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IN THE COMPETITION

Case No. : 1382/7/7/21

APPEAL
TRIBUNAL

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

Monday 6th October 2025 – Tuesday 4th November 2025

Before:

Mrs Justice Bacon

Derek Ridyard

Justin Turner KC

(Sitting as a Tribunal in England and Wales)

BETWEEN:

Consumers' Association

Class Representative

v

Qualcomm Incorporated

Defendant

A P P E A R A N C E S

PHILIP MOSER KC, ROB WILLIAMS KC, MICHAEL ARMITAGE, CIAR MCANDREW,
DAVID ALEXANDER, DAVID IVISON and CHARLOTTE MCLEAN (Instructed by
Hausfeld & Co LLP) on behalf of Consumers' Association

DANIEL JOWELL KC, NICHOLAS SAUNDERS KC, DAVID BAILEY, SOPHIE BIRD,
CHARLES WALL, ALEXANDRA BRECKENRIDGE (Instructed by Norton Rose Fulbright
LLP and Quinn Emanuel Urquhart & Sullivan LLP) on behalf of Qualcomm Incorporated

1 Monday, 13 October 2025
 2 (10.30 am)
 3 Housekeeping
 4 THE CHAIR: Mr Moser, can I first of all thank you
 5 and those alongside and behind you for the very helpful
 6 note, which we have received this morning.
 7 Secondly, notwithstanding Mr Williams' comments on
 8 Friday, we are minded to maintain the timetable for closing
 9 submissions that we set out in the draft that was
 10 circulated.
 11 MR MOSER: Thank you.
 12 One short piece of housekeeping of my own. There
 13 has been — I do not think there is any conflict about it,
 14 but there has been an update to the cross—examination bundle
 15 by producing a third bundle of things that were left out of
 16 bundles 1 and 2. That is on its way. I will not start
 17 there. I think for purely printing technical reasons, it
 18 has not arrived yet.
 19 THE CHAIR: Yes.
 20 MR MOSER: But that has been done and they —
 21 THE CHAIR: That is for today, is it?
 22 MR MOSER: That is for today, yes.
 23 THE CHAIR: In essence, you are doing that for the
 24 convenience of just gathering together the materials in hard
 25 copy for the witness.

1

1 MR MOSER: Yes.
 2 THE CHAIR: For those who have the
 3 cross—examination materials in hard copy.
 4 MR MOSER: Yes.
 5 THE CHAIR: That is the case for Mr Turner,
 6 I believe.
 7 MR MOSER: Yes.
 8 THE CHAIR: But Mr Ridyard and I are both
 9 operating off the electronic version so we will just follow
 10 it on the Opus.
 11 MR MOSER: You will be quite unaffected, yes.
 12 THE CHAIR: All right.
 13 MR SAUNDERS: My Lady, with your leave, I will
 14 call Mr Gonell.
 15 MR FABIAN GONELL (affirmed)
 16 Examination—in—chief by MR SAUNDERS
 17 MR SAUNDERS: Mr Gonell, hopefully there are some
 18 hard copy bundles making their way to you.
 19 A. I presume it will be obvious when they arrive.
 20 Q. In the meantime, can we turn up {IRC/5/1}. That is
 21 core bundle—tab 24. So if you have the first of those
 22 bundles, Mr Gonell, it should be the first tab in the first
 23 bundle you have there.
 24 A. Yes.
 25 Q. Do you have that?

2

1 A. I have that.
 2 Q. Thank you. So do you recognise that document?
 3 A. Yes, I do. It is my first witness statement.
 4 Q. Thank you. Could you turn through to page 36 of
 5 the document {IRC/5/36}.
 6 A. I am there.
 7 Q. Is that your signature?
 8 A. It is.
 9 Q. Could you look at the next document in the bundle
 10 {IRC/6/1}, core bundle—tab 25. Do you recognise that
 11 document?
 12 A. The next — so there is — on the screen there is
 13 a different document than in tab 2.
 14 Q. I am sorry, it is {IRC/7}, sorry.
 15 A. Yes, {IRC/7/1} is my second witness statement.
 16 Q. You have that in the hard copy as well?
 17 A. Yes.
 18 Q. Thank you. Could you turn to page 4 of that
 19 document {IRC/7/4}.
 20 A. Yes.
 21 Q. Is that your signature?
 22 A. Yes, it is.
 23 Q. Can you confirm that the facts stated in those
 24 witness statements are true?
 25 A. Yes, they are.

3

1 MR SAUNDERS: Thank you. My learned friend may
 2 have some questions for you.
 3 Cross—examination by MR MOSER
 4 MR MOSER: Good morning.
 5 A. Good morning.
 6 Q. As my learned friend indicated, the hard copy is
 7 generally for your convenience. If you find it
 8 inconvenient, everything will also be electronically in
 9 front of you.
 10 I would like to start by talking about some of the
 11 other OEMs that we have been hearing about.
 12 Are you aware — you are aware of course that
 13 Qualcomm had a series of licence negotiations and
 14 renegotiations with Lenovo. Correct?
 15 A. I am aware of that, yes.
 16 Q. You may be aware that it is part of my client's
 17 case that threats to Lenovo's chipset supplies were made at
 18 various points during those negotiations, threats which had
 19 the effect of increasing the cost to Lenovo of challenging
 20 Qualcomm's royalty terms.
 21 A. I am aware that that is part of your client's case,
 22 yes.
 23 Q. Thank you.
 24 There were a number of different licences and
 25 amendments over the years. I will not get into the detail

4

1 of all of them, I just do not have time. I will show you
2 a few instances and, in particular, I would like to pick it
3 up in 2013. Do you remember that around that time Lenovo
4 and Qualcomm were in discussions in relation to Lenovo
5 potentially entering into a 4G SULA, a 4G—licence agreement;
6 yes?

