

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION**

TELEFONAKTIEBOLAGET LM ERICSSON,

PLAINTIFF,

VS.

LENOVO (UNITED STATES) INC., LENOVO  
(SHANGHAI) ELECTRONICS TECHNOLOGY  
CO. LTD., LENOVO BEIJING, LTD., LENOVO  
GROUP, LTD., MOTOROLA (WUHAN)  
MOBILITY TECHNOLOGIES  
COMMUNICATION CO., LTD., AND  
MOTOROLA MOBILITY, LLC,

DEFENDANTS.

CIVIL ACTION NO.: 5:23-cv-569

**JURY TRIAL DEMANDED**

**DEFENDANTS' FIRST AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND  
COUNTERCLAIMS**

Defendants Lenovo (United States) Inc. and Motorola Mobility, LLC, (collectively, “Lenovo US”), the only entities that have been served in this case, hereby submit their Answer and Affirmative Defenses to the Complaint of Plaintiff Telefonaktiebolaget LM Ericsson (“Ericsson LM” or “Plaintiff”). Lenovo US also hereby submits its Counterclaims to Plaintiff’s Complaint. Lenovo US denies all allegations in Ericsson LM’s Complaint unless expressly admitted in the following paragraphs. Any factual allegations admitted herein are admitted only for purposes of this matter and only as to the specific facts, but not as to any potential characterizations, conclusions, implications, or speculations which may follow from said facts. Lenovo US’s responses reflect its current knowledge. Lenovo US reserves the right to take further positions and/or raise additional defenses that may become apparent as a result of additional information discovered subsequent to the filing of its Answer and Counterclaims.

## **INTRODUCTION**<sup>1</sup>

1. Lenovo US admits that it has negotiated in good faith over the terms of a FRAND cross-license between the parties. Lenovo US denies that it does not have any license with Ericsson LM, as Lenovo US has a sublicense to the Ericsson LM–Motorola Mobility Inc. 2011 license. Lenovo US denies all remaining allegations of Paragraph 1.

2. Lenovo US admits that Ericsson LM contacted a Lenovo company in 2008 and that it was willing to discuss the business terms of a license. Lenovo US denies all remaining allegations of Paragraph 2.

3. Lenovo US denies the allegations of Paragraph 3.

4. Lenovo US admits that Ericsson LM asks this Court to find Lenovo US liable for purported acts of patent infringement, but Lenovo US denies that it has, at any time, infringed any valid and enforceable claim of any Asserted Patent. Lenovo US admits that Ericsson LM asks this Court to declare that Ericsson LM complied with its F/RAND obligations and Lenovo US did not, but Lenovo US denies that such declaration is appropriate because Lenovo US has, at all times, complied with its F/RAND obligations despite Ericsson LM's noncompliance. To the extent Paragraph 4 contains additional allegations, Lenovo US denies them.

## **PARTIES**

5. Lenovo US admits that Telefonaktiebolaget LM Ericsson purports to be a corporation organized under the laws of the Kingdom of Sweden with its principal place of business at Torshamnsgatan 21, Kista, 164 83, Stockholm, Sweden. Lenovo US lacks sufficient

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<sup>1</sup> Lenovo US's Answer uses the same headings as the Complaint purely to simplify comparison between the Complaint and Answer. In so doing, Lenovo US does not make any admission regarding the substance of the headings nor any other allegations in the Complaint, and, to the extent the headings may be construed as allegations, Lenovo denies all such allegations.

knowledge or information on which to form a belief as to the allegation that Ericsson LM is the sole owner by assignment of all right, title, and interest in the Asserted Patents and, on that basis, denies this allegation. To the extent Paragraph 5 contains additional allegations, Lenovo US denies them.

6. Lenovo US admits that Lenovo (United States) Inc. (“Lenovo USA”) is a company organized under the laws of the State of Delaware, with its principal place of business at 8001 Development Drive, Morrisville, North Carolina 27560. Lenovo US admits that Lenovo USA is a wholly owned subsidiary of Lenovo Holding Company, Inc. Lenovo Holding Company, Inc. is indirectly a wholly owned subsidiary of Lenovo Group Limited. To the extent Paragraph 6 contains additional allegations, Lenovo US denies them.

7. Lenovo US admits that Lenovo (Shanghai) Electronics Technology Co. Ltd. is a company organized under the laws of the People’s Republic of China, with its principal place of business at Section 304-305, Building No.4, #222, Meiyue Road, China (Shanghai) Pilot Free Trade Zone, Shanghai, China, 200131. Lenovo US admits that (Shanghai) Electronics Technology Co. Ltd. is an indirectly wholly owned subsidiaries of Lenovo Group, Ltd. To the extent Paragraph 7 contains additional allegations, Lenovo US denies them.

8. Lenovo US admits that Lenovo Beijing, Ltd. is a company organized under the laws of the People’s Republic of China, with its principal place of business at Lenovo Building, 6 Chaunye Rd, Shangdi Haidian District, Beijing, China 100085. Lenovo US admits that Lenovo Beijing, Ltd. is an indirectly wholly owned subsidiary of Lenovo Group, Ltd. To the extent Paragraph 8 contains additional allegations, Lenovo US denies them.

9. Lenovo US admits the allegations of Paragraph 9.

10. Lenovo US admits that Motorola (Wuhan) Mobility Technologies Communication Co., Ltd. is a Chinese company located at No.19, Gaoxin 4th Road, Wuhan East Lake High-tech Zone, Wuhan, Wuhan Hubei 430000, China. Lenovo US admits that Motorola (Wuhan) Mobility Technologies Communications Co., Ltd. is a wholly owned subsidiary of Motorola (Beijing) Mobility Technologies Co., Ltd. Motorola (Beijing) Mobility Technologies Co., Ltd is indirectly a wholly owned subsidiary of Lenovo Group Limited. To the extent Paragraph 10 contains additional allegations, Lenovo US denies them.

11. Lenovo US admits that Motorola Mobility, LLC (“Motorola”) is organized under the laws of the State of Delaware, with its principal place of business at 222 W. Merchandise Mart Plaza, Chicago, IL 60654. Lenovo US admits that Motorola is a direct, wholly owned subsidiary of Motorola Mobility Holdings LLC, which is indirectly a wholly owned subsidiary of Lenovo Group Limited. The use of “only member” is vague in the allegations that “Motorola Mobility Holdings LLC is Motorola Mobility, LLC’s only member” and “Motorola Mobility Holding LLC’s only member is Motorola Mobility Holdings UK Limited,” and Lenovo therefore denies these allegations. Lenovo US denies the remaining allegations of Paragraph 11.

12. Lenovo US denies the allegations in Paragraph 12.

### **JURISDICTION AND VENUE**

13. Lenovo US admits that, for purposes of this action only, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1367, and/or 1338.

14. Lenovo US does not dispute that diversity jurisdiction exists as to Lenovo (US) Inc. and Ericsson LM, but denies that Ericsson LM is entitled to any relief. Lenovo US denies any remaining allegations of Paragraph 14.

15. Lenovo US does not dispute venue is proper as to Lenovo US in this judicial district for this action only. Lenovo US admits that footnote 1 includes a hyperlink for what purports to

be the LinkedIn profile of Francois Laflamme, Chief Marketing Officer of Lenovo's Mobile Business Group. Lenovo US admits that the quote in footnote 2 appears in the opinion cited in that footnote. Lenovo US denies the remaining allegations in Paragraph 15.

16. Lenovo US does not dispute personal jurisdiction exists in this judicial district for purposes of this action only as to Lenovo US. Lenovo US admits that Lenovo (United States) Inc.'s principal place of business is in North Carolina. Lenovo US denies the remaining allegations in Paragraph 16.

17. Lenovo US does not dispute personal jurisdiction exists in this judicial district for purposes of this action only as to Lenovo US. Lenovo US denies the remaining allegations in Paragraph 17.

18. Lenovo US denies the allegations of Paragraph 18.

19. Lenovo US admits that employees of Lenovo US, including employees from North Carolina and this District, engaged in cross-license negotiations with Ericsson LM. Lenovo US admits that footnote 3 includes a hyperlink to a January 8, 2016 article from money.cnn.com. Lenovo US denies all remaining allegations of Paragraph 19.

### **FACTUAL BACKGROUND**

#### **A. Ericsson's Investment in Cellular Telecommunications, HEVC, and Resulting Patents**

20. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 20 and, on that basis, denies them.

21. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 21 and, on that basis, denies them.

22. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 22 and, on that basis, denies them.

23. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 23 and, on that basis, denies them.

24. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 24 and, on that basis, denies them.

25. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 25 and, on that basis, denies them.

26. Lenovo US does not dispute that it is seeking to enter into a patent cross-license with Ericsson LM. Lenovo US denies all allegations of Paragraph 26.

**B. Standard Development Organizations and the F/RAND Commitment**

27. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 27 and, on that basis, denies them.

28. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 28 and, on that basis, denies them.

29. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 29 and, on that basis, denies them.

30. Lenovo US admits that ETSI has an Intellectual Property Rights (IPR) Policy, which is governed by French law. Lenovo US denies the remaining allegations in Paragraph 30.

31. Lenovo US admits that Paragraph 31 purports to be a partial reproduction of Clause 4.1 of the ETSI IPR Policy, and that Clause 4 is entitled “Disclosure of IPRs.” To the extent Paragraph 31 contains additional allegations, Lenovo US denies them.

32. Lenovo US admits that Paragraph 32 purports to be a partial reproduction of Clause 15.6 of the ETSI IPR Policy. To the extent Paragraph 32 contains additional allegations, Lenovo US denies them.

33. Lenovo US denies the allegations in Paragraph 33.

34. Lenovo US admits that Paragraph 34 purports to be a partial reproduction of Clause 6.1 of the ETSI IPR Policy. To the extent Paragraph 34 contains additional allegations, Lenovo US denies them.

35. Lenovo US admits that the ETSI IPR Policy includes a form IPR Licensing Declaration, but denies that Ericsson LM is, in fact, prepared to grant licenses on FRAND terms and conditions. To the extent Paragraph 35 contains additional allegations, Lenovo US denies them.

36. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 36 and, on that basis, denies them.

37. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 37 and, on that basis, denies them.

38. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 38 and, on that basis, denies them.

39. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 39 and, on that basis, denies them.

40. Lenovo US admits that Paragraph 40 purports to be a partial reproduction of the definition of “Patent” contained on page 2 of the Guidelines for Implementation of the Common Patent Policy for ITU-T/ITU-R/ISO/IEC. To the extent Paragraph 40 contains additional allegations, Lenovo US denies them.

41. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 41 and, on that basis, denies them.

42. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 42 and, on that basis, denies them.

43. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 43 and, on that basis, denies them.

**C. Ericsson's Compliance with Its F/RAND Commitments**

44. Lenovo US denies that Ericsson LM is prepared to grant licenses on FRAND terms. To the extent Paragraph 44 contains other allegations, Lenovo US denies them.

45. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 45 and, on that basis, denies them.

46. Lenovo US admits there was a jury verdict and subsequent district court and appellate decisions in *HTC Corporation et al. v. Telefonaktiebolaget LM Ericsson et al.*, 407 F. Supp. 3d 631, 640 (E.D. Tex. 2019), *aff'd*, 12 F.4th 476 (5th Cir. 2021), and that a UK court issued a decision in *Unwired Planet v. Huawei*, Approved Judgment, 374, [2017] EWHC 2988 (Pat) (United Kingdom High Court of Justice Nov. 30, 2017). Lenovo US denies the remaining allegations in Paragraph 46.

47. Lenovo US admits that the hyperlink in footnote 4 purports to link to a press release from news.lenovo.com. Lenovo US denies all remaining allegations of Paragraph 47.

48. Lenovo US admits that the hyperlink in footnote 5 purports to link to a press release from news.lenovo.com. Lenovo US denies all remaining allegations of Paragraph 48.

49. Lenovo US admits that the hyperlink in footnote 6 purports to be a link to a January 8, 2016 article from money.cnn.com. Lenovo US admits that the article quotes a former Lenovo executive stating that “We’ll slowly phase out Motorola and focus on Moto.” Lenovo US admits that the article purports to quote an email from Lenovo stating that Motorola Mobility will “still exist as a Lenovo company and is the engineering and design engine for all of our mobile products” and that “[f]or our product branding we will utilize a dual brand strategy across smartphone and

wearables going forward using Moto and Vibe globally.” Lenovo US denies all remaining allegations of Paragraph 49.

50. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 50 and, on that basis, denies them.

