

EXHIBIT B

Vinson & Elkins

Ajeet P. Pai apai@velaw.com
Tel +1.512.542.8798 Fax +1.512.236.3317

January 24, 2013

Via Email

Martin Bader
Sheppard, Mullin, Richter & Hampton LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130-2006
mbader@sheppardmullin.com

Re: *Wi-LAN v. Alcatel-Lucent USA et al.* (10-cv-521) (E.D. Tex.)

Dear Martin:

I write regarding HTC's letter dated January 15, 2013, concerning HTC's proposed motion to sever Wi-LAN's claims against HTC for separate trial. As an initial matter, HTC's suggestion in that letter that recent case law compels severance of the parties in this case is not correct. Indeed, the Eastern District of Texas, following the guidance set forth in the *In re EMC Corp.* case cited in HTC's letter, recently denied a motion to sever when accused products from multiple defendants complied with the same technical standard and shared commonly sourced components. *Negotiated Data Solutions, Inc. v. Apple, Inc.*, No. 2:11-CV-390-JRG, 2012 WL 6161785 (E.D. Tex., Dec. 11, 2012). As one example of why severance is inappropriate in this matter, Sony and HTC use *identical* processors from Qualcomm for most of their accused products. In addition, as you know, all of the accused products at issue in this case comply with the 3GPP specifications and are designed to interoperate. Moreover, even if the Court were to agree with HTC's arguments regarding severance, it would still be well within the Court's authority under Rule 42 to consolidate the severed cases for trial, as the Federal Circuit pointed out in *In re EMC Corp.* See *In re EMC Corp.*, 677 F.3d 1351, 1360 (Fed. Cir. 2012).

Although severance is not required in this matter, Wi-LAN wishes to resolve the parties' disputes expeditiously and in the manner most efficient for the Court and the parties. Accordingly, Wi-LAN is willing to consider joining a motion to sever its infringement and damages issues against the defendants as part of a workable trial plan, as follows:

As you are aware, all Defendants share a single invalidity expert and have submitted a single expert report concerning invalidity. Because multiple, duplicative trials on validity would waste the Court's resources, increase the inconvenience to third-party witnesses, prejudice Wi-LAN, and generally result in inefficiency, Wi-LAN will agree to a single trial on invalidity, with Wi-LAN's infringement and damages claims against Defendants severed for separate trials to follow immediately follow. Because common questions of fact and law will obviously be raised with regard to HTC and Sony Mobile, both handset manufacturers, those parties would remain together for a second trial on infringement and damages following the trial on validity. A final trial concerning infringement and damages would follow, if necessary, for Ericsson and Alcatel-Lucent, both of whom manufacture base stations.

Please let me know if the above trial plan is acceptable to HTC and the other Defendants. I look forward to hearing from you.

Sincerely,

/s/ Ajeet Pai

Ajeet P. Pai

cc: Akshay Deoras
Richard Wynne