7 A. I do not remember all of the issues that were being
8 discussed in 2013, but updating the licence agreement — if
9 the last amendment had not included expressly 4G for some
10 reason and the parties wanted to update it, that certainly
11 would have been discussed.

12 Q. Let us have a look at a document. It is in the
13 second hard copy bundle. Electronically {POF/421}, the
14 second cross—examination bundle, tab 66. Are you there? It
15 is from the bottom of the page, you can see, on page 1 of
16 421, it is an email from Mr Reifschneider to Messrs C Eigen
17 and Yardley of Medion which is a company that merged with
18 Lenovo; correct?

19 A. I believe that Lenovo had acquired them. I do not
20 know for sure, but that is my understanding.

21 Q. Thank you. You will see at the top of that page
22 that email was eventually forwarded to you and also in the
23 middle of the page. So the next email sent by
24 Mr Reifschneider to various people, including you; yes?

25 A. Yes.

5

1 Q. If we go back to Mr Reifschneider's email, we can
2 see, on page 2 {POF/421/2}, a couple of lines down, he is
3 proposing a strategic fund agreement, which is essentially
4 an incentives agreement, and if we skip forward to page 3
5 {POF/421/3}, we can see his summary of the deal, the first
6 bullet point:

7 "Enter into a 4G SULA (covering both the FDD
8 and TDD modes of LTE) with Qualcomm that is generally
9 on Qualcomm's standard terms including royalties of 4%
10 of the net selling price of the licensed subscriber
11 devices, and accept that the royalty rates in effect
12 under the current 3G SULA will not be changed."

13 So I read from that Lenovo had a 3G SULA in place
14 and was purchasing 3G chipsets from Qualcomm and you are
15 saying — or Qualcomm is a saying if you want our
16 incentives, enter into a 4G SULA on QC's standard terms.
17 The standard terms, as I understand it, are 4% as opposed to
18 5%, because this was for a licence which covered only 4G.
19 It is not a portfolio licence, multiple standards.

20 Do you see that?

21 A. I see that. I do not necessarily agree with your
22 description of the licence, because it is important to
23 distinguish between licensed patents and licensed products.
24 4% standard rate seems to me to indicate a portfolio licence
25 which would include all off the patents, but the products

6

1 that would be licensed would be products that did only 4G
2 and that did not also do 3G.

3 Q. If it helps, that bit does not matter for my
4 purposes. What I am interested in is — and I am putting it
5 to you that what this email says is: enter into this
6 agreement on our standard terms and do not even think about
7 challenging the royalty rate. Do you see that?

8 A. I do not agree that that is what this email says,
9 no.

10 Q. Well, if we go back to the first page, we can see
11 Lenovo's response {POF/421/1}. If you read to yourself from
12 where it says, "Christian pushed repeatedly on the 5%
13 royalty rate ...", do you see? It is Mr Reifschneider at
14 the end of that sentence saying he:

15 "patiently [explained]... why we cannot
16 reduce the royalty rate for them."

17 So we can read from that that Lenovo was also not
18 happy about having to continue to pay royalties on WCDMA at
19 5%, was it not?

20 A. One moment. You mentioned that this was
21 Mr Reifschneider so I am just trying to understand what is
22 going on here. (Pause)

23 So, yes, you mentioned something about Eric saying
24 that we could not do anything and I do not see that, but
25 perhaps you can ask your question again, now that

7

1 I understand the email.

2 Q. So WCDMA, that is 3G; right?

3 A. Well, this is referring to the WCDMA agreement.
4 That would cover products that did WCDMA and other
5 standards. So that — when that agreement is being talked
6 about in this context, it is products that cover WCDMA—only
7 phones and phones that do WCDMA and LTE.

8 Q. But what it is talking about in this context is the
9 existing agreement, the one that is under discussion now is
10 the 4G SULA, but here it is talking about existing WCDMA, is
11 it not? What this first sentence shows us is that Lenovo
12 was not happy at having to continue to pay 5% on 3G, was it
13 not?

14 A. Well, I do not necessarily like to attribute
15 emotions like happiness to corporations, but I will say
16 Lenovo was negotiating for a lower rate than they were
17 currently paying. They expressed concern in particular that
18 they were disadvantaged as compared to their Chinese
19 competitors is what I am gathering from this email.

20 Q. Okay. Well, let us look at something else. I do
21 not know — did you hear the evidence given by Mr Rogers on
22 Friday or have you read the transcript?

23 A. I watched the video stream of the morning session,
24 the afternoon session was closed. I read the transcript
25 afterwards.

8

1 Q. Thank you. Well, you will have seen there was an
2 exchange about a phrase which appeared in a QTL strategy
3 document called the "compliance stick". It is a memorable
4 term. Are you familiar with it from your time at Qualcomm?

