

# EXHIBIT B

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

4 WI-LAN, INC. )  
5 -vs- ) DOCKET NO. 6:10cv521  
6 ALCATEL-LUCENT USA, INC., ) Tyler, Texas  
7 ET AL ) 8:47 a.m.  
8 ) July 9, 2013

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

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16 TRANSCRIPT OF TRIAL  
17 MORNING SESSION  
18 BEFORE THE HONORABLE LEONARD DAVIS,  
19 UNITED STATES CHIEF DISTRICT JUDGE, AND A JURY

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23 COURT REPORTERS: MS. SHEA SLOAN  
24 MS. JUDY WERLINGER  
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1                   THE COURT: All right. I apologize for  
2 keeping you waiting. I really don't like to do that,  
3 but we had a very important matter we had to take up  
4 just with counsel. So know we've been working, although  
5 you've had an extra long morning break there, but I will  
6 give you another break later, though, so that doesn't  
7 count.

8                   All right. We'll continue with this  
9 witness. You may proceed, Counsel.

10                  MR. BORGMAN: Thank you, Your Honor.

11                  JONATHAN WELLS, Ph.D., PLAINTIFF'S WITNESS,

12                                 PREVIOUSLY SWORN

13                                 DIRECT EXAMINATION

14 BY MR. BORGMAN:

15           Q. Good morning, Dr. Wells.

16           A. Good morning.

17           Q. When we left off, I think we were about to  
18 start on the '211 patent, correct?

19           A. That's right, I think we were.

20           Q. All right. And we've got Claim 5 up here.

21                   Can you -- well, actually before I start going  
22 to the '211 patent, there were a couple of additional  
23 acronyms I had on my list I wanted to ask you about.

24 One of them was UMTS. Do you remember that?

25           A. Yes, I do.

1 Q. And what does UMTS mean?

2 A. UMTS stands for universal mobile  
3 telecommunications system.

4 Q. How does that fit into about what we heard 1G,  
5 2G, 3G, LTE, et cetera?

6 A. UMTS is the name given to -- general name  
7 given to what we call the 3G system, everything that's  
8 under the 3GPP moniker.

9 Q. All right. Now, yesterday we also heard  
10 something about fixed access systems.

11 A. Yeah.

12 Q. Do you remember that testimony?

13 A. Yes. That's right.

14 Q. All right. Are the patents -- any of the  
15 patents limited to fixed access systems?

16 A. No, they're not.

17 Q. All right. Now, let's start off with the '211  
18 patent.

19 Can you tell us generally what the '211 patent  
20 relates to?

21 A. Yes, I can.

22 So we talked yesterday about the first two  
23 patents, the '326, the '819. These -- recall I talked  
24 about these being from a cell tower, a base station  
25 transmitting data down. The smart TDM data down to a

1 subscriber unit. This '211 patent is about the  
2 subscriber unit, the handset that actually receives this  
3 data.

4 So it's -- in many ways, it's very closely  
5 related to the other two. In fact, it's a mirror.  
6 Everything that you'd expect to have on the  
7 transmission. With all the various steps you go through  
8 for transmission, you would expect to have those on  
9 reception as well, because it would have to go through  
10 those in an opposite order to un-code the signal.

11 Q. Now, Dr. Wells, is it possible to quickly walk  
12 us through the different elements in this Claim 5 of the  
13 '211 patent?

14 A. Yes, I can.

15 So this is a subscriber terminal. It has an  
16 orthogonal code generator, a first decoder, a TDM  
17 decoder. It then goes on to have an overlay code  
18 generator, a second decoder as well. These are the  
19 elements. And as I said, it kind of mirrors to what we  
20 saw yesterday.

21 Q. All right. Now, we've talked a bit about the  
22 Court's claim construction. Remember that?

23 A. (Nods head affirmatively.)

24 Q. All right. Are there any claim terms we need  
25 to talk about here?

1           A.    Yes.  There's one new claim term here, which  
2 is specific for the '211, and that's a TDM decoder.  We  
3 talked yesterday about a TDM encoder.  This is a TDM  
4 decoder.  And the Court has construed this as hardware  
5 and/or software for extracting a data item from a  
6 channel that has been encoded using TDM techniques.

7                     And then just for reference, I've put the  
8 definition of TDM techniques, which we used yesterday.  
9 So what this is basically saying is it's for decoding a  
10 channel that's been encoded with that TDM techniques.

11          Q.    All right.  Let's start with the first element  
12 of Claim 5.  Can you tell us what this is?

13          A.    Yes.  So this is the first element.  Again,  
14 I've broken this claim up into these -- these different  
15 elements.  The first one is 5(a), a subscriber terminal  
16 of a wireless telecommunications system, comprising a  
17 reception controller.

18          Q.    And do the HTC mobile phones have a reception  
19 controller?

20          A.    Yes, they do.  So, again, remember this is in  
21 the context of the HSDPA standards.  They define how  
22 data is transmitted in a system.  Of course, you have to  
23 have a subscriber that's able to receive that system.

24                     And -- which is what I'm showing here.  We  
25 looked yesterday about how there has to be a

1 that's what we're going to see, right?

2 A. Yes.

3 Q. Okay. And, in fact, the patent even lists  
4 examples of how the code works.

5 So if we look at Column 10, right -- and  
6 that's how patents are organized, in columns and line  
7 numbers, right?

8 It says Column 10 of the '326 patent?

9 A. Yes.

10 Q. If we look down below, we see it's got a  
11 table, and this is the RW codes or the orthogonal codes,  
12 right?

13 A. Yes, that's right.

14 Q. All right. And then you have a separate table  
15 with additional codes for the overlay, which we find in  
16 Column 15, Table 2, the overlay codes, a separate table  
17 of codes for the overlay, right?