51. Lenovo US denies the allegations of Paragraph 51.

52. Lenovo US denies the allegations of Paragraph 52.

**D. Lenovo Has Dragged Out Negotiations for Over a Decade**

53. Lenovo US denies that it does not have any license with Ericsson LM, as Lenovo has a sublicense to the Ericsson LM–Motorola Mobility Inc. 2011 license. Lenovo US denies all remaining allegations of Paragraph 53.

54. Lenovo US denies the allegations of Paragraph 54.

55. Lenovo US admits that Lenovo US and Ericsson LM entered into a non-disclosure agreement, that Ericsson LM provided claim charts, and Lenovo US expressed that its willingness to discuss business terms with Ericsson LM. Lenovo denies any remaining allegations of Paragraph 55.

56. Lenovo US is without sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 56 and, on that basis, denies them.

57. Lenovo US is without sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 57 and, on that basis, denies them.

58. Lenovo US denies that it delayed discussions. Lenovo US is without sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 58 and, on that basis, denies them.

59. Lenovo US admits that it negotiated with Ericsson LM for a cross-license. Lenovo US is without sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 59 and, on that basis, denies them.

60. Lenovo US is without sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 60 and, on that basis, denies them.

61. Lenovo US is without sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 61 and, on that basis, denies them.

62. Lenovo US is without sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 62 and, on that basis, denies them.

63. Lenovo US is without sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 63 and, on that basis, denies them.

64. Lenovo US admits that it continued negotiating in good faith with Ericsson LM in 2013. Lenovo US denies the remaining allegations of Paragraph 64.

65. Lenovo US denies all allegations of Paragraph 65.

66. Lenovo US admits that footnote 7 includes a hyperlink to an October 30, 2014 article from news.lenovo.com. Lenovo US denies all remaining allegations of Paragraph 66.

67. Lenovo US admits that an Ericsson LM representative contacted Lenovo US employees on October 31, 2014, that those individuals had a phone call in November 2014, and that subsequently Ericsson LM sent patent lists and claim charts. Lenovo US denies all remaining allegations of Paragraph 67.

68. Lenovo US admits that Ericsson LM representatives and Lenovo US representatives met in January 2015. Lenovo US denies all remaining allegations of Paragraph 68.

69. Lenovo US admits that Ericsson LM disagreed that a royalty should be based on the smallest saleable patent practicing unit and that it proposed binding arbitration on February 2, 2015. To the extent Paragraph 69 contains other allegations, Lenovo US denies them.

70. Lenovo US admits that it proposed non-binding arbitration or mediation, and offered to engage in non-binding arbitration or mediation in China to determine a FRAND rate for China. Lenovo US denies all remaining allegations of Paragraph 70.

71. Lenovo US admits that Ericsson LM sent Lenovo a letter in September of 2015. Lenovo US admits that it disagreed with Ericsson LM's letter and was willing to continue licensing discussions. Lenovo US denies all remaining allegations of Paragraph 71.

72. Lenovo US admits that by early 2016, the parties' NDA had expired. Lenovo US admits that Lenovo and Ericsson LM executed an NDA addendum in May of 2016. Lenovo US denies all remaining allegations of Paragraph 72.

73. Lenovo US admits that it has rights under the Ericsson LM–Motorola Mobility Inc. 2011 license through its sublicense from Motorola Mobility Inc. Lenovo US denies the remaining allegations of Paragraph 73.

74. Lenovo US admits that Ericsson LM presented another counteroffer on July 20, 2017. Lenovo US admits that it exchanged offers in October and November of 2017 with Ericsson LM. Lenovo US denies all remaining allegations of Paragraph 74.

75. Lenovo US admits that the parties attempted mediation in April 2018 in a good faith effort to resolve the dispute, but these efforts proved to be unsuccessful. To the extent Paragraph 75 contains additional allegations, Lenovo US denies them.

76. Lenovo US admits that its General Counsel met with Ericsson LM's Chief Intellectual Property Officer in June 2018. Lenovo US admits that it continued negotiating in good

faith with Ericsson LM, and denies that Ericsson LM offered any license to its 5G patents. To the extent Paragraph 76 includes any additional allegations, Lenovo US denies them.

77. Lenovo US admits that footnote 8 includes a hyperlink to an April 2019 article from [www.techradar.com](http://www.techradar.com) and that the Moto Z3 was the first 5G-compatible smartphone. Lenovo US denies all remaining allegations of Paragraph 77.

78. Lenovo US admits that on June 24, 2021, an individual from Ericsson LM reached out to a Lenovo USA employee, and that as of that date, the parties' previous NDA had expired. Lenovo US denies all remaining allegations of Paragraph 78.

79. Lenovo US is without sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 79 and, on that basis, denies them.

80. Lenovo US admits that it sent redlines of the NDA in October 2021, following the parties' discussion in September 2021. Lenovo US denies all remaining allegations of Paragraph 80.

81. Lenovo US is without sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 81 and, on that basis, denies them.

82. Lenovo US admits that it continued negotiating in good faith with Ericsson LM in 2021. Lenovo US denies the remaining allegations of Paragraph 82.

83. Lenovo US admits that the parties were still negotiating a new NDA in January of 2022 and continued having calls and exchanging redlines. Lenovo US denies all remaining allegations of Paragraph 83.

84. Lenovo US admits that on March 21, 2022, Lenovo sent redlines to the NDA as a part of its efforts to negotiate in good faith, including a limited exception to allow approved disclosed suppliers' outside counsel to access certain commercial terms, and sent a draft Exhibit

A to the NDA identifying the suppliers on March 23, 2022. Lenovo US admits that Ericsson LM emailed Lenovo on April 4, 2022, asking numerous questions regarding the proposed Exhibit A. Lenovo US denies all remaining allegations of Paragraph 84.

85. Lenovo US admits that on April 5, 2022, Ericsson LM sent an email to Lenovo attaching lists of example Ericsson LM patents and patent applications. Lenovo US admits that the lists included the '817 patent and the '669 patent. Lenovo US admits that the lists included Application No. 15/036,283, and Application No. 16/834,624, from which the '342 patent and the '893 patent purport to have issued, respectively. Lenovo US denies the remaining allegations of Paragraph 85.

86. Lenovo US admits that on April 22, 2022, Ericsson LM sent an email attaching the 2010 NDA between the parties and proposed that the parties reenter that agreement. Lenovo US denies all remaining allegations of Paragraph 86.

87. Lenovo US denies the allegations of Paragraph 87.

88. Lenovo US admits that it continued to negotiate, in good faith, a new NDA with Ericsson LM. Lenovo US admits that the parties continued to exchange drafts, including a draft sent by Ericsson LM in March of 2023. Lenovo US admits that the parties had more calls to discuss the NDA draft. Lenovo US denies all remaining allegations of Paragraph 88.

89. Lenovo US admits that it continued to negotiate, in good faith, a new NDA with Ericsson LM, including by exchanging a fair and reasonable NDA draft on June 9, 2023. Lenovo US denies all remaining allegations of Paragraph 89.

90. Lenovo US admits that on October 11, 2023, the same day that Ericsson LM initiated this lawsuit, Ericsson LM sent a letter attempting to pressure Lenovo into accepting excessive and unreasonable rates. Lenovo US denies all remaining allegations of Paragraph 90.

## **THE ERICSSON ASSERTED PATENTS**

### **A. The '817 Patent**

91. Lenovo US admits that United States Patent No. 10,425,817 is facially entitled “Subscription Concealed Identifier” and purports to have issued on September 24, 2019. Lenovo US admits that the '817 Patent purports to have issued from U.S. Patent Application No. 16/200,037, which purports to have been filed on November 26, 2018. Lenovo US admits that the '817 Patent purports to be a continuation of International Application No. PCT/EP2018/069432, which purports to have been filed on July 17, 2018, and facially purports to claim priority to U.S. Provisional Application No. 62/536,632, which purports to have been filed on July 25, 2017. Lenovo US admits that Exhibit 1 purports to be a copy of the '817 Patent. Lenovo US denies all remaining allegations of Paragraph 91.

92. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 92 and, on that basis, denies them.

93. Lenovo US admits that the '817 Patent purports to have been filed as U.S. Patent Application 16/200,037, which facially purports to claim priority to U.S. Provisional Application No. 62/536,632. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 93 and, on that basis, denies them.

94. Lenovo US disagrees with Ericsson LM's description of the '817 Patent, and, to the extent Paragraph 94 contains allegations which may bear on the scope of the Asserted Claims, Lenovo US denies them. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 94 and, on that basis, denies them.

95. Lenovo US disagrees with Ericsson LM's description of the '817 Patent, and, to the extent Paragraph 95 contains allegations which may bear on the scope of the Asserted Claims,

Lenovo US denies them. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 95 and, on that basis, denies them.

96. Lenovo US denies all allegations of Paragraph 96.

97. Lenovo US admits that Paragraph 97 includes a hyperlink to [www.motorola.com](http://www.motorola.com) and screenshots that purport to be taken from that webpage. Lenovo US denies all remaining allegations of Paragraph 97.

98. Lenovo US admits that Paragraph 98 includes a hyperlink to [www.motorola.com](http://www.motorola.com), a hyperlink to [www.qualcomm.com](http://www.qualcomm.com), and screenshots that purport to be taken from those webpages. Lenovo US denies all remaining allegations of Paragraph 98.

99. Lenovo US admits that Paragraph 99 includes a hyperlink to [www.motorola.com](http://www.motorola.com) and a screenshot that purports to be taken from that webpage. Lenovo US denies all remaining allegations of Paragraph 99.

100. Lenovo US denies all allegations of Paragraph 100.

101. Lenovo US denies all allegations of Paragraph 101.

102. Lenovo US admits that on April 5, 2022, Ericsson LM sent an email to Lenovo attaching lists of example Ericsson LM patents and patent applications. Lenovo US admits that the lists included the '817 patent. Lenovo US denies the remaining allegations of Paragraph 102.

103. Lenovo US denies all allegations of Paragraph 103.

104. Lenovo US admits that Exhibit 2 purports to be a claim chart applying Claim 10 of the '817 Patent to certain Accused Products, particularly the Motorola Edge+, but Lenovo US denies the substance of such claim chart. Lenovo US denies all remaining allegations of Paragraph 104.

**B. The '669 Patent**

105. Lenovo US admits that United States Patent No. 10,306,669 is facially entitled “Physical Uplink Control Channel (PUCCH) Resource Allocation” and purports to have issued on May 28, 2019. Lenovo US admits that the '669 Patent purports to have issued from U.S. Patent Application No. 16/203,391, which purports to have been filed on November 28, 2018. Lenovo US admits that the '669 Patent purports to be a continuation of International Application No. PCT/IB2018/058400, which purports to have been filed on October 26, 2018, and facially purports to claim priority to U.S. Provisional Application No. 62/577,578, which purports to have been filed on October 26, 2017. Lenovo US admits that Exhibit 3 purports to be a copy of the '669 Patent. Lenovo US denies all remaining allegations of Paragraph 105.

106. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 106 and, on that basis, denies them.

107. Lenovo US admits that the '669 Patent purports to have been filed as U.S. Patent Application 16/203,391, which facially purports to be a continuation of International Patent Application PCT/IB2018/058400. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 107 and, on that basis, denies them.

108. Lenovo disagrees with Ericsson LM's description of the '669 Patent, and, to the extent Paragraph 108 contains allegations which may bear on the scope of the Asserted Claims, Lenovo US denies them. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 108 and, on that basis, denies them.

109. Lenovo disagrees with Ericsson LM's description of the '669 Patent, and, to the extent Paragraph 109 contains allegations which may bear on the scope of the Asserted Claims, Lenovo US denies them. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 109 and, on that basis, denies them.

110. Lenovo US denies all allegations of Paragraph 110.

111. Lenovo US admits that Paragraph 111 includes a hyperlink to [www.motorola.com](http://www.motorola.com) and screenshots that purport to be taken from that webpage. Lenovo US denies all remaining allegations of Paragraph 111.

112. Lenovo US admits that Paragraph 98 includes a hyperlink to [www.motorola.com](http://www.motorola.com), a hyperlink to [www.qualcomm.com](http://www.qualcomm.com), and screenshots that purport to be taken from those webpages. Lenovo US denies all remaining allegations of Paragraph 112.

113. Lenovo US admits that Paragraph 113 includes a hyperlink to [www.motorola.com](http://www.motorola.com) and a screenshot that purports to be taken from that webpage. Lenovo US denies all remaining allegations of Paragraph 113.

