

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

USTA TECHNOLOGY, LLC

Plaintiff,

v.

AT&T MOBILITY LLC,
AT&T MOBILITY II LLC, and AT&T
SERVICES, INC.,

Defendants.

Civil Action No. 4:24-cv-513

JURY TRIAL DEMANDED

**DEFENDANTS' PRELIMINARY PROPOSED CONSTRUCTIONS AND
IDENTIFICATION OF EXTRINSIC EVIDENCE PURSUANT TO P.R. 4-2**

Pursuant to Local Patent Rule 4-2 and the Court's April 22, 2025 Second Amended Scheduling Order (Dkt. 41), Defendants AT&T Mobility LLC, AT&T Mobility II LLC, and AT&T Services, Inc.(collectively, "AT&T") hereby disclose the following preliminary proposed constructions and preliminary identification of extrinsic evidence to support each construction.

I. Preliminary Statement and Reservation of Rights

The following preliminary proposed constructions do not waive any argument, such as, for example, that an Asserted Claim is indefinite or is otherwise invalid under one or more of 35 U.S.C. §§ 101, 102, 103, and/or 112, as detailed in Defendants' Invalidity Contentions, and any supplements thereto. For example, Defendants reserve the right to argue that a particular claim term is indefinite and/or fails to satisfy the written description and enablement requirements, regardless of whether the term has been proposed for construction, has not been proposed for construction, and/or was initially proposed for construction but has since been dropped from the terms proposed for construction. If USTA Technology, LLC ("USTA") modifies any assertion or contention in its

Infringement Contentions, or presents any new assertion or contention relevant to these Preliminary Claim Constructions to the extent allowed by the Local Patent Rules or the Court, Defendants reserve the right to supplement or otherwise amend these Preliminary Claim Constructions.

The Infringement Contentions are deficient in multiple respects and do not provide Defendants with sufficient information to understand the specific accused features and components and the alleged factual and evidentiary bases for USTA's infringement allegations. Among other things, the Infringement Contentions lack the specificity required by P.R. 3-1, fail to properly identify accused instrumentalities, and fail to explain adequately Plaintiff's infringement theories. USTA has prejudiced Defendants' ability to understand, for purposes of preparing these Preliminary Claim Constructions, what USTA alleges to be the scope of the Asserted Claims. Defendants reserve the right to amend or otherwise supplement the preliminary proposed constructions that are provided herein, including after receiving additional discovery in this matter, and also in response to the preliminary proposed constructions that are being concurrently proposed in the Patent Rule 4-2 Disclosure of Plaintiff in this case.

II. Preliminary Claim Construction (P.R. 4-2(a))

Pursuant to Patent Rules 4-2(a) and 4-2(b), Defendants provide the attached **Appendix A**. Appendix A identifies claim terms, phrases, and clauses proposed for construction. Identification of a term, phrase, or clause for construction applies equally to variations or other instances of that term, phrase, or clause in any of the asserted claims in the asserted patents, unless otherwise stated. Appendix A further identifies a list of exemplary claims within which the term, phrase, or clause is found.

The identified claims listed in this disclosure are representative. A construction of a term, phrase, or clause applies equally to variations or other instances of that term, phrase, or clause in any of the asserted claims in the asserted patents.

III. Identification of Extrinsic Evidence (P.R. 4-2(b))

Appendix A provides exemplary supporting evidence. Defendants reserve the right to amend or otherwise supplement their identification of supporting evidence that may be used to support, describe, or explain Defendants' preliminary proposed claim constructions. Defendants further reserve the right to identify additional supporting evidence to offer in rebuttal to Plaintiff's proposed constructions, including expert testimony. Defendants further reserve the right to identify additional extrinsic evidence that is obtained through further discovery in this matter, including deposition testimony obtained from any third parties (such as named inventors and/or any expert witnesses).

Identification of a reference as supporting evidence is not an admission that the reference is "extrinsic," as opposed to "intrinsic," evidence. While it is not extrinsic evidence, Defendants may also rely on the file histories of the patents in suit and the file histories of any domestic or foreign related patents. Defendants may also rely on USTA's Infringement Contentions and materials cited therein, and Defendants' Invalidity Contentions and materials cited therein. Further, Defendants may rely on any declarations, reports, or testimony by the named inventors or experts on behalf of USTA in this case, other cases, or Patent Office proceedings, regarding the asserted technology. Defendants may also rely on any claim construction briefs, declarations, transcripts, orders, and memorandum opinions in any other case in which USTA alleged infringement of one or more of the Asserted Patents.

Pursuant to Patent Rule 4-2(b), Defendants state that they may offer the testimony Dr. Richard Gitlin. Experts may be asked to offer their expert opinion in the form of expert declaration(s)—consistent with the requirements of Patent Rule 4-3—regarding the level of ordinary skill in the art at the time of the claimed inventions of the Asserted Claims and the knowledge and understanding of technology and terms to one of ordinary skill in the art at the time of the claimed inventions of the Asserted Claims.

