Page 1 IN THE UNITED STATES DISTRICT COURT 1 EASTERN DISTRICT OF TEXAS 2 TYLER DIVISION 3 CHRIMAR SYSTEMS, INC.,) ET AL., 4 Plaintiffs,)) 5 No. 6:13-CV-880-JDL vs.) 6 ALCATEL-LUCENT, INC., ET AL., 7 Defendants. 8 CHRIMAR SYSTEMS, INC., ET AL., 9 Plaintiffs,) No. 6:13-CV-881-JDL 10 vs. 11 AMX, LLC, Defendant. 12 CHRIMAR SYSTEMS, INC., 13 ET AL., Plaintiffs, 14) No. 6:13-CV-882-JDL vs.) 15 GRANDSTREAM NETWORKS,) 16 INC., Defendant. 17 CHRIMAR SYSTEMS, INC., 18 ET AL., Plaintiffs, 19 No. 6:13-CV-883-JDL vs. 20 SAMSUNG ELECTRONICS CO.,) 21 ET AL., Defendants.) 22 23 VIDEOTAPED DEPOSITION OF LESLIE ALAN BAXTER TAKEN ON BEHALF OF THE DEFENDANT AMX, LLC 24 25 OCTOBER 22, 2014

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2 (Pages 2 - 5)

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	Page 6		Page 8
1	FOR THE DEFENDANT ALCATEL-LUCENT, INC.:	1	MR. BLUESTONE: David Bluestone,
2	WILLIAMS MORGAN, P.C.	2	McDermott Will & Emery on behalf of Defendant AMX.
3	10333 Richmond, Suite 1100	3	MR. KRIEGER: Tim Krieger with The
4	Houston, Texas 77042	4	Simon Law Firm on behalf of Plaintiffs.
5	(713) 934-4096	5	MS. PESCHEL: Leisa Peschel with
6	by: Ms. Leisa Talbert Peschel, Ph.D.	6	Williams Morgan, P.C., on behalf of the
7	lpeschel@wmalaw.com	7	Alcatel-Lucent Defendants in the 880 case.
8		8	MR. PARK: Jin-Suk Park with the law
9	FOR THE DEFENDANT SAMSUNG ELECTRONICS, CO.:	9	firm of Akin Gump for Samsung.
10	AKIN GUMP STRAUSS HAUER & FELD, LLP	10	MR. YUNGWIRTH: This is Matt
11	1333 New Hampshire Avenue, N.W.	11	Yungwirth of the law firm Duane Morris for AMX.
12	Washington, DC 20036	12	MR. AUSTERMANN: John Austermann,
13	(202) 887-4465	13	CMS.
14	by: Mr. Jin-Suk Park	14	LESLIE ALAN BAXTER,
15	(via telephone)	15	of lawful age, having been produced, sworn, and
16	jspark@akingump.com	16	examined on the part of Defendant AMX, LLC,
17		17	testified as follows:
18	ALSO PRESENT:	18	EXAMINATION
19	Mr. John F. Austermann, III	19	QUESTIONS BY MR. BLUESTONE:
20	President & CEO, CMS Technologies	20	Q Good morning, Mr. Baxter.
21		21	A Good morning.
22	Ms. Tara Schwake, CRR, RPR	22	Q Could you please state your full name
23	Mr. John Niehaus, Videographer	23	for the record?
24		24	A My name is Leslie Alan Baxter.
25		25	Q Is there anything preventing you
	IT IS HEREBY STIPULATED AND AGREED by and between Counsel for Plaintiffs and Counsel for Defendants that this deposition may be taken by		today from providing complete testimony, like any medications or anything like that? A No.
	Tara Schwake, Notary Public and Certified Realtime	4	Q And you got a good night's sleep?
	Reporter, thereafter transcribed into typewriting,	5	A Yes.
	with the signature of the witness being expressly	6	Q I know you've been deposed before, so
	reserved.		I'll skip with a lot of the formalities but one
8	* * * * *		thing I want to make clear. If there's anything
9	(Deposition commenced at 9:01 a.m.)		that I ask you that's unclear, please ask for
10	THE VIDEOGRAPHER: My name is John		clarification.
	Niehaus of Veritext, the date today is October 22,	11	If you don't ask for clarification,
	2014, and the time is approximately 9:01 a.m. This		the record will assume that you understood the
	deposition is being held in the office of The Simon		question; is that fair?
	Law Firm located at 800 Market Street, St. Louis,	14	A Yes.
	Missouri 63101.	15	Q Okay. Why don't we
16	The caption of this case is Chrimar	16	MR. PARK: I apologize for
	Systems, Inc., et al., versus AMX, LLC, in the U.S.		interrupting
	District Court, Eastern District of Texas, Tyler	18	MR. BLUESTONE:
	Division, Case Number 6:13-CV-881-JDL. The name of	19	MR. PARK: but I can't really hear
	the witness is Les Baxter.		the witness's response. If there's any way to push
20	At this time the attorneys will	20	the telephone closer to him, that would be
	identify themselves and the parties they represent,	21	appreciated.
	after which our court reporter, Tara Schwake of	22	THE VIDEOGRAPHER: One moment please,
	Veritext, will swear in the witness and we can		we're going off the record at approximately 9:03
			a.m.
	proceed.	23	a.m.

