

In the Matter of:) Investigation No.
CERTAIN WIRELESS DEVICES) 337-TA-800
WITH 3G CAPABILITIES AND)
COMPONENTS THEREOF)

United States
International Trade Commission
500 E Street, Southwest
Washington, D.C.

Wednesday, February 20, 2013

The parties met, pursuant to the notice of the Judge, at 9:30 a.m.

BEFORE: THE HONORABLE DAVID P. SHAW

Microsoft Corporation

1 APPEARANCES:

2 FOR COMPLAINANT INTERDIGITAL COMMUNICATIONS:

3 RON SHULMAN, ESQ.

4 Latham & Watkins LLP

5 140 Scott Drive

6 Menlo Park, CA 94025

7
8 MAXIMILIAN A. GRANT, ESQ.

9 BERT C. REISER, ESQ.

10 MICHAEL A. DAVID, ESQ.

11 MATTHEW J. MOORE, ESQ.

12 ELIZABETH V. JOHNSON, ESQ.

13 ADAM M. GREENFIELD, ESQ.

14 JONATHAN D. LINK, ESQ.

15 ANDREW FOSSUM, ESQ.

16 MATHEW D. AICHELE, ESQ.

17 Latham & Watkins LLP

18 555 Eleventh Street, N.W., Suite 1000

19 Washington, D.C. 20004-1304

20
21 JULIE M. HOLLOWAY, ESQ.

22 Latham & Watkins LLP.

23 505 Montgomery Street

24 San Francisco, CA 94111

25
Microsoft Corporation

1 APPEARANCES:

2 FOR COMPLAINANT INTERDIGITAL COMMUNICATIONS:

3 DALE CHANG, ESQ.

4 Latham & Watkins LLP

5 355 South Grand Avenue

6 Los Angeles, CA 90071

7
8 LARRY L. SHATZER, ESQ.

9 DAVID S. STEUER, ESQ.

10 MAURA L. REES, ESQ.

11 MICHAEL B. LEVIN, ESQ.

12 Wilson Sonsini Goodrich & Rosati

13 650 Page Mill Road

14 Palo Alto, CA 94304-1050

15
16 LUCY YEN, ESQ.

17 Wilson Sonsini Goodrich & Rosati

18 1301 Avenue of the Americas, 40th Floor

19 New York, New York 10019

20
21 VERONICA S. ASCARRUNZ, ESQ.

22 Wilson Sonsini Godrich & Rosati

23 1700 K Street, N.W., Fifth Floor

24 Washington, D.C. 20006

25
Microsoft Corporation

1 APPEARANCES (Continued):

2 FOR RESPONDENTS HUAWEI TECHNOLOGIES and FUTUREWEI
3 TECHNOLOGIES:

4 ROBERT T. HASLAM, ESQ.

5 STANLEY YOUNG, ESQ.

6 Covington & Burling LLP

7 333 Twin Dolphin Drive, Suite 700

8 Redwood Shores, CA 94055-1415

9
10 STURGIS M. SOBIN, ESQ.

11 ALEXANDER D. CHINOY, ESQ.

12 Covington & Burling LLP

13 1201 Pennsylvania Avenue, N.W.

14 Washington, D.C. 20004

15
16 CHRIS MARTINIAK, ESQ.

17 SCOTT SCHRADER, ESQ.

18 JEF PEARLMAN, ESQ.

19 Covington & Burling LLP

20 One Front Street

21 San Francisco, CA 94111

22
23
24
25
Microsoft Corporation

1 APPEARANCES (Continued):

2 FOR RESPONDENTS ZTE CORPORATION:

3 JAY REIZISS, ESQ.

4 LYLE VANDER SCHAAF, ESQ.

5 CHARLES M. McMAHON, ESQ.

6 CARL C. CHARNESKI, ESQ.

7 Brinks Hofer Gilson & Lione

8 1850 K Street, N.W., Suite 675

9 Washington, D.C. 20006

10
11 CHARLES M. McMAHON, ESQ.

