank you.

19 Let's move to the matters Defendants have sought relief
20 on pursuant to Rule 50(a).

21 Counsel, are you prepared to argue the non-infringement
22 issue as to both patents together or are you going to need to
23 argue those separately?

24 MR. ROSENTHAL: Your Honor, the way we have split it
25 up is that Ms. Dominguez will handle all issues for the '931,

1 I would handle all issues for the '794, and I would handle the
2 damages issues, if that works for the Court.

3 THE COURT: That's why I asked. That's no problem.

4 Ms. Dominguez, let me hear from you then on your motions
5 for relief under Rule 50(a) regarding non-infringement and
6 invalidity of the '931 Patent.

7 MS. DOMINGUEZ: Thank you, Your Honor.

8 As to non-infringement, asserted claims 28 and 29 of the
9 '931 Patent require, in particular, two limitations that were
10 discussed extensively in the past four days: the first being
11 the sending of a broadcast beam signal to wireless access
12 devices in more than one sector; and the second being sending
13 a TDD frame with downlink data traffic to wireless access
14 devices in more than one sector.

15 As to that first limitation, Plaintiff's only argument
16 was that Verizon sends the required broadcast beam signal in
17 the form of three separate SSBs from three separate antennas.
18 The claims, however, require that whatever is transmitting
19 transmit a broadcast beam signal to devices in more than one
20 sector, even if there are other signals also transmitted.

21 The record evidence is undisputed that in Verizon's
22 accused 5G network, each individual SSB is transmitted to a
23 single sector. The record evidence is also undisputed that in
24 Verizon's accused 5G network, each SSB is scrambled such that
25 there is no common signal received by phones in more than one

1 sector, as the claims require. And I should say devices
2 rather than phones.

3 Moreover, each SSB in Verizon's 5G network contains a
4 sector-specific cell ID, an identification that is unique to
5 each sector. Thus, neither the information nor the signal
6 containing the information is the same across multiple
7 sectors.

8 As to the second limitation requiring a TDD frame to more
9 than one sector, the claims also require that -- they require
10 that limitation, and the record evidence is likewise
11 undisputed that in Verizon's 5G network neither a single TDD
12 frame nor directed beams within such a frame are ever sent to
13 more than one sector. Instead, each TDD frame serves its own
14 sector. For each of these reasons, there is legally
15 insufficient evidence of infringement.

16 If Your Honor has questions, I welcome them. Otherwise,
17 I can move to invalidity.

18 THE COURT: Go ahead and move to invalidity.

19 MS. DOMINGUEZ: On invalidity, we have arguments
20 regarding lack of adequate written description and lack of
21 enablement. As to lack of adequate written description, it
22 concerns those things same two claim requirements that I just
23 referred to.

24 The record evidence is undisputed that the specification
25 of the '931 Patent lacks any disclosure for either one of

1 those limitations. The specification at most discloses
2 sending one broadcast beam signal and one TDD frame to
3 wireless access devices in one sector, and that a separate
4 broadcast beam signal and TDD frame may be sent to other
5 sectors.

6 Thus, the claims lack adequate written description as a
7 matter of law because the specification fails to demonstrate
8 that the inventor had possession of the full scope of the
9 invention.

10 As to lack of enablement, Plaintiff contends that the
11 asserted claims 28 and 29 of the '931 Patent cover beamforming
12 in a mobile system and beamforming to mobile devices.

13 THE COURT: Could you slow down just a little bit?

14 MS. DOMINGUEZ: Sure.

15 THE COURT: Thank you.

16 MS. DOMINGUEZ: The record evidence is undisputed
17 that the specification discloses and teaches only beamforming
18 in a fixed wireless access system. The patent discloses
19 nothing about how to perform beamforming in a mobile system,
20 which the claims have been construed to be broad enough to
21 encompass.

22 The evidence is undisputed that in 2001 those in the
23 field, including persons of ordinary skill in the art, were
24 not aware how to do mobile beamforming and that it would take
25 years and immense effort to do so, even with the teachings of

1 the '931 Patent in hand.

2 Since the specification describes and teaches only
3 beamforming in a fixed environment and the inventor conceded
4 that no one would know how to do mobile beamforming at that
5 point in time, the specification does not sufficiently teach
6 how to perform the full scope of the invention, including
7 beamforming to mobile devices.