3 (Pages 6 - 9)

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	Page 10		Page 12
1	(Off the record.)	1	A Well, I think obviously if it's a
2	THE VIDEOGRAPHER: We're back on the	2	dispute we can't resolve, the court will decide for
3	record at approximately 9:05 a.m.	3	us, correct? That's the way any patent would work.
4	Q (BY MR. BLUESTONE) I'm going to mark	4	Q Fair enough. But if we're going to
5	as Exhibit 1 a copy of US Patent No. 8,155,012.	5	go look at just the term "distinguishing
6	(Exhibit 1 marked for identification	6	information," where do we go to decide what that
7	by the court reporter.)	7	means? Is it the intent of the person making the
8	Q (BY MR. BLUESTONE) I am assuming you	8	device? Is it the intent of the patent owner, for
9	have seen Exhibit 1 before, sir?	9	example, either or both?
10	A Yes. Yes, I have.	10	A Well, I would look at the device and
11	Q If you could turn to claim 31,	11	the way it operates, the supporting documentation
12	please? Do you see that claim 31 uses the term		and so on, and if the elements of this claim were
13	"distinguishing information"; correct?	13	met, then I would say it infringes.
14	A Yes, I do.	14	Q Okay. But and you are not you
15	Q I'd just like to ask you some	15	are a third party, you are not the manufacturer?
16	questions about distinguishing information as you	16	A Correct.
	understand it.	17	Q So it could be the person making the
18	A Okay.		device, it could be you in your role as an expert
19	Q Who decides what is distinguishing		witness, for example?
	information under the claims?	20	MR. KRIEGER: Objection, form.
21	A Who decides? Well, distinguishing	21	A I don't quite follow that.
	information is information that can allow you to	22	Q (BY MR. BLUESTONE) I guess what I'm
	classify or categorize the equipment.		jut trying to figure out is there's obviously
24	Q Okay. Is there does the person		disputes in this case as to what is distinguishing
25	making the device decide whether they have	25	information.
-			
	Page 11		Page 13
	categorized or classified the equipment, or is it	1	In looking at the Exhibit 1, is there
2	categorized or classified the equipment, or is it someone else?		In looking at the Exhibit 1, is there anything in Exhibit 1 that defines an objective
2 3	categorized or classified the equipment, or is it someone else? A Yes, I believe at the time of	3	In looking at the Exhibit 1, is there anything in Exhibit 1 that defines an objective standard of what is distinguishing information?
2 3 4	categorized or classified the equipment, or is it someone else? A Yes, I believe at the time of manufacture you have done that.	3 4	In looking at the Exhibit 1, is there anything in Exhibit 1 that defines an objective standard of what is distinguishing information? A They give a number of examples.
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1	at it as of the date of manufacture?	1	more at prior art than infringement.
2	MR. KRIEGER: Objection, form.	2	Q Well, pick any date. It doesn't
3	A Well, for a product, I would look at	3	matter to me. You know, you could say it's 2000
4	the product as it's made.	4	and 2005. I don't care.
5	Q (BY MR. BLUESTONE) Okay. And are	5	A Okay.
6	you analyzing whether it had distinguishing	6	Q Same – same hypothetical, though,
7	information as of the time that I manufactured it,	7	you know, at the at 2000 it's designed and first
8	or at the time you are looking at it?	8	manufactured, 2002 a standard comes out that
9	MR. KRIEGER: Objection, form.	9	applies to it –
10	A Well, unless someone has done	10	A Okay.
11	something to it in the meantime, I would assume	11	Q and 2005 we are looking at the
12	those are the same.		same exact product again. Could it be that in 2000
13	Q (BY MR. BLUESTONE) What if a	13	it didn't have distinguishing information but now
	standard has come out in the meantime that would	14	in 2005 it does?
	apply to that device? Would that change the	15	MR. KRIEGER: Objection, form.
	analysis?	16	A Well, again, you know, I look back at
17	A In terms of whether it meets these		the claims and if it does every element of the
	claim elements?		claims, if it puts the distinguishing, if it puts
19	Q In terms of whether it has		the impedance there, puts impedance in the path to
	distinguishing information.		associate with that distinguishing information,
21	A Well, I it would I guess make it		then I think it would.
	easier to show if the standard defines some	22	Q (BY MR. BLUESTONE) Okay. But how do
	distinguishing information and the device includes		we know if it's put in the path to be associated
	it, that would be one way to show that it is		with distinguishing information?
25	distinguishing. I don't know if that's what you're	25	A Well, you would have to look at the
	Page 15		Page 17
	looking for or not.		product, the documentation and so on. If the
2	looking for or not. Q Could it be that you, as of the date	2	product, the documentation and so on. If the product manual has says, hey, under these
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Page 181 I need to look at this supporting documentation and 2 that's going to tell me why they put it in; is that 3 right?1 Q (BY MR. BLUESTONE) So if you 2 a device that you put impedance matching - 3 put in an impedance for the purpose of imped 4 M Well, yes. Why I interpret the 5 claims, the impedance in the path is there for the 6 purpose of indicating that distinguishing 7 information.1 Q (BY MR. BLUESTONE) So if you 2 a device that you put impedance matching - 3 put in an impedance for the purpose of imped 4 matching, pardon me.5 Claims, the impedance in the path is there for the 6 purpose of indicating that distinguishing 7 information.6 Q At that time, because it's solely for 7 that purpose, it doesn't have distinguishing 8 information; correct?8 Q Okay. And you could have an 9 impedance in the path for a variety of reasons; 10 right?9 A Correct.11 A Sure.10 MR. KRIEGER: Objection, form.11 A Sure.11 Q (BY MR. BLUESTONE) But let's s 12 Q And one reason you gave, for example, 13 is impedance matching?	you lance
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	Tun
14 A Yes. 15 O Guilden instanting for describe relation	
15 Q Could you just briefly describe what 15 Q So at some point, if you've put on a	
16 that is at high level? 16 Bob Smith termination, it's going to serve the 17 A Visit the two exceptions is a serve the	;
17 A Yeah, the transmission line is a 17 purpose of impedance matching; correct?	
18 characteristic impedance if you want to match the 18 A Well, it's yeah, roughly. I mean,	
19 impedance of that in your receiver, for instance, 19 it's terminating common mode noise.	
