# EXHIBIT D

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

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| WI-LAN, INC. | ) | |
| | | DOCKET NO. 6:10cv521 |
| -vs- | ) | |
| | | Tyler, Texas |
| ALCATEL-LUCENT USA, INC., | | 1:06 p.m. |
| ET AL | ) | July 11, 2013 |

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| WI-LAN, INC. | ) | |
| | | DOCKET NO. 6:13cv252 |
| -vs- | ) | |
| HTC CORPORATION, | | |
| ET AL | ) | |

TRANSCRIPT OF TRIAL
AFTERNOON SESSION
BEFORE THE HONORABLE LEONARD DAVIS,
UNITED STATES CHIEF DISTRICT JUDGE, AND A JURY

COURT REPORTERS: MS. SHEA SLOAN
MS. JUDY WERLINGER
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Proceedings taken by Machine Stenotype; transcript was produced by a Computer.

A. A lot.

First, you look at the patent. I looked at the file history. You look at the documents that are generated during -- by the Court. I looked at the claim construction.

And then I looked at the products. I looked at the specifications by HTC and by Qualcomm. I looked at the source code. I looked at the standard. So there's a lot of material, including the depositions and so on. So there's a lot of stuff to go through.

Q. With respect to the claim construction, you understand the Court has provided us with certain definitions for the terms in the claims of the '211 patent?

A. Yes.

Q. And did you apply those constructions when conducting your analysis for this case?

A. Of course.

Q. Okay. Professor Akl, we've heard a lot of pretty technical concepts over the last few days, and I'd like to get right to the main point.

As briefly as possible, can you tell the jury why HTC's phones do not infringe the '211 patent?

A. Very simple. One does not equal to two. In the HTC products, in the Qualcomm chip, there is one

code, and in the patent, there is the orthogonal code, and then there is the additional overlay code. Two does not equal one. It's as simple as that.

Q. Now, did you prepare an animation to explain to the jury the differences between the '211 patent and the HTC phones?

A. I did.

Q. So what are we looking at here?

A. So this is an example from the '211 patent of the invention in the '211 patent. And so what we're looking at, on the left, we have RW 1, RW 2, 3, and 4. Those are the orthogonal channels. Remember, this is on the receiver side.

So there's a radio channel that's already been encoded by an orthogonal code. And then the small shadings in the color, those are the overlay channels.

And then we have an orthogonal code generator. We see Decoder No. 1. There is an overlay generator, and we have the second decoder, Decoder No. 2.

Q. Okay. I'd like to start this animation.

And can you explain what's happening as it -- as it plays?

A. Sure.

And so as the signal is applied to the Decoder No. 1, along with the orthogonal code that is generated

by the orthogonal code generator, we get the orthogonal channel RW 1 at the output of the first decoder.

Q. Okay. And then what happens next?

A. Now, that signal goes to Decoder No. 2, along with the overlay code that's now being generated by the overlay code generator, and we can now extract data on a particular channel. In this example, it's Q1.

Q. Now, you've prepared an additional animation, didn't you?

A. Yes.

Q. And this is an animation describing how the Qualcomm chip functions; is that correct?

A. Yes.

Q. And so can you describe to the jury what's taking place here?

A. So on the left-hand side, you see the accused control channels, and there are four channels. I picked one as an example, the P-CPICH. You also see a single decoder and a single OVSF code generator.

Q. Okay. Now, again, I'm going to play this, and can you describe to the jury what's taking place?

A. Yes.

So the channel is applied on the decoder, along with the -- the OVSF code that's generated by the OVSF code generator, and then we can extract a single

control channel, and in my example, it's the CPICH channel.

Q. So, again, just briefly, what are the fundamental differences between the '211 patent and the Qualcomm chip in HTC's phones?

A. Again, the fundamental difference is one code versus two codes.

Q. Okay. I'd like to look here specifically at Claim 5.

Now, Claim 5 is one of the claims that's been asserted against HTC; is that right?

A. Yes. And I know the jury, by now, probably knows it by heart, but we have to go through it for the record.

Q. Okay. So explain to me what is shown here in Claim 5, the main elements on the -- on the right side there.

A. So we have five limitations, and I'm going to concentrate on the first two and the last two.

The first limitation is an orthogonal code generator that provides orthogonal code. We have a first decoder. Then we have an overlay code generator that provides an overlay code, and we have a second decoder.