114. Lenovo US denies all allegations of Paragraph 114.

115. Lenovo US denies all allegations of Paragraph 115.

116. Lenovo US admits that on April 5, 2022, Ericsson LM sent an email to Lenovo attaching lists of example Ericsson LM patents and patent applications. Lenovo US admits that the lists included the '669 patent. Lenovo US denies the remaining allegations of Paragraph 116.

117. Lenovo US denies all allegations of Paragraph 117.

118. Lenovo US admits that Exhibit 4 purports to be a claim chart applying Claim 1 of the '669 Patent to certain Accused Products, particularly the Motorola Edge+, but Lenovo US denies the substance of such claim chart. Lenovo US denies all remaining allegations of Paragraph 118.

### **C. The '342 Patent**

119. Lenovo US admits that United States Patent No. 11,317,342 is facially entitled "Transmission and Reception of System Information in Parts" and purports to have issued on April 26, 2022. Lenovo US admits that the '342 Patent purports to have issued from U.S. Patent

Application No. 15/036,283, which purports to have been filed on May 12, 2016. Lenovo US admits that the '342 Patent facially lists PCT No.: PCT/SE2016/050310, which purports to have been filed on April 12, 2016. Lenovo US admits that Exhibit 5 purports to be a copy of the '342 Patent. Lenovo US denies all remaining allegations of Paragraph 119.

120. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 120 and, on that basis, denies them.

121. Lenovo US admits that the '342 Patent facially lists PCT No. PCT/SE2016/050310. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 121 and, on that basis, denies them.

122. Lenovo disagrees with Ericsson LM's description of the '342 Patent, and, to the extent Paragraph 122 contains allegations which may bear on the scope of the Asserted Claims, Lenovo US denies them. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 122 and, on that basis, denies them.

123. Lenovo disagrees with Ericsson LM's description of the '342 Patent, and, to the extent Paragraph 123 contains allegations which may bear on the scope of the Asserted Claims, Lenovo US denies them. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 123 and, on that basis, denies them.

124. Lenovo US denies all allegations of Paragraph 124.

125. Lenovo US admits that Paragraph 125 includes a hyperlink to [www.motorola.com](http://www.motorola.com) and screenshots that purport to be taken from that webpage. Lenovo US denies all remaining allegations of Paragraph 125.

126. Lenovo US admits that Paragraph 126 includes a hyperlink to [www.motorola.com](http://www.motorola.com), a hyperlink to [www.qualcomm.com](http://www.qualcomm.com), and screenshots that purport to be taken from those webpages. Lenovo US denies all remaining allegations of Paragraph 126.

127. Lenovo US admits that Paragraph 127 includes a hyperlink to [www.motorola.com](http://www.motorola.com) and a screenshot that purports to be taken from that webpage. Lenovo US denies all remaining allegations of Paragraph 127.

128. Lenovo US denies all allegations of Paragraph 128.

129. Lenovo US denies all allegations of Paragraph 129.

130. Lenovo US admits that on April 5, 2022, Ericsson LM sent an email to Lenovo attaching lists of example Ericsson LM patents and patent applications. Lenovo US admits that the lists included U.S. Application No. 15/036,283. Lenovo US denies the remaining allegations of Paragraph 130.

131. Lenovo US denies all allegations of Paragraph 131.

132. Lenovo US admits that Exhibit 6 purports to be a claim chart applying Claim 1 of the '342 Patent to certain Accused Products, particularly the Motorola Edge+, but Lenovo US denies the substance of such claim chart. Lenovo US denies all remaining allegations of Paragraph 132.

#### **D. The '893 Patent**

133. Lenovo US admits that United States Patent No. 11,515,893 is facially entitled "Shift Values of Quasi-Cyclic LDPC Codes" and purports to have issued on November 29, 2022. Lenovo US admits that the '893 Patent purports to have issued from U.S. Patent Application No. 16/834,624, which purports to have been filed on March 30, 2020. Lenovo US admits that the '893 Patent facially purports to claim priority to U.S. Provisional Application No. 62/525,453,

which purports to have been filed on June 27, 2017. Lenovo US admits that Exhibit 7 purports to be a copy of the '893 Patent. Lenovo US denies all remaining allegations of Paragraph 133.

134. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the allegations of Paragraph 134 and, on that basis, denies them.

135. Lenovo US admits that the '893 Patent facially purports to claim priority to U.S. Provisional Application No. 62/525,453. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 121 and, on that basis, denies them.

136. Lenovo disagrees with Ericsson LM's description of the '893 Patent, and, to the extent Paragraph 136 contains allegations which may bear on the scope of the Asserted Claims, Lenovo US denies them. Lenovo US lacks sufficient knowledge or information on which to form a belief as to the remaining allegations of Paragraph 136 and, on that basis, denies them.

137. Lenovo US denies all allegations of Paragraph 137.

138. Lenovo US admits that Paragraph 138 includes a hyperlink to [www.motorola.com](http://www.motorola.com) and screenshots that purport to be taken from that webpage. Lenovo US denies all remaining allegations of Paragraph 138.

139. Lenovo US admits that Paragraph 139 includes a hyperlink to [www.motorola.com](http://www.motorola.com), a hyperlink to [www.qualcomm.com](http://www.qualcomm.com), and screenshots that purport to be taken from those webpages. Lenovo US denies all remaining allegations of Paragraph 139.

140. Lenovo US admits that Paragraph 140 includes a hyperlink to [www.motorola.com](http://www.motorola.com) and a screenshot that purports to be taken from that webpage. Lenovo US denies all remaining allegations of Paragraph 140.

141. Lenovo US denies all allegations of Paragraph 141.

142. Lenovo US denies all allegations of Paragraph 142.

143. Lenovo US admits that on April 5, 2022, Ericsson LM sent an email to Lenovo attaching lists of example Ericsson LM patents and patent applications. Lenovo US denies the remaining allegations of Paragraph 143.

144. Lenovo US denies all allegations of Paragraph 144.

145. Lenovo US admits that Exhibit 8 purports to be a claim chart applying Claim 1 of the '893 Patent to certain Accused Products, particularly the Motorola Edge+, but Lenovo US denies the substance of such claim chart. Lenovo US denies all remaining allegations of Paragraph 145.

**COUNT I: INFRINGEMENT OF U.S. PATENT NO. 10,425,817**

146. Lenovo repeats and incorporates by reference the responses to Paragraphs 1 through 145 above as though fully set forth herein.

147. Paragraph 147 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 147.

148. Paragraph 148 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 148.

149. Paragraph 149 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 149.

150. To the extent Paragraph 150 expresses legal conclusions, it does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 150.

151. Paragraph 151 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 151.

152. Paragraph 152 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 152.

153. Paragraph 153 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 153.

154. Lenovo US denies all allegations of Paragraph 154.

155. Lenovo US denies all allegations of Paragraph 155.

156. Lenovo US denies all allegations of Paragraph 156.

**COUNT II: INFRINGEMENT OF U.S. PATENT NO. 10,306,669**

157. Lenovo repeats and incorporates by reference the responses to Paragraphs 1 through 156 above as though fully set forth herein.

158. Paragraph 158 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 158.

159. Paragraph 159 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 159.

160. Paragraph 160 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 160.

161. To the extent Paragraph 161 expresses legal conclusions, it does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 161.

162. Paragraph 162 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 162.

163. Paragraph 163 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 163.

164. Paragraph 164 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 164.

165. Lenovo US denies all allegations of Paragraph 165.

166. Lenovo US denies all allegations of Paragraph 166.

167. Lenovo US denies all allegations of Paragraph 167.

**COUNT III: INFRINGEMENT OF U.S. PATENT NO. 11,317,342**

168. Lenovo repeats and incorporates by reference the responses to Paragraphs 1 through 167 above as though fully set forth herein.

169. Paragraph 169 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 169.

170. Paragraph 170 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 170.

171. Paragraph 171 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 171.

172. To the extent Paragraph 172 expresses legal conclusions, it does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 172.

173. Paragraph 173 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 173.

174. Paragraph 174 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 174.

175. Paragraph 175 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 175.

176. Lenovo US denies all allegations of Paragraph 176.

177. Lenovo US denies all allegations of Paragraph 177.

178. Lenovo US denies all allegations of Paragraph 178.

**COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 11,515,893**

179. Lenovo repeats and incorporates by reference the responses to Paragraphs 1 through 178 above as though fully set forth herein.

180. Paragraph 180 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 180.

181. Paragraph 181 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 181.

182. Paragraph 182 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 182.

183. To the extent Paragraph 183 expresses legal conclusions, it does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 183.

184. Paragraph 184 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 184.

185. Paragraph 185 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 185.

186. Paragraph 186 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies all allegations of Paragraph 186.

187. Lenovo US denies all allegations of Paragraph 187.

188. Lenovo US denies all allegations of Paragraph 188.

189. Lenovo US denies all allegations of Paragraph 189.

#### **COUNT V: BREACH OF OBLIGATION TO NEGOTIATE IN GOOD FAITH**

190. Lenovo US repeats and incorporates by reference the responses to Paragraphs 1 through 189 above as though fully set forth herein.

191. Paragraph 191 solely expresses legal conclusions and therefore does not require a response. Lenovo US denies that a third-party beneficiary has any obligations to a contracting party. Lenovo US has negotiated in good faith with Ericsson LM for a FRAND cross-license. Lenovo US denies all remaining allegations of Paragraph 191.

192. Lenovo incorporates its response to Paragraph 55 as though fully set forth herein. Lenovo US denies that it and/or its subsidiaries never signed a license with Ericsson LM, as Lenovo US has a sublicense to the Ericsson LM–Motorola Mobility Inc. 2011 license. Lenovo US denies that Ericsson LM has ever made a FRAND-complaint offer for Lenovo US to accept. Lenovo US denies all remaining allegations of Paragraph 192.

193. Lenovo US denies all allegations of Paragraph 193.

194. Lenovo US denies all allegations of Paragraph 194.

195. Lenovo US denies all allegations of Paragraph 195.

196. Lenovo US denies all allegations of Paragraph 196.

#### **COUNT VI: BREACH OF CONTRACT**

197. Lenovo repeats and incorporates by reference the responses to Paragraphs 1 through 196 above as though fully set forth herein.

198. Lenovo US admits that it owns Essential Patents. Lenovo US admits that it has engaged in good-faith negotiations with Ericsson LM for cross-licenses for patents alleged to be essential. Lenovo US denies the remaining allegations of Paragraph 198.

199. Lenovo US admits that Ericsson LM and/or its affiliates manufacture and market products that comply with the 2G, 3G, 4G, and 5G standards and that Ericsson LM purports to own Essential Patents. Lenovo US denies any remaining allegations of Paragraph 199.

200. Lenovo US admits that it negotiated in good faith with Ericsson LM for a global patent cross-license, including to essential patents, and is authorized to enter such an agreement on behalf of Lenovo US and its related companies. Lenovo US admits that it owns patents that are essential, and remain essential, to ETSI standards, and has contractually committed to ETSI to be prepared to grant licenses to any such patents on FRAND terms and conditions to third parties, such as Ericsson LM and its affiliated companies, to the extent they implement equipment

compliant with the standards, subject to reciprocity. Lenovo US denies any remaining allegations of Paragraph 200.

201. Lenovo US admits that Ericsson LM claims to own patents that are essential, and remain essential, to ETSI standards, and has contractually committed to ETSI to be prepared to grant licenses to any such patents on FRAND terms and conditions to third parties, such as Lenovo USA and its affiliated companies, to the extent they implement equipment compliant with the standards, subject to reciprocity. Lenovo US denies any remaining allegations of Paragraph 201.

202. Lenovo US admits that Ericsson LM is an intended third-party beneficiary of its ETSI licensing declaration to license on FRAND terms and conditions. Lenovo US admits that it is an intended third-party beneficiary of Ericsson LM's ETSI licensing declaration to license on FRAND terms and conditions. Lenovo US denies any remaining allegations of Paragraph 202.

203. Lenovo US admits that it negotiated in good faith with Ericsson LM for a global patent cross-license, including to essential patents, and is authorized to enter such an agreement on behalf of Lenovo US and its related companies. Lenovo US admits that it is prepared to grant licenses to its essential patents on FRAND terms and conditions, consistent with ETSI IPR Policy and its ETSI licensing declaration. Lenovo US denies any remaining allegations of Paragraph 203.

