

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TEXAS
3 WACO DIVISION

4 ANCORA TECHNOLOGIES, INC. *
5 VS. * August 10, 2020
6 LG ELECTRONICS, INC., ET AL *
7 SAMSUNG ELECTRONICS CO., LTD, * CIVIL ACTION NO. AU-20-CV-34
8 ET AL *

9 BEFORE THE HONORABLE ALAN D ALBRIGHT, JUDGE PRESIDING
10 TELEPHONIC DISCOVERY HEARING

11 APPEARANCES:

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1 (August 10, 2020, 10:00 a.m.)

2 MS. MILES: Telephonic discovery hearing in Civil Action
3 1:20-CV-34, styled Ancora Technologies, Incorporated versus LG
4 Electronics, Incorporated, LG Electronics USA, Incorporated,
5 Samsung Electronics America, Incorporated and Samsung
6 Electronics Company, Limited.

7 THE COURT: Good morning, everyone. If I could hear
8 announcements from counsel, please.

9 MR. SEIGEL: Good morning, Your Honor. This is Steve
10 Seigel on behalf of Plaintiff Ancora Technologies, and I
11 believe Mr. Andres Healy and Charley Ainsworth are also on the
12 phone on behalf of Plaintiff Ancora.

13 THE COURT: Okie dokie. Good morning.

14 MR. CARTER: Good morning, Your Honor. Good morning, Your
15 Honor. Winn Carter with Morgan Lewis representing LGE. And on
16 the phone with me is Tom Davis, Elizabeth Chiaviello and Collin
17 Park, all with Morgan Lewis and representing LGE.

18 THE COURT: Good morning to each of you as well. I'm
19 happy to take up whatever you all want me to.

20 MR. SEIGEL: Thank you, Your Honor. This is Mr. Seigel
21 for Ancora.

22 Ancora requested this hearing to address three categories
23 of documents that LG is either refusing or unable to produce.

24 The first concerns technical documents that explain the
25 accused functionality, which is called over-the-air, or OTA,

1 updates. The second is documents that relate to LG's control
2 over servers that provide these OTA updates to mobile phones
3 and televisions. And the third category is documents that
4 relate to LG's marketing and promotion of its OTA update
5 functionality to end users or carriers.

6 I'd like to address each of these categories separately,
7 but before getting there I'd like to make three preliminary
8 points.

9 The first is that most of these documents should have been
10 produced in February as part of LG's mandatory pre-Markman
11 disclosures.

12 Second, we know that the documents that we are requesting
13 exist, even though LG has not produced them. For example, as
14 related to technical documents, our experts have told us that
15 LG must have these manuals and documents we're looking for,
16 otherwise its programmers or engineers would have to start from
17 scratch for every product that they create.

18 Our complaint also includes a number of examples of
19 marketing materials that we know exist. And not only do we
20 know from documents that -- like from mobile carriers like
21 Verizon and T-Mobile that these documents in fact exist, but LG
22 admitted in its most recent e-mail to us that the information
23 we seek exists. LG is, nonetheless, refusing to produce what
24 we've requested, telling us that they do not believe that they
25 are relevant.

1 Third, not only do we need these documents, but we also
2 need ESI searches to confirm that LG is actually producing
3 them. And to that end, we have tried to be very reasonable.
4 We've proposed an ESI search protocol in which we've identified
5 the specific types or categories of custodians we would like to
6 be searched. We've provided draft search terms for certain
7 categories of documents, and we've also agreed to cap our
8 initial requests at 4,500 unique hits.

9 In response to that, LG told us it would not produce the
10 underlying technical documents we are entitled to, it would not
11 agree to do any ESI searches and it would not even provide us
12 with any hit counts.

13 So with that in place, if it's okay with Your Honor, I'd
14 like to move on to the specific categories and address them one
15 by one.

16 THE COURT: That's fine.

17 MR. SEIGEL: Okay. Thank you, Your Honor.

18 The first issue concerns LG's accused servers. As we
19 stated in our infringement contentions, certain of the claims
20 are infringed by actions that are taken by what are called OTA
21 servers. And these are servers that deliver software updates
22 to the phones and TVs, the accused devices.

23 We have always taken the position that these actions are
24 taken by LG, but LG has contended that it believes LG does not
25 directly infringe claims that involve OTA servers because third

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