

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE NEO WIRELESS, LLC
PATENT LITIG.

§
§
§
§
§
§
§

2:22-MD-03034-TGB

HON. TERRENCE G. BERG

**PLAINTIFF NEO WIRELESS, LLC'S
REPLY CLAIM CONSTRUCTION BRIEF**

TABLE OF CONTENTS

I. ARGUMENT IN REPLY.....	1
A. '366 Patent Terms.....	1
1. “the ranging signal exhibits a low peak-to-average power ratio in the time domain”	1
2. “a ranging sequence selected from a set of ranging sequences”	3
B. '908 Patent Terms.....	5
1. “wherein the portion of the frequency band used for transmission of the random access signal does not include control channels”	5
2. “associated with”	6
3. “random access signal”	7
C. '450 Patent Terms.....	8
1. “time-frequency resource unit”	8
D. '941 Patent Terms.....	10
1. “the antenna transmission scheme comprising a transmission diversity scheme or a multiple-input multiple-output (MIMO) scheme”	10
2. “the mobile station-specific transmission parameters indicate . . . a corresponding subchannel configuration . . . the corresponding subchannel configuration characterized by distributed subcarriers or localized subcarriers in the frequency domain”	11
E. '302 Patent Terms.....	12
1. “probing signal”	12
2. Antecedent Basis Terms.....	13
F. '512 Patent Terms.....	13
1. “wherein the first plurality of subcarriers and the second plurality of subcarriers are received in at least one of the time slots”	13
2. “second pilots of a second type”	14

;

TABLE OF AUTHORITIES

Cases

<i>American Calcar, Inc. v. American Honda Motor Co., Inc.</i> 651 F.3d 1318 (Fed. Cir. 2011)	8
<i>Ariad Pharms., Inc. v. Eli Lilly & Co.</i> 598 F.3d 1336 (Fed. Cir. 2010)	4
<i>Aylus Networks, Inc. v. Apple Inc.</i> 856 F.3d 1353 (Fed. Cir. 2017)	9
<i>i4i Ltd. P'ship v. Microsoft Corp.</i> 598 F.3d 831 (Fed. Cir. 2010)	15
<i>Kustom Signals, Inc. v. Applied Concepts, Inc.</i> 264 F.3d 1326 (Fed. Cir. 2001)	10
<i>Multiform Desiccants, Inc. v. Medzam, Ltd.</i> 133 F.3d 1473 (Fed. Cir. 1998)	8
<i>Pacing Techs., LLC v. Garmin Int'l, Inc.</i> 778 F.3d 1021 (Fed. Cir. 2015)	15
<i>Phillips v. AWH Corp.</i> 415 F.3d 1303 (Fed. Cir. 2005)	3, 4, 14
<i>Sunovion Pharms., Inc. v. Teva Pharms. USA, Inc.</i> 731 F.3d 1271 (Fed. Cir. 2013)	12, 13
<i>Tecnomatic S.p.a. v. ATOP S.p.A.</i> No. 2:18-cv-12869, 2021 WL 1410036 (E.D. Mich. Feb. 21, 2021).....	1
<i>Thorner v. Sony Comp. Ent. Am. LLC</i> 669 F.3d 1362 (Fed. Cir. 2012)	4, 5, 7, 14
<i>Wireless Protocol Innovations, Inc. v. TCT Mobile, Inc.</i> 771 F. App'x 1012 (Fed. Cir. 2019).....	7

::

Zak v. Facebook, Inc.

No. 4:14-cv-13437, 2020 WL 589433 (E.D. Mich. Feb. 6, 2020).....6

Statutes

35 U.S. Code § 112.....5

35 U.S. Code § 112(f)8

I. ARGUMENT IN REPLY

A. '366 Patent Terms

1. “the ranging signal exhibits a low peak-to-average power ratio in the time domain”

Unable to grapple directly with the objective, implementation-specific guidance Neo identified in its brief, Defendants just bury their heads in the sand, ignore Neo’s arguments, and claim victory. Defendants bemoan that “Neo cites no case—and none exists—finding a term of degree definite when the patent does not provide *any* guidance on the scope of the term.” Resp. at 3 (emphasis in original). But Neo has not disputed that there must be “*some* guidance as to the scope of such terms.” *Tecnomatic S.p.a. v. ATOP S.p.A.*, No. 2:18-cv-12869, 2021 WL 1410036, at *20 (E.D. Mich. Feb. 21, 2021) (emphasis added). That is why Neo chronicled the guidance provided by the patent and its technical context and has explained why that guidance is sufficient. Defendants cannot hope to meet their clear and convincing evidence by ignoring the substance of Neo’s evidence and argument.

Critically, Defendants never once dispute that a POSITA would know, from the patent claims, to evaluate the PAPR relative to the PAPR in the specific OFDMA system in question, as was common for those in the field at the time. *See* Dkt. 127 (“Op. Br.”) at 6–7. In fact, Defendants’ expert Dr. Akl effectively *admits* as much, explaining that (1) reducing PAPR in OFDM networks was a well-known issue at the time of the invention (Dkt. 131-2 (“Akl Decl.”) at ¶¶ 38–39); and (2)

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.