8 The claims, therefore, lack enablement as a matter of law
9 because the specification fails to enable the full scope of
10 the claims.

11 THE COURT: All right. Anything further?

12 MS. DOMINGUEZ: That's all, Your Honor.

13 THE COURT: Let me hear Defendants' [sic] response
14 to both the non-infringement and invalidity arguments to the
15 '931.

16 MR. HUGHES: Thank you, Your Honor.

17 We think the motion should be denied. The jury has heard
18 ample evidence on infringement from both fact witness
19 testimony and from Doctor Madisetti that Verizon's base
20 stations and the accused equipment practice all of the
21 limitations of the relevant claims of the '931 Patent.

22 And you understand the basic position of the Plaintiffs
23 is that the broadcast beam signals are -- signal, excuse me,
24 are beamed by the relevant antennas in the same system frame
25 number at the same time, carrying common information that

1 allows the users in the relevant sectors to connect to the
2 device.

3 And Doctor Madisetti has explained how that satisfies
4 infringement for both the broadcast beam signal and the
5 directed scanning beam signals because they are sent in a
6 common -- or they're controlled by a timing architecture which
7 is a TDD frame that's common to all the sectors which is why
8 those TDD frames have the same system frame number.

9 As to validity, we don't believe that the Defendants have
10 come close to carrying their heavy burden for a Rule 50 motion
11 given the elevated burden of proof. Doctor Madisetti pointed
12 to numerous portions of the specification that he says support
13 the idea that one of ordinary skill in the art bringing all
14 that that person would have to bear, combined with the
15 disclosure of the specification, would support the asserted
16 claims.

17 And as to enablement, I think we'll be talking about this
18 more in the charge conference and we had a discussion of it
19 yesterday. It's not that one of skill in the art would need
20 to be able to understand how to practice, you know, a
21 commercialized and fully implemented mobile TDD beamforming
22 network. It's whether it would enable base stations without
23 undue experimentation to practice the full scope of the
24 invention, which has been -- which, of course, here includes
25 mobile networks and devices.

1 And Doctor Madisetti has testified how one of ordinary
2 skill in the art bringing to bear what was known at the time
3 about mobile networks could do that without undue
4 experimentation. We think that's plenty to get it to the
5 jury.

6 THE COURT: All right. Thank you.

7 Let's move to Defendants' motions for relief under Rule
8 50(a) regarding non-infringement and no written description in
9 connection with the '794 Patent.

10 MR. ROSENTHAL: Thank you, Your Honor. Brian
11 Rosenthal.

12 Let me start, please, with non-infringement.

13 THE COURT: That's fine.

14 MR. ROSENTHAL: The '794 Patent has three asserted
15 claims. The claims are 1, 2, and 5. Each of those claims has
16 two key limitations that the undisputed evidence shows that
17 the Verizon devices do not infringe.

18 The first of those is that there was a claim element
19 added during prosecution that the second transceiver must
20 monitor the downlink signal characteristics of the first
21 mobile station.

22 The second is that, based on those characteristics, in
23 addition to other things, the second transceiver must route
24 information to the first and second mobile station,
25 respectively. And the Court has construed that routing

1 limitation to mean direct information through a specified path
2 to the first mobile station and the second mobile station,
3 respectively.

4 The only argument and evidence that General Access has
5 put on in this case with respect to that second downlink
6 characteristic is the testimony of Mr. Gamboa and the
7 testimony of Mr. Youtz, which was presented by deposition and
8 which Doctor Madisetti looked at. And both of those
9 unequivocally talked about a signal strength measurement
10 called the RSSI that is measured by the transceiver of the
11 strength of the uplink from the mobile station to the accused
12 device.

13 The claim requires measuring the downlink signal
14 characteristics. There is no factual dispute that what's
15 being measured is the uplink characteristics. Now, Doctor
16 Madisetti did testify, well, I think downlink is measured as
17 well, but he didn't provide any evidence of that. And
18 so -- and by that, I mean other than him just saying
19 conclusorily that he thought that that happened.