20 for signal transmission reasons.20QAnd could you just give a brief	
21QSorry, you might have been doing a21explanation of why the Bob Smith termination	n is in
22 little fast for the court reporter.22 place?	
23AYou need me to repeat it?23AYeah, because you can have commo	
24 Q Okay, sorry. So that's one thing you 24 mode currents on pairs that will radiate noise	
25 could put could you put a filter on the line, 25 by putting on impedance at the end between the	
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	Page 22		Page 24
	information?		distinguishing information on that device?
2	5	2	MR. KRIEGER: Objection, form.
3	5 1 ,	3	A It does not seem that way to me, no.
4		4	Q (BY MR. BLUESTONE) Because?
5	5 1	5	A Because you're simply you're
6			putting that in to minimize the emissions. And
	if you as your common mode noise you'll see is		other than that, there would be no point in doing
	canceled, okay, fine. I mean, I don't you're		it.
	simply meeting the EMC requirements for rating	9	Q So, but if there is a but if there
	emissions, which everyone has to meet. So I don't		is a point in doing it so let's give a different
	see that as being distinguishing.		example. I don't know Bob Smith personally, I am
12			assuming that he's a humble man, from what I've
	there was no Bob Smith termination on it, right?		heard, and he is a nice guy.
	Like when Bob Smith invented it, for example;	14	5
	correct?		requires, because he has a patent, that people put
16			in his termination so that he can get credit for
17	•		it. So that people know it's a Bob Smith device.
18		18	Does the arrangement of a Bob Smith
19			termination now provide distinguishing information?
20		20	MR. KRIEGER: Objection, form.
	come into play, now there is a different category	21	A Yeah, I'm struggling with that one.
	of devices, isn't there?		I still don't see how it does.
23		23	Q (BY MR. BLUESTONE) Because you're
24	8 9		saying there is a more primary purpose other than
25	Q Well, there would be a universe of	25	that? Is that correct?
	Page 23		Page 25
	devices that have Bob Smith terminations and a	1	MR. KRIEGER: Objection, form.
	universe that don't; correct?	$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	A I guess what I'm saying is I don't
3			see that as distinguishing information. I see that
4			as one design technique you could use to minimize
	that identifies it as a Bob Smith termination would		common mode emission, and to the as opposed to
	also serve to categorize it as a Bob Smith		something you want to communicate, say, to the
	termination device, wouldn't it?		device on the other end of the link.
8	-	8	Q (BY MR. BLUESTONE) But if it serves
- 9			
			two purposes, step away from Bob Smith, for
10	common mode emissions, is the reason why it was put	10	example, and just say you have a simple low-pass
10 11	common mode emissions, is the reason why it was put there.	10 11	example, and just say you have a simple low-pass filter
10 11 12	common mode emissions, is the reason why it was put there. Q (BY MR. BLUESTONE) Right. But you	10 11 12	example, and just say you have a simple low-pass filter A Okay.
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1			D 00
1	Page 26 A I don't know that I've ever seen	1	Page 28 Q How do I know if it's for the purpose
2			of?
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	Q Could it be done?	$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	A Again, I would look to the
4	A I don't know offhand.		documentation specifications of the product that
5			
~	Q Okay. So let's take a company that's		would typically say that because if you're trying
6			to indicate that information, there's really, I
	that Ethernet connector have an impedance across a		mean, in an Ethernet system you're talking to
	path?		another terminal at the other end of the link;
9			right?
10	paths that have some impedance across.	10	So if you're putting impedances in to
11	Q Okay. Is there ever going to be		indicate things, they have to know about it or
	and we can use either definition of impedance,	12	you're not really indicating, right? So there
	plaintiffs' or defendants', it doesn't matter to	1	would have to be some type of documentation that
14	me, just please specify which one you want to use.	14	says when do I this, it means that.
15	Is there ever going to be an instance in which an	15	Q And is there any particular language
16	Ethernet device with an Ethernet connector is not	16	you'd be looking for it to say?
17	going to have an impedance across a path?	17	A I would be looking for descriptions
18		18	sort of like that, that when I put this impedance
19	be some path with some impedance.	19	in under these conditions, it means that.
20		20	Q And what's "that" in that phrase?
	record, is that under your proposed construction,	21	A Some distinguishing information that
	or defendants'?		you want convey.
