

# Exhibit “A”



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The Honorable K. Nicole Mitchell  
U.S. District Court for the Eastern District of Texas

Re: *Cellular Communications Equipment LLC v. LG Electronics, Inc. et al.*  
C.A. 6:14-cv-982-JRG-KNM (Lead Case)

Dear Judge Mitchell:

This letter responds to Defendants' letter seeking permission to file a motion for summary judgment of indefiniteness regarding U.S. Patent Nos. 8,868,060 ("060 Patent"), 8,848,556 ("556 Patent"), and 8,385,966 ("966 Patent"). Dkt 123-1. As explained below, Defendants' alleged indefiniteness issues fail to consider the perspective of one skilled in the art, and thus lack merit. CCE respectfully asks the Court to deny their requests.

**I. '060 Patent: "accurate receipt" (Claim 15)**

Claim 15 recites a terminal configured to "switch to a broadcast mode for receiving broadcast content on a broadcast channel ... *without waiting to confirm accurate receipt of an emergency warning message.*" Defendants allege that "accurate receipt" is indefinite, despite the fact that "accurate" has a well-known ordinary meaning in this context: "free from error," or "correct." Merriam Webster's Collegiate Dictionary, 10th Ed. (1999). Defendants disregard this definition to portray "accurate" as an allegedly ambiguous "term of degree."

They also ignore the requisite technical understanding of a skilled artisan. One skilled in the art of 3GPP cellular networks would readily understand what it means to confirm "accurate receipt" of a message in accordance with accepted norms in that field. Cellular network technologies encompass known, accepted processes for verifying and ensuring that messages are received correctly. In light of that knowledge, the claim language undoubtedly conveys "reasonable certainty."

Further, Defendants disregard the context of the claim language to fabricate ambiguity. Specifically, they allege it is unclear whether "accurate receipt" refers to (1) a terminal receiving an emergency warning message sent by network equipment (e.g., a base station), or (2) a processor *within* the terminal receiving the message from the antenna *within* the terminal.

Claim 15 plainly contemplates a terminal receiving a paging message from a base station and, in response, switching to a broadcast channel to receive broadcast content (e.g., emergency content). Thus, the plane of communication is between the terminal and the base station, not between subcomponents *within* the terminal. In other words, the invention is focused on more efficiently communicating information from the network to the terminal, and one skilled in the art would not interpret "accurate receipt" of an emergency warning message to invoke an entirely different, intra-terminal context.

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## II. '556 Patent: “Type 1” and “Type 2” Power Headroom Reports (Claims 15 and 23)

Claims 15 and 23 of the '556 Patent broadly claim a first type (“type 1”) and second type (“type 2”) of power headroom reports. It is undisputed that those types are different, i.e., type 1 reports are different than type 2 reports. Because the inventors are not required to specify how each type is calculated, further construction is unnecessary.

Nonetheless, Defendants allege that Claims 15 and 23 are indefinite, not on their own right, but because they are broader than *other* dependent claims directed to particular embodiments. According to Defendants, claims 15 and 23 must be limited to the formulas disclosed in claims 16 and 24 — which reflect embodiments disclosed in the specification — and any additional breadth renders them indefinite.

This is an improper attempt to limit the claims to disclosed embodiments guised as an indefiniteness issue. It fails as a matter of law. Claims 15 and 23 are not limited to the disclosed embodiments, *Hill-Rom Services v. Stryker Corp.*, 755 F.3d 1367, 1371 (Fed. Cir. 2014), nor is breadth commensurate with indefiniteness. Moreover, the specification itself undermines Defendants’ attempt to confine the claims to the disclosure. *See, e.g.*, '556 Patent at 5:36-41 (“Type 1 and Type 2 power headroom reports may employ the following definition...”) (emphasis added). Defendants’ distaste for the broad language of Claim 15 and 23 does not substantiate an indefiniteness position, and the Court should deny their request for summary judgment on these terms.

## III. '966 Patent: Alleged ambiguity / inconsistency (Claims 5-7 and 14-17)

The '966 Patent describes techniques for power control in a cellular environment. The subject matter is dense, though not as complicated as it may appear at first blush.

At bottom, Defendants allege that Claims 5 and 14 are indefinite because the equations they recite do not reference  $f(0)$ . Dkt 123-1 at 5. The terminal flaw of this argument is that Defendants neglect a basic mathematical principle: substitution. Those skilled in the art (and some who are not) will recall this technique which, at a basic level, involves simplifying a first equation to solve for a particular variable (e.g.,  $y = 2x + 3$ ), then substituting for that variable ( $y$ ) in a second equation in order to solve for another variable (e.g.,  $2x + y = 10$  becomes  $2x + (2x + 3) = 10$ ).

Indeed, Defendant Kyocera applies a substitution technique in its petition for *inter partes* review when it asserts that, although Claim 5 “does not initially appear to be consistent with Claim 1[,]:

[T]he equation in Claim 5 can be rewritten with the  $P_{\text{preamble}}$  variable expanded per Equation 3 from the '966 patent. **When this is done, Claim 5 recites a formula for calculating a transmit power that depends on both  $P_{\text{preamble}}$  and  $f(0) = \Delta P_{\text{PC}} + \Delta P_{\text{rampup}}$ .**

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IPR2015-01559, Paper No. 1 at 20 (emphasis added); Ex. 1002 at ¶ 75 (“Rewriting the equation from claims 5 and 14, by expanding the  $P_{\text{preamble}}$  term shows that the initial transmit power does depend on  $f(0)$  where  $f(0) = \Delta P_{\text{rampup}} + \Delta P_{\text{PC}}$ ”).

Thus it is Defendants — not the claims — which contradict themselves. Their flimsy analysis does not justify summary judgment briefing on these terms, and their letter brief request should be denied.

Sincerely,



Edward R. Nelson, III