20 Because the only signal characteristic that was actually
21 identified and about which any evidence was provided is uplink
22 rather than downlink, there is a complete failure of proof on
23 that element, and we're dealing with literal infringement
24 only. There's no doctrine of equivalents. And so in this
25 circumstance when there is a complete failure of proof on an

1 element on which General Access bears the burden of proof, we
2 believe judgment as a matter of law is appropriate.

3 The second element is routing. The claims require
4 routing based on that downlink signal characteristic. Since
5 the only thing they identified to meet that downlink signal
6 characteristic limitation is the RSSI, even if it were a
7 downlink signal characteristic, they have to show evidence of
8 a routing, a directing information through a specified path
9 based on that information.

10 Now, Doctor Madisetti and General Access completely
11 failed to show anything was done with the RSSI during their
12 affirmative case, and that's why we had the discussion this
13 morning and they put on that extra testimony from Mr. Gamboa
14 in which he said that the RSSI is used. But what he said it's
15 used for -- he was asked, do you route based on this, and his
16 answer was, we changed the bandwidth depending on the RSSI.

17 So even if the RSSI were a downlink characteristic, which
18 it isn't, they have to show directing information through a
19 specified path based on that RSSI. And this Court has already
20 ruled in the claim construction order that encoding, including
21 things like changing the bandwidth, that is not -- that is
22 what the claim construction fight was all about. And the
23 Court concluded that routing requires specifying a path and
24 sending information along that path.

25 So there's a complete failure of proof on that limitation

1 as well. There's zero, nothing, for the jury to find routing.

2 The last point I want to make is this. There is evidence
3 in the record of beamforming a WiFi signal. Now, we believe
4 that the evidence doesn't support the idea that beamforming
5 from the accused device is routing. But even if it is, the
6 evidence is undisputed that that feature is only a feature of
7 a very small number, approximately 5 percent, of the sales of
8 the accused products.

9 So at a minimum we would ask for judgment as a matter of
10 law with respect to 95 percent of the products, in other
11 words, all those that do not do WiFi beamforming, that those
12 do not infringe.

13 That is our motion with respect to non-infringement.

14 THE COURT: All right. Move on to the written
15 description issue.

16 MR. ROSENTHAL: With respect to written description,
17 I'd like to get right to the point. There's two limitations
18 that are not described, at least. The first one is the one
19 that I really want to focus on and, that is, again, this
20 routing.

21 We have to route based on signal characteristics. The
22 evidence in this record is only on one side of the scale.
23 There is no evidence on the other side.

24 So what we have is there is a patent specification,
25 Doctor Andrews looked at that patent specification and

1 explained where there is routing in the patent and explained
2 why that routing is not done by the second transceiver.

3 He went through the handover procedure that's written in
4 there and explained why that's not routing. So he testified
5 at length and in detail with the specification that there is
6 no routing.

7 Number two, the inventor testified, we've now seen a
8 number of times, unequivocally that he did not write down
9 anything about routing.

10 Number three, Mr. -- Doctor Andrews yesterday went
11 through the file history of the patent where the Patent Office
12 found that routing was not described in the patent. Using the
13 same specification cites that we've been talking about, they
14 said that is not routing.

15 What General Access did is they filed a continuation.
16 When you file a continuation with a preliminary amendment, the
17 examiner doesn't look at the description for the original
18 claims. That's the way the MPEP works. So we have the Patent
19 Office also concluding in a way that was never traversed or
20 addressed that routing is not described.

21 So those are the three pieces of evidence on our side of
22 the ledger.

23 General Access presented zero evidence in rebuttal. And
24 I know we bear the burden of proof and I know that it's a high
25 burden, but in a circumstance where we have put evidence on

1 the record, Doctor Madisetti had his presentation today, and I
2 know they were time constrained, but Doctor Madisetti did not
3 in any way address the absence of the routing limitation.

4 The only thing he did was put up a slide and said, I
5 disagree with Doctor Andrews, and then he moved on. He
6 discussed the monitoring limitation. He never discussed the
7 routing limitation. So there is zero evidence in contrast to
8 all the evidence that we have put on.

9 The second limitation that is not described is the
10 monitoring limitation. With respect to the monitoring
11 limitation, the evidence is clear in our view, Doctor Andrews
12 explained why it is not there. The only thing that is
13 disclosed in the patent is the mobile station doing
14 monitoring, not the second transceiver. And we believe that
15 there is insufficient evidence for the jury to find otherwise.