23	A Certainly under ours.	23	Q Okay. So in the absence of a
24			document that says we put in the impedance to
	case under defendants' as well? Or		convey distinguishing information, would the device
1	Page 27	1	Page 29
1	MR. KRIEGER: Objection, form.		lack distinguishing information?
2	A It might be. I haven't really	2	MR. KRIEGER: Objection, form.
	thought that through.	3	A Are you asking is that the is that
4	Q (BY MR. BLUESTONE) Okay. That's	4	the only way to prove it? Is that what you're
	fair. Okay. So how does a company okay. So	5	asking?
	taking your construction of impedance, company	5 6	asking? Q (BY MR. BLUESTONE) We can go that
7	taking your construction of impedance, company selling a product with an Ethernet connector. We	5 6 7	asking? Q (BY MR. BLUESTONE) We can go that way. Go ahead and answer that question that you've
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	Page 30		Page 32
1	correlated with a distinguishing characteristic.	1	MR. KRIEGER: Objection, form.
2	Q Where do you go to look for the	2	A I mean, I suppose it would be
3	distinguishing characteristic that's relevant?	3	possible. That might not be the best way to do it,
4	A I'm not sure I follow the question.		but
5	Q Well, I think you said you were	5	Q (BY MR. BLUESTONE) How would it be
6	looking to see if the impedance of the product	6	possible?
	correlated with the distinguishing characteristic;	7	A If there's if there's two
	is that correct?	8	different types of processors you might use in this
9	A Whether it was associated with or	9	thing and you put one value for one and another
10	whatever you want to say, yes.		value for the other.
11	Q Sure. But the key phrase that I am	11	Q And how do I know what values would
	focusing on is distinguishing characteristic. How	12	correlate to a processor type? By value, you mean
	does a person know what the range of distinguishing		something in ohms or
	characteristics are?	14	A Value impedance, yeah.
15	A Well, presumably you're talking about	15	Q Okay. How would I know what value
	some particular product. I mean		would have meaning for a processor type?
17	Q Okay.	17	A Well, again, typically there would be
18	A And for that particular product there		some documentation that would tell you how the
	are things that might be relevant, and if you're		thing operates and what the various impedances
	using impedance to signal one of those, then I		would mean. Failing that, you could test some of
	think you there's a good chance you meet these		them with different processor types and notice that
22			this impedance always correlates with that and this
23	Q So you would say that the processor		with that.
	type could be distinguishing characteristic?	24	Q Now, an Ethernet device would
25	A That's one of the examples given in	25	typically have some sort of isolation transformer
123			
23		20	
	Page 31		Page 33
1	Page 31 here, yes.	1	Page 33 at the end, wouldn't it?
1 2	Page 31 here, yes. Q How would you look at the impedance	1 2	Page 33 at the end, wouldn't it? A Yes.
1 2 3	Page 31 here, yes. Q How would you look at the impedance across an Ethernet connector and correlate that to	1 2 3	Page 33 at the end, wouldn't it? A Yes. Q And the purpose of the isolation
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$\begin{array}{c} 1\\ 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ 21\\ 22\\ 23\\ 24\\ \end{array}$	Page 31 here, yes. Q How would you look at the impedance across an Ethernet connector and correlate that to a processor type? MR. KRIEGER: Objection, form. A Well, obviously that depends on sorry. MR. KRIEGER: Go ahead. A That would depend on how the product is designed, obviously. Q (BY MR. BLUESTONE) What would you need to know? A What? Sorry. Q What would you need to know? A If you saw different impedances for different processor types, for instance. If you said, hey, when I apply this voltage, I want you to give me a resistance that indicates what your processor type is, or if you're using a technique more like outlined in specification where you're sending the processor type, the model number, whatever. There's various ways could you do it.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Page 33 at the end, wouldn't it? A Yes. Q And the purpose of the isolation trans let me rephrase that, I'm sorry. One purpose of an isolation transformer would be to block current flow from the internal circuitry of let's say that Ethernet device to the outside world; is that correct? A Well, that's the isolation function, yes. Q Yeah, right, but you in that circumstance you wouldn't be able to go and know any differences in the processor, right? Because it would be blocked off; correct? A Unless you put the impedance where it can be read from outside. Q You would have to deliberately wire it to put in an impedance that would go and signify a particular processor type; correct? A That that's one way you could do it, yes. Q You'd have to say I am putting in a

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1	Page 34 you would have to, but that's certainly one way you	1	Page 36 In that simple example, where is the
2	could do it, yes.	2	distinguishing information?
3	Q Okay. Where, in claim 31 where we're	3	A The distinguishing information is the
4	talking about distinguishing information, where is	4	meaning attached to having that resistor there as
5	that distinguishing information located on a	5	opposed to something else.
6	Ethernet data terminal device?	6	Q Okay. When you say
7	A I'm sorry, can you	7	A It indicates that distinguishing
8		8	information.
9	information located in a Ethernet data terminal	9	Q When you're saying "the meaning," it
	device?	10	could be in someone's mind; correct?
11	A Well, first off, it depends whether	11	A Well, presumably it's a meaning that
	it has one or not. If it doesn't have one, it's		the terminal at the far end is going to notice or
	not located anywhere. If it does, that would be a		you've kinda wasted your time.
	design option. When you're designing the	14	Q Okay. But the distinguishing
	equipment, you could decide where you want to put		information doesn't need to be anything tangible,
	it.		you're saying?
10 17		10	MR. KRIEGER: Objection, form.
	of when the specification was written, there were	17	A Well, the distinguishing feature of
	still Ethernets that only used two pairs and you'd		the equipment would be something tangible, as you
	· · · ·		say, serial number, processor type, electrical
	have two spare pairs you could do whatever you wanted to with.		
			characteristic, physical characteristic, and so on.
