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Samsung Research America, Inc.

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15 HUAWEI TECHNOLOGIES CO., LTD., et al.,  
16 Plaintiffs,  
17 v.  
18 SAMSUNG ELECTRONICS CO., LTD., et al.,  
19 Defendants.

CASE NO. 16-cv-02787-WHO

**SAMSUNG’S REPLY IN SUPPORT  
OF ITS MOTION TO PARTIALLY  
EXCLUDE THE REPORT AND  
TESTIMONY OF JORGE PADILLA,  
MICHAEL J. LASINSKI, AND  
CHARLES L. JACKSON AND TO  
STRIKE THE REBUTTAL  
OPINIONS OF JACQUES DELISLE  
AND ZHI DING**

21 SAMSUNG ELECTRONICS CO., LTD. &  
SAMSUNG ELECTRONICS AMERICA, INC.  
22 Counterclaim-Plaintiffs,  
23 v.  
24 HUAWEI TECHNOLOGIES CO., LTD.,  
25 HUAWEI DEVICE USA, INC., HUAWEI  
TECHNOLOGIES USA, INC., & HISILICON  
26 TECHNOLOGIES CO., LTD.  
27 Counterclaim-Defendants.

**Hearing Date: August 8, 2018  
Time: 2:00 p.m.  
Place: Courtroom 2, 17th Floor  
Judge: Hon. William H. Orrick**

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1 **I. INTRODUCTION**

2 Huawei does not dispute several fundamental flaws in its FRAND experts' opinions. First,  
3 Huawei does not dispute that Mr. Lasinski's exclusion [REDACTED]  
4 [REDACTED]—rests  
5 entirely on hearsay testimony beyond the four corners of the agreement, and did not attempt to  
6 corroborate that hearsay. Specifically, although Mr. Lasinski opines [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED] Huawei does not dispute that black letter contract  
11 law dictates that the written agreement itself controls its terms, nor does it dispute that [REDACTED]  
12 [REDACTED] would be entirely unenforceable. Because there is no reliable factual  
13 foundation for any [REDACTED], or any legal relevance to it, the Court should exercise its  
14 gatekeeper role and forbid Mr. Lasinski from presenting his comparable license analysis.

15 Huawei also does not deny that Mr. Lasinski and Dr. Padilla are both unqualified to testify  
16 on French law issues. While Huawei has submitted a report from a French law expert, Prof. Jacques  
17 Raynard in this action, it has not made any attempt to tie his report to Mr. Lasinski's or Dr. Padilla's  
18 reports, rendering their opinions unreliable.

19 Huawei also does not contest the legal principle that an expert witness should not summarize  
20 fact evidence by weighing in on issues like corporate intent. Whereas Samsung's experts provide  
21 factual background for analyses well within the scope of their expertise, Mr. Lasinski and Dr. Padilla  
22 use their purported view of the facts to advance impermissible legal conclusions that go beyond  
23 their area of expertise that should be excluded.

24 Next, Huawei does not dispute that it offers opinions by one expert (Dr. Padilla) that are  
25 intended to bolster the opinions of its other expert (Mr. Lasinski). Huawei argues that this bolstering  
26 is proper because Dr. Padilla "offers an economist's perspective" and "an economic framework" to  
27 support his approval of Mr. Lasinski's methodology. Mr. Lasinski is an accountant, not an  
28 economist. Huawei offers no legal support for the proposition that it is proper for one expert to

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