12 MIRCEA A. TIPESCU, ESQ.

13 JEREMY S. SNODGRASS, ESQ.

14 RAQUEL RODRIGUEZ, ESQ.

15 JEFFREY J. CATALANO, ESQ.

16 DAVID H. BLUESTONE, ESQ.

17 Brinks Hofer Gilson & Lione

18 NBC Tower, Suite 3600

19 455 N. Cityfront Plaza Drive

20 Chicago, IL 60611

21
22
23
24
25
Microsoft Corporation

1 APPEARANCES (Continued):

2 FOR RESPONDENTS NOKIA:

3 JOHN D. HAYNES, ESQ.

4 PATRICK J. FLINN, ESQ.

5 MARK A. McCARTY, ESQ.

6 MATTHEW D. RICHARDSON, ESQ.

7 MATTHEW J. URBANAWIZ, ESQ.

8 DANIEL HUYNH, ESQ.

9 DAVID FRIST, ESQ.

10 ROHAN KALE, ESQ.

11 Alston & Bird LLP

12 1201 West Peachtree Street

13 Atlanta, Georgia 30309

15 S. BENJAMIN PLEUNE, ESQ.

16 ROSS R. BARTON, ESQ.

17 Alston & Bird LLP

18 101 South Tryon Street, Suite 4000

19 Charlotte, NC 25980

20 For ITC Staff:

21 DAVID LLOYD, ESQ.

22 BRIAN KOO, ESQ.

23 U.S. International Trade Commission

24 500 E Street, S.W.

25 Washington, D.C. 20436

Microsoft Corporation

1 APPEARANCES (Continued):

2 Attorney-Advisor:

3 PATRICIA CHOW, ESQ.

4 Office of Administrative Law Judges

5 U.S. International Trade Commission

6 500 E Street, S.W.

7 Washington, D.C. 20436

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O P E N S E S S I O N

MS. HOLLOWAY: Your Honor,
InterDigital calls its next witness,
Dr. Wayne Stark.

JUDGE SHAW: The witness has already
been sworn. You may begin the examination when
you wish.
Whereupon--

WAYNE STARK

a witness, called for examination, having previously
been duly sworn, was examined and testified further as
follows:

DIRECT EXAMINATION

BY MS. HOLLOWAY:

Q. Good afternoon, Dr. Stark.

A. Good afternoon.

Q. Please look at the binder that you
have placed before you. There should be a
document in there that's marked CX-1526C.

A. Yes.

Q. Do you recognize 1526C?

A. Yes, this is my rebuttal witness
statement.

Q. Thank you. Please turn to the last
page of CX-1526C.

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1 A. Yes.

2 Q. Is that your signature on the last
3 page of CX-1526C?

4 A. Yes. Yes.

5 Q. Okay. Please look at the document in
6 the binder that is marked CX-1526.1-C.

7 A. Yes.

8 Q. What is that document, CX-1526.1-C?

9 A. It is the errata to my rebuttal
10 witness statement.

11 Q. Thank you. And does your signature
12 appear on the last page of CX-1526.1-C?

13 A. Yes.

14 Q. Thank you, Dr. Stark.

15 MS. HOLLOWAY: Your Honor, we have no
16 more questions for the witness at this time.

17 JUDGE SHAW: Thank you.

18 CROSS-EXAMINATION

19 BY MR. HASLAM:

20 Q. Good afternoon, Dr. Stark.

21 A. Good afternoon.

22 Q. In rendering your opinions in your
23 rebuttal witness statement concerning
24 obviousness and anticipation, you rendered
25 those opinions from the perspective of a person

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1 of ordinary skill in the art, correct?

2 A. Yes.

3 Q. And you're aware that the person of
4 ordinary skill in the art is a hypothetical
5 person?

6 A. Yes.

7 Q. And it's a hypothetical person who is
8 presumed to know all of the relevant art as of
9 the time of the invention in the
10 patent-in-suit, correct?

11 A. Correct.

12 Q. So the person of ordinary skill in the
13 art as of the time of the invention of the '970
14 would know all of the pertinent and relevant
15 art?

16 A. That's what we just talked about, yes.

17 Q. Okay. And that's the standard you
18 applied?

19 A. Yes.

20 Q. Okay. Now, the subscriber unit of the
21 '970 can be a single unit, correct?

22 A. Yes.

23 Q. And it can also be a device that's
24 composed of discrete devices, correct?

25 A. I believe that's true.

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1 Q. Right. And you actually -- that's an
2 opinion and answer you gave in your opening
3 report, correct, that that was one of the
4 differences between claim 1 and claim 4?