IV. Availability to Meet and Confer (P.R. 4-2(c))

Pursuant to Patent Rule 4-2(c), Defendants will be available to “meet and confer for the purposes of narrowing the issues and finalizing preparation of a Joint Claim Construction and Prehearing Statement” in advance of the current due date for the parties’ joint Patent Rule 4-3 filing.

Dated: September 30, 2025

Respectfully submitted,

By: /s/ Brett C. Govett
Brett C. Govett
State Bar No. 08235900
Vlada A. Wendel
State Bar No. 24131751
NORTON ROSE FULBRIGHT US LLP
2200 Ross Avenue, Suite 3600
Dallas, TX 75201
Telephone: (214) 855-8000
Facsimile: (214) 855-8200
brett.govett@nortonrosefulbright.com
vlada.wendel@nortonrosefulbright.com

Daniel S. Leventhal
State Bar No. 24050923
NORTON ROSE FULBRIGHT US LLP
1550 Lamar Street, Suite 2000
Houston, TX 77010-3095
Telephone: (713) 651-5151
Facsimile: (713) 651-5246
daniel.leventhal@nortonrosefulbright.com

Talbot Hansum
State Bar No. 24084586
NORTON ROSE FULBRIGHT US LLP
98 San Jacinto Boulevard, Suite 1100
Austin, TX 78701-4255
Telephone: (512) 474-5201
Facsimile: (512) 536-4598
talbot.hansum@nortonrosefulbright.com

***Counsel for Defendants AT&T MOBILITY
LLC, AT&T MOBILITY II LLC, and AT&T
SERVICES, INC.***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 30, 2025 all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via e-mail. Any other counsel of record will be served in accordance with the Federal Rules of Civil Procedure.

/s/ Talbot R. Hansum
Talbot R. Hansum

APPENDIX A – PROPOSED TERMS AND PHRASES FOR CONSTRUCTION

Claim Term or Phrase from U.S. Patent No. RE47,720	Defendants’ Proposed Construction	Extrinsic Evidence
“[an] instruction ... to avoid using a plurality of frequencies” Claims 19, 22, 52, 53, 54, 95, 96	“an instruction...to avoid using specific frequencies within the transmission signal waveform”	Declaration of Dr. Richard Gitlin
“filtering a transmission signal to remove power from the transmission signal at each frequency in the plurality of frequencies to be avoided” Claims 19, 22, 52, 53, 54, 95, 96	“removing existing portions of a transmission signal at each frequency identified in the instruction”	Declaration of Dr. Richard Gitlin RUDOLF F. GRAF, MODERN DICTIONARY OF ELECTRONICS 285 (7th ed. 1999). Exhibit 1. MICROSOFT COMPUTER DICTIONARY 213–14 (Alex Blanton et al. eds., 5th ed. 2002). Exhibit 2. S. W. AMOS & R. S. AMOS, NEWNES DICTIONARY OF ELECTRONICS 132 (4th ed. 1999). Exhibit 3. HARRY NEWTON, NEWTON’S TELECOM DICTIONARY 337 (15th ed. 1999). Exhibit 4. HARRY NEWTON, NEWTON’S TELECOM DICTIONARY 447 (8th ed. 1994). Exhibit 5. The Industrial Electronics Handbook 109 (J. David Irwin eds., 1st ed. 1997). Exhibit 6.
“is transmitted using...an 802.11-based orthogonal frequency-division multiplexing (OFDM) protocol” Claims 19, 34, 52, 53, 76, 95	“is transmitted using ... an OFDM-based version of the 802.11 protocol that existed in October 2002 (i.e., 802.11a and 802.11g)”	Declaration of Dr. Richard Gitlin

Claim Term or Phrase from U.S. Patent No. RE47,720	Defendants' Proposed Construction	Extrinsic Evidence
“spatial separation” Claims 32, 33, 74, 75	“physical separation between nodes”	Declaration of Dr. Richard Gitlin FCC SPECTRUM POLICY TASK FORCE REP. 02-135 (November 2002). Exhibit 7.
“legacy node” Claims 34, 51, 76	“licensed user of the spectrum”	Declaration of Dr. Richard Gitlin FCC SPECTRUM POLICY TASK FORCE REP. 02-135 (November 2002). Exhibit 7. FCC SPECTRUM EFFICIENCY WORKING GROUP REP. (November 15, 2002). Exhibit 8.
“transmitting the compressed feedback from the first node to the second node, for use by the second node in determining a transmit power with which the second node transmits to the first node via at least one antenna of a plurality of antennas, while simultaneously transmitting to one or more other nodes” Claim 95	“transmitting the compressed feedback from the first node to the second node, for use by the second node in determining a transmit power with which the second node transmits to the first node via at least one antenna of a plurality of antennas, while the first node is simultaneously transmitting to one or more other nodes in the radio communications network”	Declaration of Dr. Richard Gitlin
“for use by the second node in determining a transmit power with which the second node transmits to the first node via at least one antenna of a plurality of antennas” Claim 95	Limiting.	Declaration of Dr. Richard Gitlin