

EXHIBIT 9

Maxell, Ltd. v. Apple Inc.:
Maxell's Motion to Strike Portions of
Apple's Invalidity Expert Reports

Case No. 5:19-cv-00036-RWS

August 15, 2020

Experts Not Required To Use Same Words As Invalidity Contentions



“While the phrase “LANAdvantage” may not have appeared in Hughes' invalidity contentions, Hughes disclosed that the PES included Transmission Control Protocol/Internet Protocol (TCP/IP) functionality, and Hughes cited the corresponding source code. See Dkt. 286 at 1. **Elbit demands granularity not required by the local patent rules.** Because Hughes adequately disclosed PES’s underlying functionality, the Court DENIES Elbit’s motion as to the LANAdvantage feature.”

Elbit Sys. Land & C4I Ltd. v. Hughes Network Sys., LLC, No. 215-cv-00037RWS-RSP, 2017 WL 2651618, at *9 (E.D. Tex. June 20, 2017), report and recommendation adopted, No. 2:15-CV-00037-RWS, 2017 WL 4693971 (E.D. Tex. July 31, 2017)

Experts Permitted To Expand On Disclosed References And Theories



“'[C]ontentions are not intended to require a party to set forth a prima facie case,' **they need only provide fair notice.**”

Elbit Sys. Land & C4I Ltd. v. Hughes Network Sys., LLC, No. 2:15-CV-37-RWS-RSP, 2016 WL 9307563, at *3 (E.D. Tex. Sept. 27, 2016), *citing EON Corp. IP Holdings, LLC v. Sensus USA Inc.*, Case No. 6:09-cv-116, Dkt. No. 122 at 4 (E.D. Tex. Jan. 21, 2010)

Menascé “New” 112 Opinion – Expanded On Previous Disclosure

Allegedly “New” Opinion

Invalidity Contentions (Ex. 8 at 127-128)

Invalidity for lack of written description for the '586 Patent, Claim 1 (Mot. at 4)

The Asserted Claims of the '586 patent fail to satisfy the requirements of § 112, ¶ 1 because the specification fails to provide an adequate written description of the following terms:

“a memory which previously stores information about another mobile terminal”
(claim 1)

“when conditions are met, the controller controls the mobile terminal to transmit information to the another mobile terminal for switching a state of the another mobile terminal from a locked state to an unlocked state” or similar limitation
(claims 1, 9, 16)

“wherein the conditions include...after the mobile terminal is in the locked state,
• • •

“wherein the conditions include...after the performing, receiving, by the controller, the authentication input for switching the mobile terminal from the locked state to the unlocked state.” or similar limitation (claims 1, 9, 16)

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