22			So there's something about that equipment that's a
	talks about the distinguishing information being		distinguishing feature that you want to indicate.
	associated to an impedance; correct?	24	Q (BY MR. BLUESTONE) Okay. And that
25	A Correct.	25	something about the equipment that's the
	Page 35		Page 37
1	Q And that would that language makes	1	distinguishing information that you want to
2	it clear that the distinguishing information is not	2	indicate is not in the resistor, is it?
3	the impedance, it's something else; correct?	3	A Well, no. The it's associated.
4	A Correct.	4	There's association between impedance and the
5	Q So	5	feature, so that when you see the impedance, you
6	A That's the associated part.	6	know what the feature is.
7	Q Okay. Who decides when the	7	Q Okay.
8	distinguishing information has become associated	8	A Distinguishing feature.
9	with the impedance?	9	Q How does the active association
10	_	10	occur?
11		11	A The active
12	-	12	MR. KRIEGER: Objection, form.
13		13	A Well, in my view, the active
	that way, then it is. If it isn't, then it isn't.		association occurs when you put when you make
	So I would say the product designer makes that		the product with that resistor in there to indicate
			that characteristic.
15		16	
15 16	decision.		
15 16 17	decision. Q So let's take a device that simply	17	Q (BY MR. BLUESTONE) Okay. So let's
15 16 17 18	decision. Q So let's take a device that simply has a resistor across the path.	17 18	Q (BY MR. BLUESTONE) Okay. So let's say I take your Ethernet connector, I have a
15 16 17 18 19	decision. Q So let's take a device that simply has a resistor across the path. A Okay.	17 18 19	Q (BY MR. BLUESTONE) Okay. So let's say I take your Ethernet connector, I have a resistor across it, and it has let's use the
15 16 17 18 19 20	 decision. Q So let's take a device that simply has a resistor across the path. A Okay. Q So it's an Ethernet connector and 	17 18 19 20	Q (BY MR. BLUESTONE) Okay. So let's say I take your Ethernet connector, I have a resistor across it, and it has let's use the example that you guys have used before, 25 kilo ohn
15 16 17 18 19 20 21	 decision. Q So let's take a device that simply has a resistor across the path. A Okay. Q So it's an Ethernet connector and or, sorry. It's an Ethernet data terminal device 	17 18 19 20 21	Q (BY MR. BLUESTONE) Okay. So let's say I take your Ethernet connector, I have a resistor across it, and it has let's use the example that you guys have used before, 25 kilo ohn resistor across it.
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15 16 17 18 19 20 21 22 23 24	 decision. Q So let's take a device that simply has a resistor across the path. A Okay. Q So it's an Ethernet connector and or, sorry. It's an Ethernet data terminal device with an Ethernet connector and I've put a resistor 	 17 18 19 20 21 22 23 24 	Q (BY MR. BLUESTONE) Okay. So let's say I take your Ethernet connector, I have a resistor across it, and it has let's use the example that you guys have used before, 25 kilo ohn resistor across it. A Okay.

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	Page 38		Page 40
1	exact thing. Ethernet connector, there's a	1	MR. KRIEGER: Objection, form.
2	resistor across the path, 25 kilo ohms, but this	2	A "The physical structure of the
3	time I did it specifically because I want to	3	device" meaning?
4	announce that I'm Power over Ethernet, PoE,	4	Q (BY MR. BLUESTONE) The physical
5	compliant.	5	structure of the device, for example, an Ethernet
6	Does the first device not have	6	terminal device with an Ethernet connector with an
7	distinguishing information but the second device	7	impedance across the path, path being the
8	does? Even though physically they're identical?	8	connection between two contacts on the Ethernet
9	MR. KRIEGER: Objection, form.	9	connector. That, in and of itself, is not
10	A Well, first of all, typically, you	10	determinative of whether there is distinguishing
11	wouldn't use a 25K resistor for no purpose like	11	information associated; correct?
12	that because you know it's used for something else.	12	A The fact that there is impedance
13	Q (BY MR. BLUESTONE) Okay.	13	there.
14	A So, beyond that, what's the question?	14	Q Right.
15	Q Well, I am using it for the purpose	15	A Correct.
16	of filtering in this example.	16	Q So you can't look at that device
17	A Okay.	17	based on just those physical aspects that I just
18	Q And in the second device I am using	18	mentioned? It's a connector, it's got a path, it's
19	it for the purpose of announcing PoE compliance.	19	got contacts, it's got impedance across it, that
20	Does the first device have distinguishing	20	alone is not sufficient; correct?
21	information associated?	21	MR. KRIEGER: Objection, form.
22	MR. KRIEGER: Objection to form.	22	A No, there are other claim elements.
23	A Again, you know, you would have to	23	Q (BY MR. BLUESTONE) That specifically
24	look at the entire device, the specifications and	24	you need to know whether it's associated with
25	so on, but I am inclined to say no, because it's	25	distinguishing information; correct?
	Page 39		Page 41
	there for some other reason. But I would have to	1	A Correct.
2	there for some other reason. But I would have to reserve judgment to look at the entire situation.	2	A Correct.Q Okay. And that determination must be
2 3	there for some other reason. But I would have to reserve judgment to look at the entire situation. Q (BY MR. BLUESTONE) Okay. So it	2 3	A Correct. Q Okay. And that determination must be made by looking at something outside the device
2 3 4	there for some other reason. But I would have to reserve judgment to look at the entire situation. Q (BY MR. BLUESTONE) Okay. So it could be, though, that the very same device	2 3 4	A Correct. Q Okay. And that determination must be made by looking at something outside the device itself; correct?