5 A. I am familiar with a PowerPoint about Lenovo in
6 which there was a slide that talked about carrots and
7 sticks.

8 Q. Mr Rogers said it had nothing to do with Qualcomm
9 withholding chipsets in order to gain an advantage. Please,
10 can we turn up {POF/380/1}, that is in this hard copy bundle
11 at 57. You see there the internal Qualcomm presentation
12 entitled, "Lenovo 4G Strategy", dating from March 2013, so
13 shortly before the email we have just been looking at. Let
14 us go to page 11 {POF/380/11}, a couple of pages in. Here
15 we have a slide which relates to Qualcomm's strategy for
16 getting Lenovo to sign up to 4G --- a 4G SULA. We can see
17 the headings, "Carrots" on the one side and "Sticks" on the
18 other. Under "Carrots", do you see you have "Waive 4G
19 upfront license fee", "Offer Strategic Fund", and so on, and
20 then on the right-hand side, the third row down, "Product
21 hold on Chip shipments. QMC has 378.5k MSMs" Those are the
22 chipsets Lenovo was buying on backlog scheduled to ship by
23 9 April. That is an American date, 9 April 2013.

24 So here Qualcomm is explicit, is it not, that its
25 available "sticks" include stopping chipsets; right?

9

1 A. So I would not attribute this document, which is
2 the one that I was referring to that I was familiar with, to
3 all of Qualcomm. This slide was written by Eric, presented
4 by Eric, and it was his ideas, his views of the situation.

5 Q. Well, Mr Reifschneider is not here for me to ask
6 about it, but I will show you another document. If you look
7 at {POF/630}, that is in this bundle at tab 79, this is an
8 episode from 2015. That is shortly after the NDRC had just
9 found Qualcomm to have infringed competition law and fined
10 it hundreds of millions of dollars. If you look at this
11 page, you will see it is an internal Lenovo email chain.
12 I am allowed to show it to you. If we go to the bottom of
13 the page, we can see the beginning of an email from
14 Scott Offer of Lenovo. You see right at the last line.

15 Then of the page {POF/630/2}, it is unfortunately
16 fully redacted beyond saying he has "had another busy and
17 'fun-packed' Qualcomm day", perhaps sarcastically, but
18 fortunately we can see what this email says from the FTC
19 judgment. I go to it only to see the content of this
20 document. That is at {POF/912/76}. That is tab 97 of this
21 bundle. That is within tab 97 at page 76 lines 10 to 15 on
22 that page, are you there?

23 A. No. One moment, please. (Pause)

24 Yes.

25 Q. "Scott Offer (Lenovo) reported that

10

1 Eric Reifschneider (QTL Senior Vice President and General
2 Manager) had again threatened Lenovo's chip supply:
3 'Ira [Blumberg] made a proposal which Eric did not reject
4 out of hand. On that call, Eric once more made another
5 threat about continued chip supply if we do not have
6 a license. Action: David/Heather to research what the NDRC
7 rectification plan says about continued supply'" and then
8 there is a document reference, which is the email.

9 The reference to "Eric" is Mr Reifschneider;
10 correct?

11 A. I presume so, yes.

12 Q. Here he is again threatening Lenovo's chipset
13 supply once more, is he not?

14 A. Well, this is an internal Lenovo email from one
15 Lenovo person to another and that is what they are
16 reporting. I have no basis from which to agree with it or
17 disagree with it, except to say in the context of
18 negotiating a Chinese patent licence agreement, after the
19 NDRC rectification plan, which, by the way, your description
20 of those events was inaccurate, it would not have made any
21 sense whatsoever for Eric to say anything about chip supply.

22 So I do not understand why that would have come up
23 or anything.

24 Q. Come on, it is obvious, is it not? There is
25 a pattern over several years, Qualcomm threatened Lenovo in

11

1 licensing negotiations and renegotiations in order to
2 pressurise Lenovo to reduce the likelihood of Lenovo
3 challenging its licensing terms. That is the obvious truth,
4 is it not?

5 A. No, I disagree with that completely. I think when
6 there was a set of contentious negotiations between Ira and
7 Eric that occurred in a specific context and that is where
8 Eric brought up the consequence of being unlicensed, because
9 Ira threatened to terminate the licence and to subject
10 Qualcomm's entire licensing programme to a lot of risk.
11 Beyond that, yes, I do not understand anything of this to be
12 a threat or to be a threat to obtain certain terms. The ---
13 in particular, the "sticks" document, looking at the other
14 documents you took me through, what is going on --- what
15 appears to be going on here is we want --- we are negotiating
16 a single-mode LTE agreement, a new one, that is going to
17 exist alongside the existing WCDMA agreement, which allows
18 them to make multimode WCDMA LTE agreements. That is very
19 unusual and that suggests to me that Lenovo for some reason
20 was manufacturing LTE-only products which, again, very
21 unusual, very few of those products actually came to market.
22 I do not know if they were phones, computers, tablets, I do
23 not know.

24 The only way the sticks that --- the only way that
25 even that idea of sticks of withholding shipments makes

12

1 sense is if those chips were for LTE-only devices.
2 Otherwise it makes no sense because for the vast majority of
3 their products, the WCDMA LTE products or WCDMA products,
4 they were licensed.

5 THE CHAIR: All right. Thank you. I have your
6 point on that.

7 MR MOSER: Let us see if it makes sense if we look
8 at another OEM. Let us look at Motorola, if you do not like
9 the Lenovo example. You are aware, I suppose, that it is
10 also our case that Qualcomm also used threats to pressurise
11 Motorola during licensing negotiations; yes?

12 A. No.

13 Q. All right. Let us have a look at something. There
14 is {POF/597}, part of a document you will have seen. That
15 is in this bundle at the --- that is a wrong reference. That
16 is at tab 76.