5 A. Yes.

6 Q. So claim 1 can be made up of discrete
7 devices such as a laptop computer, an ISDN or a
8 PCI connection, separate transceivers, the
9 protocol converter, the wiLAN switch, the wiLAN
10 detector circuit, those could also all be a
11 single unit or they could be discrete devices,
12 correct?

13 A. It has to be a subscriber unit, and so
14 a subscriber unit could -- would have to have
15 those elements in them -- in it, you know, to
16 be relevant in claim 1 or any of the claims.
17 It's a subscriber unit not a -- you know,
18 multiple devices connected in some way.

19 Q. Well, what's the difference between
20 multiple devices connected in some way and
21 discrete devices?

22 A. Well, I would say -- well, I would say
23 that a device that can operate separately -- if
24 you have two devices that are somehow linked
25 together and they can operate separately

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1 A. Sure.

2 Q. Now, at your deposition, you were
3 asked a series of questions about 802.11 in the
4 context of Jawanda. Do you recall that
5 testimony?

6 A. Vaguely.

7 Q. And you were asked a question, for
8 example, a person of ordinary skill in 1999
9 would know that the 802.11 standard WiFi LAN
10 could be used as the wireless LAN adapter in
11 Jawanda? That's correct, isn't it?

12 A. I believe that's correct.

13 Q. And as a matter of fact, you said
14 there was nothing in Jawanda that would
15 prohibit using an 802.11 wireless LAN adapter
16 in Jawanda, correct?

17 A. I believe that's true.

18 Q. And you were asked whether it would
19 be, in fact, obvious to use as a wireless LAN
20 adapter in Jawanda an 802.11 wireless LAN
21 adapter, and you said it could be. Do you
22 recall that?

23 A. I recall that.

24 Q. And you said you really couldn't think
25 of any reason why it wouldn't be, except that

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1 you weren't sure how widely known 802.11 was in
2 1999. Do you recall that testimony?

3 A. Yes, I do.

4 Q. But a person of ordinary skill in the
5 art is a hypothetical person who knows all the
6 relevant art. And from that perspective, isn't
7 it true that in 1999 somebody looking at
8 Jawanda would know it would be obvious to use,
9 as one option, an 802.11 wireless LAN adapter
10 in Jawanda?

11 A. Yeah, as one option you could use
12 802.11.

13 Q. And it would have been obvious to that
14 hypothetical person of ordinary skill in the
15 art?

16 A. If the hypothetical person had
17 knowledge of all the 802.11 protocol, yeah.

18 Q. Now, Jawanda also says it could be
19 used with various cellular protocols, correct?
20 CDMA?

21 A. Jawanda?

22 Q. Jawanda.

23 A. Yes.

24 Q. And it also said it could be used with
25 GPRS, correct?

1 A. Yes.

2 Q. And a person of ordinary skill in the
3 art at the time would know that GPRS was a
4 layered cellular protocol, correct?

5 A. Yes, GPRS was layered protocol.

6 Q. And it has a plurality of layers above
7 the physical layer, correct?

8 A. Yes.

9 Q. And it also has a plurality of
10 physical layer channels available for the
11 subscriber unit to transmit data on the uplink
12 channel, correct?

13 A. Well, in that time period, I think
14 there were different class of devices in GPRS,
15 some of which could use multiple physical layer
16 channels and some which did not have that
17 capability.

18 Q. A GPRS phone that was compatible with
19 the GPRS standard had the ability for a
20 subscriber unit to send data to the base
21 station on one uplink channel up to as many as
22 five uplink channels; isn't that true?

23 A. As I said, depending on the class of
24 phone you have, it had different capabilities.
25 Some more limited to just one channel. Others

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1 had multiple channels.

2 Q. All right. And if you had multiple
3 channels in the GPRS system, you could transfer
4 more data faster, correct?

5 A. Yes.

6 Q. And the way that the channels -- and
7 the channels were actually time slots in GPRS,
8 correct?

9 A. The channels are time slots, are
10 described in part by time slots.

11 Q. And I think there's eight time slots
12 per frame; is that correct?

13 A. That's correct.

14 Q. And so just for an example, to make it
15 clear in the record, a subscriber unit or a
16 mobile station, I think it's called in the GPRS
17 standards, could request two channels and the
18 base station could say you get time slots 1 and
19 2 per frame, correct?

