

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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WILSON ELECTRONICS, LLC,  
Petitioner,

v.

CELLPHONE MATE, INC. d/b/a SURECALL  
Patent Owner

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Case Nos. IPR2018-01771  
U.S. Patent No. 8,867,572

Case Nos. IPR2018-01774  
U.S. Patent No. 9,402,190

Case Nos. IPR2018-01778  
U.S. Patent No. 9,100,839

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**DECLARATION OF JONATHAN BACON**

Wilson v. Cellphone-Mate (SureCall) IPR2018-01774 <b>SureCall Exhibit 2004</b>
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I, Jonathan Bacon, hereby declare as follows:

1. I am currently the Vice President of Marketing at Cellphone Mate, Inc. d/b/a SureCall, the Patent Owner. I have personal knowledge of the matters set forth herein, and, if I am called upon to testify, I could and would testify competently hereto.

2. I have been asked by SureCall to provide the following information regarding the cell phone booster market, the long felt need for the solution provided by SureCall's Force5 product, the failure of others to find that solution, copying of the solution by others, and industry praise for the Force5. I have been informed that SureCall's technical expert, Dr. Moon, will separately explain how the Force5 practices the inventions claimed in each of the SureCall patents that Wilson is challenging in these inter partes reviews.

### **BACKGROUND**

3. I have approximately nine years of experience in sales and marketing in the cell phone signal booster industry. During that time, I have worked for both SureCall and Wilson Electronics, the Petitioner.

4. I was employed by Wilson Electronics, LLC for approximately 7 years, spanning November 2009 to February 2016. I started at Wilson Electronics in November 2009 as a Marketing Manager. As a Marketing Manager, I was responsible for directing Wilson Electronics' marketing efforts, including

overseeing advertising, creative, video production, social media, trade shows, content and channel marketing. I also developed and implemented a comprehensive marketing plan to drive new reseller leads and to create awareness about Wilson Electronics' product line. I also personally oversaw earned media efforts for product launches, company announcements, launches into new product channels and international launches.

5. I held that position until February 2011 when I became the Director of Marketing, a position I held for the remainder of my time at Wilson Electronics. In that position, I largely kept the responsibilities listed above. However, my responsibilities grew in that I also became responsible for leading the introduction of new point of sale collateral, including shipper displays into major electronics retailers and directing in-store marketing efforts in major electronics retailers. I also managed the creation of sales and marketing programs that assisted our distributors and also worked to improve the process by which new cell phone signal booster products were introduced to the marketplace.

6. In March 2016, I began my employment at SureCall. In my role as Vice President of Marketing, I am responsible for driving SureCall's world-wide cell phone signal booster marketing strategies, including overseeing the creation and implementation of SureCall's strategic marketing initiatives. More specifically, my duties include directing company efforts in areas such as search marketing, branding,

and creative. I also provide market feedback to SureCall's leadership regarding competitive offerings, and suggest ideas regarding potential product development that would improve SureCall's marketing presence in the industry.

7. Accordingly, I have been intimately involved in the cell phone signal booster industry from 2009 to the present.

8. I have seen first-hand the progression of cell phone signal booster technology from roughly the time-period where the carrier-technology transitioned from 3G to 4G LTE, through the highly advanced products available today. My work responsibilities required me to closely track and understand the features, capabilities, success, and failures of virtually all cell phone signal booster products available on the market from 2009 to the present. I have also spoken with representatives from each of the major carriers, employees for the cell phone signal booster manufacturers, dozens of cell phone signal booster distributors, and hundreds of end-users throughout my career in the cell phone signal booster industry. Through my years of experience, I have also gained an understanding of the features that drive demand and, thus, sales of cell phone signal boosters.