16 On those bases, we ask that the Court find that there is
17 insufficient written description as a matter of law for the
18 asserted claims to the '794.

19 THE COURT: All right. Thank you, counsel.

20 Let me hear a response from Plaintiff on these issues.

21 MR. ROSENTHAL: Thank you, Your Honor.

22 MR. KELSON: Thank you, Your Honor. I'll try to
23 take these one at a time.

24 So with respect to the second transceiver monitoring the
25 downlink signal limitation, so RSSI measurement is part of the

1 evidence that is in the record, but there is also record
2 evidence from Doctor Madisetti, among other places, that
3 indicates that the mobile station receives information about
4 the downlink signal, that downlink signal, and reports it back
5 to the second transceiver.

6 And, importantly, the claim language does not require
7 that the second transceiver itself do the measuring. The
8 claim language requires monitoring. There is nothing strained
9 or controversial about the notion that the second transceiver
10 can monitor information it is receiving from somewhere else.
11 And that possibility is actually explicitly disclosed as one
12 embodiment of the monitoring limitation at the end of column 8
13 of the '794 Patent which we saw from Doctor Madisetti a couple
14 of times today.

15 With respect to the routing based on signal
16 characteristics, that end piece of column 8 is also relevant
17 and Doctor Madisetti testified, as confirmed by other
18 testimony that he relied on, including Mr. Gamboa, which is
19 also -- also relates to the monitoring limitation, that the
20 second transceiver is capable of routing based on the
21 information it -- it is monitoring based on the information
22 about that downlink signal. It is capable of sending
23 information along a specified path in response to the
24 information it receives.

25 That specified path is the path from the second

1 transceiver to that mobile station. And the determination it
2 makes is whether the signal, the route, that it is attempting
3 to send information along, is sufficient for it to do so. And
4 based on that, it either routes that information to the second
5 mobile station along that specified path, as the Court's claim
6 construction requires, or it does not do so, it does something
7 else. That is all that the claim as construed requires.

8 But I will move on to invalidity unless the Court has any
9 questions.

10 THE COURT: Go ahead and move on.

11 MR. KELSON: So, first of all, Your Honor, the
12 starting premise on invalidity is that this is their burden to
13 show by clear and convincing evidence. With respect to column
14 8 and written description, column 8 is one among other
15 specific disclosures of routing based on signal
16 characteristics in the '794 Patent. And we saw that from
17 Doctor Madisetti several times today.

18 With respect to what the Patent Office did or did not
19 consider regarding the sufficiency of written description, the
20 jury has heard some of that, but the MPEP is not in evidence.
21 Nothing about the Patent Office's specific practice or sort of
22 procedural steps of what conditions for allowability are or
23 are not re-examined is in front of the jury. They know what
24 they know about the Patent Office procedure, they can give it
25 whatever weight they see fit with respect to weighing written

1 description. That does not counsel in favor of granting
2 Defendants' motion.

3 Finally, Your Honor, with respect to the disclosure of
4 the '794 Patent, and Mr. Struhsaker's testimony in particular,
5 the disclosure of the '794 Patent does not have to start from
6 first principles and explain the entire background and history
7 of the concept of routing.

8 Mr. Struhsaker testified quite explicitly that in his
9 understanding a person of skill in the art as of the priority
10 date of the '794 Patent would have understood the concept of
11 routing, would have been able to implement the concept of
12 routing, and that the '794 Patent was just a particular
13 implementation in a particular circumstance of the concept of
14 routing.

15 The word 'routing' appears all over the disclosure of the
16 '794 Patent. That disclosure would make very little sense in
17 the context of Defendants' position which is that a person of
18 skill does not know what that term is referring to or how to
19 do what the patent is describing when the patent uses that
20 term.

21 THE COURT: All right. Anything else?

22 MR. KELSON: Not from the Plaintiff, Your Honor.

23 THE COURT: Thank you.

24 All right. Let's return to the '931 Patent and the issue
25 of damages. Let me hear from the moving Defendants.

1 MR. ROSENTHAL: Thank you, Your Honor. Brian
2 Rosenthal for the record.

3 So there are three issues that we see with damages, but I
4 want to start with the one that really is the difficulty here.
5 And the reason I highlight this one is because we've already
6 argued it and I thought it was resolved against us.

