

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

Wi-LAN INC.,

Plaintiff,

v.

ALCATEL-LUCENT USA INC., *et al.*,

Defendants.

CIVIL ACTION NO. 6:10-CV-521-LED

ORDER

The Court has considered the Joint Motion of Wi-LAN and the Ericsson Defendants to Sever and Stay the Ericsson Defendants' License Defense and is of the opinion that it should be GRANTED.

IT IS THEREFORE ORDERED THAT:

1. Ericsson's license defense is hereby severed into a separate action for declaratory judgment that LME is licensed under the BelAir License;
2. That separate action shall be stayed pending resolution of a currently pending arbitration proceeding in Canada relating to the license issue;
3. In the event that following the jury trial in this action, (1) any patent-in-suit is found valid and infringed by the accused Ericsson products, (2) the Court awards damages to Wi-LAN for infringement by Ericsson, and (3) the arbitration results in a determination that LME did obtain a valid license to the patents-in-suit covering the accused products, the Court shall lift the stay of the severed action for further proceedings in accordance with the following paragraph 4;

4. Upon the lifting of the stay in the severed action upon satisfaction of all conditions in paragraph 3 above, the parties have agreed to submit to the Court, and expressly waived the right to a jury trial for, the issue of whether and how the damages awarded to Wi-LAN should be adjusted as a result of the arbitration determination. The Court will retain jurisdiction over the severed action to order any such adjustment regardless of whether a final judgment has been entered in this action, and the parties stipulate that the severed action includes a separate and independent cause of action over which the Court will have jurisdiction notwithstanding the entry of any judgment in this action.

5. If any of the foregoing conditions in Paragraph 3 does not occur, then the Court shall dismiss the severed action.

6. In the event that the Court deems it appropriate to grant an injunction against Ericsson following a jury trial of this action, the Court will stay such injunction pending resolution of the arbitration.