9. For years, major cell phone carriers have been continuously working towards improving speed of cellular data transmission. The first widely adopted cell phone signal technology was called 2G (short for second generation), which launched in or around 1991. From there, the technology continued to improve and

by 1998, 3G (third generation) technology was launched, which had data transmission speeds that were more than 200 times as fast as 2G. 4G LTE technology was yet another improvement. 4G LTE came into existence around 2008, and started to become widely adopted by major carriers, such as Verizon near the end of 2010. AT&T and T-Mobile also had begun widely adopting 4G LTE technology by early 2011.

10. Verizon, AT&T, and T-Mobile, however, were each given by the FCC non-overlapping spectrums in which to operate their 4G LTE technology. Thus, for example, 4G LTE compatible cell phones that work on the Verizon network will not necessarily work on the AT&T network.

11. Since its introduction, 4G LTE has been widely popular in the United States, and continues to be the predominant technology even today.

### **LONG-FELT NEED OF THE CLAIMED 5-BAND TECHNOLOGY**

12. When I was entering the signal booster industry around 2009, 4G LTE technology was in the future, but by the middle of 2010 had become a major trend in the industry, shifting the need to create products that could boost 4G LTE signal, in addition to the traditional 2G and 3G talk and text bands.

13. In the beginning of 2012, devices capable of boosting 3-bands simultaneously – the two bands of 2G/3G and a third band for 4G LTE started to become available. But these devices would only boost the 4G LTE signal of a

particular carrier. From a marketing perspective, we heavily pushed those devices' ability to boost 4G LTE signal, but at the same time, had to disclose to the customer that they had to buy a particular device capable of boosting either AT&T 4G LTE or Verizon 4G LTE.

14. I noticed that customers, particularly for large-scale applications such as warehouses or office buildings, were not satisfied with the existing booster solutions. That's because before SureCall's patented invention and the release of its Force5 product covered by its patents, customers interested in boosting cell phone signals for the different networks at the same time would be required to buy several different signal boosters. As a result, it was clear to me, along with other people in the industry, that having a single booster that could boost the signal for all major carriers simultaneously would be incredibly desirable.

### **PRAISE OF THE PATENTED INVENTION**

15. I first learned of SureCall's Force5 through a press release the company issued on April 30, 2012. Attached as Exhibit 2009 is a copy of that press release.

16. The timing of SureCall's announcement was significant because SureCall made it just before the Cellular Telecommunications Industry Association (CTIA) trade show, in New Orleans, Louisiana. CTIA took place from May 7-10, 2012 and I attended the event. At the time, CTIA's annual event was one of the largest, if not the largest, trade shows for the cellular telecommunications industry

in the world. Virtually all cell phone signal booster companies, including Wilson Electronics and SureCall, attended that show to showcase their latest and greatest products. In fact, part of my responsibilities at Wilson Electronics, and now SureCall, include attending CTIA (now known as Mobile World Congress Americas) on behalf of my employer and making sure new products are prominently displayed.

17. I personally saw SureCall's public unveiling of its Force5 at CTIA 2012. I was impressed that SureCall, given its smaller size as a company compared to Wilson Electronics, was able to make such a groundbreaking advancement before anyone else on the market. I also quickly recognized the head start on marketing opportunities that SureCall would have by being the only company making a product capable of simultaneously boosting the 4G LTE signal of all major carriers. And as I suspected would be the case after I saw SureCall's press-release, I specifically recall hearing from several customers and members of the media that the Force5 was the most compelling booster device at CTIA 2012 due to its 5-band capability.

18. From the perspective of my duties at the time as Director of Marketing Wilson Electronics, I knew that Wilson Electronics had to work quickly to get a competing product on the market, or at the very least quickly announced that one was under development, otherwise I believed Wilson Electronics would be at risk of

losing business. In fact, I recall being actively frustrated that SureCall was able to develop such a technology before my employer Wilson Electronics.

19. I also recall that others at Wilson Electronics had the same reaction. For example, while at work I noticed that James (Jim) Wilson, the founder and then-CEO of Wilson Electronics, appeared to be frustrated by SureCall's announcement. In particular, he left an impression on me of disbelief that another engineering group could make such advancements before Wilson.