7 We had a pretrial conference where we argued a *Daubert*
8 motion on Doctor Madisetti because Doctor Madisetti bases his
9 32 percent apportionment on which the entire damages case for
10 the '931 Patent is based, he bases that on a premise, and the
11 premise is that LTE infringes. We had a *Daubert* motion and we
12 argued--I argued it--and explained to the Court that the sole
13 support for that opinion was a one-line sentence in Doctor
14 Madisetti's report where he says LTE infringes the claims.
15 You know, that's the history. Obviously a hotly disputed
16 issue.

17 And the Court required General Access, if they wanted to
18 present that opinion, to submit a supplemental report and
19 permitted them to submit one, which they did. They put in a
20 huge report on this very suggest in a matter of 10 days, which
21 we then had three days to respond to. So it was, for lack of
22 a better word, a do-over.

23 So we fully expected that was what we were going to see
24 at this trial. Instead what we saw was literally a single
25 leading question for this premise of their damages case. At

1 page 463 of the trial transcript, counsel asked Doctor
2 Madisetti, "Doctor Madisetti, in your opinion, does Sprint's
3 4G network, when using transmission mode 8, practice the
4 asserted claims of the '931 Patent?

5 "Yes. Based on my review, yes."

6 That's the only thing he said. He didn't explain how, he
7 didn't explain what particular feature infringes, he didn't
8 say what's the broadcast beam.

9 Now, I know this is a damages issue; it's not like this
10 needs to take front and center stage in a trial in terms of,
11 you know, are we going to have four days of testimony about
12 whether or not it infringes; but they are basing a \$500
13 million claim entirely on this premise.

14 And to be clear, it is based on this premise because in
15 Doctor Madisetti's technical apportionment he gets to 32
16 percent entirely by the Signals Ahead article which is based
17 entirely on a comparison of LTE with beamforming against
18 non-beamforming. And they have justified that on the basis
19 that that practices the asserted claims. If it doesn't
20 practice the asserted claims, then what they are apportioning
21 or what they are determining the value of is irrelevant to the
22 asserted claims; it only is relevant if it practices.

23 So we've got a house of arguments that is all resting on
24 a single fulcrum. And the thing that, from our perspective,
25 is so egregious about this is they were pulled out of the fire

1 at the pretrial conference, they were given the opportunity at
2 the latest stage possible to submit an actual support for this
3 opinion.

4 We were fully expecting -- in fact, they had slides
5 prepared to put in that evidence. They disclosed it to us.
6 And so when we were thinking, Are they going to do something
7 on LTE--they had three or four slides where they were going to
8 explain how LTE infringes--and for whatever, maybe for time
9 constraints, I don't know, but they decided to not put on that
10 evidence.

11 So what we're left with is a single "yes" from an expert
12 to support a claim that LTE infringes, and the entire damages
13 case is based on that.

14 In that circumstance, the appropriate remedy is judgment
15 as a matter of law of zero damages. And the reason we say
16 that--and I know that there has been debate among the Court
17 what the remedy is in this circumstance; should it be nominal
18 damages, should it be some damages supported by the evidence,
19 should it be zero--the *TecSec versus Adobe* case from the
20 Federal Circuit in 2020 very clearly states that when there is
21 no evidence--and in this case conclusory evidence is no
22 evidence--of a connection between the damages theory and the
23 facts of the case, that zero damages is the appropriate
24 remedy. And in that case they affirmed a finding of zero
25 damages in very similar circumstances.

1 So we ask for judgment as a matter of law of zero damages
2 with respect to the '931 Patent. The jury should not get that
3 question.

4 THE COURT: All right.

5 MR. ROSENTHAL: The other two arguments that I have
6 with respect to damages are, number one, Doctor Madisetti --

7 I'm sorry. With respect to the throughput gain theory, I
8 also wanted to add that his reliance on the S-ALOHA system as
9 the next best alternative is unreliable.