17 A. I see the document.

18 Q. They are manuscript notes which I understand were
19 written by Mr Amon. If you see about halfway down the first
20 page, there is an entry for a meeting with Motorola. If we
21 look below, writing is a bit hard to read but it says,
22 beside bullet 1:

23 "Licensing. Eric constantly threatening to
24 cut off supply."

25 That is Mr Reifschneider again, is it not, in the

1 presence of Mr Amon, and "cut off supply" must mean chipset
2 supply; correct?

3 A. I do not think this was in the presence of Mr Amon.
4 I think Cristiano is reporting something that was told to
5 him. That is my understanding of this.

6 Q. Mr Amon again, sadly, is not here to ask him that.
7 I say the notes speak for themselves. That is what Mr Amon
8 has written. Whether it was related to him or whether he
9 was actually in the meeting, question is: "cut off supply"
10 must mean chipset supply; correct?

11 A. I would understand that to mean chipset supply,
12 yes.

13 Q. Further on this topic, let us have a look at
14 Qualcomm's negotiations with Huawei. That was in 2013 and,
15 again, you are aware that Huawei has been raised in the same
16 context of disruption to pressurise a licensing negotiation.
17 You will also be aware that in 2013 Huawei and Qualcomm
18 engaged in negotiations over renewing Huawei's existing
19 licence and that was due to expire at the end of May 2013.
20 Do you remember that?

21 A. One of their licences was, yes.

22 Q. Yes.

23 A. The framework licence.

24 Q. I would like to pick it up in May ---
25 early May 2013. Can you please turn up {POF/388/3}. That

1 should be in this bundle at tab 60. So that is an email, on
2 page 1, from Mr Reifschneider to a Mr Cheng in Huawei, or
3 Mr Cheng of Huawei. You can see it sets out the context.
4 This context on should there be renewal or should there be
5 renegotiation where an existing licence is due to expire, as
6 you say, imminently.

7 If you look at point 5 of --- sorry, just a second.
8 Sorry, I am going to start at page 3 instead because it goes
9 backwards {POF/388/3}. I should show you the first one
10 first. Forgive me. {POF/388/3}, Mr Reifschneider to
11 Mr Cheng it shows you the context again:

12 "As you know, Huawei's existing Subscriber
13 Unit License Agreement covering CDMA2000 ... will
14 expire [end of] May... unless Huawei exercises its
15 right to renew ... for an additional ten-year term by
16 providing written notice to Qualcomm by that date.
17 During your meeting with Robert An ... you stated that
18 Huawei desires to renegotiate the terms of all ... its
19 patent license agreements with Qualcomm, which
20 suggests... Huawei may be contemplating not renewing
21 the C2K SULA."

22 "C2K" is 3G CDMA; yes:

23 "We would be very surprised if Huawei chose
24 not to exercise its right to renew the C2K SULA. For
25 the past ten years, Huawei has benefitted from the

1 financial terms... for certain sales in China (terms
2 which Qualcomm would not be in a position to offer to
3 Huawei ... today), and the C2K SULA has served as
4 a vehicle for the parties ... As we both know, it takes
5 quite some time to negotiate (or renegotiate) a patent
6 license ... approximately one month prior to expiration
7 ... we have yet to see a proposal ... Moreover, as you
8 know, if the [licence] expires and has not been
9 replaced by a new patent license agreement covering C2K
10 products, there will be issues with Huawei's ability to
11 continue to use C2K chipsets or QCMI's software, issues
12 which I am sure both our companies would like to
13 avoid."

14 So there is an express threat at the end, right at
15 the outset, to chipset supply, is there not?

16 A. Well, to answer your first question, C2K is
17 CDMA 2000 which is one version of CDMA that was used in one
18 of the three --- 3G networks in China.

19 To answer your second question: no, there is not
20 a threat at the outset. There is an expression, reminding
21 Huawei, of what they well knew, which is Qualcomm has
22 a policy of not selling chips and commercial quantities to
23 non-licensees. This policy was certainly well-known to
24 Huawei. They had known it for some time. They had known
25 this deadline was coming for some time. They indicated they

1 wanted to renegotiate and yet we had not heard anything from
2 them, any proposal whatsoever from them, and it was getting
3 close to the time and Eric was concerned that they were
4 seeking to go into an unlicensed state, continue to get
5 chips and put our licensing programme under threat in that
6 way and he was communicating or reminding them that we were
7 not likely to allow that to happen.

8 Q. Well, at least we agree that what Huawei is trying
9 to do here is renegotiate; right?

10 A. Yes, they wanted to renegotiate everything, not
11 just the C2K. We in fact did negotiate many things with
12 them, not just the C2K agreement.

13 Q. Yes. I mean, if we move up the email chain back to
14 page 2 of this document {POF/388/2}, we can take this quite
15 briefly, because I think we agree Mr Cheng's response is
16 clear that Huawei wants to renegotiate, not just roll over
17 its existing licence for another ten years. He says, in the
18 third paragraph:

19 "I understand it is your internal policy not
20 to provide chipsets or software if there is not
21 existing patent licensing agreement, though it may
22 raise antitrust concerns in our perspective."

