



Page 2

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4    DR. EVELINE WESBY-van-SWAAY  
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1           A P P E A R A N C E S, continued  
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Liz Dawson (Afternoon only)  
Partner  
Pearl Cohen Zedek Latzer Baratz UK LLP  
\* \* \*

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3    Exhibit No.   Description                       Page  
4    1:           Nokia Card Phone 1.0               57  
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12              regarding ownership and  
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<p>1 VIDEOGRAPHER: We are now on the 2 record in the matter of M2M Solutions, LLC versus 3 Enfora, Inc. et al. 4 Today's date is Tuesday, 5 21st January, 2014 and the time is 9:12. 6 This is the video recorded deposition 7 of Mrs. Eveline Wesby-van-Swaay being taken at the 8 offices of K&amp;L Gates, LLP, One New Change, London, 9 EC4M 9AF. 10 I'm the camera operator. My name is 11 Alena Onis in association with Alderson Reporting. 12 The court reporter is Thelma Harries also in 13 association with Alderson Reporting. 14 Will all the attorneys please 15 identify themselves and the parties they represent 16 beginning with the party noticing this proceeding. 17 MR. HENSCHKE: Good morning. I'm 18 Marc Henschke here on behalf of the plaintiff, 19 M2M Solutions, LLC, and I also have with me here in 20 the deposition this morning the corporate 21 representative of M2M Solutions, Mr. Philip Wesby. 22 MS. HAYES: Jennifer Hayes from Nixon 23 Peabody for Sierra Wireless. 24 MR. RUSNAK: Eric Rusnak for Enfora, 25 Inc. and Novatel Wireless, Inc.</p>	<p>1 A The address is Camden House, which is 2 in School Lane in Tiddington, Stratford-upon-Avon 3 in the UK. 4 Q Thank you. So you understand that 5 you're under oath today? 6 A I do. 7 Q And your testimony in this deposition 8 will have the same legal effect as testimony in a 9 trial? 10 A Yes, I do. 11 Q And you understand that your 12 testimony in this deposition may be read to the 13 jury or used in other proceedings in this lawsuit? 14 A Yes. 15 Q Thank you. 16 I will be asking you a series of 17 questions and, for purposes of the transcript and 18 the court reporter, we ask that you, please, make 19 your responses verbal, so, instead of nodding, 20 actually saying yes or no. 21 A Yes, I understand. 22 Q And if you don't hear a question that 23 I ask you, please ask me to repeat it, and, if you 24 don't understand a question, please ask me to 25 rephrase it.</p>
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<p>1 MR. LOEWENSTEIN: David Loewenstein 2 for the Telit parties and Motorola. 3 MR. WASSERMAN: Bryon Wasserman for 4 the Cinterion defendants. 5 MS. WU: Sherry Wu for Kowatec 6 Corporation. 7 VIDEOGRAPHER: Will the court reporter 8 please administer the oath. 9 (Witness sworn) 10 VIDEOGRAPHER: Please proceed. 11 DR. EVELINE WESBY-van-SWAAY 12 having been duly sworn 13 was examined and did testify 14 as follows: 15 CROSS-EXAMINATION 16 BY MS. HAYES: 17 Q Good morning. 18 A Good morning. 19 Q Can you please state your name for 20 the record? 21 A My name is Eveline Wesby-van-Swaay. 22 Q And may I call you Dr. Wesby? 23 A Yes, please. 24 Q Can you please state your address for 25 the record?</p>	<p>1 A Okay. 2 Q Please also wait until I finish my 3 question before answering, and I will also wait for 4 you to answer before I ask my next question. 5 From time to time your attorney may 6 object to a question that I ask. For the record, 7 you'll be required to answer the question unless 8 your attorney directs you to not answer the 9 question. 10 A Okay. 11 Q And if, for some reason, you realise 12 that an answer that you gave earlier in the 13 deposition is not correct or you feel like there's 14 additional information that you need to provide, 15 please let me know so that we can discuss that. 16 A I will. 17 Q Is there any reason that you are not 18 able to participate in the deposition to your 19 fullest advantage today? 20 A No, there is no reason. 21 Q Thank you. 22 Dr. Wesby, you did not invent GSM, 23 correct? 24 A Could you repeat that question? 25 Q You did not invent GSM, correct?</p>