2 3 4 5	there for some other reason. But I would have to reserve judgment to look at the entire situation.Q (BY MR. BLUESTONE) Okay. So it could be, though, that the very same device physically could have distinguishing information in	2 3 4 5	 A Correct. Q Okay. And that determination must be made by looking at something outside the device itself; correct? A No, I don't think it would have to.
2 3 4 5 6	there for some other reason. But I would have to reserve judgment to look at the entire situation. Q (BY MR. BLUESTONE) Okay. So it could be, though, that the very same device physically could have distinguishing information in one circumstance but not in another circumstance?	2 3 4 5 6	 A Correct. Q Okay. And that determination must be made by looking at something outside the device itself; correct? A No, I don't think it would have to. I think it could you could make that
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1	Page 42		Page 44
1	them, find out there were problems, and that would	1	A I guess I'll refresh myself.
	be that.	2	Q Please. Feel free. Take your time.
3	Q (BY MR. BLUESTONE) I appreciate the	3	A Yeah, the way I interpret that claim
4		4	is that the impedance is arranged for the purpose
	nonetheless, if you were to look at that product		of distinguishing that equipment.
	and you have to make that assessment, is that	6	Q And for the purpose of is reflecting
	product in which I put in 25 kilo ohms for a		the intent of the designer or manufacturer;
	different purpose associated with distinguishing	8	correct?
	information?	9	A The intent of the designer,
10	MR. KRIEGER: Objection, form.		manufacturer, and really the capability of the
11	A Well, if I really looked at the		product.
	product and the supporting documentation and so on,	12	Q What if it is, back to our example
	the testing and whatnot included, that it wasn't		before, 25 kilo ohms across the contacts, that
	associated, then I would say that product doesn't		
			would be capable of signifying PoE compliance;
	infringe in my opinion.		correct?
16	Q (BY MR. BLUESTONE) Even though it	16	A Across the right contacts for the
	might have the same requirements as what might		right voltage levels, yes.
	infringe if I said it was for PoE compliance?	18	Q Okay. So if I take that
19	MR. KRIEGER: Objection, form.		circumstance, but I didn't intend to use it for
20	A It's not just I mean, it's not		compliance with the PoE standard, then I don't have
	just saying, it has to actually be designed that		a device that's arranged to distinguish; correct?
	way.	22	A Well, if you put in the 25K but you
23	Q (BY MR. BLUESTONE) Okay. So let's		didn't have the PD circuitry behind it, then I
	so what led us down this path a little bit was		think everyone would agree with that, that you put
25	the question about who decides what distinguishing	25	it in for whatever reason. If it's if it's part
	Page 43		Daga 46
1	-		
	information has become associated with impedance.		of a PD circuit to respond to a detection voltage,
2	information has become associated with impedance. Is it is my understanding correct	2	of a PD circuit to respond to a detection voltage, then I think it would be difficult to claim it
2 3	information has become associated with impedance. Is it is my understanding correct then that the person who decides is the person who	2	of a PD circuit to respond to a detection voltage, then I think it would be difficult to claim it wasn't put there for that purpose.
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2 2 3 3 4 4 5 6 6 7 7 8 9 10 11 12 13 14 15 16 177 18 19 20 21 22 23	 information has become associated with impedance. Is it is my understanding correct then that the person who decides is the person who is designing the product? A As opposed to what? Q As opposed to you as a third party looking at that same product. A Well, I guess my opinion would be that the association would be built into the product during the design and manufacture, and that it could be detected by a third party who looked at the product later. Q But if my intent in designing the product is not to provide distinguishing information, then I don't have distinguishing information, if, analyzing the product, the documentation, the operation and so on, if the impedance is not linked to or associated with a distinguishing feature, then I would say no, you don't infringe that claim. Q (BY MR. BLUESTONE) And would that 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	of a PD circuit to respond to a detection voltage, then I think it would be difficult to claim it wasn't put there for that purpose. Q Okay. But what is important is the purpose behind the placement of the impedance; correct? A Well, I MR. KRIEGER: Objection, form. A Well, I think all the claim elements are important. And, yes, at one of those claim elements is that you arrange for claim 67 now we're talking? Q (BY MR. BLUESTONE) Mm-hmm. A that you arrange the impedance to distinguish the piece of terminal equipment. Q And the claim language doesn't say for the purpose of, but your read of that is that that means you're arranging the impedance for the purpose of making it distinguishable; correct? A Yes. To me, that's what the plain meaning of those terms is. Q And by distinguishable, I believe you said that that could also mean it can be
2 2 3 4 4 5 6 6 7 7 8 9 9 100 111 122 133 144 155 166 177 188 199 200 211 222 233 24	 information has become associated with impedance. Is it is my understanding correct then that the person who decides is the person who is designing the product? A As opposed to what? Q As opposed to you as a third party looking at that same product. A Well, I guess my opinion would be that the association would be built into the product during the design and manufacture, and that it could be detected by a third party who looked at the product later. Q But if my intent in designing the product is not to provide distinguishing information, then I don't have distinguishing information, if, analyzing the product, the documentation, the operation and so on, if the impedance is not linked to or associated with a distinguishing feature, then I would say no, you don't infringe that claim. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 then I think it would be difficult to claim it wasn't put there for that purpose. Q Okay. But what is important is the purpose behind the placement of the impedance; correct? A Well, I MR. KRIEGER: Objection, form. A Well, I think all the claim elements are important. And, yes, at one of those claim elements is that you arrange for claim 67 now we're talking? Q (BY MR. BLUESTONE) Mm-hmm. A that you arrange the impedance to distinguish the piece of terminal equipment. Q And the claim language doesn't say for the purpose of, but your read of that is that that means you're arranging the impedance for the purpose of making it distinguishable; correct? A Yes. To me, that's what the plain meaning of those terms is. Q And by distinguishable, I believe you

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1		1	in an impedance across the path, right? By the
2			mere design of all the other aspects of the
3			circuitry; correct?
