

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

ACTIVE WIRELESS TECHNOLOGIES LLC,

Plaintiff,

vs.

T-MOBILE US, INC. and T-MOBILE USA,
INC.,

Defendants.

NOKIA OF AMERICA CORPORATION and
ERICSSON INC.,

Intervenors.

Case No. 2:23-cv-00261-JRG-RSP

JURY TRIAL DEMANDED

**DEFENDANTS' / INTERVENORS' PRELIMINARY CLAIM CONSTRUCTIONS
PURSUANT TO LOCAL PATENT RULE 4-2**

Pursuant to the Court's Docket Control Order (*see* Dkt. Nos. 33 and 63) and the Rules of Practice for Patent Cases for the Eastern District of Texas ("Local Patent Rules" or "P.R."), Defendants T-Mobile US, Inc. and T-Mobile USA, Inc. (the "T-Mobile Defendants" or "T-Mobile"), Ericsson Inc. ("Ericsson"), and Nokia of America Corporation ("Nokia") (collectively "Defendants/Intervenors") hereby provide the following disclosures related to the proposed preliminary constructions of certain claim terms of U.S. Patent Nos. 10,531,443 (the '443 Patent); 11,019,557 (the '557 Patent); 10,785,764 (the '764 Patent); and 10,601,566 (the '566 Patent) (collectively, the "Asserted Patents"). More specifically, the following disclosures focus on claims 3 and 5 of the '443 Patent; claims 9, 10, 11, 13, 14 and 15 of the '557 Patent; claims 3 and 6 of the '764 Patent; and claims 8, 11, 14 and 16 of the '566 Patent.

The proposed terms, phrases, or clauses for construction set forth below address the claims of the Asserted Patents that Plaintiff Active Wireless Technologies LLC (“Plaintiff” or “AWT”) asserted collectively against Defendants/Intervenors pursuant to Local Patent Rule 3-1 (“Infringement Contentions”). The proposed terms, phrases, or clauses are identified for construction wherever they appear in any claim element in any of the Asserted Patents, including all dependent claims or claims where multiple terms appear in combination. Defendants/Intervenors propose only the terms and claim elements for construction that appear in the claims asserted against them in Plaintiff’s Infringement Contentions. Nothing in this disclosure shall be construed to waive Plaintiff’s requirement to assert a claim against Defendants/Intervenors pursuant to Local Patent Rule 3-1.

The proposed terms, phrases, or clauses for construction are based on information reasonably available to Defendants/Intervenors at this time. Defendants’/Intervenors’ investigation and discovery are ongoing, and Defendants/Intervenors therefore expressly reserve the right to amend, modify, and add to this list of terms based on continuing investigation and discovery. Further, Defendants/Intervenors reserve the right to modify this disclosure once it has reviewed Plaintiff’s concurrently proposed claim constructions and in light of arguments made or positions taken by Plaintiff during the meet and confer process and as this case proceeds.

Additionally, the inclusion of any claim terms, phrases, or clauses on this list is not intended to and does not constitute an admission that the term or phrase is capable of construction and not indefinite under 35 U.S.C. § 112, lacking enablement or adequate written description, or otherwise incapable of construction. For example, Defendants/Intervenors reserve the right to argue that a particular claim term is indefinite and/or fails to satisfy the written description and enablement requirements, regardless of whether the term has been proposed for construction, has

not been proposed for construction, and/or was initially proposed for construction but has since been dropped from the terms proposed for construction.

Pursuant to Patent Local Rule 4-2(a) and (b), Defendants/Intervenors provide below their proposed preliminary constructions for each claim term/phrase proposed by Defendants/Intervenors and Plaintiff. Defendants/Intervenors further identify a list of exemplary claims within which the term, phrase, or clause is found. The identified claims listed in this disclosure are representative. A construction of a term, phrase, or clause applies equally to variations or other instances of that term, phrase, or clause in any of the asserted claims in the asserted patents. Furthermore, to the extent a term, phrase, or clause renders a claim indefinite, all claims depending from that claim are similarly indefinite.

Defendants/Intervenors reserve the right to amend or otherwise supplement their identification of supporting evidence that may be used to support, describe, or explain Defendants'/Intervenors' proposed preliminary claim constructions. Defendants/Intervenors further reserve the right to identify additional extrinsic evidence that is obtained through further discovery in this matter.