18 A. That's right. In this example, we do.

19 Q. All right. And the way that would work, just  
20 like the structure we saw in the claims, is that you  
21 would first use -- or you would use the orthogonal  
22 codes, and then you would use the overlay codes in  
23 whatever order you want, right?

24 MR. BORGMAN: Objection, Your Honor. May

25 we approach?

1 THE COURT: Yes, you may.

2 (Bench conference.)

3 MR. BORGMAN: This is a limine issue,  
4 Your Honor. We've got a limine motion and order about  
5 suggesting that the claims require something different  
6 than the claim construction or saying things that are  
7 contrary to the claim construction order.

8 Mr. Arovas's question just went to the  
9 order in which the overlay codes and the orthogonal  
10 codes have to be applied. And in your order, it says  
11 that they can be applied simultaneously; they do not  
12 have to be applied in seriatim.

13 MR. AROVAS: I say in any order, but I'm  
14 happy to reask the question and say simultaneously.  
15 That wasn't the intent.

16 THE COURT: All right. Reask the  
17 question.

18 (Bench conference concluded.)

19 Q. (By Mr. Arovas) Okay. So going back to what  
20 we were talking about, so when we look at the examples  
21 in the specification, you see there's a set of  
22 orthogonal codes, a different set of overlay codes; and  
23 you can apply them in any order or simultaneously, but  
24 there's two sets, right?

25 A. In -- in this embodiment, yes.



1 Q. Okay. And, in fact, if we were to go through  
2 the entire specification, we wouldn't find any example  
3 that uses one code to both contain the orthogonal and  
4 the overlay code, right?

5 A. Well, there's examples in there about how  
6 codes can be mixed together.

7 Q. Okay. Here's my question, okay? It's a fact  
8 that there isn't any example or embodiment in any of the  
9 patents-in-suit that disclose the orthogonal code and  
10 the overlay code to be a single code, correct?

11 A. The answer to that is no -- I beg your pardon.  
12 The -- you are correct.

13 Q. I'm correct. There isn't a single example  
14 that uses the orthogonal code and the overlay code to be  
15 a single code, right?

16 A. That's right. There's examples of how you can  
17 mix codes together, but you are correct.

18 Q. Okay. So now let's turn to some of your  
19 allegations where you compare the claims to -- and I'll  
20 just leave this up here in case we need to refer to  
21 it -- when you compare the claims to the accused  
22 products, okay?

23 So first let's talk about Alcatel-Lucent.  
24 And so I think you explained on direct, as you did in  
25 your deposition, that you were relying on the same

1 under oath, in your deposition, you said that it's a  
2 single spreading operation? Right?

3 A. I did, but I tried to put that in context on  
4 my --

5 Q. I understand your position that one can be  
6 two, okay; and that you say that there's two functions.  
7 But let's just talk about the spreading operation.  
8 It is a fact that this single structure performs a  
9 single spreading operation with a single OVSF code;  
10 isn't that right?

11 A. I feel uncomfortable answering this as a yes  
12 or no, but yes.

13 Q. Okay. And, in fact, if we go to the  
14 Alcatel-Lucent product, you would see the same thing:  
15 Single structure, single OVSF code, single spreading  
16 operation, correct?

17 A. Performing the --

18 Q. I understand your position, that two-in-one,  
19 but let's just -- but let's just talk about how the  
20 products work.

21 Single structure, single OVSF code, single  
22 spreading operation in the Alcatel-Lucent products,  
23 correct?

24 MR. BORGMAN: Your Honor, may we  
25 approach?

1 THE COURT: Yes, you may.

2 (Bench conference.)

3 MR. BORGMAN: We are getting back to the  
4 motion in limine involving the simultaneous operation.

5 In the Court's claim construction, the  
6 Court held that the claims do allow simultaneous  
7 operations.

8 Mr. Arovas' question says I understand  
9 that's your position, but he's suggesting that that's  
10 not allowed by the Court.

11 MR. AROVAS: That's not our position at  
12 all. Our position is there are two encoders. There are  
13 two sets of codes. Whether you apply them at the same  
14 time or not, is not the point.

15 The point is, it's one code, one encoder  
16 applied once. I think it's fair cross-examination.

17 THE COURT: Okay. You can clean it up on  
18 cross-examination.

19 MR. BORGMAN: All right.

20 (Bench conference concluded.)

21 Q. (By Mr. Arovas) Okay. Let's pick up where we  
22 left off, and I want to be crystal-clear: I'm not  
23 talking about order here.

24 You can use one code first, another code --  
25 you can use the orthogonal code first and the overlay

1 codes second; the overlay code -- I'm sorry -- the  
2 orthogonal first -- you can use the orthogonal first,  
3 the overlay second; the overlay first, the orthogonal  
4 second. You can do them simultaneously.

5 I'm not suggesting anything about order, okay?

6 A. Okay.

7 Q. Okay. But what we know is for both the  
8 Ericsson and the Alcatel-Lucent products, as well as the  
9 handset products, the structure that's the  
10 encoder/decoder, single structure, uses single OVSF  
11 code, and a single spreading operation, correct?

12 A. Well, yes.

13 Q. Thank you.

14 So now let's talk very briefly about where  
15 those codes are or where they sort of physically reside  
16 in the products. And it's correct, isn't it, that the  
17 Defendants' products basically have an on-the-fly system  
18 where they generate the codes as they need them, right?

19 A. Yes, they do.

20 Q. Okay. So whether you're talking about the  
21 Alcatel-Lucent products, the Ericsson products, or the  
22 HTC or Sony Mobile products, it's a fact that none of  
23 those products store at any one point in time the entire  
24 set of orthogonal codes, correct?

25 A. I mean, that's not required by the claims,