4	standard, would know to stay away from 25 a 25	4	A It's the impedance that would
	kilo ohm resistor across the path; correct?	5	traditionally be there in the Ethernet system.
6			It's not anything that you specifically put in
7	Q Because otherwise the PSE might send		there if you indicate.
8		8	Now, you could, I suppose, design
9	having; correct?	9	non-PoE equipment so that when it sees a detection
10			voltage, it deliberately applies an impedance other
11	Q So if I am designing that product		than 25K to indicate that it's not, and then in
12	now, is it correct that I am arranging the	12	that case maybe you do infringe.
13	impedance to distinguish the device from pardon	13	Now, why you would want to go out of
14	me. If I am doing that now, am I arranging the	14	your way to infringe when you don't have to, I
15	device to distinguish it as non-PoE compliant if I	15	don't know. But the act of not putting an
16	use anything other than a 25 kilo ohm impedance?	16	impedance there I don't see as an infringing act.
17	MR. KRIEGER: Objection, form.	17	Q I'm not saying you're not putting in
18	A Well, no, typically you don't put a	18	an impedance. I'm just saying your circuit device
19	specific impedance in there for the purpose of	19	sorry your circuit specification is using a
20	distinguishing that you're not PoE. It	20	different impedance. For example, it just has an
21	Q (BY MR. BLUESTONE) But if I but	21	isolation transformer would have a different
22	make sure I understand. To you, arranging	22	impedance; correct?
23	impedance would be to put the impedance in place;	23	A Right.
24	correct?	24	Q And you would have arranged the
25	A Couple it however you put it in, yes.	25	impedance in that circuit; correct?
	Page 47		Page 49
1	Q Okay. Does that mean you have to	1	A Well, typically, you would look
2	specifically put in a particular element with a	2	like something close to short or something close to
3	designated impedance?	3	an open, would be the main things that you would
4	A It means you have to present an	4	see, and you haven't specifically arranged those
5	impedance across the selected contacts.	5	for that purpose, that's just the way the thing is.
6	Q Okay. So when I am designing a	6	Q But that isolation transformer would
7	non-PoE compliant device now, I am going to be very	7	have an impedance; right?
8	careful to put in place an impedance that is not 25	8	A There would be an impedance through
9	kilo ohms; correct?	9	the path, yes.
10	3	10	Q It would be something you could
11			measure?
	going to put 25 kilo ohms in place, but you don't	12	A It would be something you could
	have to be careful because the normal impedance to		measure, yes.
	the transformer is always nowhere near that.	14	Q And an impedance in general is going
	That's why 25K was selected.		to be a measurable characteristic across any path;
16			correct?
		17	A Correct.
1	to put in 25 kilo ohms. That is going to be my		
	arrangement is going to exclude that; correct?	18	Q And someone designing after the
19	arrangement is going to exclude that; correct? MR. KRIEGER: Objection, form.	18 19	Q And someone designing after the 802.3af standard is going to know not to put in a
19 20	arrangement is going to exclude that; correct? MR. KRIEGER: Objection, form. A Well, again, the way I would	18 19 20	Q And someone designing after the 802.3af standard is going to know not to put in a 25 kilo ohm resistor; right?
19 20 21	arrangement is going to exclude that; correct? MR. KRIEGER: Objection, form. A Well, again, the way I would interpret is you're not putting in anything	18 19 20 21	Q And someone designing after the 802.3af standard is going to know not to put in a 25 kilo ohm resistor; right? MR. KRIEGER: Objection, form.
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19 20 21 22 23	arrangement is going to exclude that; correct? MR. KRIEGER: Objection, form. A Well, again, the way I would interpret is you're not putting in anything specifically, you're just not putting in the thing	18 19 20 21 22 23	 Q And someone designing after the 802.3af standard is going to know not to put in a 25 kilo ohm resistor; right? MR. KRIEGER: Objection, form. A They would know to put in the 25K if

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1 have a reason to explicitly not put it in, right?	1 i	f you want.
2 The 25 kilo ohm resistor? It would be a bad design	2	A Yeah, a break that wouldn't be bad.
3 choice; right?	3	Q Sure.
4 A Well, when you're designing circuits,	4	THE VIDEOGRAPHER: We're going off
5 you don't you don't put in everything that		he record at approximately 9:57 a.m.
6 there's not a reason not to put in. I mean, the	6	(Off the record.)
7 circuit would get pretty big in a hurry. Typically	7	(Exhibit 2 marked for identification
8 you put in what you need.	,	by the court reporter.)
9 Q But if I'm designing a device that's	9	THE VIDEOGRAPHER: We're back on the
10 not if I'm designing the circuitry for a device	10 r	record at approximately 10:08 a.m.