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1 A That is correct.  
 2 Q You did not invent GPRS, correct?  
 3 A That is correct.  
 4 Q You did not invent SMS, correct?  
 5 A That's correct.  
 6 Q You did not invent CDMA, correct?  
 7 A That's correct.  
 8 MR. HENSCHKE: I'm going to object  
 9 and instruct the witness not to answer these  
 10 questions any further.  
 11 These questions, clearly, address the  
 12 issue of inventorship, which was already covered at  
 13 the previous deposition in August of 2012, and,  
 14 according to the Court's scheduling order, the  
 15 defendants are not permitted today to return to the  
 16 same topics that were previously covered.  
 17 Inventorship, obviously, was the main  
 18 topic covered at that time. These questions are,  
 19 therefore, duplicative of inventorship topics and  
 20 the witness will not answer any further questions  
 21 of this nature, and I'm instructing her as such.  
 22 MS. HAYES: We disagree with that  
 23 statement. We believe that these questions are  
 24 relevant to what existed in the prior art and are  
 25 unrelated to inventorship. We believe that these

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1 questions are appropriate.  
 2 MR. HENSCHKE: Your questions are  
 3 being directly phrased in terms of what Dr. Wesby  
 4 invented. You could not possibly be more clearly  
 5 asking questions about inventorship and, if the  
 6 questions are going to be anything along those  
 7 lines, she's going to be instructed not to answer.  
 8 MR. LOEWENSTEIN: I'll just kick in.  
 9 I don't know if you can hear me. But these  
 10 questions are related to invalidity, which is  
 11 different than what we talked about last time which  
 12 related to inventorship.  
 13 So you can instruct her not to  
 14 answer, but she'll be back in Delaware pretty soon.  
 15 MR. HENSCHKE: The question is -- is  
 16 directly a question as to whether she invented  
 17 something and, clearly, is a question on  
 18 inventorship. And if it's going to be put in those  
 19 terms, she's not going to answer the questions or  
 20 any other like those.  
 21 MR. LOEWENSTEIN: Well, you can do  
 22 what you want. I guess we'll just press ahead.  
 23 BY MS. HAYES:  
 24 Q Dr. Wesby, you did not invent CDMA,  
 25 correct?

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1 MR. HENSCHKE: Instruct the witness  
 2 not to answer.  
 3 BY MS. HAYES:  
 4 Q Dr. Wesby, CDMA was known prior to  
 5 the filing date of your Programmable Communicator  
 6 patent, correct?  
 7 A That's correct.  
 8 Q And, for the record, you agree that  
 9 the Programmable Communicator patent is US Patent  
 10 Number 8,094,010, correct?  
 11 MR. HENSCHKE: If you need to see the  
 12 document, please ask for it.  
 13 THE WITNESS: Can -- can you repeat  
 14 the question in full, please?  
 15 BY MS. HAYES:  
 16 Q You agree that the Programmable  
 17 Communicator patent is US Patent Number 8,094,010,  
 18 correct?  
 19 A Yes.  
 20 Q Okay. Dr. Wesby, you did not invent  
 21 GPS, correct?  
 22 MR. HENSCHKE: Objection. Instruct  
 23 the witness not to answer.  
 24 BY MS. HAYES:  
 25 Q Dr. Wesby, GPS was known prior to the

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1 filing date of your Programmable Communicator  
 2 patent, correct?  
 3 A Correct.  
 4 Q Dr. Wesby, you did not invent the use  
 5 of GPS in wireless communications, correct?  
 6 MR. HENSCHKE: Objection. Instruct  
 7 the witness not to answer.  
 8 BY MS. HAYES:  
 9 Q Dr. Wesby, the use of GPS in wireless  
 10 communications was known prior to the filing of  
 11 your Programmable Communicator patent, correct?  
 12 MR. HENSCHKE: If you know, you can  
 13 answer.  
 14 THE WITNESS: Yes, it was.  
 15 BY MS. HAYES:  
 16 Q Dr. Wesby, you did not invent  
 17 packet-switched data networks, correct?  
 18 MR. HENSCHKE: Objection. Instruct  
 19 the witness not to answer.  
 20 BY MS. HAYES:  
 21 Q You did not invent packet-switched  
 22 data networks?  
 23 MR. HENSCHKE: Objection. Instruct  
 24 the witness not to answer.  
 25

