IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

M2M SOLUTIONS LLC, Plaintiff, v. SIERRA WIRELESS AMERICA, INC. and SIERRA WIRELESS, INC., Defendants.	C.A. No. 12-030-RGA
M2M SOLUTIONS LLC, Plaintiff, v. ENFORA, INC., NOV A TEL WIRELESS SOLUTIONS, INC., and NOV A TEL WIRELESS, INC., Defendants.	C.A. No. 12-032-RGA
M2M SOLUTIONS LLC, Plaintiff, v. MOTOROLA SOLUTIONS, INC., TELIT COMMUNICATIONS PLC, and TELIT WIRELESS SOLUTIONS INC., Defendants.	C.A. No. 12-033-RGA

DEFENDANTS' MOTION FOR RECONSIDERATION OF THE COURT'S CLAIM CONSTRUCTIONS OF "PROCESSING MODULE" AND "PROGRAMMABLE INTERFACE" BASED ON THE FEDERAL CIRCUIT *EN BANC* DECISION IN *WILLIAMSON V. CITRIX ONLINE*

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Defendants Sierra Wireless America, Inc., Sierra Wireless Inc., Enfora, Inc., Novatel Wireless Solutions, Inc., Novatel Wireless, Inc., Telit Communications PLC and Telit Wireless Solutions, Inc. (collectively, "Defendants")[1] move for reconsideration of this Court's November 12, 2013 Memorandum Opinion relating to claim construction ("Claim Construction Opinion," D.I. 94). Specifically, they move for reconsideration of the constructions of the "processing module" and "programmable interface" limitations.

Reconsideration is warranted because of the Federal Circuit's recent *en banc* decision in *Williamson v. Citrix Online, LLC*, No. 2013-1130, 2015 U.S. App. LEXIS 10082 (Fed. Cir. Jun. 16, 2015) (Exh. A), which overruled its prior holding in *Lighting World, Inc. v. Birchwood Lighting, Inc.*, 382 F.3d 1354, 1358 (Fed. Cir. 2004). *Lighting World* established a "strong presumption" that a claim limitation which does not use the word "means" is not a means-plus-function limitation, and is therefore not subject to 35 U.S.C. § 112, ¶ 6. This Court relied on *Lighting World* in its Claim Construction Opinion. Defendants submit that *Williamson*, which specifically over ruled the "strong presumption," changes the outcome of the Court's decision.

I. NATURE AND STAGE OF THE PROCEEDING

In January 2012, M2M Solutions LLC ("M2M") sued Defendants for infringement of two patents. The Court held a *Markman* hearing and construed certain claim terms including "processing module" and "programmable interface" in U.S. Patent No. 8,094,010 ("the '010 patent"). (D.I. 94). Defendants argued that those claim limitations had no structure, making them means-plus-function limitations, and that the specification also had no corresponding structure, making them indefinite. (D.I. 68 at 38-41, 46-47, 70-72 and 74-75). The Court

[1] At the time of the Claim Construction Opinion, five cases were pending, consolidated for purposes of claim construction and discovery: C.A. Nos. 12-030-RGA, 12-031-RGA, 12-032-RGA, 12-033-RGA and 12-034-RGA. C.A. Nos. 12-030-RGA, 12-032-RGA and 12-033-RGA remain pending.

disagreed and cited *Lighting World*, holding that because the word "means" had not been included in the claims, there was a strong presumption "that is not readily overcome" against a means-plus-function interpretation. (D.I. 94 at 10).

Fact and expert discovery is now closed, and the parties are in the dispositive and *Daubert* motion stages. The Federal Circuit issued its decision in *Williamson* on June 16, 2015, shortly after the last of the expert depositions was taken.

II. SUMMARY OF ARGUMENT

The Federal Circuit's opinion in *Williamson* overruled a long line of cases that imposed a "strong presumption" that the absence of the world "means" meant a claim term was not written in means-plus-function format, stating:

> Our consideration of this case has led us to conclude that such a heightened burden is unjustified and that we should abandon characterizing as "strong" the presumption that a limitation lacking the word "means" is not subject to § 112, para. 6. That characterization is unwarranted, is uncertain in meaning and application, and has the inappropriate practical effect of placing a thumb on what should otherwise be a balanced analytical scale.

Williamson at *18. The court also:

> Overrule[d] the strict requirement of "a showing that the limitation essentially is devoid of anything that can be construed as structure." *Id.* at *18.

Therefore, now:

> when a claim term lacks the word "means," the presumption can be overcome and § 112, para. 6 will apply if the challenger demonstrates that the claim term fails to "recite sufficiently definite structure" or else recites "function without reciting sufficient structure for performing that function." *Id.* at *19.

Thus, *Williamson* changed the controlling law relating to the Court's construction of "processing module" and "programmable interface," and also held that:

> "Module" is a well-known nonce word that can operate as a substitute for "means" in the context of § 112, para. 6. *Id.* at *21.

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