11 that's not supposed to receive power, and I'm a	11	Q (BY MR. BLUESTONE) Mr. Baxter, I
12 good engineer, I better make sure I'm not putting		have handed you what I've marked as Exhibit 2.
13 in something that's going to send power over that		t's a copy of your October 20, 2014, Declaration
14 line; right?		n support of plaintiffs' opposition to summary
15 A Right, if you don't want it, yes.		udgment on indefiniteness. Do you see that?
16 Q Right. So in the circumstance, this	16	A Yes.
17 device has been arranged to be signifying that it's	17	Q Is that a complete copy of your
18 not PoE compliant. It doesn't want the PSE to send		report?
19 power; right?	19	A Yeah, appears to be.
20 MR. KRIEGER: Objection, form.	20	Q And is this a complete set of your
21 A It may not even be aware that there		opinions on indefiniteness?
22 are PSEs. I mean, it's not you can't infer from	22	A Yes.
23 that, I don't think, that it was deliberately	23	Q Okay. Is there anything in this
24 arranged to avoid PoE. They might have been		report that you believe you need to add or change?
25 oblivious to PoE. I mean, who knows?	25	A No.
,		
Dec. 51		B 52
Page 51	1	Page 53 O Okay And for the judge or trial
1 Q (BY MR. BLUESTONE) But what if I go	1	Q Okay. And for the judge or trial
1 Q (BY MR. BLUESTONE) But what if I go 2 and I have a design spec that says don't put in 25	-	Q Okay. And for the judge or trial you'd be presenting testimony that's consistent
1 Q (BY MR. BLUESTONE) But what if I go 2 and I have a design spec that says don't put in 25 3 kilo ohms, just make sure you don't do that. In	3 v	Q Okay. And for the judge or trial you'd be presenting testimony that's consistent with this report?
1 Q (BY MR. BLUESTONE) But what if I go 2 and I have a design spec that says don't put in 25 3 kilo ohms, just make sure you don't do that. In 4 that circumstance, has it been associated with	3 v 4	Q Okay. And for the judge or trial you'd be presenting testimony that's consistent with this report? A Yes.
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1			
1	Page 54 more detail than the prior reports.	1	Page 56 extent that counsel is requesting communications
2			between an attorney and a client or work product.
	necessitated the inclusion of "for the purpose of"		If you have an independent basis for knowing or
	in paragraph 82?		responding to the question, you may answer.
5		5	
	5 /		Q (BY MR. BLUESTONE) And if you have
	also will caution the witness not to reveal any		an independent basis, you can answer that. Go
	attorney-client privileged communications. But		ahead.
	otherwise, the witness can answer.	8	A Can you give me the gist of the
9	Å		question again?
10		10	Q Well, before October 20, in none of
	that I just read in paragraph 82 there is "for the		your Declarations was "for the purpose of"
	purpose of."		introduced in, and to the extent you can answer
13	6		this question without divulging communications with
14			your counsel, I would like to know why "for the
	you introduced the concept of "for the purpose of"?		purpose of" was introduced at this time frame.
16	5	16	A Well, obviously I did have
17			conversations with counsel, and let me just say
18	•		that
19		19	MR. KRIEGER: Yeah, and if you can't
	language of the claim, that's what it that's the		answer it without referencing communications with
	way I interpret it. That the	21	me, then you can't answer.
22		22	A Right. I would just repeat that in
	to paragraph 81. As I understand paragraph 81, we		my opinion this is what the language of the claim
	are referring to language that's in claim 67; is		means.
25	that correct?	25	MR. PARK: Sorry, this is Jin Park
	Page 55		Page 57
1			for Samsung. Just sorry to interject, but are you,
2			meaning CMS, claiming privilege with your expert
	the record. You say, "I as one of ordinary skill	3	that has provided an opinion in this case?
	in the art understand that 'arranging impedance	4	MR. KRIEGER: So, as you know, you
	within the at least one path to distinguish the		guys are not entitled to any communications between
	piece of terminal equipment' means that impedance		me and my expert with certain exceptions according
	is placed in the path for the purpose of making the		to the rules; right? One being compensation, I
	piece of terminal equipment distinguishable."		believe, and I don't have the exact wording in
9			front of me, and the other one is something he
10	your opinion?	10	relies on.
11		11	So I have explained to him the law
12			and all that is in the report. But beyond that you
	introduce the concept of "for the purpose of."	13	guys are not entitled to anything else.
13			
14	A Mm-hmm.	14	MR. PARK: We are entitled to the
14 15	A Mm-hmm. Q And this wasn't in any of your prior	14 15	basis of his opinions and if the basis of his
14 15	A Mm-hmm.	14 15 16	basis of his opinions and if the basis of his opinion is that you told him to add that language,
14 15 16	A Mm-hmm. Q And this wasn't in any of your prior	14 15 16	basis of his opinions and if the basis of his opinion is that you told him to add that language, we're entitled to know that.
14 15 16	A Mm-hmm. Q And this wasn't in any of your prior Declarations, in fact, you had a prior Declaration on claim construction; correct?	14 15 16	basis of his opinions and if the basis of his opinion is that you told him to add that language,
14 15 16 17	A Mm-hmm. Q And this wasn't in any of your prior Declarations, in fact, you had a prior Declaration on claim construction; correct? A Yes.	14 15 16 17 18	basis of his opinions and if the basis of his opinion is that you told him to add that language, we're entitled to know that.
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