20. Also as part of my duties at Wilson Electronics and now SureCall, I regularly review industry trade journals, magazines, and blogs. One of the blogs that I regularly review is evdoinfo.com. I understand that blog is operated by the 3gstore.com which sells a number of signal booster products. The EVDOinfo blog publishes a number of unique blogs each month focusing on product reviews and the latest signal booster industry news. I find the EVDOinfo blog articles to be trustworthy and indicative of industry trends.

21. On April 30, 2012, the EVDOinfo blog published an article regarding SureCall's release of the Force5. This article was published the same day as SureCall's own press-release. In my view, EVDOinfo's article correctly expressed the long-felt need in the industry for the 5-band solution that the Force5 provided. The article stated that "Cellphone-Mate has announced the release of a product that has been long-anticipated by users wanting to boost the signal to multiple networks



at the same time.” The article also stated that the Force5 was “the first and ONLY amplifier currently available that supports ALL of those frequencies [for the major carriers].” (emphasis in original). Attached hereto as Exhibit 2013 is a copy of the article referenced in this paragraph.

22. The industry continued to praise SureCall’s Force5 product for months and even years after it was announced. For instance, on December 12, 2012, the EVDOinfo blog published an article about boosting both 3G and 4G LTE signal. That article noted that “[u]ntil now customers only had a few options to repeat both 3G and 4G LTE signal within a building. Option one was to shell out for a Cellphone-Mate Force-5, which is the only wireless amplifier on the market that currently supports 3G/4G AWS and LTE. This is a commercial grade solution and is cost prohibitive for most consumers that simply want to increase signal within their home or office, not an entire warehouse or building.” The article also explains cost-effective, do-it-yourself type solutions for customers looking to boost 3G and 4G LTE signals without purchasing a Force5. However, those proposed solutions would only allow a consumer to boost 4G LTE signal for a particular carrier, i.e. AT&T or Verizon, but not both. Attached hereto as Exhibit 2014, is a copy of the article referenced in this paragraph.

23. In July 2012, a complimentary blog to the EVDOinfo blog, the 3gstore blog, published that SureCall’s Force5 was now available for sale. This was big

news in the industry, because customers were eager to get their hands on the Force5 product that had been so widely spoken about. Specifically, the article stated that “[t]he SureCall® Force-5 CM5000 Wireless Amplifier, the first amplifier that supports virtually every 2G, 3G, and 4G frequency in North America (except Nextel/iDen and Sprint/CLEAR 4G WiMAX), is now available!” Ex. 2015 at 9. The blog further noted that “[t]his is the first and ONLY amplifier currently available that supports ALL of those frequencies. Prior to the availability of the Force-5, customers who wanted to boost the signal to 3G and 4G devices from a variety of providers had to either install multiple systems or compromise their plans and settle for just boosting some of the networks.” *Id.* The article further explained the reason why the Force5 was in such high-demand for at least large office buildings (similar to my explanation above) – “it is intended for use in large buildings where lots of users of various networks are in need of better signal (for example, an office building where the owner wants to make sure all of his employees and customers can make phone calls regardless of who their provider is).” *Id.* at 10. Attached hereto as Exhibit 2015 is a copy of the article referenced in this paragraph.

24. Another respected and informative industry blog that I review as part of my duties at Wilson Electronics and now SureCall is gizmochat.com. On July 9, 2013, GizmoChat published a blog about SureCall’s Force5. The blog post noted that “[u]p until Q4 of 2012, you had to mix and match multiple cellular amplifiers

in order to cover the[] 5 major bands. This was a very expensive and complicated thing to do. Cellphone-Mate was the first cellular amplifier company to do this.”

The article also accurately noted that the Force5 was a major technological advancement and big news in the industry – in particular, the article stated “[n]ow one system with a single amplifier can take care of all the major carrier frequencies used in the US and Canada. **That’s a big deal.**” (emphasis added).

