

02:00PM 1 before midnight on the night of August 17th, 2016, they
02:00PM 2 reached an agreement. They had a deal. This case is
02:00PM 3 about broken promises.

02:00PM 4 KONINKLIJKE KPN N.V. V. SAMSUNG The evidence will show that Trial Samsung did
02:00PM 5 not live up to the promise that it made to KPN, to keep
02:00PM 6 for itself hundreds of millions of dollars that it owed
02:00PM 7 KPN. Samsung chose to ignore that agreement and continue
02:01PM 8 to use KPN's property without paying what it promised to
02:01PM 9 pay. That was a decision. We all make them every day.
02:01PM 10 Companies make decisions, too. When Samsung made its
02:01PM 11 decision to ignore this agreement, KPN had a choice: Do
02:01PM 12 nothing or stand up for itself. It chose to stand up for
02:01PM 13 itself and that is why we're here.

02:01PM 14 Now, at the end of this week, you all will
02:01PM 15 have to make a decision, as well. And that decision will
02:01PM 16 be made strictly on the evidence that we present here,
02:01PM 17 both sides. So over the next 30 minutes, I'd like to
02:01PM 18 describe the evidence that I expect you will see and
02:01PM 19 hear. That evidence includes the history between these
02:01PM 20 parties and the agreement that they reached, the decision
02:01PM 21 Samsung made to ignore that agreement, and the damages
02:01PM 22 that we believe Samsung owes for its failure to live up
02:01PM 23 to its promise, starting with the history of the
02:02PM 24 agreement.

02:02PM 25 We'll talk more about this later and break

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A. Yes.

Q. It will be a little bit faster.

Now, let's walk through this document. At the very top, there are four letters. It says, "IPEC."

What is that?

A. It is the International Patents Evaluation Consortium.

Q. And down a little bit further, it says, "Lead evaluator."

Who is that?

A. That's actual person, Mr. Rubinstein, who has evaluated this specific patent for us.

Q. So did Mr. Allen Rubinstein evaluate this '669 patent for KPN and whether it's essential?

A. Yes, that's right.

Q. And let's -- generally speaking, what is the evaluator looking for in this process?

A. He's -- he's looking -- he's looking to determine if the patent is essential for a standard.

Q. What does it mean for a patent to be, from your understanding, essential to a standard?

A. It means that you cannot use the standard, like I explained before, without using our patent.

Q. And KPN has patents that -- does KPN have patents that have been evaluated as essential standards?

03:37PM 1 A. Yes, we have many.

03:37PM 2 Q. You said that if it's an essential patent, you
03:37PM 3 can't use the standard without using the patent. Is that
03:37PM 4 right? KONINKLIJKE KPN N.V. V. SAMSUNG Trial

03:37PM 5 A. That's right.

03:37PM 6 Q. Does Samsung make products that use 3G and 4G?

03:37PM 7 A. Yes, they do.

03:37PM 8 Q. We heard from Mr. Sadler just a few minutes ago
03:37PM 9 in opening, Samsung has lots of patents. Samsung doesn't
03:37PM 10 need anyone else's patents. Samsung doesn't need KPN's
03:37PM 11 patents. Do you remember when he said that?

03:37PM 12 A. Yes.

03:37PM 13 Q. Do you agree with that, Ms. Gerritse?

03:37PM 14 A. No, I do not agree.

03:37PM 15 Q. Well, why not?

03:37PM 16 A. Well, we have some patents definitely. We have
03:37PM 17 patents, but we have patents on our technologies than
03:37PM 18 Samsung has. So if Samsung was to comply with the 4G
03:37PM 19 standard, they have to use our patents.

03:37PM 20 Q. Now, let's come back to this particular
03:37PM 21 evaluation document Ms. Gerritse. What -- did IPEC come
03:37PM 22 to any conclusion about the essentiality of this patent,
www.LexitasLegal.com/Premier Lexitas
03:38PM 23 the '669 in this document?

03:38PM 24 A. In the document, at the end, last page, you can
03:38PM 25 see that IPEC came to the conclusion that this patent is

03:38PM 1 essential for the standard.

03:38PM 2 Q. And specifically, what standards did IPEC

03:38PM 3 conclude that the '669 patent is essential in this

03:38PM 4 document? KONINKLIJKE KPN N.V. V. SAMSUNG Trial

03:38PM 5 A. For the [inaudible] 3G, LTE, 4G and even for

03:38PM 6 the latest, 5G.

03:38PM 7 Q. Did IPEC evaluate the essentiality of the '669

03:38PM 8 patent for both the 3G and the 4G standards?

03:38PM 9 A. Yes, that's right.

03:38PM 10 Q. Did IPEC conclude and evaluate that the '669

03:38PM 11 patent was, in fact, essential to the standards?

03:38PM 12 A. Yes, sir.

03:38PM 13 Q. Did IPEC provide, other than this document, any

03:38PM 14 other certifications confirming its essentiality?

03:38PM 15 A. Yes. At the end of the process, we always get

03:38PM 16 a -- a shorter version [inaudible].

03:38PM 17 Q. Can we pull up the document that's been

03:39PM 18 admitted as PX213, please? Thank you.

03:39PM 19 What is this document?

03:39PM 20 A. This is the one-pager, the IPEC declaration

03:39PM 21 essentiality for our '669 patent for the 3G and 4G

03:39PM 22 standards.

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03:39PM 23 Q. When did this particular evaluation for this

03:39PM 24 '699 patent take place?

03:39PM 25 A. It took place in April of 2021.

03:55PM 1 licensing program?

03:55PM 2 A. Not essentially. Today, a joint licensing
03:55PM 3 program is usually smaller, maybe two licensors. Usually
03:55PM 4 their pool is bigger [inaudible].

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Trial

03:56PM 5 Q. Would it be fair to say that every patent pool
03:56PM 6 is also a joint licensing program?

03:56PM 7 A. Yes.

03:56PM 8 Q. Now, you mentioned Sisvel, so let's talk a
03:56PM 9 little bit about the Sisvel pools. What Sisvel pools
03:56PM 10 does KPN have patents in?

03:56PM 11 A. The ones relevant today is in the LG pool, the
03:56PM 12 3G pool, and the combination of these pools. It's what
03:56PM 13 we call the mobile communication program.

03:56PM 14 Q. Three pools, the 3G Sisvel pool, 4G Sisvel
03:56PM 15 pool, and a combined MCP Sisvel pool?

03:56PM 16 A. Yes, that's right.

03:56PM 17 Q. When did KPN first join the Sisvel patent pool?

03:56PM 18 A. We first joined the LTE Sisvel pool in 2012.

03:56PM 19 Q. Was KPN still in that LTE or 4G patent pool
03:56PM 20 when it signed its agreement with Samsung in 2016?

03:56PM 21 A. Yes, we were.

03:56PM 22 Q. And was KPN still in the 4G Sisvel pool when
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03:57PM 23 Samsung signed its agreement with Sisvel --

03:57PM 24 A. Yes.

03:57PM 25 Q. -- in 2021?

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1 make sure it work. And that's the standard.

2 Q. And does KPN have 3G and 4G patents in Sisvel's
3 mobile communications program program?

4 A. Yes, both 3G and 4G.

5 Q. Does that mean that 3G and 4G devices use KPN's
6 patents to speak that 3G and 4G language?

7 A. Among other patents that are also considered
8 essential, yes, effectively, they are using KPN's
9 patents.

10 Q. Do you remember in his opening statement,
11 Mr. Sadler said something like KPN -- excuse me --
12 Samsung doesn't even need KPN's patents?

13 A. I remember something like that, yes.

14 Q. Do you agree with that?

15 A. No, for what we just said. They're standard
16 and essential. They're operating 3G and 4G. Samsung is
17 making 3G and 4G phones. They have to be using those
18 patents.

19 Q. Can you pull up Exhibit 224?

20 Mr. Fancher, do you recognize this
21 document?

22 A. I do.

23 Q. What is this?

24 A. This is the license agreement in 2021 between
25 Sisvel and Samsung.