While it is not extrinsic evidence, Defendants/Intervenors may also rely on the file histories of the patents in suit and the file histories of any domestic or foreign related patents. Defendants/Intervenors may also rely on Plaintiff's Infringement Contentions and materials cited therein, and Defendants'/Intervenors' Invalidity Contentions and materials cited therein. Further, Defendants/Intervenors may rely on any declarations, reports, or testimony by the named inventors or experts on behalf of Plaintiff in this case, other cases, or Patent Office proceedings, regarding the asserted technology. Defendants/Intervenors reserve the right to provide expert testimony relating to any issue on which Plaintiff offers expert testimony.

Pursuant to Patent Local Rule 4-2(c), Defendants/Intervenors are prepared to meet and confer with Plaintiff at a mutually agreeable time for the purposes of finalizing a combined list, narrowing or resolving differences, and facilitating the ultimate preparation of a Joint Claim Construction and Prehearing Statement

I. The '443 Patent

Proposed Terms For Construction	Proposed Construction	Extrinsic Evidence
“CBG based HARQ-ACK” (3, 5)	No construction necessary	

II. The '557 Patent

Proposed Terms For Construction	Proposed Preliminary Construction	Extrinsic Evidence
“scheduling information of a system information (SI) message” (9, 13)	No construction necessary	
“a parameter associated with a condition for determination of a failure” (9, 13)	A parameter used by the UE to determine that it has failed in the SI message acquisition process.	Any relied upon by Plaintiff.
“re-acquired by the user equipment” (9, 10, 11, 13, 14, 15)	No construction necessary (construed instead as part of the larger phrase discussed below)	Any relied upon by Plaintiff.
“wherein: the first type SIB is re-acquired by the user equipment upon the user equipment failing on the SI message acquisition process in at least one of the SI windows to receive the SI message,” (9, 13)	Indefinite under § 112(b) as improperly mixing claim types	Any relied upon by Plaintiff.
“the first type SIB comprising: scheduling information [...]; a	The “first type SIB” comprises each of “scheduling information ...”, “a parameter associated	Any relied upon by Plaintiff.

Proposed Terms For Construction	Proposed Preliminary Construction	Extrinsic Evidence
parameter associated with [...]; and an indication of broadcast status [...]" (9, 13)	with ...", "and an indication of broadcast status ..."	

III. The '764 Patent

Proposed Terms For Construction	Proposed Preliminary Construction	Evidence
"a period of the more than one first subframe is different from a period of the more than one second subframe" (3, 6)	No construction necessary	Any relied upon by Plaintiff.

IV. The '566 Patent

Proposed Terms For Construction	Proposed Preliminary Construction	Evidence
"an uplink control channel (PUCCH) spans over multiple slots being determined based on the signaling" (8, 16)	No construction necessary	Any relied upon by Plaintiff.
"the frequency hopping" (8, 16)	Indefinite under § 112(b) for lacking antecedent basis	Any relied upon by Plaintiff.
"the configured multiple slots PUCCH" (8, 16)	Indefinite under § 112(b) for lacking antecedent basis	Any relied upon by Plaintiff.
"the number of symbols of the PUCCH" (8, 16)	No construction necessary	Any relied upon by Plaintiff.
"the location of the symbols of the PUCCH" (8, 16)	No construction necessary	Any relied upon by Plaintiff.

Proposed Terms For Construction	Proposed Preliminary Construction	Evidence
“the long PUCCH” (11)	Refers back to “PUCCH spans over multiple slots” of claim 8	Any relied upon by Plaintiff.
“loaded to all to PUCCH UCI carrying symbols of each slot” (11)	Fix typo: “loaded to all ~~to~~ PUCCH UCI carrying symbols of each slot”	Any relied upon by Plaintiff.
“the PUCCH format” (11)	No construction necessary	Any relied upon by Plaintiff.
“higher layer signaling” (14)	No construction necessary	Any relied upon by Plaintiff.

Dated: June 27, 2024

Respectfully submitted,

/s/ John R. Gibson

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T-Mobile USA, Inc. & T-Mobile US, Inc.

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on June 27, 2024, a true and correct copy of the foregoing document was served upon all attorneys of record via email.

/s/John R. Gibson
John R. Gibson