Attached hereto as Exhibit 2016 is a copy of the article referenced in this paragraph.

25. In addition to industry blogs, I also regularly review industry trade journals and magazines as part of my duties at Wilson Electronics and now SureCall. One of the most prominent and well respected industry publications that covers cell phone signal boosters, among other integrated-electronic products, is Commercial Integrator. I find Commercial Integrator’s articles to be trustworthy and indicative of industry trends.

26. Every year, Commercial Integrator publishes its BEST Awards (Best Electronics Systems Technologies) which consists of the most outstanding products and services impacting the commercial technology-integration industry. I understand that selections are judged by an unbiased panel of a dozen credible industry leaders, along with the editors of Commercial Integrator, and that special consideration is given to innovation, functionality, competitive advantages and benefits to the installer.

27. Consistent with my personal impressions of SureCall's Force5, in or around June 2014, I saw that SureCall's Force5 had won Commercial Integrator's 2014 BEST Award. That article noted that "when [the Force5] was first released in 2012, it was the first self-contained cell booster on the market to support 2G, 3G and 4G service for every major carrier." Ex. 2010 at 1. Attached hereto as Exhibit 2010, is a copy of the article referenced in this paragraph.

28. On June 30, 2014, the EVDOinfo blog also published the fact that SureCall's Force5 had won Commercial Integrator's 2014 BEST Award. That article further noted that "when it was first released in 2012, it was the first self-contained cell booster on the market to support 2G, 3G and 4G service for every major carrier. Due to this, the Force5 has become the leading choice of professional installers everywhere." Attached hereto as Exhibit 2017, is a copy of the article referenced in this paragraph.

29. Based on my experience in the cell phone signal booster industry, it is clear that the wide-ranging praise that SureCall's Force5 received, including by EVDOinfo, GizmoChat, and Commercial Integrator, is due to SureCall's patented 5-band technology, an industry first, allowing it to simultaneously boost signals for voice, text, and 4G LTE signal for all North American cell carriers.

**COMPETITOR COPYING OF SURECALL'S 5-BAND TECHNOLOGY**

30. As part of my duties at Wilson Electronics and now at SureCall, I monitor competitive products.

31. As I mentioned previously, I attended CTIA 2012 where SureCall's Force5 was introduced. I knew that Wilson Electronics had no choice from a marketing perspective but to follow in SureCall's footsteps and get a 5-band capable product to market as soon as possible. As a result, we decided as a rebuttal to SureCall's Force5, to announce that Wilson had created a 5-band product – the AG Pro-Quint – on May 8, 2012, coinciding with CTIA 2012. We created a sticker for the AG Pro-Quint and placed it on an existing booster that was not 5-band capable, just so we could give the appearance that Wilson Electronics had also come up with 5-band technology. However, Wilson Electronics had not created a functioning prototype capable of boosting 4G LTE signal for all major carriers until January of 2013, and this was merely a prototype to let customers and show attendees know that we were working on it.

32. Immediately after CTIA 2012, the Wilson Electronics engineering department requested that our sales team acquire a SureCall Force5 device so that it could test and evaluate it for competitive analysis. Shortly thereafter, a Force5 device was acquired. The typical practice at Wilson Electronics was to acquire significant competitive products for the engineering department to analyze and

compare to Wilson Electronics' products. I recall that acquiring the Force5 was a top priority given its capability of simultaneous 5-band, 4G amplification.

33. Since SureCall's announcement of its Force5 when its success became instantly apparent, I realized that Wilson Electronics' marketing efforts would need to heavily shift to pushing 5-band, 4G technology. As a result, at Wilson Electronics, I directed advertisements of 5-band, 4G capable signal boosters to specifically tout the products' abilities to work with all phones & cellular devices including all major US carriers.

34. There is no question that SureCall's groundbreaking patented 5-band technology spurred Wilson Electronics, its biggest competitor, to copy that technology.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 12-18-18

Jon Bacon 