that involved direct licensing negotiations, preparing claim charts to send to potential licensees for their consideration during the negotiation process, and compliance with license agreements. 

Id. Activities expressly excluded from any estimate were activities relating to litigation, patent prosecution, or due diligence related to patent acquisition. 

Id. at Q38. In a few instances where an employee was on extended leave or had left the company, Mr. Brezski interviewed the employee's direct manager. 

Id. at Q40. As with the estimates for 2008 through the first half of 2009, Mr. Brezski verified the reasonableness and accuracy of these later estimates with the head of the licensing department, Mr. Larry Shay. 

Id. at Q41. As with the estimates for 2008 through the first half of 2009, Mr. Brezski's compilation of the 2009-2011 estimates, as well as Mr. Shay's verification of their reasonableness, were uncontested at the hearing. Brezski Tr. 630 (forgoing cross-examination of Mr. Brezski).

In total, the estimates of percentages of their total time each InterDigital employee spent on 3G licensing from 2008-2011 is consolidated below:

	2008	2009	<u>2010</u>	2011
15	-	4		
			_	
			_	
-				-
	3.8		-	
				-
-				
-				

	2008	2009	2010	2011
	1 7 7		**	
. 1				
100				
	•			
				1

Compls. Br. at 434-35 (citing CX-1313C (Brezski WS) at Q42; CX-1284C (licensing efforts costs for InterDigital employees 2008 - 1H 2009) at IDC-ITC-300001554-55; CX-1286C (licensing effort notes for InterDigital employees from second half of 2009 through 2011) at IDC-ITC-300001559-63).

Inasmuch as the table above includes fewer people than those Mr. Brezski interviewed, InterDigital explains that this reflects the determination that some interviewees (those not listed on the table) did not support InterDigital's 3G licensing activities, and also reflects and the change in responsibilities over time for some employees. CX-1313C (Brezski WS) at Q39. InterDigital therefore contends that "each of the InterDigital employees listed in the table above supported InterDigital's licensing activities at some point from 2008 through 2011." Compls. Br. at 435 (citing CX-1312C (Ditty WS) at Q11-119).

After Mr. Brezski collected each employee's estimation of time spent on 3G licensing from 2008-2011, Mr. Brezski calculated InterDigital's compensation-related investments in 3G



licensing based on those estimates. See CX-1313C (Brezski WS) at Q44. To do so, Mr. Brezski collected the W-2 tax forms for each of those employees from 2008 through 2011 to determine the precise compensation paid to them by InterDigital during those time periods. Id. at Q45-56; CX-1388C; CX-1390C; CX-1282C; CX-1389C (compilation of InterDigital W-2 tax forms from 2008-2011, respectively). Specifically, those W-2 tax forms identify the total "Medicare wages and tips" compensation paid by InterDigital to each respective employee that year. CX-1313.1C (Brezski WS errata) at Q47; CX-1313C (Brezski WS) at Q47.

Inasmuch as not all employees devoted 100% of their time to 3G licensing activities, Mr. Brezski pro-rated each employee's total compensation by the percentage of time spent on 3G licensing for each calendar year. See CX-1313C (Brezski WS) at Q58. Mr. Brezski was thus able to estimate InterDigital's compensation-related investments in 3G licensing based on the percentage of time that the relevant employees devoted to InterDigital's licensing efforts:

	2008	2009	2010	2011	Total 2008-2011 Investment
[	96		· ·		
-					
4.				1	

	2008	2009	2010	2011	Total 2008-2011 Investment
					5
•					
		-			
		-	16		
			-		
					-
			-		
				440	
					1

Compls. Br. at 436-38 (citing CX-1313C (Brezski WS) at Q58).

InterDigital provides a "conservative" estimate that it spent approximately [ ] on compensation-related investments in its 3G licensing activities from 2008 through 2011.

Compls. Br. at 438 (citing CX-1313C (Brezski WS) at Q58). InterDigital characterizes this estimate as conservative "because InterDigital also spent approximately [ ] over that time period on associated payroll taxes and other benefits that are not captured by the [ ] figure representing InterDigital's investments in 3G licensing." Compls. Br. at 438 (citing CX-1313C (Brezski WS) at Q60-61).

] in pro-rated facilities-related expenses allocable to InterDigital's 3G licensing activities. CX-1313C (Brezski WS) at Q62-74; *see also* CX-1285C (compilation of facilities expenses) at IDC-ITC-300001558. Those facilities-related expenses are for 3G licensing expenses related to

During the time period 2008 through 2011, InterDigital also invested approximately

only InterDigital's King of Prussia, Pennsylvania facility, and no other facility. CX-1313C

(Brezski WS) at Q75-77.

In summary, InterDigital estimates that it invested approximately [ ] in its activities related to 3G licensing. CX-1313C (Brezski WS) Q58-60, Q71-74. As mentioned previously, Mr. Brezski's analysis, on which this estimate is based, was not cross-examined at the hearing. *See* Brezski Tr. 630 (forgoing cross-examination of Mr. Brezski).

### 2. Alleged Investments in the Asserted Patents

As discussed above, InterDigital alleges that its estimated investment of [ ]

"represents InterDigital's compensation-related expenses which can be directly tied to 3G

licensing activities [ ] plus its facility-related expenses attributable to 3G licensing

(about [ ]." See CX-1311C (Putnam WS) at Q59. From that calculation,



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