20 A. Correct.

21 Q. And if the subscriber unit or mobile
22 station had enough data that it needed 30
23 frames, it would send that data in the first
24 and second time slot of frame 1, first and
25 second time slot of frame 2, up to frame 30,

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1 correct?

2 A. Right.

3 Q. And the way those -- some aspects, and
4 I'm talking at a high level here, of the way in
5 which those channels could get allocated, and
6 it was allocated by the base station, correct,
7 in GPRS?

8 A. Correct.

9 Q. The subscriber unit would determine
10 how much data it had to send and would make a
11 request to be able to send that much data to
12 the base station, correct?

13 A. Correct.

14 Q. The base station, depending on load
15 factors and other things, would say, okay, I'm
16 going to give you -- back to my hypothetical,
17 I'm going to give you the first two time slots
18 and you've got it for 30 frames? Correct?

19 A. Right.

20 Q. And then the subscriber unit would
21 decide to send the data or the subscriber unit
22 would then use those channels, those time
23 slots, to send its data, correct?

24 A. That's correct.

25 Q. Now, let's go to -- I'm going to ask

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1 you now about figure 4, which is the -- put
2 that up there, which is sort of a -- actually,
3 let's go back to figure 2. I'm sorry, figure
4 3. You had it right; I didn't.

5 Figure 3, again we see the laptop with
6 the cell phone, and the patent describes that
7 there's an application 90 which is running on
8 the laptop, correct?

9 A. Yes.

10 Q. And one example of -- let me step
11 back. One of the things that Jawanda is
12 interested in is for somebody who is on their
13 computer, for example, doing some web browsing
14 and downloading web pages and he's on a
15 cellular network and he moves into an area
16 where there's a WiFi or a WiLAN network,
17 without the Jawanda invention, would lose his
18 connection and have to reconnect to the WiFi
19 network, correct? That's what he describes in
20 the background?

21 A. Well, I think he describes downloading
22 a large file, being at work, downloading a
23 large file, leaving before it's done and then,
24 you know, initially doing it over W-LAN and
25 then switching to a cellular connection.

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1 Q. And he says -- in the background of
2 the invention, he says one of the problems with
3 what he thought was existing at the time was
4 you had to establish a new connection to the
5 cellular network in that hypothetical, in the
6 situation you just described? You would get
7 off the WiFi network and then you would have to
8 get on the cellular network and open a
9 connection, correct?

10 A. Yes.

11 Q. Right. And what he is saying is I
12 want to be able to have a situation in which I
13 can be downloading, as you say, that large file
14 and I move from a WiFi network to a cellular
15 network and I don't have to reestablish the
16 connection as I move from one network to the
17 other. That's one of the objects of his
18 invention, correct?

19 A. I think he wanted to be able to do it
20 seamlessly.

21 Q. Right.

22 A. I think that's the words he used.

23 Q. Which means without having to tear
24 down one connection and establish another
25 connection, correct?

1 A. I think seamless, not having to
2 reconfigure the laptop to do something and just
3 that it would switch between the W-LAN and the
4 W-WAN as he calls it, the cellular.

5 Q. And not having to reconfigure the
6 computers is also something that the '970 said
7 that they were interested in trying to
8 overcome, correct? Right?

9 A. Yes.

10 Q. So they're both focused at least in
11 that part on the same problem, correct?

12 A. That's part of the problem, yeah.

13 Q. As a matter of fact, if we look at
14 RX-32, Jawanda, and if we can go to column 1,
15 line 51, here at line 51 to 56 at the end of
16 the background of the invention, he says one of
17 the objects of his invention is to be able to
18 move between networks, the cellular network and
19 a WiFi or wiLAN network, without having to
20 terminate an active session on the one network
21 as you go to the other, correct?

22 A. Well, I think what he's talking about
23 is without having to terminate an application
24 session. Say you're downloading a file, an FTP
25 transfer or something like that, and you don't

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