

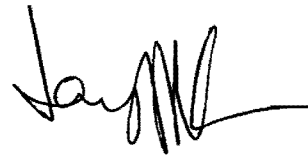
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

| | | |
|-----------------------------|---|-------------------------------------|
| MOBILE TELECOMMUNICATIONS | § | |
| TECHNOLOGIES, LLC, | § | |
| | § | |
| Plaintiff, | § | |
| v. | § | Civil Action No. 2:15-cv-00183-JRG- |
| | § | RSP |
| SAMSUNG ELECTRONICS CO., | § | |
| LTD., SAMSUNG ELECTRONICS | § | JURY TRIAL REQUESTED |
| AMERICA, INC., SAMSUNG | § | |
| TELECOMMUNICATIONS AMERICA, | § | |
| LLC, | § | |
| Defendants. | § | |

SUPPLEMENTAL DECLARATION OF DR. JAY P. KESAN

I, Jay P. Kesan, Ph.D., J.D. of Champaign, Illinois, make this declaration of expert opinion as an independent expert retained by Plaintiff Mobile Telecommunications Technologies, LLC's ("MTel") in its lawsuit against Samsung Electronics Co., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively "Samsung") to provide opinion regarding how one of ordinary skill in the art at the time of the inventions of U.S. Patent Nos. 5,590,403; 5,659,891; 5,915,210; 5,809,428; and 5,754,946. I make this declaration either from my own personal knowledge, from documents produced by MTel and/or Samsung, from the files of REED & SCARDINO LLP kept in the ordinary course of business, or from publicly available documents, with which I am familiar, as should be apparent from the context of my statements. I declare under penalty of perjury that the following is true and correct to the best of my knowledge.

Dated: Sept. 25, 2015



Jay P. Kesan, Ph.D., J.D.

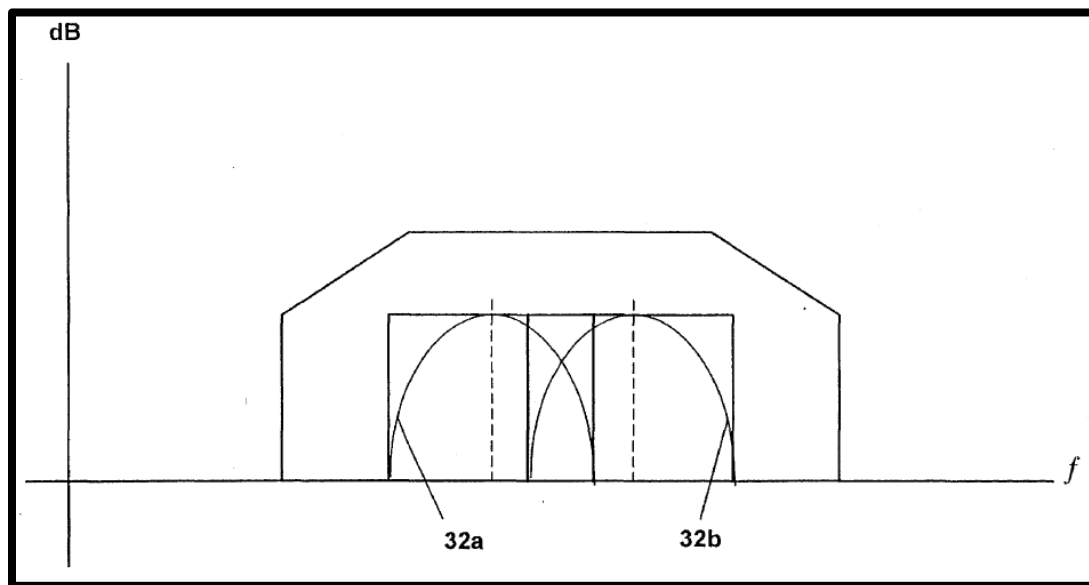
[01] This supplemental expert declaration discloses my opinions in light of Samsung's responsive claim construction brief, its exhibits, and the supplemental declaration of Dr. Min attached thereto.

