

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

<p>CHRIMAR SYSTEMS, INC., <i>et al.</i></p> <p>Plaintiffs,</p> <p>v.</p> <p>ALCATEL-LUCENT, INC., <i>et al.</i></p> <p>Defendants.</p>	<p>Case No. 6:15-CV-163-JDL</p> <p>LEAD CASE</p>
<p>CHRIMAR SYSTEMS, INC., <i>et al.</i></p> <p>Plaintiffs,</p> <p>v.</p> <p>AMX</p> <p>Defendant.</p>	<p>Case No. 6:15-CV-164-JDL</p>

DECLARATION OF RICH SEIFERT

INTRODUCTION

1. I am an expert in the field of communications systems, and have been retained by McDermott, Will & Emery, representing Defendant AMX and by Williams Morgan, P.C., representing Defendants Alcatel-Lucent USA, Inc., Alcatel-Lucent Holdings, Inc., and ALE USA Inc., to analyze, render opinions, and/or provide expert testimony regarding the meaning of certain terms in U.S. Patent Nos. 8,155,012 (“the ‘012 patent”), 8,942,107 (“the ‘107 patent”), 8,902,760 (“the ‘760 patent”), and 9,019,838 (“the ‘838 patent”) (collectively, the Patents-in-Suit) as asserted by Chrimar Systems, Inc., *et al.* (collectively, hereinafter “Chrimar” or “Plaintiff”).

2. I am being compensated at my usual rate of \$400 per hour for the time spent by me in connection with this case. This compensation is not contingent upon my opinions or the outcome of the case. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would competently testify to them under oath.

3. This declaration is responsive to the December 17, 2015 declaration of Les Baxter on behalf of Plaintiffs in which he provides his conclusions as to the meaning of certain terms.

4. This declaration also provides my opinions as to the indefiniteness of certain claims.

5. I incorporate by reference my expert report regarding the invalidity of certain asserted claims of the ‘012 patent dated Mar 10, 2015, submitted in prior case nos. 13-cv-880-JDL and 13-cv-881-JDL, which includes, *inter alia*, my background and qualifications, previous documents reviewed, statements of legal principles, claim construction, and my opinion regarding a person of ordinary skill in the art. For convenience, some of this material is reproduced below.

BACKGROUND/QUALIFICATIONS

6. I am currently the President of Networks & Communications Consulting in Los Gatos, California. I received a Bachelor of Engineering (Electrical Engineering) degree from the City College of New York in 1976. I received a Master of Science (Electrical Engineering) degree in 1979 from the Worcester Polytechnic Institute, a Master of Business Administration degree in 1984 from Clark University, and a Juris Doctor degree in 2006 from Santa Clara University. I have over 45 years of experience in computer and communications technology, and have worked for the past 35 years on the architecture and design of data communications networks and networking products. My curriculum vitae is attached hereto as Exhibit A, which includes lists of publications I have authored and legal cases in which I have been involved.

DOCUMENTS AND MATERIALS CONSIDERED

7. A list of additional materials (beyond those listed in my earlier report) that I have considered in rendering the opinions expressed herein is attached as Exhibit B. In forming my opinions, I have also relied on my experience and education.

LEGAL PRINCIPLES

8. I am not a patent attorney and offer no opinions on the law. However, I have been informed by counsel of the legal standards that apply, and I have applied them in arriving at my conclusions.

9. I understand that a patent is invalid for indefiniteness if its claims, read in light of the intrinsic record, fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention.

10. I understand that patent claims have their plain and ordinary meaning to one of skill in the art when read in the context of the intrinsic record unless the patentee has acted as his own lexicographer or disclaimed some scope of the claim.

PRIOR CLAIM CONSTRUCTION

11. My understanding is that some of the terms in the claims of the '012 patent were construed by the Court in case nos. 13-cv-880-JDL and 13-cv-881-JDL, as shown below. *See, generally*, Memorandum Opinion and Order, dated Oct. 22, 2014 (the "10/22/14 Order"), Memorandum Opinion and Order dated Jan. 8, 2015 (the "1/8/15 Order"), and Memorandum Opinion and Order dated Jan. 16, 2015 (the "1/16/15 Order").

Claim Term	Construction
"distinguishing information about the piece of Ethernet terminal equipment" (Claim 31)	"information to distinguish the piece of Ethernet data terminal equipment from at least one other piece of Ethernet data terminal equipment" 10/22/14 Order at 15; 1/16/15 Order at 3.
"to distinguish the piece of terminal equipment" (Claim 67)	"to distinguish the piece of data terminal equipment having an Ethernet connector from at least one other piece of terminal equipment having an Ethernet connector" 10/22/14 Order at 15; 1/16/15 Order at 3.
"impedance" (Claims 31, 35, 67, 77)	"opposition to the flow of current" 1/16/15 Order at 3.
"terminal equipment" (Claims 67, 106)	"device at which data transmission can originate or terminate" 1/16/15 Order at 4.
"Ethernet data terminal equipment" (Claims 31, 35, 43, 55)	"device at which data transmission can originate or terminate and that is capable of Ethernet communication" 1/16/15 Order at 4.
"[A]n adapted piece of Ethernet data	These preambles <i>are</i> limiting and have their

terminal equipment” (Claim 31) and “[A] method for adapting a piece of terminal equipment” (Claim 67)	plain and ordinary meaning. 1/16/15 Order at 4 (emphasis in original).
“arranging impedance within the at least one path” (Claim 67)	Plain meaning. 1/16/15 Order at 14.
“wherein distinguishing information about the piece of Ethernet data terminal equipment is associated to impedance within the at least one path” (Claim 31)	Plain meaning. 1/16/15 Order at 16.

PERSON OF ORDINARY SKILL IN THE ART

12. I have been informed and understand that the following criteria are useful in determining the level of ordinary skill in the art with respect to a given patent: (a) the educational level of the inventor; (b) the type of problems encountered in the art; (c) prior art solutions to those problems; (d) rapidity with which innovations are made; (e) sophistication of the technology in the art; and (f) the educational level of active workers in the field. A person of ordinary skill in the art with respect to the asserted patent would have had at least a B.S. degree in electrical engineering or computer science, or the equivalent, and at least three years of experience in the design of network communications products.

13. Specifically, such a person would be familiar with, *inter alia*, data communications protocols, data communications standards (and standards under development at the time), and the behavior and use of common data communications products available on the market.

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