23 Then if we just see how Mr Reifschneider responds.
24 That is where we started at the top of page 1 {POF/388/1} on
25 8 May 2013. He sets out some agenda items to be discussed

17

1 at an upcoming meeting between Huawei and Qualcomm. Now
2 I can come to bullet 5:

3 "Ways to avoid any disruption in chipset
4 supply at the end of this month without creating undue
5 risk for either party (the simplest being for Huawei to
6 exercise its right to renew ... under which it has been
7 operating successfully for the last ten years)."

8 If you do not have a licence,
9 Mr Reifschneider is saying, you are not going to get
10 any chips and he is clearly using that threat to get
11 Huawei to renew its existing deal, is he not?

12 A. No. To the contrary, he is saying the simplest way
13 for us to proceed is for you to renew this deal which is
14 quite favourable to you, but we can discuss other ways as
15 well that do not create undue risk for either party. That
16 is the point.

17 Q. The point is there were not really any other ways.
18 It is not really a negotiation at all because Qualcomm knows
19 it can impose its view on the deal of Huawei, otherwise the
20 supply will be interrupted, will it not?

21 A. No, that is wrong on multiple counts. First of
22 all, there are many different ways that you can deal with
23 this type of situation and that we have dealt with this type
24 of situation. So it is just --- that is just simply untrue.
25 You can agree to arbitrate. You can agree to renew and

18

1 renegotiate. There are many different things you can do and
2 we certainly were not in a position to impose our view of
3 the world on Huawei. That is just not the way the world
4 worked.

5 Q. Well, let us --- we obviously disagree. Let us move
6 to an email at {POF/393/2}. That is in this bundle at
7 tab 62. If we can turn it up at page 2.

8 A. Page 2, okay.

9 Q. This is an email in which Mr Reifschneider
10 summarises the results of this meeting with Huawei within
11 Qualcomm. You see the email at the bottom there:

12 "... I just had a call with Huawei ... The only
13 topic discussed was the renewal/amendment of the C2K SULA."

14 Over the page at 3 {POF/393/3}:

15 "Huawei told us that they are still
16 internally debating and deciding ... They indicated
17 that their business leads are concerned about the
18 royalty costs. Reading between the lines, I am
19 guessing that the legal team has advised ... that there
20 is a legal basis for getting a royalty reduction
21 (Chinese patent [licence] exhaustion and dwindling QC
22 C2K portfolio are the two main reasons they cite ...
23 emphatically refuted, of course) and so the business
24 team formed an expectation that the royalty cost would
25 be reduced starting in June, and is now balking at the

19

1 notion that it won't.

2 "I stressed the importance of
3 renewal/amendment so that we can continue to have the
4 discussions and negotiations ... "

5 Skipping a bit:

6 "I also explained again (as I had last week
7 as well) how disruptive it would be, and the negative
8 consequences for both the licensing discussions and the
9 chipset supply relationship, if Huawei chooses to let
10 its license agreement expire despite knowing our
11 policy ... "

12 So, again, it seems that Mr Reifschneider used the
13 meeting as another opportunity to make the supply threat, to
14 pressurise Huawei into licensing negotiation; yes?

15 A. No, I do not agree with that. The context of this
16 is a renewal of a framework agreement. The framework
17 agreements had a very favourable, unique to China,
18 negotiated specifically with the Chinese Government, 2.65%
19 rate for CDMA 2000 phones in China. That was a rate that we
20 had no justification for giving to anybody, other than the
21 Chinese Government. We had to agree to that with the
22 Chinese Government in order for them to allocate certain
23 spectrum ten years ago at this point and they allocated the
24 spectrum. Those agreements, again, at the --- as negotiated,
25 I will just say, with the Chinese Government had this

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1 ten-year renewal programme — renewal section. If it was
 2 not renewed and it was allowed to expire, this is the
 3 situation we would be in. Both companies would be in.
 4 Their business would want and expect a 2.65% rate as they
 5 had been getting all along. We would not be in a position
 6 to give that rate because we had no justification for doing
 7 so when our rate is higher with other people and the only
 8 people that have gotten that rate are the framework
 9 licensees per the Chinese Government.

10 That then, by itself, creates enormous friction and is
 11 a big problem between the companies. So it is not that —
 12 it is not, oh, it is our way or the highway or you have to
 13 do what we said. It is in the best interests of both
 14 parties to renew this agreement, renew it and then continue
 15 to negotiate if we want, but at least renew it that the
 16 2.65% rate is a backstop for both sides.

17 Q. Mr Gonell, this email has nothing at all to do with
 18 the Chinese Government, does it? Can I take you back to the
 19 top of this email chain on page 2 {POF/393/2}. You will see
 20 all the people who are on this email chain. It is
 21 Mr Aberle, the group President, Mr Altman, the
 22 Vice-President, Mr Blecker, the Senior VP, and yourself, all
 23 senior Qualcomm executives. Not one of you says, "hold on,
 24 it is not appropriate to be making these kind of threats",
 25 do you?

21

1 A. Because these are not threats. This is not
 2 a threat. They understood that they could not be unlicensed
 3 and continue to get commercial supplies. They knew that,
 4 they understood it and they understood the reasons why;
 5 right? At this meeting, what I understand from Eric's
 6 email, and I was not at this meeting, but what I understand
 7 from Eric's email is that he thinks that the Huawei
 8 negotiating team understands where things are and that the
 9 agreement should be renewed. They are having internal
 10 difficulties because their business people have a different
 11 expectation. So they have that internal problem, but they
 12 understand the situation, but these are not threats.