204. Lenovo US denies all allegations of Paragraph 204.

205. Lenovo US denies all allegations of Paragraph 205.

206. Lenovo US denies all allegations of Paragraph 206.

207. Lenovo US denies all allegations of Paragraph 207.

208. Lenovo US denies all allegations of Paragraph 208.

209. Lenovo US denies all allegations of Paragraph 209.

210. Lenovo US denies all allegations of Paragraph 210.

211. Lenovo US denies all allegations of Paragraph 211.

**COUNT VII: DECLARATION THAT ERICSSON HAS COMPLIED WITH ITS F/RAND  
COMMITMENT AND THE ETSI POLICY WITH RESPECT TO ITS OFFER TO  
LENOVO USA**

212. Lenovo repeats and incorporates by reference the responses to Paragraphs 1 through 211 above as though fully set forth herein.

213. Lenovo US admits that it and its related companies design, manufacture, and market products with cellular capabilities. Paragraph 213 is vague as to the scope of “the Cellular Standards,” and Lenovo US, on that basis, denies the allegations of Paragraph 213. Lenovo US denies any remaining allegations of Paragraph 213.

214. Lenovo US admits that Ericsson LM claims to own patents that are essential, and remain essential, to ETSI standards, and has contractually committed to ETSI to be prepared to grant licenses to any such patents on FRAND terms and conditions to third parties, such as Lenovo US and its affiliated companies, to the extent they implement equipment compliant with the standards, subject to reciprocity. Lenovo US denies any remaining allegations of Paragraph 214.

215. Lenovo US admits that it has been negotiating in good faith on behalf of its related companies with Ericsson LM for a global patent cross-license, including for any essential patents. Lenovo US denies any remaining allegations of Paragraph 215.

216. Lenovo US admits that it, and its related companies, are intended third-party beneficiaries of Ericsson LM’s ETSI declarations and are therefore entitled to a license on FRAND terms and conditions. Lenovo US denies the remaining allegations of Paragraph 216.

217. Paragraph 217 solely expresses legal conclusions and therefore does not require a response. To the extent a response is required, Lenovo US denies the allegations in Paragraph 217.

218. Lenovo US admits that Ericsson LM has publicly announced supra-F/RAND royalty rates for licenses on its patents. Lenovo US admits that Ericsson LM and Lenovo US exchanged offers and counteroffers. Lenovo US denies all remaining allegations of Paragraph 218.

219. Lenovo US admits that Ericsson LM's licensing practices and royalty rates do not comply with its F/RAND commitment, and that Lenovo has rejected supra-F/RAND offers. Lenovo US denies all remaining allegations of Paragraph 219.

220. Lenovo US admits the allegations of Paragraph 220.

221. Lenovo US denies all allegations of Paragraph 221.

222. Lenovo US admits that Ericsson LM's complaint purports to request a declaratory judgment that Ericsson LM is prepared to grant licenses on F/RAND terms and conditions, has negotiated in good faith, and has fully complied with its F/RAND commitment, its IPR Declaration and Licensing Statement, the ETSI IPR Policy, and all other applicable laws. Lenovo US denies that Ericsson LM is entitled to such relief and any remaining allegations in Paragraph 222.

### **ANSWER TO PRAYER FOR RELIEF**

Lenovo US denies that Ericsson LM is entitled to the requested, or any other, relief.

### **AFFIRMATIVE AND OTHER DEFENSES**

Lenovo US asserts the following defenses in response to the allegations of Ericsson LM's Complaint, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. In addition to the defenses described below, Lenovo US reserves all rights to allege additional defenses that become known through the course of discovery or further investigation. Lenovo US reserves the right to argue any defense, including as to non-infringement, invalidity, unenforceability, and/or remedy.

**FIRST DEFENSE  
(Non-Infringement)**

Lenovo US does not and has not at any time, either literally or under the doctrine of equivalents, infringed directly, contributorily, by inducement, and/or under any other theory any valid and enforceable claim of the Asserted Patents. Ericsson LM will therefore be unable to carry its burden of proving that any Accused Products practice each and every limitation of any asserted claims.

**SECOND DEFENSE  
(Invalidity)**

The asserted claims of the Asserted Patents are invalid for failing to comply one or multiple conditions for patentability, including but not limited to 35 U.S.C. §§ 101, 102, 103, and/or 112. Lenovo therefore does not infringe any valid claim.

**THIRD DEFENSE  
(Statutory Damages Limitation)**

Should Ericsson LM recover anything for the alleged infringement of the Asserted Patents, such recovery is limited by Title 35 of the United States Code, including, without limitation, 35 U.S.C. §§ 286, 287, and 288.

**FOURTH DEFENSE  
(No Equitable Relief)**

Ericsson LM is not entitled to equitable relief as it has an adequate remedy at law and cannot show that it has suffered or will suffer any immediate or irreparable harm from Lenovo's actions.

**FIFTH DEFENSE  
(Prosecution History Estoppel)**

Ericsson LM's claims are barred in whole or in part by prosecution history estoppel. Ericsson LM is estopped, based on statements, representations, and admissions made during the

prosecution before the United States Patent and Trademark Office of the patent families resulting in the Asserted Patents.

**SIXTH DEFENSE  
(Lack of Standing)**

To the extent that Ericsson LM lacks all substantive rights to bring suit and to exclude others from practicing the claims of any of the Asserted Patents, Ericsson LM's claims are barred by a lack of standing.

**SEVENTH DEFENSE  
(No Exceptional Case)**

Lenovo US has not engaged in any conduct that would make this an exceptional case that would entitle Ericsson LM to an award of attorneys' fees.

**EIGHTH DEFENSE  
(No Willful Infringement)**

Ericsson LM's claims for enhanced damages, if any, and an award of fees and costs against Lenovo US have no basis in fact or law and should be denied.

**TENTH DEFENSE  
(Damages Limitation)**

To the extent that Ericsson LM claims any of the Asserted Patents are essential to any wireless standard, Ericsson LM's recovery for alleged infringement of the Asserted Patents, if any, is limited by obligations to license such patents on fair, reasonable, and non-discriminatory ("FRAND" or "RAND") terms.

**ELEVENTH DEFENSE  
(Limitations For Sales Covered By 28 U.S.C. § 1498(A))**

Ericsson LM's remedies, if any, are limited under 28 U.S.C. § 1498(a) to the extent that Ericsson LM accuses products that are provided, made, or used by or for the government of the United States of America.

**TWELFTH DEFENSE**  
**(Performance)**

Ericsson LM's claims are barred, in whole or in part, by Lenovo US performance of its alleged duties.

**THIRTEENTH DEFENSE**  
**(Failure to Mitigate)**

Ericsson LM's claims are barred, in whole or in part, by Ericsson LM's failure to mitigate any alleged damages, including because Ericsson LM failed to comply with its F/RAND commitment, its IPR Declaration and Licensing Statement, the ETSI IPR Policy, and/or other applicable laws.

**FOURTEENTH DEFENSE**  
**(Equitable Defenses)**

Ericsson LM's claims are barred, in whole or in part, by equitable defenses including, without limitation, the doctrines of estoppel, waiver, laches, and/or unclean hands.

**FIFTEENTH DEFENSE**  
**(Failure to State A Claim)**

Ericsson LM's Complaint fails to state a claim upon which relief may be granted.

**SIXTEENTH DEFENSE**  
**(Ensnarement)**

Ericsson LM's claims under the doctrine of equivalents are barred by the doctrine of ensnarement to the extent the scope of such equivalent would ensnare prior art.

**SEVENTEENTH DEFENSE**  
**(License/Patent Exhaustion)**

Ericsson LM's claims are barred as a result of the interim cross-license Lenovo US is seeking to Ericsson LM's alleged SEP portfolio, which includes the Asserted Patents, and patent exhaustion to the extent the claims of one or more of the Asserted Patents are substantially

embodied in an end product or component purchased by Lenovo US from a seller authorized by Ericsson LM to practice the Asserted Patents.

**RESERVATION OF RIGHTS TO ASSERT ADDITIONAL DEFENSES**

Lenovo US reserves the right to amend and/or supplement its Answer. Lenovo US has not knowingly or intentionally waived any applicable defenses, and it reserves the right to assert and rely upon other applicable defenses that may become available or apparent throughout the course of this action.

## **COUNTERCLAIMS**

Counterclaim Plaintiffs Motorola Mobility LLC (“Motorola”) and Lenovo (United States) Inc. (collectively, “Lenovo US”), by and through its attorneys, assert the following against Counterclaim Defendants Telefonaktiebolaget LM Ericsson, (“Ericsson LM”), Ericsson AB, and Ericsson Inc. (collectively, “Ericsson”). Lenovo US further states as follows:

### **INTRODUCTION**

1. This action seeks final resolution of ongoing patent disputes between Lenovo US and its related companies and Ericsson. Lenovo US holds numerous patents critical to global wireless communications, including patents that Ericsson needs for its 5G cellular products. Lenovo US has engaged in good-faith negotiations with Ericsson LM over terms for a global FRAND (fair, reasonable, and non-discriminatory) patent cross-license agreement, which would include the parties’ respective patents declared essential to the 5G standard. Those negotiations have broken down due to a variety of unreasonable and unlawful acts by Ericsson LM, including Ericsson LM’s improper attempts to condition any deal on Lenovo US accepting unreasonable terms for a cross-license of various Ericsson LM patents, as well as Ericsson LM’s recent activities seeking to extort supra-FRAND rates based on the use of injunctive relief related to Standard Essential Patents (“SEPs”).

2. Ericsson LM’s conduct has caused serious harm to Lenovo US and its related companies, and contravenes Ericsson LM’s commitments to the standard-setting organizations (“SSOs”) that develop technology for each generation of cellular products—to which Lenovo US is an intended third-party beneficiary. Despite Ericsson LM’s conduct, Lenovo US remains a willing FRAND licensee and licensor with regard to Ericsson LM. However, to protect itself and to put an end to Ericsson LM’s unlawful conduct, Lenovo US seeks from this Court all appropriate legal and equitable remedies associated with Ericsson LM’s breaches of contracts and covenants

to which Lenovo US is an intended third-party beneficiary. Finally, because Ericsson LM and Lenovo US have promised to license their declared SEPs to others on FRAND terms, Lenovo US also seeks declaratory judgment establishing global FRAND terms for Lenovo US and Ericsson LM to enter a cross-license for each other's declared SEPs.

### **PARTIES**

3. Counterclaim-Plaintiff Lenovo (United States) Inc. is a company organized under the laws of the State of Delaware, with its principal place of business at 8001 Development Drive, Morrisville, North Carolina 27560.

4. Counterclaim-Plaintiff Motorola Mobility, LLC is a company organized under the laws of the State of Delaware, with its principal place of business at 222 W. Merchandise Mart Plaza, Chicago, IL 60654.

5. According to the allegations set forth in the Complaint, Defendant Telefonaktiebolaget LM Ericsson is a corporation organized under the laws of the Kingdom of Sweden with its principal place of business at Torshamnsgatan 21, Kista, 164 83, Stockholm, Sweden.

6. Defendant Ericsson AB is a corporation organized under the laws of the Kingdom of Sweden with its principal place of business at Torshamnsgatan 23, Kista, 16480, Stockholm, Sweden.

7. Ericsson Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 6300 Legacy Drive, Plano, Texas. Ericsson Inc. is a wholly-owned subsidiary of Ericsson Holding II Inc., which is a wholly-owned subsidiary of LME. Ericsson Inc. is a registered foreign corporation in North Carolina and has offices in North Carolina at 11020 David Taylor Dr., Ste. 110, Charlotte, NC 28262. The North Carolina

registration for Ericsson Inc. lists Niklas Heuvelodop as President. Mr. Heuvelodop is a member of Ericsson LM's executive team.

### **JURISDICTION AND VENUE**

8. This is an action arising from contract and contract related claims, including a claim for declaratory judgment under 28 U.S.C. § 2201 *et seq.* of the parties' contractual rights and obligations relating to one another, and claims for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. §§ 100 *et seq.*, including specifically 35 U.S.C. § 271, based on Ericsson's infringement of 11,184,130 ("the '130 patent"); 11,601,896 ("the '896 patent"); 11,284,466 ("the '466 patent"); and U.S. Patent Nos. 10,869,234 ("the '234 patent") (collectively, "Motorola Patents") and inducement thereof and contribution thereto, by the unauthorized manufacture, use, offer for sale, and/or importation of Ericsson's infringing products accused herein ("the Accused Ericsson Products") in the United States.

9. This Court has subject-matter jurisdiction over Counter-Plaintiff Lenovo (United States), Inc.'s contract and contract related claims pursuant to 28 U.S.C. § 1332 because Counter-Plaintiff Lenovo (United States), Inc. is a citizen of North Carolina and Defendant Telefonaktiebolaget LM Ericsson is a citizen of Sweden; and the value of the matter in controversy exceeds \$75,000.