10 The other two errors are, number one, he failed to
11 apportion in several ways. He failed to apportion claims 28
12 and 29 from the invalid--not in front of the jury--public
13 domain claims 1 and 19. He also failed to apportion all of
14 the patents and other work that was done to bring value to the
15 accused devices. He didn't do either of those two
16 apportionments.

17 And finally, the Plaintiff's damages theory is based on
18 the premise that Verizon's 5G network did not have enough
19 capacity. Mr. Kennedy eventually admitted that at the end of
20 his testimony that his damages theory is based on that
21 premise. There is no evidence to support that premise, all of
22 the actual evidence from real sources shows that Verizon's
23 network has never had any such capacity issues, and,
24 therefore, the premise of that damages theory is unsupported
25 by the evidence.

1 Therefore, we would ask for judgment of no damages on the
2 '931.

3 THE COURT: All right.

4 MR. ROSENTHAL: Thank you.

5 THE COURT: Thank you.

6 What's Plaintiff's response to that last argument?

7 MR. HUGHES: In any event, Your Honor, let's start
8 with where Mr. Rosenthal started with the notion that there is
9 -- we should lose because there's no evidence about
10 infringement of LTE.

11 There is evidence. There is testimony of Doctor
12 Madisetti. As limited as it may have been, he testified
13 that, in his opinion, it did practice the '931 Patent, and
14 that's uncontested. There's not evidence on the other side
15 for Doctor -- from Doctor Andrews or anyone else.

16 And, you know, this all brewed up at motion practice
17 because they were very concerned about a big sideshow about
18 4G and what happened in the Sprint case, so we deliberately,
19 in order to avoid the sideshow they were concerned about, kept
20 it to a minimum, and then Doctor Madisetti went on to explain
21 the upshot of his damages analysis, and there's just no
22 evidence on the other side. So I think their motion should be
23 denied for that reason alone.

24 Then turning to the other reasons that Mr. Rosenthal
25 pointed out, Doctor Madisetti did testify that he did

1 apportion from the claims that are in the public domain. He
2 said that in Verizon's systems those claims would have no
3 value; that all the value would come from 28 and 29. He went
4 on to offer his reasons for doing so. And he also apportioned
5 from the other patents by virtue of his Signals Ahead study.

6 So I think for all of those reasons, their motion that we
7 should get zero damages should be denied.

8 THE COURT: All right. Thank you.

9 MR. HUGHES: Thank you.

10 MR. ROSENTHAL: Your Honor?

11 THE COURT: Yes.

12 MR. ROSENTHAL: I know this is a little not typical.
13 May I respond to just one factual contention with a sentence?

14 THE COURT: All right.

15 MR. ROSENTHAL: Doctor Andrews did testify that LTE
16 does not infringe, and he provided reasons why. I just wanted
17 to correct that part of the statement about the record.

18 Thank you.

19 THE COURT: All right. Well, with regard to the
20 various motions that have been tendered by counsel pursuant to
21 Rule 50(a), the Court reflects on the rule itself, which
22 provides that if a party has been fully heard on an issue
23 during a jury trial and the Court finds that a reasonable jury
24 would not have a legally sufficient evidentiary basis to find
25 for the party on that issue, the Court may grant a motion for

1 judgment as a matter of law.

2 I am going to submit all of these issues to the jury, to
3 the extent they are included in the final charge and the
4 verdict form. I am going to deny each of the motions for
5 relief under 50(a) as tendered by both Plaintiff and
6 Defendant. In short, I am not going to take any of these
7 issues away from the jury. This ruling does not in any way
8 hinder the parties' rights under Rule 50(b), depending on
9 whatever the verdict that the jury returns provides.

10 All right. It is about 20 minutes after. I'm prepared
11 to meet with you informally about the proposed final jury
12 instruction and verdict form. I see no reason why we can't do
13 that in chambers.

14 Why don't we take approximately 10 or 12 minutes. At
15 about 2:30, those of you that are going to participate in that
16 aspect of the process, if you will meet me in chambers, we'll
17 take up the most current draft of both the verdict form and
18 the final jury instructions.

19 Until then, the Court stands in recess.

20 (The proceedings were concluded at 2:20 p.m.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts

06/27/2024

10 _____ DATE _____
11 SHAWN McROBERTS, RMR, CRR
12 FEDERAL OFFICIAL COURT REPORTER
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