1. Materials Considered

[02] In addition to the materials listed in my original declaration, I have read and considered Samsung's responsive claim construction brief and the exhibits thereto, including the supplemental expert declaration of Dr. Min.

2. The '891 Patent

[03] One skilled in the art would understand the term "band edge of the mask" to mean "the innermost frequency at which the mask requires attenuation of the signal." The inventors of the '891 Patent defined the term and provided the chart in Figure 3b of the '891 Patent as a description of the invention:



[04] The above chart shows that the defined band edge of the mask is the point wherein the innermost frequency at which the mask requires attenuation of the signal. This is illustrated in the annotated version of this diagram below.

[05] I further understand that the Court has previously rejected Samsung's position that the 'band edge of the mask' is indefinite, and held that "the specification provides sufficient context for a person of ordinary skill in the art to understand the 'band edge' with reasonable certainty." (Exh. B, Claim Construction Memorandum and Order, *Mobile Telecommunications Technologies, LLC v. Leap Wireless Int'l, Inc.*, No. 2:13-CV-885-JRG-RSP (E.D. Tex. May 13, 2015) (Dkt. 114) at 30-37). Specifically, the Court held that "a person of ordinary skill in the art would readily conclude that the 'band edge' frequencies are the innermost frequencies at which the mask requires attenuation of the signal." (*Id.* at 35). The Court further held that "to whatever extent applying this interpretation to a particular mask may yield multiple relevant frequency differences, all such frequency differences must satisfy the claim limitations." (*Id.* at 37). I agree with the Court's analysis and conclusion.

[06] The mask depicted in Fig. 4 of the '891 Patent is identified as "an exemplary FCC emissions mask that requires the power spectral density to be attenuated at least 70 dB within 10 kHz from the center frequency."¹ A PHOSITA would know that the mask shown in Fig. 4 is an exemplary mask (as stated in the description) and would understand that many other masks are possible.

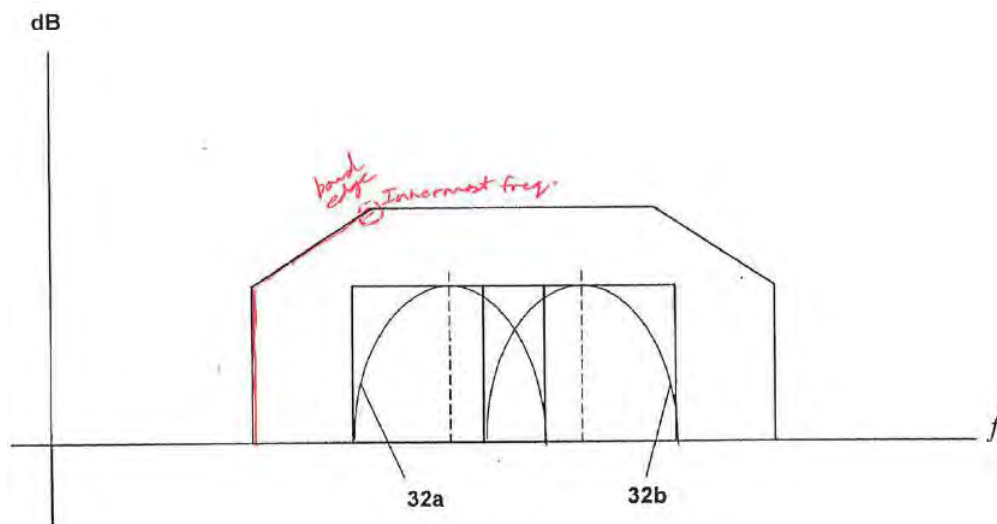
[07] There is no indication that the power spectra of the carriers shown in Figs. 5A, 6A, or 7A are intended to operate with the single exemplary mask shown in Fig. 4. In fact, the power spectrum of the carriers in these figures would in part be outside of the bounds imposed

