

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

TRACBEAM L.L.C.,

Plaintiff,

vs.

AT&T INC. ET AL.,

Defendants.

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CASE NO. 6:11-CV-96

ORDER

Before the Court are the following motions:

- Defendants AT&T Inc. and AT&T Mobility L.L.C.’s (“AT&T”) Motion to Exclude the Expert Opinions of Robert Mills (Docket No. 446);
- AT&T’s Motion to Exclude Dr. Rose’s Opinions on Claim 25 (Docket No. 447); and
- AT&T’s Motion for Continuance (Docket No. 509).

On October 24, 2013, the Court heard oral arguments regarding these motions. Based on the parties’ briefings and arguments, the Court **DENIES IN PART** and **GRANTS IN PART** AT&T’s Motion to Exclude the Expert Opinions of Robert Mills, with opinion to follow. The Court **DENIES** AT&T’s request to strike Mr. Mills’ report in its entirety, but **GRANTS** AT&T’s request to exclude the revenue sharing agreements Mr. Mills uses to assess the range of sharing percentages AT&T has agreed to in real-world negotiations.

Further, the Court **DENIES** AT&T’s Motion to Exclude Dr. Rose’s Opinions on Claim 25, with opinion to follow. In addition, the Court resolves the parties’ claim construction dispute concerning Claim 25 as follows:

(1) “first obtaining” step: the step of “first obtaining the first location information of said mobile station, the first location information determined by computational machinery when said corresponding location technique for using the first collection is supplied with an instance of said first collection” need not be performed in those circumstances in which the “first collection of measurements” is not available;

(2) “second obtaining” step: the step of “second obtaining the second location information of said mobile station, the second location information determined by computational machinery when said corresponding location technique for receiving the second collection is supplied with an instance of said second collection” may but need not be performed in those circumstances in which the “first collection of measurements” is available.

Further, the Court **DENIES IN PART** and **GRANTS IN PART** AT&T’s Motion for Continuance. The Court **GRANTS** AT&T’s request for a continuance, but **DENIES** the requested period of ninety days. Instead, the Docket Control Order is amended as follows:

- AT&T **SHALL** serve its supplemental rebuttal expert reports on **November 4, 2013**;
- AT&T **SHALL** file its brief in support of its motion regarding its 28 U.S.C. § 1498 defense on **November 4, 2013**. TracBeam **SHALL** file a response by **November 11, 2013**, AT&T **SHALL** file a reply by **November 13, 2013**, and TracBeam **SHALL** file a sur-reply by **November 14, 2013**;
- Third-party discovery **SHALL** be completed by **November 4, 2013**, with any related depositions to be completed by **November 28, 2013** and limited to two hours per side;
- Pretrial conference is set on **December 2, 2013 at 10:00 a.m.**; and
- Jury selection and trial are set on **December 9, 2013 at 9:00 a.m.**

So **ORDERED** and **SIGNED** this 25th day of October, 2013.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE