

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

KONINKLIJKE KPN N.V.,

Plaintiff,

vs.

TELEFONAKTIEBOLAGET LM
ERICSSON and ERICSSON INC.,

Defendants.

Case No. 2:21-cv-113

JURY TRIAL DEMANDED

**EXPERT REPORT OF KEVIN JEFFAY REGARDING THE INVALIDITY OF THE
ASSERTED CLAIMS OF U.S. PATENT NO. 8,881,235
AND U.S. PATENT NO. 9,667,669**

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I. INTRODUCTION

1. I have been retained as a technical expert on behalf of Defendants Telefonaktiebolaget LM Ericsson and Ericsson Inc. (collectively “Ericsson”) in connection with the above-captioned matter. I understand this case involves allegations of infringement of certain claims of U.S. Patent No. RE 48,089 (the “’089 Patent”), U.S. Patent No. 8,881,235 (the “’235 Patent”), U.S. Patent No. 9,253,637 (the “’637 Patent”), U.S. Patent No. 9,549,426 (the “’426 Patent”), and U.S. Patent No. 9,667,669 (the “’669 Patent”) (collectively, the “Asserted Patents”).

2. In this report I set forth my opinions regarding the invalidity of the ’235 and ’669 Patents. Specifically, this report sets forth the basis for my opinions formed in this case that (1) each of the asserted patent claims is invalid as anticipated and/or obvious over the prior art; (2) none of the asserted patent claims are entitled to an early conception date; and (3) Claim 11 of the ’235 Patent is invalid for lacking a sufficient written disclosure of certain of the concepts recited in the claim. I make the following statements based on my own personal knowledge and on my review of the documents cited herein and as identified in Appendix C to this report, and I would testify to those facts under oath if called on to do so.

3. I understand that KPN has asserted the following claims of the ’235 and ’669 Patents against Ericsson:

- ’235 Patent: Claims 1, 4-7, 11; and
- ’669 Patent: Claims 1-3, 6, 8, 10-12, 21-22, 24-25.

4. I reserve the right to revise, supplement and/or amend my opinions in this Report based on future positions taken by KPN, its experts, additional documents, testimony, or other information provided by the defendant or its witnesses, any orders from the Court, or as I may otherwise find necessary. I further reserve the right to prepare and/or rely on demonstratives at

claims in this response along the lines suggested by the Examiner during the telephone interview” and arguing this amended language further distinguishes Jansson). After KPN filed this response, the Examiner allowed the pending claims without providing reasons for allowance. *See* ’669 Patent Notice of Allowance.

4. ETSI TSIPAN IPTV Contributions

474. I understand that the named inventors were involved in ETSI TISPAN’s effort to standardize IPTV technology from 2002 to 2009. *See* Stokking Dep. Tr. at 194:1-3 (Mar. 17, 2022) (“Q: So was one of your goals to contribute to IPTV standards? A: It was, yes.”). I also understand that KPN and TNO submitted an ETSI TISPAN Change Request related to the invention claimed in the ’669 Patent in January 2009, a few days after the alleged foreign priority date on the face of the ’669 Patent. *See* KPN-ERICSSON_00010480 (WI2070 Procedure for Personal Stream Composition). I further understand that the change request was submitted by the following individuals: Oskar Vandeventer, Omar Niamut, and Pieter Veenstra. It is my understanding that this proposal ultimately was adopted in Section 8.22 Personalized Service Composition (PSC) procedures of ETSI TISPAN TS 182.027 “IPTV functions supported by the IMS subsystem” (version 3.1.3), which was not published. I understand that the next published version of TS 182.027 was version 3.5.1, which was published in 2011.

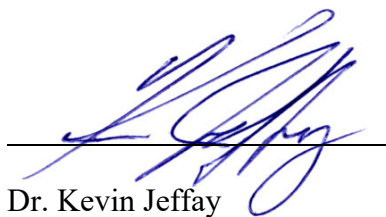
475. I further understand that George Foti, a named inventor of the *Foti* prior art reference, discussed below, was personally involved in ETSI TISPAN’s effort to standardize IPTV technology from 2002 to 2009. It is also my understanding that documents produced in this lawsuit show that George Foti communicated with at least Omar Niamut and Oskar van Deventer in November 2008 regarding IPTV standardization. *See, e.g.*, TNO_00002133.

D. Summary of KPN’s Infringement Contentions

476. In my analysis below, I have taken into account KPN’s Infringement Contentions

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 11th day of April, 2022, at Chapel Hill, North Carolina.



Dr. Kevin Jeffay