

FILED UNDER SEAL – PURSUANT TO PROTECTIVE ORDER

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

IN RE NEO WIRELESS, LLC
PATENT LITIG.

Case No. 2:22-md-03034-TGB
HON. TERRENCE G. BERG
JURY TRIAL DEMANDED

**PLAINTIFF NEO WIRELESS, LLC'S RESPONSE IN OPPOSITION
TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

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STATEMENT OF ISSUES PRESENTED

1. Whether, drawing all inferences in favor of Neo, a reasonable jury could conclude by a preponderance of the evidence that an LTE random access preamble is a “random access signal” and an LTE SRS is a “probing signal” for the asserted claims of the ’908 and ’302 Patents, respectively, under the Court’s constructions, either literally or under the doctrine of equivalents.
 - a. Whether the Court ought to entertain new claim interpretation arguments for the terms “probing signal” and “random access signal” that were never raised during the claim construction process.
 - b. Whether a DSSS signal must be generated by modulating (multiplying) a sequence with information bits contrary to the embodiments of the ’908 and ’302 Patents.
2. Whether a sequence is “associated with” a base station under the Court’s construction if it has an association with the base station that is independent of whether it is also assigned by the base station.
3. Whether, drawing all inferences in favor of Neo, a reasonable jury could conclude by a preponderance of the evidence that the bitmap contained in the LTE downlink control message is a mobile station-specific transmission parameter capable of indicating, as alternatives, both distributed subcarriers

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and localized subcarriers as subchannel configurations in accordance with the Court’s construction of the asserted claims of the ’941 Patent.

- a. Whether the Court’s construction of the asserted claims of the ’941 Patent allows for a mobile station-specific transmission parameter to be capable of conveying other information as long as it is also capable of indicating, as alternatives, both distributed subcarriers and localized subcarriers as subchannel configurations.
4. Whether, drawing all inferences in favor of Neo, a reasonable jury could conclude by a preponderance of the evidence that the LTE PDCCH is a “segment comprising N time-frequency resource units within a time interval, each unit containing a set of frequency subcarriers in a group of OFDM symbols, where N=2, 4, or 8,” as recited in claim 7 of the ’450 Patent.
5. Whether, drawing all inferences in favor of Neo, Neo is entitled to pre-suit damages under 35 U.S.C. § 287.
 - a. Whether Neo complied with § 287 under the rule of reason.
 - b. Whether Neo is entitled to pre-suit damages for infringing acts prior to licensing its patents and for infringing acts after providing notice letters to Defendants.
6. Whether, drawing all inferences in favor of Neo, a reasonable jury could conclude by a preponderance of the evidence that Defendants willfully

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