Q. Okay. Now, just focusing on the blue

that lists 16 orthogonal codes, and I highlighted one example. That's the RW 1 that I had animated earlier.

Q. Okay. Thank you.

Let's go back to the claim now and focus on the red highlighting. First, did the Court provide a construction of overlay code?

A. Yes. The Court provided a definition or construction, and it is an additional code that subdivides an orthogonal channel.

Q. And you applied this construction when evaluating the '211 patent with respect to HTC's accused phones?

A. Of course.

Q. And in Claim 5, does the second decoder apply to overlay code?

A. Yes. So the two limitations -- lots of limitations in Claim 5 -- we have an overlay code generator that provides the overlay code, and we have a second decoder.

Q. Okay. Now, are there examples of the overlay code generator and the second decoder shown in the figures in the '211 patent?

A. Yes. So going back to that same Figure 8A, and so previously we said the signal went through the first decoder.

Q. Maybe for you.

[Laughter]

A. Sorry. It was for me.

Q. (By Mr. Bader) After examining the claims of the '211 patent and comparing them to the Qualcomm chipsets, did you come to any conclusions on whether HTC's phones infringe the '211 patent?

A. Yes. I did my analysis. I looked at the evidence. And the conclusion that I write to is the HTC phones that include the Qualcomm chipset do not infringe for two reasons: There is no overlay code. There is no overlay code generator. And there is no second decoder.

Q. Okay. So let's step through these one at a time as quickly as we can, hopefully.

First, what are the two independent codes that are claimed in the '211 patent?

A. So the '211 patent, again, has the orthogonal code, and it has the overlay code. And the overlay code is additional code that subdivides an orthogonal channel.

Q. Now, you reviewed all these documents that describe the HSP -- HSDPA standard?

A. Correct. So I went through the HSDPA standard document-by-document, and there is no mention of an overlay code. There is no second code in the HSDPA

standard.

Q. And in the system described in the '2 -- I'm sorry -- is the system described in the '211 patent, compliant with the HSDPA standard?

A. No. The system described in the '211 patent is -- is not related to the HSDPA standard.

Q. Okay. So how many codes does the HSDPA standard require for a single channel?

A. There is a single code. There is the OVSF code. And the standard is very clear. We look at different sections in the standard, and here's an example.

This is Section 5.2, talking about channelization codes, and it says the channelization code for the primary CPICH -- that was the example that I showed animated at the beginning -- has a fixed 256 -- and there's other examples of other codes -- for different channels.

So on a single channel, there is one code.

Q. And how many codes does the '211 patent require per channel?

A. Two.

Q. Is there anything in the claims or the specification or the Court's claim construction that describes using a single code or describes a single code

a few times in front of the Bar as an invited speaker.

I had a textbook chapter published regarding intellectual property right valuation.

About two years ago, I just updated that textbook chapter, and it will be published in the fall again.

Q. Now, what we have up on the screen here is your -- a summary of your conclusions regarding what a reasonable royalty would be in this case.

Now, if the jury finds that there is no infringement or that the patents are invalid, are there any damages in this case?

A. Then there's no damages. The damages amount would be the equivalent of zero or really would be a null value, because the damages wouldn't be an issue.

Q. So let's talk about what you considered in this case to arrive at your opinions.

What material did you review in order to analyze the value of the patents-in-suit.

A. Sure. Quite a bit actually. There are a few boxes around here and binders. I have -- back in my office in Houston, I've got probably 15 boxes' worth of documents that have been produced by the parties; deposition transcripts, financial documents, licenses and the like, essentially everything that Mr. Jarosz has

Honor.

THE COURT: Okay. Defendants?

MR. AROVAS: Not from the Defendants.

THE COURT: Y'all have a good evening. We'll see you in the morning.

COURT SECURITY OFFICER: All rise.

(Court adjourned.)

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct transcript from the stenographic notes of the proceedings in the above-entitled matter to the best of our abilities.

/s/ Shea Sloan
SHEA SLOAN, CSR
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/s/ Judith Werlinger
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