UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC, v. SPRINT NEXTEL CORP.	§ § § § § §	Case No. 2:12-cv-832-JRG-RSP
SAMSUNG TELECOMMUNICATIONS AMERICA, LLC	§ §	Case No. 2:13-cv-259-JRG-RSP
APPLE, INC.	§	Case No. 2:13-cv-258-JRG-RSP

MTEL'S OPENING CLAIM CONSTRUCTION BRIEF

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I. INTRODUCTION

Plaintiff Mobile Telecommunications Technologies, LLC's ("MTel's") proposed constructions for the claim terms of U.S. Patent Nos. 5,809,428 (the "'428 Patent"), 5,754,946 (the "'946 Patent"), 5,894,506 (the "'506 Patent"), 5,590,403 (the "'403 Patent"), 5,659,891 (the "'891 Patent"), 5,915,210 (the "'210 Patent") and 5,786,748 (the "'748 Patent") (collectively, the "Patents-in-Suit") follow the canons prescribed by the Federal Circuit. MTel's constructions are consistent with the intrinsic and extrinsic evidence and provide meanings that the jury will understand. A person having ordinary skill in the art (PHOSITA) at the time each invention was made would have understood MTel's constructions as correct. On the other hand, Defendants' proposed constructions inject structural limitations into the claims, read preferred embodiments out of the claims, and contradict the claim language. Defendants' proposals are contrived to avoid infringement and are otherwise unsupported by black letter law.

II. STANDARDS OF CLAIM CONSTRUCTION

"Claim construction is a matter of resolution of disputed meanings and technical scope, to clarify and when necessary to explain what the patentee covered by the claims, for use in determination of infringement." *U.S. Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997). The words of a claim are presumed to use their ordinary and customary meaning, which "provides an objective baseline from which to begin claim interpretation." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-1313 (Fed. Cir. 2005) ("[a] fundamental maxim is that the words in a claim should be given their ordinary meaning"). The ordinary and customary meaning "is the meaning that the term would have to a PHOSITA at the time of the invention." *Id.* at 1303.

There are only two exceptions to the general rule that claim terms are given their plain and ordinary meanings: "1) when a patentee sets out a definition and acts as his own

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