¹ '891 Patent (Dkt. No. 4-2) at Fig. 4, col. 3, ll. 16-18.

by the mask in Fig. 4. That indicates that the mask of Fig. 4 would not be used with the systems shown in Figs. 5A, 6A, or 7A. I understand that Dr. Vojcic shares my opinion and has testified that he does not believe that the mask shown in Figure 4 would actually be used with what is shown in figures 5 – 7 for that reason.²

[08] A review of the '891 patent specification supports my conclusion. The description of Fig. 5A does not refer to the exemplary mask shown in Fig. 4, and instead only states the conclusion that “the [shown] carriers remained within the FCC mask.” The descriptions of Figs. 6A and 7A do not reference a mask at all. This is because reference to a mask is not necessary to understand what is shown in these figures. In my opinion, one of ordinary skill in the art would be able to apply any given mask to the constraints of the carrier systems shown in Fig2. 5A – 7A, and would be able to determine whether that mask satisfies the claimed invention or not.

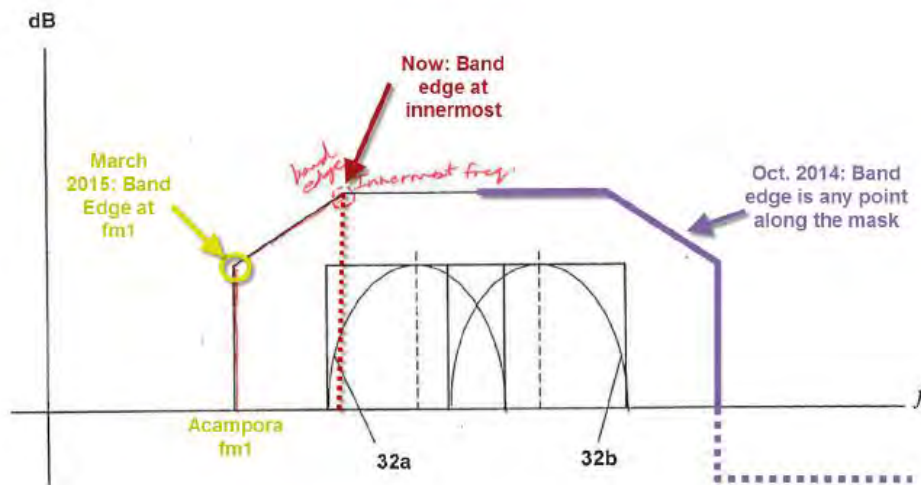
[09] Samsung took my deposition on Sep. 4, 2015. In my deposition, at the request of Samsung, I annotated figure 3b of the '891 Patent. My annotation is correctly reproduced below:



² Ex. A, Vojcic Depo in *MTel v. Cricket* at 359:9-360:13.

[10] Indicated above is the point which corresponds to the innermost frequency at which the mask requires attenuation of the signal at the maximum signal power (i.e. where no attenuation is required). Between the center frequency of the channel and that point, the mask requires no attenuation of the signal. Also indicated is the “band edge of the mask” which is a line, i.e. the collection of all points along the mask that make up the edge of that mask. As stated above, I agree with the Court that “to whatever extent applying this interpretation to a particular mask may yield multiple relevant frequency differences, all such frequency differences must satisfy the claim limitations.” (Ex. B at 37).

[11] Samsung’s claim construction response contains a copy of the above diagram that has been further annotated in what I consider to be a misleading way. The dashed line was added, in the same color I used in my original annotation, to indicate the “band edge of the mask.” This is different from my actual annotation reproduced above.



[12] I have further reviewed Samsung’s citations regarding the additional annotations. Samsung’s citation regarding the March 2015 date is based on MTel’s counsel’s statement repeating for the Court the position advocated by Dr. Acampora, Cricket’s expert for claim

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