

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

<p>WI-LAN INC.,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p>v.</p> <p>ALCATEL-LUCENT USA INC., et al.,</p> <p style="padding-left: 40px;">Defendants.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>CASE NO. 6:10-CV-521-LED</p> <p>JURY TRIAL</p>
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ORDER

Before the Court is Wi-LAN, Inc.’s (“Wi-LAN”) Unopposed Motion to Redact the Transcript of the Pretrial Hearing Held on March 21, 2013 (Dkt. No. 399).

The Eastern District has procedures to redact personally identifying information from transcripts. *See The Ohio Willow Wood Company v. Thermo-Ply, Inc.*, 9:07-CV-274, Docket No. 27 (Clark, J.); Transcript Procedures for Attorneys (2008)¹; Local Rule CV-5.2. The policy protects four categories of personal data identifiers, namely social security and taxpayer-identification numbers, dates of birth, initials of minor children, and financial account numbers. “If an attorney wishes to redact additional information, he or she may make a motion to the court.” Local Rule CV-5.2(b)(4).

The Court warns the parties that it rarely redacts statements made in open court and thus already in the public domain unless they contain social security or taxpayer-identification numbers, dates of birth, initials of minor children, or financial account numbers or are impertinent, scandalous, or inadvertent disclosures of trade secrets. Redaction, unlike sealing of

¹ Available at <http://www.txed.uscourts.gov/page1.shtml?location=forms>.

the record, permanently removes that portion from the transcript. As a result, the appellate court is deprived of the redacted information. It is inappropriate to allow a party or witness to make a statement in open court where the local news media could cover it, but to deprive the court of appeals from the full record. Without a specific showing of likely harm, the Court will not order redaction simply because a party deems the statements sensitive or confidential.

In addition, the District's court reporters are busy individuals, providing their services for a myriad of courtroom proceedings including trials, claim construction hearings, motion hearings, status and case management conferences, and criminal proceedings. In a patent case, it is not unusual for transcripts to be requested—on an expedited basis—of nearly every hearing in the case. Further, the technology involved in a patent case typically increases the complexity of transcribing the proceedings. Allowing redactions any time would put an enormous burden on the District's court reporters.

The Court has established procedures to seal the courtroom and transcript during hearings and trial to protect nonpublic, proprietary, and sensitive information. The Court expects the parties to recognize that such information should be protected and to make a motion, during trial or the hearing, *before* the sensitive information is disclosed in open court. The information that Wi-LAN now requests be redacted was disclosed in open court and Wi-LAN failed to request the courtroom be sealed. Accordingly, the Court **DENIES** WI-LAN's motion for redaction.

Nonetheless, the Court will allow Wi-LAN to file a motion requesting portions of the transcript be sealed. The motion should identify sections of the transcript to be sealed that contain Wi-LAN's purported confidential information.

So ORDERED and SIGNED this 13th day of May, 2013.

A handwritten signature in black ink, appearing to read "Leonard Davis". The signature is written in a cursive style with a large, prominent loop at the beginning.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**