10. This Court has subject-matter jurisdiction over Counter-Plaintiff Lenovo (United States), Inc.'s and Motorola Mobility LLC's contract and contract related claims pursuant to 28 U.S.C. § 1367 because these counterclaims are so related to the claims in this Action over which the Court has original jurisdiction such that they form part of the same case or controversy under Article III of the U.S. Constitution as Counts V-VII of Ericsson LM's complaint. Further, the contractual counterclaims arise out of the transaction or occurrence that is the subject matter of Counts V-VII of Ericsson LM's complaint.

11. This Court has jurisdiction over the subject matter of Counter-Plaintiff Motorola Mobility, LLC's patent infringement claims under 35 U.S.C. §§ 100 *et seq.*, 28 U.S.C. §§ 1331, and 1338(a).

12. Ericsson is subject to the Court's personal jurisdiction for this action because Ericsson is doing and has done substantial business both in the State of North Carolina and in this District, including business relating to the sale, distribution, use, installation, and repair of products that are compatible with the 5G standard, including the Accused Ericsson Products, that would be subject to the cross-license agreement Lenovo US has attempted to negotiate with Ericsson LM. In ITC Inv. 337-TA-1369, Ericsson' Complaint (¶ 130) alleges that it "has made significant investments in plant and equipment for the development, assembly, configuration, programming, testing, customization, installation, and maintenance of Ericsson's Products in the United States—including its 5G and 4G/5G radio and baseband products," which are accused of infringement, including at its facilities in North Carolina. Because each Defendant purposefully directed its activities at residents of the State of North Carolina and because the claims in this action arise out of or relate to those activities, as explained herein, and because the exercise of specific personal jurisdiction by the Court would be both reasonable and fair, the requirements of both due process and of North Carolina's long-arm statute are satisfied.

13. Ericsson LM also engaged in negotiations over a cross-license to Ericsson LM's and Lenovo US's declared standard-essential patents and others in North Carolina and in this District, and purposefully and intentionally created continuous and systematic business contacts in North Carolina and this District regarding licensing negotiations with Lenovo US. On several occasions, representatives from Ericsson LM, with authority to bind Ericsson LM to a contractual agreement, met with representatives from Lenovo US in North Carolina and in this District to

engage in negotiations related to a cross-license to Ericsson's and Lenovo US's declared essential patents. Ericsson LM breached its obligation to negotiate with Lenovo US in good faith, including in those meetings in North Carolina. Further, Ericsson LM has consented to the Court's exercise of personal jurisdiction by asserting claims that have a common nucleus of operative facts with the claims Lenovo US is asserting.

14. In addition, and in the alternative, the Court has personal jurisdiction over Ericsson AB based on Federal Rule of Civil Procedure 4(k)(2) and Ericsson AB's acts described in this pleading, including acts of infringement in the United States.

15. Venue is proper in this District pursuant to 28 U.S.C. § 1391 as to Ericsson LM and Ericsson AB because they are foreign corporations and venue is therefore proper in any judicial district.

16. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) as to Ericsson Inc. because, on information and belief, it leases an office at 7001 Development Dr, Morrisville, NC 27560, which is a regular and established place of business, and has committed acts of infringement in this District.

## **FACTUAL BACKGROUND**

### **The ETSI IPR Policy**

17. The European Telecommunications Standards Institute ("ETSI") is a standard-setting organization ("SSO") which has been responsible for creating many standards, including the 2G, 3G (WCDMA and UMTS), 4G, and 5G cellular communications standards. ETSI has over 900 members from 65 countries.

18. ETSI is an Organizational Partner, along with six other regional SSOs, in the Third Generation Partnership Project ("3GPP"). The regional SSO covering the United States is ATIS,

the Alliance for Telecommunications Industry Solutions. Another SSO based in the United States, TIA (Telecommunications Industry Association), is an observer of 3GPP activities.

19. Under 3GPP's Intellectual Property Rights ("IPR") Policy, individual members "shall be bound by the IPR Policy of their respective Organizational Partner."

20. Standards are beneficial because they help allow devices made by one company to communicate with devices made by other companies. Standardization helps consumers have confidence that products bought from different manufacturers will interoperate with each other.

21. But standards may also result in harm to competition and consumers, particularly when companies claim to hold patents essential to the standards, and use that as leverage to demand excessive royalties from companies that design, develop, manufacture and sell products that are compatible with those standards. Before adoption of a standard, alternative technologies compete to be included in the standard, and the SSO has the option of determining not to standardize a particular function. But once a standard is adopted and a particular manner of implementing the standard is chosen, using those alternatives often may no longer be feasible. Companies that design, develop, manufacture, and sell products that are compatible with the standard make substantial investments in those products, and thus face substantial switching costs in abandoning the standard. Further, finding an alternative means of providing the same functionality or such switching may be completely infeasible, and the industry may become "locked in" to a standard. Thus, the inclusion of a patent in a standard can confer substantial market power on the holder of that patent.

22. SSOs have adopted IPR policies to address the potential harms from lock-in of a standard, including the risk that SEP holders can engage in hold up by taking advantage of their dependence on the standard.

23. ETSI adopted an IPR Policy in 1994, incorporated in Annex 6 of the ETSI Rules of Procedure. ETSI's IPR Policy was designed to benefit all ETSI members, as well as all other parties that offer products compatible with an ETSI standard. The objective of the ETSI IPR Policy is to "reduce the risk to ETSI, MEMBERS, and others applying ETSI STANDARDS and TECHNICAL SPECIFICATIONS, that investment in the preparation, adoption and application of STANDARDS could be wasted as a result of an ESSENTIAL IPR for a STANDARD or TECHNICAL SPECIFICATION being unavailable." *Id.*, § 3.1.

24. The ETSI IPR Policy asks that owners of IPRs, including patents, voluntarily submit an irrevocable undertaking in writing that it is prepared to grant irrevocable licenses to its declared SEPs on fair, reasonable, and non-discriminatory terms:

When an ESSENTIAL IPR relating to a particular STANDARD or TECHNICAL SPECIFICATION is brought to the attention of ETSI, the Director-General of ETSI shall immediately request the owner to give within three months an irrevocable undertaking in writing that it is prepared to grant irrevocable licences on fair, reasonable and non-discriminatory ("FRAND") terms and conditions under such IPR:

- MANUFACTURE, including the right to make or have made customized components and sub-systems to the licensee's own design for use in MANUFACTURE;
- sell, lease, or otherwise dispose of EQUIPMENT so MANUFACTURED;
- repair, use, or operate EQUIPMENT; and
- use METHODS.

The above undertaking may be made subject to the condition that those who seek licences agree to reciprocate.

*Id.*, § 6.1.

25. The ETSI IPR Policy also provides IPR Declaration forms through which ETSI members, and others, can declare patents as potentially essential to a standard, and commit to licensing those declared patents on FRAND terms and conditions:

the Declarant hereby irrevocably declares that (1) it and its AFFILIATES are prepared to grant irrevocable licenses under its/their IPR(s) on terms and conditions which are in accordance with Clause 6.1 of the ETSI IPR Policy, in respect of the STANDARD(S), TECHNICAL SPECIFICATION(S), or the ETSI Project(s), as identified above, to the extent that the IPR(s) are or become, and remain ESSENTIAL to practice that/those STANDARD(S) or TECHNICAL SPECIFICATION(S) or, as applicable, any STANDARD or TECHNICAL SPECIFICATION resulting from proposals or Work Items within the current scope of the above identified ETSI Project(s), for the field of use of practice of such STANDARD or TECHNICAL SPECIFICATION; and (2) it will comply with Clause 6.1bis of the ETSI IPR Policy with respect to such ESSENTIAL IPR(s).

*Id.* at 52 (General IPR Licensing Declaration).

26. Under the ETSI IPR Policy, an entity declaring a patent essential to a standard enters into a contractual agreement to license its declared SEPs on FRAND terms to ETSI's members and intended third-party beneficiaries. Entities that own declared SEPs can thus be compelled as a matter of contract law to honor their voluntary FRAND commitments.

27. Lenovo US and its related companies have participated in technical standard-setting at ETSI to develop technical standards relating to 5G cellular communication. Lenovo US and its related companies have filed IPR Declarations with ETSI for patents they own, which express a belief that the identified patent(s) "may be or may become essential" to ETSI standards or technical specifications, *i.e.*, that they are SEPs. The declaration further states that Lenovo US and its related companies are willing to grant licenses under those patents according to the guidance of the ETSI IPR Policy, which includes a willingness to grant licenses on fair, reasonable, and non-discriminatory (*i.e.*, "FRAND") terms. It also states that the availability of FRAND licenses is conditioned on reciprocity from licensees.

28. Ericsson LM has submitted IPR Declarations of its own, stating Ericsson LM's willingness to grant licenses to declared essential patents that it owns on FRAND terms and conditions. Ericsson LM has also stated that it conditions the availability of such FRAND licenses

on reciprocity. Ericsson LM has not abided by those commitments in its discussions with Lenovo US.

29. Courts provide the primary mechanism for determining whether a declared essential patent holder has complied with its contractual obligations and the amount of a FRAND royalty.

30. Lenovo has requested that the High Court of England and Wales (“the UK Court”) engage in such a determination with respect to the terms for a FRAND cross-license between Lenovo and Ericsson LM. In addition to its experience engaging in these types of inquiries, the UK Court was the forum agreed to by the parties to resolve any disputes regarding the existing patent cross-license between Ericsson LM and Motorola Mobility (which has sub-licensed Lenovo). That cross-license included both patents alleged to be essential and non-essential. Ericsson LM, however, has objected to the UK Court hearing or deciding this dispute.

31. Ericsson LM has instead asked this Court to hear the current dispute regarding whether Ericsson LM and Lenovo US have complied with their obligations under their respective ETSI declarations and what the amount of a FRAND royalty for a global cross-license would be. Lenovo is willing to proceed with this dispute in this Court, but Ericsson must stop seeking injunctions for alleged patent infringement in any other forum while this dispute proceeds because Ericsson LM has admitted that the result that it seeks from these proceedings is a cross-license between Ericsson LM and Lenovo US. Ericsson LM therefore has not, and is not, suffering any irreparable harm, because any harm to Ericsson LM from the current lack of a license with Lenovo US for certain patents and products can be remedied with a monetary payment. By contrast, Ericsson LM is causing Lenovo US and its related companies immediate and irreparable harm

from its recourse to foreign courts to seek expedited preliminary injunctions, including in secret proceedings without participation by Lenovo.

### **Ericsson LM and Lenovo's Negotiation History**

32. Ericsson LM has consistently refused to honor its obligation to license its declared SEPs on FRAND terms, choosing instead to engage in global litigation in an attempt to extort supra-FRAND royalties from potential licensees. Thus, Ericsson LM's conduct here—which includes filing for injunctive relief for Lenovo's alleged infringement of declared SEPs—is part of a familiar pattern of misusing its declared SEPs. During the various instances in which Ericsson LM reached out to Lenovo US or its related companies to discuss a potential license, Ericsson LM routinely made unsupported demands that were inconsistent with its FRAND obligations.

33. Indeed, Ericsson LM demanded royalties from Lenovo US for products that were already licensed to its declared cellular SEPs under the existing license between Motorola Mobility and Ericsson LM, to which Lenovo is sublicensed.

34. Despite Ericsson LM's conduct, Lenovo US continued discussions with Ericsson LM and made a significant offer to Ericsson LM in October 2017, which would have included rights to Ericsson LM's 5G patents. Ericsson LM rejected Lenovo's FRAND offer and instead continued to demand royalties for products already licensed under the MMI- Ericsson LM GPLA and refused to include any license rights to patents allegedly essential to 5G.

35. The parties proceeded through an unsuccessful mediation in April 2018. Ericsson LM continued to consider granting Lenovo a license to patents related to the 5G standard. This was notwithstanding Ericsson LM's express promises to ETSI and other standards setting organizations that it would make such patents available on FRAND terms. Notably, in public, Ericsson LM claimed that it was prepared to grant licenses (subject to reciprocity) for 5G technology at rates of \$5/handset, or as low as \$2.5/handset for low priced models. Ericsson LM

claimed that these were “fair and reasonable rates,” when in fact they far exceeded any reasonable level. Ericsson LM has refused to confirm whether any company situated similarly to Lenovo US has paid these supra-FRAND royalties.

36. Discussions continued after the mediation, including Lenovo making multiple FRAND offers to Ericsson LM. On the other hand, Ericsson LM continued to make unreasonable offers that were not based on FRAND terms. These discussions continued through 2018, after which Ericsson LM again walked away from discussions.

