

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

UNILOC 2017 LLC,

Plaintiff,

v.

VERIZON COMMUNICATIONS, INC.,
CELLCO PARTNERSHIP INC. D/B/A
VERIZON WIRELESS, VERIZON
BUSINESS NETWORK SERVICES, INC.,
and VERIZON DIGITAL MEDIA
SERVICES, INC.,

Defendants.

Case No. 2:18-cv-00513-JRG

Jury Trial Demanded

**PLAINTIFF'S OPPOSITION TO ERICSSON INC.'S
MOTION TO INTERVENE AS A DEFENDANT**

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I. INTRODUCTION

Ericsson Inc.’s (“Ericsson”) reason for intervening is that it provides *some* of the base stations in Verizon’s infringing cellular network. This is not a sufficient reason to intervene as of right, nor a justification for permissive intervention. Intervention is particularly inappropriate where, as here:

- (1) Ericsson provides only a portion of the equipment recited in the claim (base stations) and not even all of the relevant base stations;
- (2) Ericsson is not indemnifying Verizon; and
- (3) Ericsson cannot even say whether it has documents relevant to the issues in this case (*see, e.g.*, Dkt. No. 17 at 10: “Ericsson also *likely* possesses documents related to the design and function of the Accused Ericsson Base Stations” (emphasis added)).

Ericsson asks to intervene based on two Internet printouts—that say nothing more than Ericsson provides some LAA enabled base stations to Verizon—and conclusory attorney argument. Ericsson cannot wedge its way into a lawsuit concerning Verizon’s infringing network without proving it has the right to do so or should be allowed to do so.

The Court should deny Ericsson’s motion because Ericsson: (1) has not averred that it has relevant documents or witnesses, (2) has not demonstrated an obligation to an active litigant (such as indemnification), and (3) has not proven that Verizon cannot defend (or does not understand) the functionality of its own network.

II. BACKGROUND

In the Complaint, Plaintiff details Verizon’s infringement of U.S. Patent No. 7,016,676 (the “’676 patent”). Dkt. No. 1, ¶¶ 92-109. The operation of Verizon’s network that provides “shared network access to LTE-LAA and Wi-Fi capable devices over at leas[t] one common frequency band” is accused of infringing the method of claim 1 of the ’676 patent. *Id.* at ¶¶ 97-

99 (“Verizon’s Network, base stations, and network controllers perform an interface control method that provides for alternate use of the 5 GHz frequency band, which is used by a first (Wi-Fi) and second (LTE-LAA) interface standard.”).

Ericsson does not assert that it provides all of the equipment recited in claim 1. Moreover, while Ericsson repeatedly claims that Verizon is somehow ignorant of its own use of the infringing LAA functionality (and thus Verizon’s own network), this is empty attorney rhetoric and is belied by the evidence in the Complaint demonstrating that Verizon is well versed in the functioning of all of the relevant infringing equipment, as exemplified as follows:

Deployment plans

In August, Verizon lit up LAA with carrier aggregation alongside 4x4 MIMO and 256QAM on its commercial network in Boca Raton, Florida to hit 953Mb/s in a real world demonstration. Device and additional field testing are currently underway, with network deployments set to get underway in earnest during 2018, executives indicated.

Mike Haberman, Verizon’s VP of network support, said LAA deployments will be concentrated in high traffic areas. The technology will more likely be implemented on in-building small cells rather than macro cells, he added.

Verizon’s work with LAA uses carrier aggregation across four bands: three unlicensed bands at 5GHz and one licensed band. An operator representative previously told *MWL* Verizon is looking ahead to five carrier aggregation to add another band of unlicensed to the mix.

Id. at ¶ 99.

As Ericsson confesses, it believes that it only provides some of the base stations used in performing the infringing method: “Ericsson believes that the scope of Uniloc’s infringement allegations includes LTE-LLA-enabled base stations that Verizon may purchase from other suppliers, although Ericsson lacks information about those other suppliers’ LTE-LAA-enabled base stations.” Dkt. No. 17 at 3, n. 6.

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