13 Q. What happens on page 1 is in the end this email
 14 chain is forwarded to Mr Mollenkopf, who is the President of
 15 Qualcomm; correct {POF/393/1}?

16 A. I do not remember when he was President and when
 17 exactly he became CEO, but he was one of the two at this
 18 time, probably President at this time, I am guessing.

19 Q. So Mr Mollenkopf says, right at the top on page 1,
 20 simply:

21 "I got it. Thanks."

22 It is crystal clear though, whatever you say, that
 23 the use of this pressure point was known to, endorsed by and
 24 used by Qualcomm executives, even at the most senior level,
 25 was it not?

22

1 A. I am sorry, may I have that question again?

2 Q. It is crystal clear, whatever you say, that the use
 3 of this pressure point was known to, endorsed by and used by
 4 Qualcomm executives, even at the most senior level.
 5 Everyone knew about this policy; correct?

6 A. So I do not agree with the term "pressure point".
 7 There is pressure on both sides coming — stemming from the
 8 expiration of this agreement for the reasons I have
 9 discussed and frankly the reasons that are referred to in
 10 Derek's email to Steve. Certainly everyone knew and
 11 understands we cannot sell chips in commercial quantities to
 12 non-licensees without imposing enormous risk on our
 13 licensing business. That is well-known and well understood,
 14 not just on the Qualcomm side on the Huawei side as well and
 15 frankly throughout sophisticated — throughout the industry
 16 amongst sophisticated parties.

17 But it is not about pressure point. It is about
 18 protecting the company from that risk.

19 Q. Let us move on, Mr Gonell. Can I ask you, please,
 20 to look at {POF/307}. I have the wrong reference {POF/413}.
 21 It is a document from around the same time. It is it
 22 cross-examination bundle, tab 65. This is an email from
 23 Kun Qian to Jim Doh. I believe Mr Doh was a senior QCT
 24 executive, I believe at this stage senior VP for worldwide
 25 sales and Asia. Do you know who Mr Qian is?

23

1 A. Yes, I do.

2 Q. What was his function?

3 A. At this time, I think he was a QCT executive
 4 working in China.

5 Q. Well, let us see what he says. He had recently met
 6 the head of Huawei's IPR group who had some thoughts Mr Qian
 7 thought should be passed on to Mr Doh and Mr Amon. You will
 8 see he met Huawei IPR group head, important points:

9 "Huawei's IPR department head told me that
 10 Huawei believes that the reason QTL can claim and
 11 collect 5% of IPR royalty is because people have to use
 12 QCT chipsets, at least that is the case in the
 13 past years. He said he was amazed that QCT kept the
 14 chipset advantages for so many years, and even today
 15 people still have to use some of the QCT chipsets. He
 16 believes that without QCT or when QCT chipsets are not
 17 must-to-have, QTL will be like another InterDigital,
 18 the royalty rate is much lower. He said if Huawei does
 19 not depend on QCT chipsets, QTL won't have the ability
 20 to get them to sign an IPR agreement like today's.
 21 I am not sure how many people in the industry or within
 22 QC share the same view ... I had always thought QCT is
 23 essential for accurate reporting ... not more than
 24 that. But he made me think there is more in QCT's
 25 importance to QTL's business. The conclusion is that

24

1 QCT has to invest in a broad range of chipsets and to
 2 stay competitive even just for QTL to continue its
 3 strong revenue stream."
 4 So it was — the penny was dropping with this
 5 executive in China, was it not, with a little help from
 6 Huawei? He was realising what QTL executives had known all
 7 along back home, that OEMs' dependence on QCT for their
 8 chipset supplies distorts the licensing negotiations and
 9 leads them to pay higher rates. That is correct, is it not?
 10 A. No, I would not say that. He is reporting what
 11 Jason Ding told him. So I will accept that this is that
 12 Jason Ding said these things and that these were
 13 Jason Ding's views. You know, I will also say that Jason,
 14 being responsible for Huawei's own monetisation and running
 15 into difficulties doing that and having to explain why it is
 16 difficult for Huawei to achieve the royalty rates that
 17 Qualcomm achieves is looking for a reason that is not his
 18 fault and this is what he has come up with, but it is not
 19 what I — it is not something I agree with and certainly Kun
 20 is a Qualcomm executive. Jim is — Jim Doh is a Qualcomm
 21 executive, senior executive, and this is news to them so it
 22 was certainly not something that was understood in the
 23 company. That is just fantasy.
 24 (11.11 am)
 25

25

1 (Redacted — confidential information)
 2 (11.14 am)
 3 MR MOSER: Yes, it is far from easy, my Lady.
 4 I gave you, I think, a persistently wrong tab
 5 reference. It is cross—examination bundle 1, tab 44.
 6 A. Tab 44, okay.
 7 Q. {POF/307}.
 8 A. Yes, I am here now. Thank you.
 9 Q. This is an email from Eric Reifschneider, sent to
 10 you in 2012, and others. Again, Mr Aberle, Mr Blecker.
 11 Mr Reifschneider says he attaches "the slide that Fabian
 12 [you] prepared on the issue of our policy of supplying
 13 components to only licensed customers." Do you recall
 14 preparing that slide?
 15 A. No.
 16 Q. Fine. Let us look over the page because we have
 17 the slide.
 18 A. Yes.
 19 Q. That is page 2 {POF/307/2}.
 20 A. That is on the screen.
 21 Q. "Licensee Disputes/Extensions.
 22 "Issue: Whether to maintain policy of refusing to sell
 23 ASICs [that is essentially chips] to unlicensed entities."
 24 That is the policy we call NLNC. You call it CSP. It
 25 looks like there was a discussion at this stage about

