

Exhibit 1

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

ELBIT SYSTEMS LAND AND C4I LTD.; and)	
ELBIT SYSTEMS OF AMERICA, LLC,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 2:15-CV-37-RWS-RSP
)	
)	
HUGHES NETWORK SYSTEMS, LLC;)	
BLACK ELK ENERGY OFFSHORE)	
OPERATIONS, LLC; BLUETIDE)	
COMMUNICATIONS, INC.; and COUNTRY)	
HOME INVESTMENTS, INC.,)	
)	
Defendants.)	

DEFENDANTS’ JOINT INVALIDITY CONTENTIONS

Pursuant to Local Patent Rule (“P.R.”) 3-3 and the Docket Control Order (Dkt. No. 57), Defendants Hughes Network System, LLC; Bluetide Communications, Inc.; and Country Home Investments, Inc. (collectively “Defendants”)¹ respectfully set forth their invalidity contentions for the asserted claims of the patents-in-suit, U.S. Patent No. 6,240,073 (the ‘073 Patent) and U.S. Patent No. 7,245,874 (the “874 Patent”).

Defendants’ invalidity contentions address the following claims of the patents-in-suit, which are the claims currently asserted by Plaintiffs Elbit Systems Land and C4I LTD. and Elbit System of America, LLC (“Elbit”) according to its Infringement Contentions of December 3, 2015:

¹ Black Elk Energy Offshore Operations, LLC is currently stayed. D.I. 56.

Patent	Claims Addressed
'073 patent	2, 3, 4, 5, 6, 7 and 28
'874 patent	1, 2, 3, 4, 5, 7, 8, 9, 11, and 12

To the extent that Defendants' P.R. 3-3 invalidity contentions rely on or otherwise embody particular constructions of terms or phrases in the asserted claims, Defendants are not proposing any such constructions as proper constructions of those terms or phrases at this time. The Court established separate deadlines for the parties' proposed claim constructions in the Docket Control Order (Dkt. No. 57), and Defendants will disclose their proposed constructions according to those deadlines. For purposes of these invalidity contentions, Defendants may adopt alternative claim construction positions and will generally apply the broadest conceivable constructions of each term or phrase. In particular, certain of these invalidity contentions may be based on claim constructions that appear to underlie Elbit's infringement contentions. Defendants, however, do not concede that Elbit's apparent constructions are proper, and reserve the right to contest any such constructions. Moreover, Defendants do not admit that any accused product, method, or service, or any of Defendants' other products, methods, or services, infringe any of the asserted claims. Nothing stated herein shall be treated as an admission or suggestion regarding either the scope of any of the asserted claims or that any of the accused technology meets any limitations of the asserted claims.

Nothing stated herein shall be construed as an admission or a waiver of any particular construction of any claim term. Moreover, the use of terms herein from the patents-in-suit should not be understood to mean that such terms as used in the patents-in-suit or claims thereof are definite or otherwise comply with 35 U.S.C. § 112. Likewise, the use of terms herein from the patents-in-suit should not be understood to suggest or imply a common, usual, ordinary, customary, plain, or accepted meaning in the art for any such term.

Pursuant to P.R. 3-3(c), Defendants have, in the attached appendices, identified where the prior art references disclose subject matter recited in preambles of the asserted claims, without regard to whether the preambles are properly considered to be limitations of the asserted claims. Defendants reserve the right to argue that the preambles are or are not limitations during the claim construction proceedings in this case.

Defendants' invalidity contentions are based on their current knowledge of the patents-in-suit, the prior art, Elbit's infringement contentions, and upon information presently and reasonably available to Defendants. This litigation is in the early stages and Defendants' investigation of the prior art is ongoing. Defendants reserve the right to supplement, amend, modify, revise, or correct any aspect of their invalidity contentions, and to provide additional information as such information becomes available through discovery or otherwise. In particular, Defendants reserve the right to supplement their invalidity contentions as discovery continues and after the Court's claim construction rulings.

Defendants reserve the right to supplement their invalidity contentions should Elbit subsequently attempt to amend its P.R. 3-1 or 3-2 disclosures in any way, (*e.g.*, via P.R. 3-1(g) as modified in the Discovery Order of December 2, 2015), or to otherwise modify their infringement allegations against Defendants or seek to establish an earlier date of invention (while reserving all rights to challenge any attempt by Elbit to do so). Defendants identify obviousness combinations below and, to the extent Plaintiffs allege that a reference does not disclose or teach a specific element, Defendants specifically identify which references render that element obvious as well as reasons to combine such references. Nevertheless, Defendants acknowledge that the Parties are discussing, and intend to enter into, an order to limit asserted claims and prior art references. Accordingly, at the time that Defendants are required to reduce the number of prior art

references, Defendants expressly reserve the right to update the of specific obviousness combinations in accordance with such reduction.

I. '874 PATENT - INVALIDITY UNDER 35 U.S.C. §§ 102 AND 103

The asserted claims are invalid as anticipated by the prior art under various subsections of 35 U.S.C. § 102 and/or as obvious in view of the prior art under 35 U.S.C. § 103. Pursuant to P.R. 3-3(c), the charts attached as appendices to these invalidity contentions set forth how prior art identified by Defendants anticipates either expressly or inherently, and/or renders obvious, each asserted claim. Defendants cite the most relevant portions of the identified prior art references. However, other portions of the identified prior art may additionally anticipate, either expressly or inherently, and/or render obvious one or more of the asserted claims.

Where Defendants cite a particular drawing or figure in the accompanying charts, the citation encompasses the description of the drawing or figure, as well as any text associated with the drawing or figure (even if the associated text is not itself expressly cited). Similarly, where Defendants cite particular text concerning a drawing or figure in the accompanying charts, the citation encompasses that drawing or figure as well (even if the associated drawing or figure is not expressly cited).

Certain pieces of identified prior art inherently disclose features of the asserted claims. Defendants may rely on inherency to demonstrate the invalidity of the asserted claims. Moreover, certain prior art references and solutions may inherently anticipate certain features of the asserted claims as construed by Elbit. Defendants may rely on other portions of the prior art, other documents, and expert testimony to establish the inherency of certain features of the prior art to invalidate the asserted claims. Defendants also may rely on any reference identified in these invalidity contentions or any other reference to prove that the references are enabled or to explain the meaning of a term used in the solutions or any reference.

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