37. In 2021, Ericsson LM re-engaged with Lenovo, and the parties then decided that it would be beneficial to negotiate updated NDAs, which took over two years and with meaningful movement at times. The parties were still discussing the contents of the NDA in the summer of 2023. Ericsson LM never made an offer to Lenovo to license its alleged 5G SEPs during those discussions.

38. Then, after months of silence, Ericsson LM launched a surprise attack. On October 11, 2023, Ericsson LM on its own initiative sent Lenovo a license offer, again with terms well outside any reasonable assessment of a FRAND obligation. Specifically, Ericsson LM “offered” Lenovo its 5G rack rate of \$5/unit, which also includes rights to Ericsson LM’s 2G–4G patents—even though Lenovo US is already licensed to Ericsson LM’s 2G–4G patents through the royalty-free MMI- Ericsson LM GPLA.

39. That same day, Ericsson LM filed a complaint with the ITC alleging that Lenovo and Motorola’s 5G products infringe four Ericsson LM patents, and seeking to have the products excluded from the U.S. market. Ericsson LM filed the Complaint in this case in parallel. Since then, Ericsson LM has sought *ex parte* injunctions against Lenovo US’s related companies in

foreign jurisdictions. In those proceedings, Lenovo has limited, to no, ability to participate before the court issues an injunction based on proceedings conducted in secret.

40. Despite Ericsson LM's conduct being plainly inconsistent with Ericsson LM's FRAND obligations, Lenovo US attempted to continue negotiating. On November 3, 2023, Lenovo US countered with a proposal that Ericsson LM grant a license to Ericsson LM's cellular portfolio (including 5G) to at a fair and reasonable rate consistent with those set in other well-known cases. Ericsson LM responded to Lenovo's FRAND counter-offer on November 15, stating that Ericsson LM believed that the parties could resolve their issues through its Complaint in this case, or arbitration. Lenovo US then agreed to arbitrate, and made a fulsome proposal to do so, which Ericsson LM rejected. Instead of negotiating with Lenovo US in good faith to conclude a license on FRAND terms, Ericsson LM has continued its campaign of seeking injunctive relief against Lenovo, not only at the ITC but in foreign jurisdictions.

### **Motorola Mobility LLC's ("Motorola") U.S. Patents**

41. For decades, Motorola has been a worldwide leader in technology development for cellular communications. In view of its large investments in research and development that extend over decades of work, Motorola holds numerous patents relating to telecommunications, including the Motorola Patents. The Motorola Patents are particularly relevant to 5G cellular communications. They describe critically important technology that is necessary to implementing the advanced technology of modern 5G networks.

#### The '130 Patent

42. The '130 patent is entitled "Demodulation reference signal configuration," and was duly and legally issued on November 23, 2021. The '130 patent lists as inventors Hongmei Liu, Chenxi Zhu, Zhennian Sun, and Haiming Wang. The '130 patent issued from U.S. Patent Application No. 16/626,279, which entered the national stage as a filing on December 23, 2019

from International Application No. PCT/CN2017/090033 filed on June 26, 2017. The '130 patent discloses demodulation reference signal configurations to be used in a 5G electronic device.

43. The '130 patent relates to apparatuses, systems, and methods for configuring demodulation reference signals, *e.g.*, reference signals for assisting in extracting original information-bearing signals from a carrier wave. The '130 patent describes how the system may determine a remaining minimum system information channel demodulation reference signal configuration, and then transmit the demodulation reference signal based on the demodulation reference signal configuration. The disclosed embodiments provide benefits such as increased performance that improve the way mobile phones receive broadcast signaling from the 5G cellular network.

44. More specifically, the '130 patent is directed, in some instances, to a method for determining a demodulation reference signal configuration for a physical downlink shared channel carrying remaining minimum system information. In particular implementations, the demodulation reference signal configuration comprises a first configuration, a second configuration, a mapping order, a frequency domain density, a time domain subframe level density, a time domain symbol level density, or some combination thereof. In some embodiments, the method may further include receiving the demodulation reference signal based on the demodulation reference signal configuration.

45. The '130 patent has been declared essential to 3rd Generation Partnership Project (3GPP) 5G/NR technical specification (TS) standards for wireless networks.

46. Motorola is the owner, by valid assignment, of the entire right, title, and interest in and to the '130 patent. The '130 patent is valid, enforceable, and is currently in full force and effect.

### The '896 Patent

47. The '896 patent is entitled “Determining a power headroom report,” and was duly and legally issued on March 7, 2023. The '896 patent lists as inventors Joachim Loehr, Ebrahim MolavianJazi, Vijay Nangia, and Ravi Kuchibhotla. The '896 patent issued from U.S. Patent Application No. 17/206,005 filed on March 18, 2021, and is a continuation of U.S. Patent Application No. 16/690,566, filed on November 21, 2019, that issued as U.S. Patent No. 10,993,195. The '896 patent claims priority to U.S. Provisional Application No. 62/770,619, which was filed on November 21, 2018. The '896 patent discloses determining a power headroom report to be used in a 5G electronic device.

48. The '896 patent relates to apparatuses, methods, and systems for determining a power headroom report—a mechanism used by mobile devices to report available transmit power to a base station in a network such as an telecommunications network. The '896 patent describes how the power headroom report may be determined based on a real transmission or a reference format based on signaling for configured grants and downlink control information received up until a predetermined time before a first uplink symbol of the physical uplink shared channel resource. The disclosed embodiments provide benefits such as improved network efficiency by ensuring that interference between devices is limited when communicating with the 5G cellular network.

49. More specifically, the '896 patent is directed to, for example, methods for determining and power headroom reports. For example, in one embodiment, the method may include determining a power headroom report for an activated serving cell for transmission on a physical uplink shared channel resource corresponding to a configured grant, and transmitting the power headroom report on the physical uplink shared channel resource. In some implementations, determining the power headroom report for the activated serving cell comprises determining

whether the power headroom report is based on a real transmission or a reference format based on signaling for configured grants and downlink control information received until a first uplink symbol of the physical uplink shared channel resource minus a physical uplink shared channel preparation procedure time determined for the configured grant. In some embodiments, the physical uplink shared channel preparation procedure time determined is computed based on a first parameter set to zero, and a subcarrier spacing of an active downlink bandwidth part of a scheduling cell for the configured grant.

50. The '896 patent has been declared essential to 3rd Generation Partnership Project (3GPP) 5G/NR technical specification (TS) standards for wireless networks.

51. Motorola is the owner, by valid assignment, of the entire right, title, and interest in and to the '896 patent. The '896 patent is valid, enforceable, and is currently in full force and effect.

#### The '466 Patent

52. The '466 patent is entitled "Performing resume request procedure," and was duly and legally issued on March 22, 2022. The '466 patent lists as inventors Lianhai Wu, Jing Han, Haiming Wang, and Zhuoyun Zhang. The '466 patent issued from U.S. Patent Application No. 16/646,840, which entered the U.S. national stage as a filing on March 12, 2020 from International Application No. PCT/CN2017/103916 filed on September 28, 2017. The '466 patent discloses performing a resume request procedure in a 5G electronic device.

53. The '466 patent relates to methods, base units, and remote units for performing a resume request procedure. The '466 patent describes how a base unit may handle a resume request procedure when the remote unit has moved from a different base unit while maintaining the remote unit in an inactive state. The disclosed embodiments provide benefits such as increased

performance and reduced power by allowing a mobile device to efficiently communicate with a 5G cellular network during a state of mobility and inactivity.

54. More specifically, the '466 patent is directed, in some instances, to a base unit comprising a transceiver that receives a resume request from a remote unit in an inactive state and sends a message to a last serving base unit and, in response to receiving a response from the last serving base unit, sends a configuration message to the remote unit to maintain the remote unit in the inactive state. In some embodiments, the resume request includes a cause of the resume request. In some embodiments, the cause is a periodic RAN notification area update.

55. The '466 patent has been declared essential to 3rd Generation Partnership Project (3GPP) 5G/NR technical specification (TS) standards for wireless networks.

56. Motorola is the owner, by valid assignment, of the entire right, title, and interest in and to the '466 patent. The '466 patent is valid, enforceable, and is currently in full force and effect.

#### The '234 Patent

57. The '234 patent is entitled "Fallback assistance information," and was duly and legally issued on December 15, 2020. The '234 patent lists as inventors Genadi Velev, Prateek Basu Mallick, Joachim Loehr, and Ravi Kuchibhotla. The '234 patent issued from U.S. Patent Application No. 16/197,122 filed on November 20, 2018. The '234 patent claims priority to U.S. Provisional Application No. 62/588,846, which was filed on November 20, 2017. The '234 patent discloses fallback assistance procedures to be used a 5G electronic device.

58. The '234 patent relates to apparatuses, systems, and methods for using fallback assistance information with a RAN node. The '234 patent describes how fallback assistance may be provided to a remote unit by transitioning a remote unit from a base unit that does not support the requested services to a base unit that does support the requested services. The disclosed

embodiments provide benefits such as increased reliability by allowing a remote unit to connect to the appropriate base unit that provides the requested services in a 5G cellular network.

59. More specifically, the '234 patent is directed, in some instances, to providing fallback assistance information by receiving a first message from a network function in a first core network, wherein the first message indicates service fallback of a remote unit connected to the RAN node and indicates a target core network. The fallback assistance information may involve determining service fallback parameters for the remote unit. The fallback assistance may further include sending a connection release message to the remote unit, where the connection release message includes redirection information for the service fallback, the redirection information including the target core network.

60. The '234 patent has been declared essential to 3rd Generation Partnership Project (3GPP) 5G/NR technical specification (TS) standards for wireless networks.

61. Motorola is the owner, by valid assignment, of the entire right, title, and interest in and to the '234 patent. The '234 patent is valid, enforceable, and is currently in full force and effect.

### **Ericsson's Infringing Products**

62. Ericsson makes, uses, offers to sell, and sells within the United States, and imports into the United States, 5G New Radio ("NR") antenna radio units and baseband units for use in 5G cellular networks. Ericsson's 2019 Annual Report states that "Ericsson led the way in 2019, deploying 54 live 5G networks in 44 unique markets across all major operators in the US." Ericsson has signed contracts with cellular service providers in the United States to install cellular communication equipment for 5G networks, including in this district. *See, e.g.*, <https://www.ericsson.com/en/news/2019/5/u.s.-operator-sprint-launches-commercial-5g-with-ericsson>; <https://www.ericsson.com/en/press-releases/2018/2/ericsson-and-t-mobile-to-deploy->

[multi-band-nationwide-5g-network;](https://www.ericsson.com/en/news/2020/7/ericsson-to-multi-band-nationwide-5g-network) [https://www.ericsson.com/en/news/2020/7/ericsson-to-supply-mmwave-equipment-to-u.s.-cellular;](https://www.ericsson.com/en/news/2020/7/ericsson-to-supply-mmwave-equipment-to-u.s.-cellular) [https://www.ericsson.com/en/press-releases/2019/2/u.s.-cellular-selects-ericsson-for-5g-deployments;](https://www.ericsson.com/en/press-releases/2019/2/u.s.-cellular-selects-ericsson-for-5g-deployments) [https://www.ericsson.com/en/press-releases/6/2022/9/ericsson-and-national-science-foundations-aerpaw-collaborate-on-5g-drone-research-to-support-smart-agriculture.](https://www.ericsson.com/en/press-releases/6/2022/9/ericsson-and-national-science-foundations-aerpaw-collaborate-on-5g-drone-research-to-support-smart-agriculture)

63. Those 5G NR antenna radio units and baseband units incorporate technology covered by the claims of Motorola's Patents. By way of illustration, and without restriction, examples of Ericsson's infringing products are its Street Macro 6701 (hereafter, "SM6701"), Street Macro 6705 (hereinafter, "SM6705"), Baseband 6648 (hereafter, "BB6648"), Baseband 6630 (hereafter, "BB6630"), RAN Processor 6651 (hereafter, "RAN6651"), Antenna Integrated Radio 5331 (hereafter, "AIR5331"), Antenna Integrated Radio 6488 (hereafter, "AIR6488"), Antenna Integrated Radio 6649 (hereafter, "AIR6649"), Antenna Integrated Radio 6449 (hereafter, "AIR6449"), Antenna Integrated Radio 6419 (hereafter, "AIR6419"), Antenna Integrated Radio 5121 (hereafter, "AIR5121"), Antenna Integrated Radio 1281 (hereafter, "AIR1281"), and Antenna Integrated Radio 3246 (hereafter, "AIR3246"). According to its complaint in ITC Inv. 337-TA-1375 (¶ 118), Ericsson manufactures at least BB6648 and Streetmacro 6705 in the United States. Other Ericsson products also infringe the Motorola Patents for reasons similar to those laid out in this Answer and Counterclaims with respect to the SM6701.