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1 whether to maintain the policy; yes? That is what it says.
 2 A. That is the issue that is noted on the slide.
 3 Q. The slide or you says:
 4 "Such sales present the risk of a finding of
 5 patent exhaustion in the event of a dispute over royalties."
 6 Then you say:
 7 "Current customers whose license expires or
 8 terminates may assert antitrust claims against the
 9 policy."
 10 Now, that is a clear recognition by you, is it
 11 not, that there were antitrust risks associated with the
 12 maintenance of the policy; no?
 13 A. It is a clear recognition that some customers may
 14 assert antitrust claims against the policy and if you look
 15 at Eric's email, the second sentence says:
 16 "We kept it fairly generic (no mention of any
 17 particular customer)."
 18 Which means there was a customer in mind which
 19 suggests to me that that had come up in discussions with
 20 a customer perhaps Huawei, perhaps another customer, we just
 21 saw an email where Huawei did so, where there was
 22 a suggestion that they would bring antitrust claims.
 23 Q. So Qualcomm's own customers were telling you, since
 24 at least 2012, that they thought the policy was
 25 anticompetitive; right?

27

1 A. Some customers were saying that they thought it was
 2 violation of antitrust law, yes.
 3 Q. That was a reasonable assessment, was it not, in
 4 relation to a policy where you deployed the risk of supply
 5 disruption; no?
 6 A. No, I did not think it was a reasonable — I did
 7 not think it was a reasonable position at all.
 8 Q. There is then a series of privileged redactions.
 9 Do you recall what is underneath them?
 10 A. I am afraid I do not. I do not remember — I do
 11 not remember preparing this slide.
 12 Q. I would like to go to the US District Court
 13 judgment, merely for a reason that will become clear, not
 14 for the reasoning in the judgment. It is {POF/912/209}.
 15 That is back into the second cross—examination bundle at 97.
 16 A. At 97, okay.
 17 Q. 97.
 18 A. Yes.
 19 Q. At page 209 — we do not have all the pages,
 20 happily, but 209, towards the end, we can see that your
 21 slide is set out there at the top of page 209; yes,
 22 including the privileged redactions?
 23 Then the last paragraph on this page makes
 24 reference to a different slide contained in a July 2012
 25 strategic plan, as well as a presentation to Qualcomm's

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1 board of directors . That is lines 21 to 22. It says:
 2 "This was circulated to Mr Aberle."
 3 A. Aberle, yes.
 4 Q. Thank you.
 5 Over the page then we see that other slide set
 6 out. In fact, it looks to me like an updated version of the
 7 slide that you drafted and it seems this time to have made
 8 its way to board level {POF/912/210}. Can we zoom in on the
 9 slide please, as it is quite small. Now what we see ---
 10 there are no privileged redactions. There is text at the
 11 bottom under the heading, "Strategy", lines 6 to 8. You may
 12 not recall, but perhaps it was this text that was redacted
 13 in the previous slide, was it?
 14 A. No. I find that is very unlikely. These slides
 15 are --- have a different context. The first slide seems to
 16 be a QTL reporting slide that is discussing disputes and
 17 extensions, kind of like an ongoing like what is going on in
 18 the business thing. This next slide, under the "Issue",
 19 what that seems to me to be is a discussion of risk in the
 20 form that you might see that might be a risk we would need
 21 to disclose in our financial documents, because it might be
 22 of material risk to the business.
 23 Anyway, it is a business risk. So this is kind of
 24 a broader business risk that is being discussed here and
 25 then there is a strategy about the business risk. I suspect

1 what was redacted for privilege in the earlier slide would
 2 have been specific legal advice pertaining to specific
 3 negotiations, just because of the context. I am speculating
 4 somewhat, but it is kind of an educated speculation based on
 5 what I see in front of me.
 6 Q. Regardless of what that --- what the position is in
 7 relation to privilege, let us just look at what it actually
 8 says. The first bullet:
 9 "Develop a plan of communication ... maximizes our
 10 ability to defend against... claims while ceasing supply
 11 when necessary."
 12 So, again, a clear indication in a slide presented
 13 to the board that Qualcomm was prepared to cease supply in
 14 the event of a dispute over royalties. That is quite clear,
 15 is it not?
 16 A. No. I mean, "when necessary" is not when there is
 17 a dispute against royalties. "When necessary" is when
 18 necessary to avoid risk, the exhaustion risk, to the
 19 licensing business. There are ways to preserve disputes
 20 over royalties and not have that risk. We used those at
 21 times. We offered people those at times. So when it is
 22 necessary is when that is the only way to avoid that risk.
 23 Q. I will come back to exhaustion in due course, but
 24 let us have a look at something different. Let us look at
 25 the Samsung negotiations because Qualcomm had a relationship

