

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

WI-LAN INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 6:10-cv-521-LED
	§	
ALCATEL-LUCENT USA INC.; <i>et al.</i>	§	JURY TRIAL DEMANDED
	§	
Defendants.	§	
	§	

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**PLAINTIFF’S NOTICE OF SUBMISSION OF PRIVILEGED DOCUMENTS  
FOR *IN CAMERA* INSPECTION**

Pursuant to the Court’s Order dated March 14, 2013 (ECF No. 362, entered March 15, 2013), Plaintiff Wi-LAN, Inc. gives notice that it has complied with the requirements of the Court’s order by submitting the 25 privileged documents identified by HTC from Wi-LAN’s Amended Privilege Log for *in camera* inspection.

HTC included with its notice selecting 25 exhibits from Wi-LAN’s Amended Privilege Log correspondence from HTC’s counsel to Wi-LAN’s counsel making numerous self-serving, false accusations. To correct these misstatements, Wi-LAN provides the following details regarding its compliance with the Order:

Beginning on Friday, March 15, 2013, after entry of the Order, Wi-LAN re-inspected the documents on its privilege log and, in 72 hours, completed its production in accordance with the Court’s Order. Compliance with the Order required production of redacted e-mail strings regardless of prior production, and required substantive redaction of thousands of documents by attorneys. More than 30 attorneys spent collectively in excess of 500 attorney hours in the course of Friday night, Saturday, and Sunday morning reviewing and redacting documents.

Because of the lead time required for a document production vendor to image the documents for production, Wi-LAN was required to work with the vendor to prepare the documents for production overnight on Sunday night.

In order to permit HTC to begin reviewing documents immediately, Wi-LAN's vendor posted the production of documents for download on Monday, March 18, 2013. Because of the time involved, the vendor did not delay matters to create OCR data—which is not required by the discovery order in this case, the local rules, or otherwise—until after HTC had been provided with access to the production. Wi-LAN informed HTC's counsel of this fact by phone on Monday. Wi-LAN similarly did not have OCR data for the production and provided it immediately on Tuesday when it was created by the vendor. Similarly, Wi-LAN promptly provided replacements for the small number of images that did not render correctly when first processed by the vendor.

HTC misleadingly states in the correspondence filed with the Court that “after the Court's deadline for compliance passed, Wi-LAN belatedly produced” its documents. Lead counsel for Wi-LAN specifically informed HTC's counsel by phone on Monday morning (in advance of the deadline) that the vendor's upload was taking longer than expected, and the production was provided to HTC 36 minutes after the noon deadline. Wi-LAN's lead counsel also offered to agree to an extension of time for HTC, which HTC declined.

HTC further suggests in its letter that Wi-LAN “buried dozens of new documents in its privilege log.” Counsel for Wi-LAN specifically informed HTC's counsel during phone conversations on Monday that Wi-LAN did not intentionally change privilege log entries for existing documents, resulting in skips for documents no longer on the privilege log. Rather than working cooperatively with Wi-LAN, HTC declined to raise issues with any specific entries by

phone for discussion and resolution. HTC instead chose to raise the problem for the first time in the letter filed with the Court. An inspection of the repeated entries in the identified sections shows that those rows are copy-and-paste or lookup errors resulting from creation of a privilege log in an extraordinarily short timeframe. Since receipt of the letter, Wi-LAN has identified approximately 250 such entries, and is working diligently to provide a listing of those rows and a revised privilege log today, March 20, 2013.

Wi-LAN is prepared to address any questions the Court may have regarding Wi-LAN's production.

Dated: March 20, 2013

Respectfully submitted,

**Local Counsel**

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served by electronic delivery this 20<sup>th</sup> day of March, 2013.

/s/ Wesley Hill \_\_\_\_\_  
Wesley Hill