64. Ericsson has admitted to the FCC that the SM6701 supports the 5G NR standard:



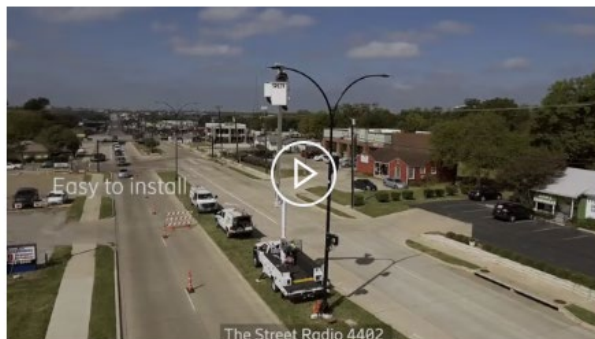
#### Equipment under test (EUT)

|                                                                               |                                                                                    |                                |    |
|-------------------------------------------------------------------------------|------------------------------------------------------------------------------------|--------------------------------|----|
| Product name                                                                  | Street Macro 6701                                                                  |                                |    |
| Product number                                                                | KRK 101 01/1<br>KRK 101 01/2<br>KRK 101 01/11<br>KRK 101 01/21                     |                                |    |
| Supported bands, Tx frequency range (GHz) and standards                       | B261                                                                               | 27.5 – 28.35                   | NR |
| Duplexing technology and fraction of downlink transmission time to total time | TDD (72.1 %)                                                                       |                                |    |
| Exposure environment                                                          | General public/uncontrolled, Workers/controlled                                    |                                |    |
| EIRP <sup>2,3</sup> (dBm) and IEC 62232 installation class [4]                | 45.1, 48.1, 51.1 (Configuration Mode 1)<br>48.1, 51.1, 54.1 (Configuration Mode 2) | E100, E100, E+<br>E100, E+, E+ |    |

<https://fccid.io/TA8AKRK10101/RF-Exposure-Info/RF-Exposure-4482078.pdf>.

65. Ericsson instructs and encourages customers to use the Accused Ericsson Products in a manner that infringes the Motorola Patents, including by advertising “5 times better download speeds” and building 5G sites “in as little as 15 minutes”:

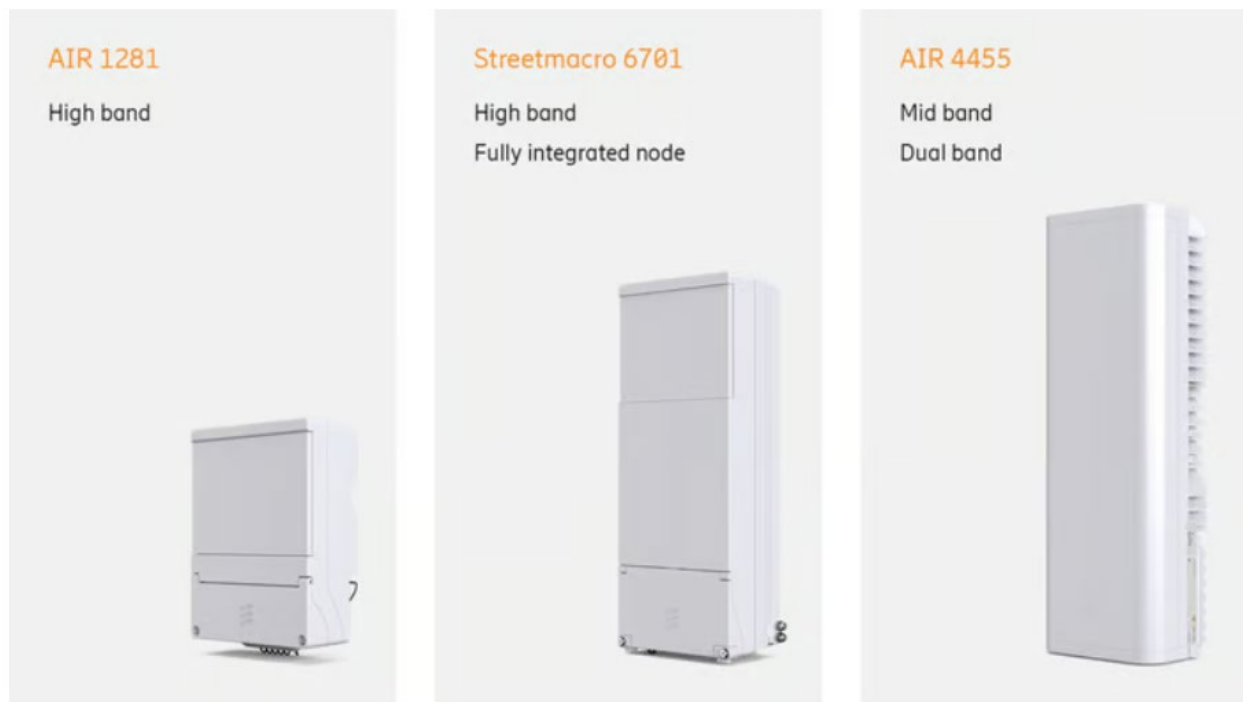
## From streetlight to 5G site in 15 minutes



Learn how Ericsson and Ubiqia partnered to pioneer a new radio solution that utilizes existing streetlights and adds as much as 5 times better download speeds. All in as little as 15 minutes site installation time.

Click to watch the video.

## Additional street and outdoor small cell solutions



<https://www.ericsson.com/en/small-cells/outdoor-coverage>.

### **COUNTERCLAIM COUNT I**

#### **(Breach of Contract)**

66. Lenovo US realleges and incorporates herein by reference the allegations in Counterclaim Paragraphs 1 through 65.

67. As set forth above and as alleged in Ericsson LM’s complaint, “Ericsson committed that it is prepared to grant licenses to its Essential Patents on F/RAND terms and conditions[.]” *See* Compl., ¶ 44.

68. Ericsson LM alleges that it has declared patents as essential to the 5G standard. *See* Compl., ¶¶ 93, 107, 121, 135. For consideration, including ETSI membership and participation, and inclusion of the Asserted Patents in the 5G standard, Ericsson LM entered into express and/or

implied contracts with ETSI's members and other intended third-party beneficiaries, in which Ericsson LM agreed, among other things, to abide by the ETSI IPR Policy.

69. As set forth above, for consideration, including ETSI membership and participation, Ericsson LM entered into express and/or implied contracts with ETSI's members, or alternatively, with ETSI to which ETSI members and others are intended third-party beneficiaries, in which Ericsson LM agreed, among other things, to abide by ETSI's policies and rules.

70. Clause 6.1 of ETSI's Intellectual Property Rights Policy ("IPR") requires ETSI to request that the patent owner voluntarily give "an irrevocable undertaking in writing that it is prepared to grant irrevocable licenses on fair, reasonable and non-discriminatory ("FRAND") terms and conditions ... ." These terms and conditions are referred to as "FRAND terms."

71. Ericsson LM has a contractual obligation to offer to license its declared essential patents on FRAND terms, and it has breached its obligation to do so by refusing to offer Lenovo US FRAND terms for a cross-license.

72. Lenovo US was entitled to rely on Ericsson LM's FRAND commitments, both as an ETSI member and as an intended third-party beneficiary.

73. Ericsson LM breached its FRAND commitments in its conduct with Lenovo US in multiple ways as explained above, including by failing to offer Lenovo a license to its declared SEPs on FRAND terms and conditions, failing to negotiate and act in good faith, and by using injunctive relief to improperly obtain leverage, including by seeking injunctive relief based on non-essential patents to obtain leverage in licensing discussions for SEPs, and including seeking such injunctive relief after rejecting mechanisms for a neutral resolution of FRAND licensing terms and while judicial proceedings to resolve such terms remain pending.

74. As a result of Ericsson LM's breach, Lenovo US has been injured in its business or property. Ericsson LM's refusal to offer a license to Lenovo US on FRAND terms and conditions has deprived Lenovo of its right to such a license, which has caused Lenovo to incur unnecessary costs and unwarranted harm, in these proceedings and as a result of the proceedings Ericsson LM has filed in foreign jurisdictions seeking expedited, and in some cases, *ex parte* injunctive relief.

75. Lenovo US has suffered and will continue to suffer irreparable injury by reason of the acts, practices, and conduct of Ericsson LM alleged above until and unless the Court enjoins such acts, practices, and conduct.

## **COUNTERCLAIM COUNT II**

### **(Breach of Duty of Good Faith)**

76. Lenovo US realleges and incorporates herein by reference the allegations in Counterclaim Paragraphs 1 through 75.

77. As set forth above, by committing to license its declared essential patents to users of ETSI's cellular standards on FRAND terms, Ericsson LM entered into contractual commitments with ETSI and its members and intended third-party beneficiaries, including Lenovo.

78. Every party producing products supporting ETSI's cellular standards, including Lenovo, is an intended third-party beneficiary of Ericsson LM's contractual commitments to ETSI, including Ericsson LM's commitment to grant license on FRAND terms to all that make, use, or sell products supporting ETSI's cellular standards.

79. Ericsson LM has breached its obligation to negotiate in good faith, as set forth above. Ericsson LM repeatedly refused to offer to license its declared SEPs on FRAND terms, and provided its first offer to license its declared 5G SEPs the same day that it filed complaints in this case and at the ITC. Moreover, Ericsson LM has continued to refuse to engage in good faith negotiations by continuing to refuse to offer FRAND terms. Ericsson LM has further breached its

good faith obligation by using injunctive relief to improperly obtain leverage, including by seeking injunctive relief based on non-essential patents to obtain leverage in licensing discussions for SEPs, and including seeking such injunctive relief after rejecting mechanisms for a neutral resolution of FRAND licensing terms and while judicial proceedings to resolve such terms remain pending.

80. Ericsson LM has breached its obligation to negotiate in good faith, as set forth above. Ericsson LM repeatedly refused to offer to license its declared SEPs on FRAND terms, and provided its first offer to license its declared 5G SEPs the same day that it filed complaints in this case and at the ITC. Moreover, Ericsson LM has continued to refuse to engage in good faith negotiations by continuing to refuse to offer FRAND terms.

81. As a result of Ericsson LM's breach, Lenovo US has been injured in its business or property. Ericsson LM's refusal to offer a license to Lenovo US on FRAND terms and conditions has deprived Lenovo of its right to such a license, which has caused Lenovo to incur unnecessary costs and unwarranted harm, in these proceedings and as a result of the proceedings Ericsson LM has filed in foreign jurisdictions seeking expedited, and in some cases, *ex parte* injunctive relief.

82. Lenovo US has suffered and will continue to suffer irreparable injury by reason of the acts, practices, and conduct of Ericsson LM alleged above until and unless the Court enjoins such acts, practices, and conduct.

### **COUNTERCLAIM COUNT III**

#### **(Request for Declaratory Judgment of FRAND Royalties for a FRAND Cross-License between Ericsson LM and Lenovo)**

83. Lenovo US realleges and incorporates herein by reference the allegations in Counterclaim Paragraphs 1 through 82.

84. As set forth above, by committing to license its declared SEPs to users of ETSI's cellular standards on FRAND terms, Ericsson LM voluntarily entered into a contract agreement with ETSI, its members, and intended third-party beneficiaries, including Lenovo. Likewise, Lenovo US and its related companies voluntarily entered into a contract agreement with ETSI, its members, and intended third-party beneficiaries, including Ericsson LM.

85. Every party producing products that support ETSI cellular standards, including Lenovo US and Ericsson LM, is an intended third-party beneficiary of the voluntary contractual commitments declarants make to ETSI, including that it grant licenses on FRAND terms to all such parties.

86. As set forth above, Ericsson LM has not complied with its contractual obligations by refusing to offer a license on FRAND terms, and instead choosing to engage in global litigation rather than good faith negotiation with Lenovo US. Ericsson LM has thus failed to provide Lenovo US with FRAND terms and conditions for a license to its declared SEPs. By contrast, Lenovo US has provided FRAND terms and conditions to Ericsson LM, but Ericsson LM has rejected them.

87. As a result of the acts described in the foregoing paragraphs, and particularly in view of Ericsson LM's unwillingness to engage in good faith negotiations, there exists a substantial controversy of sufficient immediacy to warrant the issuance of a declaratory judgment.