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1 BY MS. HAYES:  
 2 Q Dr. Wesby, packet-switched data  
 3 networks were known prior to the filing of your  
 4 Programmable Communicator patent, correct?  
 5 A That's correct.  
 6 Q Dr. Wesby, you did not invent coded  
 7 numbers, correct?  
 8 MR. HENSCHKE: Objection. Instruct  
 9 the witness not to answer.  
 10 BY MS. HAYES:  
 11 Q Dr. Wesby, coded numbers were known  
 12 prior to the filing of your Programmable  
 13 Communicator patent, correct?  
 14 A That's correct.  
 15 Q Dr. Wesby, you did not invent the use  
 16 of coded numbers in wireless communications,  
 17 correct?  
 18 MR. HENSCHKE: Objection. Instruct  
 19 the witness not to answer.  
 20 BY MS. HAYES:  
 21 Q Dr. Wesby, the use of coded numbers  
 22 in wireless communications was known prior to the  
 23 filing of your Programmable Communicator patent --  
 24 MR. HENSCHKE: Objection.  
 25 BY MS. HAYES:

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1 Q -- correct?  
 2 MR. HENSCHKE: Instruct the witness  
 3 not to answer.  
 4 That question was -- exact question  
 5 was asked in the prior day's deposition. That's  
 6 a duplicative topic. I instruct the witness not to  
 7 answer.  
 8 MS. HAYES: I disagree. Can you  
 9 please point out where in the deposition transcript  
 10 that exact question was asked?  
 11 MR. HENSCHKE: If you want to go off  
 12 the record, I can find the reference for you. And  
 13 it's not relevant whether the exact question was  
 14 asked. The issue that's relevant is whether that  
 15 topic was covered, and Dr. Wesby has already been  
 16 asked whether she was aware of the use of coded  
 17 number authentication with wireless devices in the  
 18 previous day's deposition.  
 19 MS. HAYES: I disagree with that.  
 20 I believe we're entitled to ask this question. It  
 21 was not asked before, and we have the right to get  
 22 a clear answer on the record to this question.  
 23 MR. HENSCHKE: Again, the issue is  
 24 not whether the exact question was asked before.  
 25 The issue is whether the topic was covered before,

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1 and the topic of whether Dr. Wesby knew whether or  
 2 not coded numbers and authentication were used  
 3 with wireless devices was directly covered at the  
 4 August 2012 deposition, as that written record will  
 5 reflect. And, accordingly, Dr. Wesby's being  
 6 instructed not to answer that question, which is  
 7 clearly duplicative.  
 8 MS. HAYES: We disagree with your  
 9 instruction. We reserve the right to go to the  
 10 Court and seek our travel costs and fees in  
 11 reimbursement.  
 12 MR. HENSCHKE: You're welcome to do  
 13 that.  
 14 BY MS. HAYES:  
 15 Q Dr. Wesby, you did not invent the use  
 16 of passwords in wireless communications, correct?  
 17 MR. HENSCHKE: Objection. Instruct  
 18 the witness not to answer.  
 19 BY MS. HAYES:  
 20 Q Dr. Wesby, passwords in wireless  
 21 communications were known prior to the filing of  
 22 your Programmable Communicator patent, correct?  
 23 MR. HENSCHKE: Objection.  
 24 (To the witness) Only if you know.  
 25 THE WITNESS: That's correct.

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1 BY MS. HAYES:  
 2 Q Dr. Wesby, you did not invent the use  
 3 of PIN codes in wireless communications, correct?  
 4 MR. HENSCHKE: Objection. Instruct  
 5 the witness not to answer.  
 6 BY MS. HAYES:  
 7 Q Dr. Wesby, the use of PIN codes in  
 8 wireless communications was known prior to the  
 9 filing of your Programmable Communicator, correct?  
 10 A That's correct.  
 11 Q Dr. Wesby, you did not invent PUK  
 12 codes, correct?  
 13 MR. HENSCHKE: Objection. Instruct  
 14 the witness not to answer.  
 15 BY MS. HAYES:  
 16 Q Dr. Wesby, PUK codes were known prior  
 17 to the filing of your Programmable Communicator --  
 18 MR. HENSCHKE: Objection. Instruct  
 19 the witness not to answer. The questions about PUK  
 20 codes and her knowledge of it in the prior art were  
 21 asked at the previous August deposition.  
 22 Therefore, this a duplicative topic.  
 23 MS. HAYES: We disagree. And I also  
 24 ask that you please wait for me to finish my  
 25 question before objecting.

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