

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

SOLOCRON MEDIA, LLC,

Plaintiff,

v.

VERIZON COMMUNICATIONS INC., CELLCO
PARTNERSHIP D/B/A VERIZON WIRELESS,
AT&T INC., AT&T MOBILITY LLC, SPRINT
SPECTRUM L.P., AND T-MOBILE USA, INC.,

Defendants.

Case No. 2:13-cv-1059-JRG

[JURY TRIAL DEMANDED]

DEFENDANTS' INVALIDITY CONTENTIONS

Pursuant to the Docket Control Order in the above-captioned case, Defendants Verizon Communications Incf., Cellco Partnership d/b/a Verizon Wireless, AT&T Mobility LLC, T-Mobile USA, Inc., and Sprint Spectrum L.P. (collectively "Defendants") hereby provide Plaintiff Solocron Media, LLC ("Solocron") with notice of Defendants' initial invalidity contentions. This pleading is being served jointly on behalf of all defendants. However, certain claims have been asserted against some defendants but not others. Accordingly, each Defendant joins in these contentions only to the extent they address claims asserted against that Defendant.

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I. RESERVATION OF RIGHTS

At this early stage in the case, prior to the close of discovery and prior to a ruling on the meaning of the claims, Defendants' investigation and analysis of prior art is continuing, and Defendants reserve the right to supplement and to revise the information provided herein as additional information becomes available. Defendants reserve the right to identify other art or to supplement its disclosures or contentions for the following reasons:

- Solocron's purported infringement contentions fail to comply with this Court's local rules. In particular, Solocron's infringement contentions merely mimic the claim language in many instances. Defendants do not believe that they infringe any asserted claim under any construction, but if the asserted patent claims are broadened to attempt to encompass Defendants' products, systems or methods, those claims also encompass the prior art and, *a fortiori*, are invalid. Defendants expressly reserve the right to amend the disclosures herein should Solocron provide any information that it failed to provide in its infringement contentions or should Solocron amend, either voluntarily or by Court Order, its infringement contentions. For example, Solocron has stated in its infringement contentions "that each asserted claim thereof is entitled to a priority date of at least as early as December 6, 1999." Solocron proceeded to subsequently assert in its interrogatory responses that it was entitled to a March 2000 date. If Solocron subsequently seeks a date of conception prior to December 6, 1999 or March 2000, Defendants reserve the right to amend their invalidity contentions to assert new prior art.
- Solocron has added many limitations to its claims without support, as described more fully below, which renders such claims invalid for lack of written description. If any

of the asserted claims do not get a priority date as of March 2000, then Defendants reserve the right to rely on the accused products as prior art.

- Because the invalidity of particular claims will depend on how those claims are construed by the Court, and because the Court may construe those claims to mean something different from what Defendants assume them to mean for purposes of these initial invalidity contentions, Defendants cannot take a final position on the bases of invalidity of the asserted claims. By applying any of Solocron's proposed constructions herein, Defendants do not concede in any way that those proposed constructions are correct. Defendants reserve the right to revise its ultimate contentions concerning the invalidity of the asserted claims, which may change depending upon the Court's construction of the asserted claims, any findings as to the priority date of the asserted claims, and/or positions that Solocron or expert witness(es) may take concerning claim construction, infringement, and/or invalidity.
- Defendants have not yet completed their search for prior art.
- Defendants have received only limited discovery from Solocron and Defendants' discovery of information and documents known or available to Solocron is not complete.
- Defendants have not yet completed its discovery from third parties who have information concerning prior art. Such discovery likely will reveal information that affects the disclosures and contentions herein.

The disclosures and contentions herein are based on the claim construction anticipated to be advanced by Solocron (as reflected in Solocron's infringement contentions), which Defendants dispute, and are not based on constructions that Defendants contend are the proper

constructions. By applying Solocron's constructions, Defendants do not concede in any way that those constructions are correct, and instead expressly reserve the right to oppose those constructions at the appropriate time specified in the Local Rules. To the extent Defendants' invalidity contentions reflect constructions of claim limitations consistent with or implicit in Solocron's infringement contentions, no inference is intended and none should be drawn that Defendants agree with Solocron's claim constructions, and Defendants expressly reserve the right to contest such claim constructions. Defendants offer such contentions in response to Solocron's infringement contentions and without prejudice to any position Defendants may ultimately take individually or collectively as to any claim construction issues.

Defendants also expressly reserve the right to amend these contentions and disclosures after the Court has construed all relevant claim terms. However, to be clear, Defendants anticipate that many of the disclosures and contentions herein will also apply to and invalidate the asserted claims, even under the constructions that Defendants intend to propose. Defendants reserve the right to prove the invalidity of the asserted claims on bases other than those required to be disclosed in these disclosures. With respect to the prior art patents identified below, they are U.S. patents unless otherwise noted.

Defendants' invalidity contentions are based upon information reasonably available to Defendants as of the date of these contentions. Because discovery is ongoing, Defendants expressly reserve the right to clarify, alter, amend, modify, or supplement these invalidity contentions, to identify additional prior art, and to rely on additional information, tangible things, and testimony obtained during discovery, including discovery obtained from third parties. If and when Defendants locate those documents, Defendants will timely supplement their disclosures.

Defendants' claim charts cite to particular teachings and disclosures of the prior art as

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