

EXHIBIT 2028

**United States Court of Appeals
for the Federal Circuit**

**ERICSSON, INC., TELEFONAKTIEBOLAGET LM
ERICSSON, AND WI-FI ONE, LLC,**
Plaintiffs-Appellees,

v.

**D-LINK SYSTEMS, INC., NETGEAR, INC., ACER,
INC., ACER AMERICA CORPORATION, AND
GATEWAY, INC.,**
Defendants-Appellants,

AND

DELL, INC.,
Defendant-Appellant,

AND

**TOSHIBA AMERICA INFORMATION SYSTEMS,
INC. AND TOSHIBA CORPORATION,**
Defendants-Appellants,

AND

INTEL CORPORATION,
Intervenor-Appellant,

AND

BELKIN INTERNATIONAL, INC.,
Defendant.

2013-1625, -1631, -1632, -1633

Appeals from the United States District Court for the Eastern District of Texas in No. 10-CV-0473, Judge Leonard Davis.

Decided: December 4, 2014

DOUGLAS A. CAWLEY, McKool Smith, P.C., of Dallas, Texas, argued for plaintiffs-appellees Ericsson Inc., et al. With him on the brief were THEODORE STEVENSON, III and WARREN LIPSCHITZ, and JOHN B. CAMPBELL and KATHY H. LI, of Austin, Texas. Of counsel on the brief was JOHN M. WHEALAN, of Chevy Chase, Maryland.

WILLIAM F. LEE, Wilmer Cutler Pickering Hale and Dorr LLP, of Boston, Massachusetts, argued for defendants-appellants and intervenor-appellant. With him on the brief for intervenor-appellant Intel Corporation were JOSEPH J. MUELLER, MARK C. FLEMING, and LAUREN B. FLETCHER, of Boston, Massachusetts; and JAMES L. QUARLES, III, of Washington, DC. Of counsel on the brief were GREG AROVAS, Kirkland & Ellis LLP, of New York, New York, ADAM R. ALPER, of San Francisco, California, and JOHN C. O'QUINN, of Washington, DC. On the brief for defendants-appellants D-Link Systems, Inc., et al., were ROBERT A. VAN NEST, STEVEN A. HIRSCH, EUGENE M. PAIGE and MATAN SHACHAM, Keker & Van Nest LLP, of San Francisco, California; CHRISTINE M. MORGAN, DOYLE B. JOHNSON, JONAH D. MITCHELL, SCOTT D. BAKER, Reed Smith LLP, of San Francisco, California; and JAMES C. MARTIN, of Pittsburgh, Pennsylvania. On the brief for defendants-appellants Toshiba Corporation, et al., were

JOHN J. FELDHAUS and PAVAN K. AGARWAL, Foley & Lardner LLP, of Washington, DC.

MICHAEL J. NEWTON, Alston & Bird LLP, of Dallas, Texas, argued for defendant-appellant, Dell, Inc. With him on the brief were DWAYNE C. NORTON and SHAUN W. HASSETT; and FRANK G. SMITH, III, of Atlanta, Georgia.

MICHAEL A. LINDSAY, Dorsey & Whitney LLP, of Minneapolis, Minnesota, for amicus curiae The Institute of Electrical and Electronics Engineers, Incorporated. Of counsel on the brief was EILEEN M. LACH, IEEE, General Counsel and Chief Compliance Officer, of New York, New York.

RICHARD M. BRUNELL, for amicus curiae American Antitrust Institute, of Washington, DC.

JEFFREY BLUMENFELD, Lowenstein Sandler LLP, of New York, New York, for amici curiae, Cisco Systems, Inc., et al. Of counsel on the brief was MARTA BECKWITH, Cisco Systems, Inc., San Jose, California. On the brief for amicus curiae Hewlett-Packard Company was BARRY K. SHELTON, Bracewell & Giuliani, of Austin, Texas.

T. ANDREW CULBERT, Microsoft Corporation, of Redmond, Virginia, for amicus curiae Microsoft Corporation. With him on the brief was DAVID E. KILLOUGH.

DAN L. BAGATELL, Perkins Coie LLP, of Phoenix, Arizona, for amici Broadcom Corporation. With him on the brief was AMANDA TESSAR, of Denver, Colorado. On the brief for Marvell Semiconductor, Inc. was DONALD M. FALK, Mayer Brown LLP, of Palo Alto, California. On the brief for Media Tek Inc. was STEVEN C. HOLTZMAN, Boies, Schiller & Flexner LLP, of Oakland, California.

RICHARD S. TAFFET, Bingham McCutchen LLP, of New York, New York, for amicus curiae Dolby Laboratories, Inc. On the brief was PATRICK STRAWBRIDGE, of Boston, Massachusetts.

ROGER G. BROOKS, Cravath, Swaine & Moore LLP, of New York, New York, for amicus curiae Qualcomm Incorporated.

DARYL L. JOSEFFER, King & Spalding LLP, of Washington, DC, for amici curiae Nokia Corporation, et al. With him on the brief was ETHAN P. DAVIS.

Before O'MALLEY, TARANTO, and HUGHES, *Circuit Judges*.

Opinion for the court filed by *Circuit Judge* O'MALLEY.

Opinion dissenting in part filed by *Circuit Judge*
TARANTO.

O'MALLEY, *Circuit Judge*.

Ericsson, Inc. & Telefonaktiebolaget LM Ericsson (collectively, "Ericsson") brought suit against D-Link Systems, Inc.; Netgear, Inc.; Acer, Inc.; Acer America Corp.; Gateway, Inc.; Dell, Inc.; Toshiba America Information Systems, Inc.; and Toshiba Corp., with Intel Corp. intervening (collectively, "D-Link"), in the United States District Court for the Eastern District of Texas, alleging infringement of, *inter alia*, certain claims from U.S. Patent Nos. 6,424,625 ("the '625 patent"); 6,466,568 ("the '568 patent"); and 6,772,215 ("the '215 patent"). All of the patents at issue generally relate to Wi-Fi technology employed by electronic devices to wirelessly access the Internet. Ericsson alleged that all of the patents at issue were essential to the Wi-Fi standard, which would mean that all Wi-Fi-capable devices infringe Ericsson's patents.

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