

Filed on behalf of Cellular Communications Equipment LLC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC., HTC CORPORATION, HTC AMERICA, INC.,
ZTE CORPORATION, AND ZTE (USA), INC.,
Petitioners,

v.

CELLULAR COMMUNICATIONS EQUIPMENT LLC,
Patent Owner.

Case IPR2016-01493¹
U.S. Patent No. 8,457,676

**MOTION FOR OBSERVATION OF CROSS-EXAMINATION OF
ZYGMUNT J. HAAS, PH.D.**

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Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

¹ HTC Corporation, HTC America, Inc., ZTE Corporation, and ZTE (USA), Inc. filed a petition in (now terminated) IPR2017-01081, and have been joined to the instant proceeding.

Patent Owner Cellular Communications Equipment LLC (“CCE”) hereby files this motion for observation of the testimony of Dr. Zygmunt J. Haas obtained on October 26, 2017, during the cross-examination of his Second Declaration (Exhibit 1021). This motion includes one exhibit—the transcript of the testimony of Dr. Haas during his cross-examination on October 26, 2017 (Exhibit 2009).

Observation No. 1

In Exhibit 2009, on page 17, line 16 through page 18, line 4, the witness testified that his Supplemental Declaration does not respond to all of the opinions provided by Dr. Kesan, but instead only responds to a limited set of points on which he was requested to respond by Petitioners. That testimony is relevant to the opinions of Dr. Kesan on pages 37-42 and 61-68 of Ex. 2007 that Dr. Haas’ analysis is deficient because he has not addressed the problem sought to be solved by the inventors of the ’676 patent and properly considered the impact of how the power control implementations in the prior art systems differ from those of LTE. The testimony is relevant because Patent Owner has argued that the problem that the inventors sought to solve impacts the perspective of a person of skill in the art and the differences in power control schemes used in the prior art and LTE impact the obviousness analysis.

Observation No. 2

In Exhibit 2009, on page 18, lines 5-9, the witness testified that his lack of a

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response to Dr. Kesan's opinions does not necessarily mean that he agrees with those opinions. That testimony is relevant to the testimony of Dr. Haas in paragraph 8 of his Supplemental Declaration that Dr. Kesan has not contested the assumption of periodic sampling that Dr. Haas has applied to the disclosure of Bark. The testimony is relevant because it provides confirmation that Dr. Haas agrees that the lack of a response to a particular point, such as Dr. Kesan failing to address the accuracy of Dr. Haas's assumption, does not mean that the point is agreed.

Observation No. 3

In Exhibit 2009, on page 30, line 25 through page 32, line 23, the witness testified that he considered Exhibits 2001 through 2005 in preparing his Supplemental Declaration, but did not cite to or refer to those exhibits in any portion of the Supplemental Declaration. That testimony is relevant to the opinions and testimony of Dr. Kesan on pages 14-20 regarding the relevant background of the technology related to the '676 patent. The testimony is relevant because Patent Owner has argued that the problem that the inventors sought to solve impacts the perspective of a person of skill in the art and the differences in power control schemes used in the prior art and LTE impact the obviousness analysis, but Dr. Haas has not addressed these points in the Supplemental Declaration.

Observation No. 4

In Exhibit 2009, on page 42, line 21 through page 43, line 11, the witness

testified that he was unable to answer a question regarding whether power headroom reports are useful in power control operations of a cellular system. That testimony is relevant to the credibility of the opinions provided by Dr. Haas in this proceeding. The testimony is relevant because power headroom reporting and how those reports are used in a cellular system are fundamental to an obviousness analysis regarding the claims of the '676 patent.

Observation No. 5

In Exhibit 2009, on page 49, line 24 through page 51, line 6, the witness testified that he has not cited to any specific reference to Figures 13 through 15 of Bark in his First or Supplemental Declarations. That testimony is relevant to Dr. Haas' reliance on Bark as a reference disclosing triggering conditions for power headroom reports. The testimony is relevant because the '676 is specifically directed to power control operations and Bark discusses specific events that are useful for power control operations in relation to Figures 13 through 15 of Bark, which are not cited by Dr. Haas.

Observation No. 6

In Exhibit 2009, on page 51, line 16 through page 52, line 4, the witness testified that he was unable to answer a question regarding the events triggering a report discussed by Bark in association with Figures 13 through 15. That testimony is relevant to Dr. Haas' reliance on Bark as a reference disclosing triggering

conditions for power headroom reports. The testimony is relevant because the '676 is specifically directed to power control operations and Bark discusses specific events that are useful for power control operations in relation to Figures 13 through 15 of Bark, which are not cited by Dr. Haas. The testimony is also relevant to the credibility of the opinions provided by Dr. Haas because he was unable, or unwilling, to answer questions regarding the Bark reference, which is relevant in its entirety to this proceeding.

Observation No. 7

In Exhibit 2009, on page 52, line 5-18, the witness testified that the only point he has responded to in his Supplemental Declaration, based on what he was “asked” to address, relates to “the fact that slope measurement is analogous to measurement of the parameter difference.” That testimony is relevant to the opinions provided by Dr. Kesan for which Dr. Haas has not provided a response. The testimony is relevant because Patent Owner has argued that the problem that the inventors sought to solve impacts the perspective of a person of skill in the art and the differences in power control schemes used in the prior art and LTE impact the obviousness analysis, but Dr. Haas has not addressed these points in the Supplemental Declaration.

Observation No. 8

In Exhibit 2009, on page 52, line 5-18, the witness testified that the only point he has responded to in his Supplemental Declaration, based on what he was “asked”

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