88. As Ericsson LM concedes in its Complaint, it has consented to the Court setting such terms.

89. Lenovo US requests a judicial declaration that sets the FRAND terms and conditions for a global patent cross-license between Ericsson LM and Lenovo US that includes the parties' and their related companies' respective declared SEPs.

## **COUNTERCLAIM COUNT IV**

### **(Infringement of the '130 Patent)**

90. Motorola realleges and incorporates herein by reference the allegations in Counterclaim Paragraphs 1 through 89.

91. A true and correct copy of the '130 patent is attached as Exhibit 1.

92. Ericsson has infringed and continues to infringe the '130 patent under 35 U.S.C. § 271(a) in this District and throughout the United States by making, using, importing, offering for sale, and/or selling one or more of the Accused Ericsson Products, which practice one or more of the claims of the '130 patent. The Accused Ericsson Products satisfy each limitation of at least claims 11 and 14-20. For example, attached to this Answer and Counterclaims as Exhibit 1A is a representative chart that demonstrates how the Accused Ericsson Products, as exemplified by the SM6701, satisfy each limitation of those claims. At the very least, Ericsson is on notice that it can reasonably expect that discovery will reveal its liability for the infringement alleged.

93. Ericsson knowingly and intentionally induces customers of its Accused Ericsson Products to directly infringe one or more claims of the '130 patent under 35 U.S.C. §271(b) by encouraging, facilitating, instructing, and/or aiding one or more persons in the United States to make, use (including through testing), import, offer for sale and/or sell, one or more of the Accused Ericsson Products in a manner that infringes the '130 patent.

94. By way of example, and without limitation, as shown above, Ericsson advertises the SM6701 and other Accused Ericsson Products so that its customers purchase and use them, thus inducing those customers to infringe the '130 patent.

95. Ericsson has had knowledge and notice of the '130 patent and/or acted with willful blindness as to the existence of the '130 patent at least as early as the filing of this Amended Answer and Counterclaims.

96. Ericsson contributes to the infringement of one or more claims of the '130 patent under 35 U.S.C. § 271(c) by offering for sale, selling and/or importing a patented component or material and/or apparatus used to practice a patented process, constituting a material part of the inventions, knowing the same to be especially made or especially adapted for use in an infringement and not a staple article or commodity of commerce suitable for substantial non-infringing use.

97. As a result of Ericsson's infringement of the '130 patent, Motorola has suffered and will continue to suffer damages. Motorola is entitled to recover from Ericsson the damages adequate to compensate for such infringement, in an amount to be determined at trial.

98. Ericsson's acts of infringement have caused and will continue to cause irreparable harm to Motorola, for which there is no adequate remedy at law, entitling Motorola to injunctive relief.

### **COUNTERCLAIM COUNT V**

#### **(Infringement of the '896 Patent)**

99. Motorola realleges and incorporates herein by reference the allegations in Counterclaim Paragraphs 1 through 98.

100. A true and correct copy of the '896 patent is attached as Exhibit 2.

101. Ericsson has infringed and continues to infringe the '896 patent under 35 U.S.C. § 271(a) in this District and throughout the United States by making, using, importing, offering for sale, and/or selling one or more of the Accused Ericsson Products, which practice one or more of the claims of the '896 patent. The Accused Ericsson Products satisfy each limitation of at least claims 11-20. For example, attached to this Answer and Counterclaims as Exhibit 2A is a representative chart that demonstrates how the Accused Ericsson Products, as exemplified by the SM6701, satisfy each limitation of those claims. At the very least, on information and belief,

Ericsson is on notice that it can reasonably expect that discovery will reveal its liability for the infringement alleged.

102. Ericsson knowingly and intentionally induces customers of its Accused Ericsson Products to directly infringe one or more claims of the '896 patent under 35 U.S.C. § 271(b) by encouraging, facilitating, instructing, and/or aiding one or more persons in the United States to make, use (including through testing), import, offer for sale and/or sell, one or more of the Accused Ericsson Products in a manner that infringes the '896 patent.

103. By way of example, and without limitation, as shown above, Ericsson advertises the SM6701 and other Accused Ericsson Products so that its customers purchase and use them, thus inducing those customers to infringe the '896 patent.

104. Ericsson has had knowledge and notice of the '896 patent and/or acted with willful blindness as to the existence of the '896 patent at least as early as the filing of this Amended Answer and Counterclaims.

105. Ericsson contributes to the infringement of one or more claims of the '896 patent under 35 U.S.C. § 271(c) by offering for sale, selling and/or importing a patented component or material and/or apparatus used to practice a patented process, constituting a material part of the inventions, knowing the same to be especially made or especially adapted for use in an infringement and not a staple article or commodity of commerce suitable for substantial non-infringing use.

106. As a result of Ericsson's infringement of the '896 patent, Motorola has suffered and will continue to suffer damages. Motorola is entitled to recover from Ericsson the damages adequate to compensate for such infringement, in an amount to be determined at trial.

107. Ericsson's acts of infringement have caused and will continue to cause irreparable harm to Motorola, for which there is no adequate remedy at law, entitling Motorola to injunctive relief.

### **COUNTERCLAIM COUNT VI**

#### **(Infringement of the '466 Patent)**

108. Motorola realleges and incorporates herein by reference the allegations in Counterclaim Paragraphs 1 through 107.

109. A true and correct copy of the '466 patent is attached as Exhibit 3.

110. Ericsson has infringed and continues to infringe the '466 patent under 35 U.S.C. § 271(a) in this District and throughout the United States by making, using, importing, offering for sale, and/or selling one or more of the Accused Ericsson Products, which practice one or more of the claims of the '466 patent. The Accused Ericsson Products satisfy each limitation of at least claims 1-10 and 12-15. For example, attached to this Answer and Counterclaims as Exhibit 3A is a representative chart that demonstrates how the Accused Ericsson Products, as exemplified by the SM6701, satisfy each limitation of those claims. At the very least, Ericsson is on notice that it can reasonably expect that discovery will reveal its liability for the infringement alleged.

111. Ericsson knowingly and intentionally induces customers of its Accused Ericsson Products to directly infringe one or more claims of the '466 patent under U.S.C. § 271(b) by encouraging, facilitating, instructing, and/or aiding one or more persons in the United States to make, use (including through testing), import, offer for sale and/or sell, one or more of the Accused Ericsson Products in a manner that infringes the '466 patent.

112. By way of example, and without limitation, as shown above, Ericsson advertises the SM6701 and other Accused Ericsson Products so that its customers purchase and use them, thus inducing those customers to infringe the '466 patent.

113. Ericsson has had knowledge and notice of the '466 patent and/or acted with willful blindness as to the existence of the '466 patent at least as early as the filing of this Amended Answer and Counterclaims.

114. Ericsson contributes to the infringement of one or more claims of the '466 patent under 35 U.S.C § 271(c) by offering for sale, selling and/or importing a patented component or material and/or apparatus used to practice a patented process, constituting a material part of the inventions, knowing the same to be especially made or especially adapted for use in an infringement and not a staple article or commodity of commerce suitable for substantial non-infringing use.

115. As a result of Ericsson's infringement of the '466 patent, Motorola has suffered and will continue to suffer damages. Motorola is entitled to recover from Ericsson the damages adequate to compensate for such infringement, in an amount to be determined at trial.

116. Ericsson's acts of infringement have caused and will continue to cause irreparable harm to Motorola, for which there is no adequate remedy at law, entitling Motorola to injunctive relief.

#### **COUNTERCLAIM COUNT VII**

##### **(Infringement of the '234 Patent)**

117. Motorola realleges and incorporates herein by reference the allegations in Counterclaim Paragraphs 1 through 116.

118. A true and correct copy of the '234 patent is attached as Exhibit 4.

119. Ericsson has infringed and continues to infringe the '234 patent under 35 U.S.C. § 271(a) in this District and throughout the United States by making, using, importing, offering for sale, and/or selling one or more of the Accused Ericsson Products, which practice one or more of the claims of the '234 patent. The Accused Ericsson Products satisfy each limitation of at least claims 12-19. For example, attached to this Answer and Counterclaims as Exhibit 4A is a representative chart that demonstrates how the Accused Ericsson Products, as exemplified by the SM6701, satisfy each limitation of those claims. At the very least, Ericsson is on notice that it can reasonably expect that discovery will reveal its liability for the infringement alleged.

120. Ericsson knowingly and intentionally induces customers of its Accused Ericsson Products to directly infringe one or more claims of the '234 patent under 35 U.S.C. § 271(b) by encouraging, facilitating, instructing, and/or aiding one or more persons in the United States to make, use (including through testing), import, offer for sale and/or sell, one or more of the Accused Ericsson Products in a manner that infringes the '234 patent.

121. By way of example, and without limitation, as shown above, Ericsson advertises the SM6701 and other Accused Ericsson Products so that customers purchase and use them, thus inducing those customers to infringe the '234 patent.

122. Ericsson has had knowledge and notice of the '234 patent and/or acted with willful blindness as to the existence of the '234 patent at least as early as the filing of this Amended Answer and Counterclaims.

123. Ericsson contributes to the infringement of one or more claims of the '234 patent under 35 U.S.C. § 271(c) by offering for sale, selling and/or importing a patented component or material and/or apparatus used to practice a patented process, constituting a material part of the inventions, knowing the same to be especially made or especially adapted for use in an

infringement and not a staple article or commodity of commerce suitable for substantial non-infringing use.

124. As a result of Ericsson's infringement of the '234 patent, Motorola has suffered and will continue to suffer damages. Motorola is entitled to recover from Ericsson the damages adequate to compensate for such infringement, in an amount to be determined at trial.

125. Ericsson's acts of infringement have caused and will continue to cause irreparable harm to Motorola, for which there is no adequate remedy at law, entitling Motorola to injunctive relief.

### **DAMAGES**

126. As a result of Ericsson's acts of infringement, Motorola has suffered actual and consequential damages. However, Motorola does not yet know the full extent of the infringement, and its extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Motorola seeks recovery of damages, at a minimum, no less than a reasonable royalty as a result of Ericsson's past and ongoing infringement. Motorola further seeks all other damages to which Motorola is entitled under law or in equity.

### **PRAYER FOR RELIEF**

Wherefore, Lenovo US respectfully requests that this Court:

- (i) Enter judgment in favor of Lenovo US;
- (ii) Adjudge and decree that Ericsson LM is liable for breach of contract;
- (iii) Adjudge and decree that Ericsson LM has breached its duty of good faith;
- (iv) Declare FRAND terms and conditions for a global cross-license between  
Lenovo US and Ericsson LM including the parties' respective portfolios of  
declared cellular SEPs,

- (v) Determine that Lenovo US has not infringed any asserted claim of any Asserted Patents;
- (vi) Determine that the asserted claims of the Asserted Patents are invalid and/or unenforceable;
- (vii) Deny any and all relief requested by Ericsson LM;
- (viii) Award Lenovo US damages for Ericsson LM's breach of contract and breach of duty and good faith;
- (ix) On Counterclaims IV–VII, entry of judgment that Ericsson infringed and is infringing the '234, '130, '466, and '896 patents;
- (x) An award to Motorola of such damages as they shall prove at trial against Ericsson that are sufficient to fully compensate Motorola for Ericsson's infringement;
- (xi) Enhancement of infringement damages pursuant to 35 U.S.C. § 284;
- (xii) A finding that this case is exceptional as provided by 35 U.S.C. § 285, and an award to Motorola of costs and attorney fees;
- (xiii) An accounting of all infringing sales and revenues, with post-judgment interest and pre-judgment interest from the first date of infringement for each of the '234, '130, '466, and '896 patents;
- (xiv) The entry of a permanent injunction, enjoining Ericsson, their offers, directors, agents, employees, parents, subsidiaries, affiliates, licensees, successors, and assigns, and those action in concert or participation with them, from further acts of direct and/or indirect infringement of the '234, '130, '466, and '896 patents;

- (xv) Award Lenovo US its attorney's fees and costs incurred in responding to the Complaint, defending this action, and enforcing its Counterclaims;
- (xvi) Award Lenovo US its attorney's fees and costs incurred in responding to and defending actions filed by Ericsson seeking injunctive relief at the ITC and in foreign courts;
- (xvii) Enjoin Ericsson from conduct inconsistent with its FRAND obligations;  
and
- (xviii) Grant Lenovo US such further relief, in law or in equity, as the Court may deem just and proper.

**JURY DEMAND**

Lenovo US requests a trial by jury on all issues so triable.

Dated: December 15, 2023

Respectfully Submitted,

/s/ Raymond M. Bennett

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*Forthcoming*

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