1 over the years with Samsung, focusing first on Samsung's
 2 status as a licensee of Qualcomm's standard essential
 3 patents. I think we agree that Samsung has been a licensee
 4 since 1993; yes?
 5 A. Yes, I agree with that at least, yes.
 6 Q. At least we will always have that.
 7 A. Lovely.
 8 Q. But you had no personal involvement in any of
 9 Qualcomm's licence negotiations with Samsung until,
 10 I believe, 2009, when you joined QTL?
 11 A. That is correct.
 12 Q. You mentioned some of this in your statement and
 13 I would like to look at paragraph 42 of your first statement
 14 which is also --- it is in various places, but it is also in
 15 tab 1 of the first cross-examination bundle {IRC/5/14}.
 16 A. Yes.
 17 Q. It is --- thank you, you are ahead of me.
 18 {IRC/5/14}. In paragraph 42, some of it contains outer
 19 confidential ring information but not the section I am going
 20 to take you to, you say:
 21 "Since I became involved [you see about six
 22 lines down] in licensing negotiations, I believed
 23 Samsung has had and continues to have enormous leverage
 24 as a result of its market position (including because
 25 it self-supplies ... and is a supplier to Qualcomm of

1 foundry services)."
 2 Now, in relation to self-supply, first, you know,
 3 I presume, that Samsung did not start to self-supply
 4 chipsets until 2011; yes?
 5 A. I do not remember exactly when they started to
 6 self-supply.
 7 Q. Okay. We will ask Mr Katouzian.
 8 Did you know that it was not until significantly
 9 later, so 2018, in the 5G era, that Samsung acquired the
 10 ability to self-supply CDMA-enabled chips?
 11 A. No, I am not familiar with their products, although
 12 the one thing I do know about that is that when they first
 13 launched a dual-mode CDMA LTE phone, at least one of their
 14 models did not include a Qualcomm chip; it included a CDMA
 15 chip provided by VIA and their own self-supplied LTE chip.
 16 Mr Katouzian would know more about that though. This is
 17 just background information that I gathered while I was at
 18 Qualcomm.
 19 Q. I will not ask you about things you do not know
 20 about so let us ask about when you joined QTL in 2009.
 21 MR MOSER: Here I am afraid, Madam, we will have
 22 to go into outer-ring closed session. I do not know whether
 23 it is an appropriate moment also for the minute break
 24 transcriber break.
 25 THE CHAIR: Well, if we are going to have a break

1 for the transcript to be changed over anyway, I think it is
 2 just more sensible if we then take a five-minute break now
 3 and then we will go straight through, rather than breaking
 4 again in 20 minutes.
 5 (11.26 am)
 6 In Private
 7 (12.34 pm)
 8 In Open Court
 9 (12.34 pm)
 10 MR MOSER: It will continue open after lunch.
 11 Is it all right if I move on, Madam?
 12 THE CHAIR: Yes.
 13 MR MOSER: Mr Gonell, I would like to move on to
 14 something completely different. This is the practice your
 15 client likes to call "end-device level licensing." In
 16 substance, we say it means that Qualcomm refuses to grant
 17 exhaustive licences in respect of its SEPs to rival chipset
 18 manufacturers. Whatever you call it, you accept that on
 19 a number of occasions such requests have been made and have
 20 been refused by Qualcomm; yes?
 21 A. No, I do not accept that.
 22 Q. All right. Let us look at {POF/313},
 23 cross-examination bundle 1, tab 45. It is an email from
 24 Derek Aberle, 2012, to Eric Reifschneider and others. You
 25 are copied — sorry, the other way round — it is from Marv

1 Blecker to Derek Aberle and you. He recounts that:
 2 "We were also asked for licenses by Intel and
 3 TI at a minimum, probably others (e.g., Samsung,
 4 MediaTek) as well, and we refused to enter into
 5 anything other than a non-exhaustive covenant (or
 6 covenant to sue last in the case of [Samsung] and
 7 [MediaTek])."
 8 Derek Aberle writes:
 9 "I seem to recall that Broadcom asked us for
 10 a license offer as to patents that we asserted against
 11 them and that we claimed were essential. I could be
 12 wrong but I think we may have offered them what we
 13 thought was a non-exhaustive covenant instead of
 14 a license even though they requested a license."
 15 Will you accept, on refreshing your memory, that
 16 there were a number of occasions when such requests have
 17 been made and refused; yes?
 18 A. What was your question? Give me that question
 19 again.
 20 Q. There has been demand among chipset suppliers for
 21 such licences from the likes of MediaTek and others?
 22 A. (Pause) Is that your question?
 23 Q. Yes.
 24 A. Oh, so Marv is saying that he remembers that we
 25 were asked for licences by Intel and Texas Instruments at

1 a minimum and probably others, including Samsung and
 2 MediaTek.
 3 Q. Yes. Plainly the answer was "no"?
 4 A. No, plainly the answer was "we will do
 5 a non-exhaustive covenant". I mean, that is not — that is
 6 technically not true, because I am familiar with the TI
 7 agreement and that is technically not true, but that is
 8 neither here nor there. What Marv says is we refuse to
 9 enter into anything other than a non-exhaustive covenant.
 10 That is what Marv says here.
 11 Q. That is not the licence they were looking for, is
 12 it?
 13 A. Well, I do not know exactly what they asked for,
 14 but obviously it is what they agreed to so it was
 15 satisfactory to them.
 16 Q. I would like to ask you now about something you say
 17 in your statement. If you look at paragraph 22 of your
 18 statement {IRC/5/7}, tab 1, you talk about licensing at the
 19 end-device level and you say, at paragraph 22 of your
 20 statement.
 21 "Qualcomm adopted a model of licensing its SEPs to OEMs
 22 at the end-device level before it even began selling
 23 cellular baseband chipsets."
 24 Do you see that?
 25 A. Yes.

1 Q. Now, we know — it is part of the agreed
 2 chronology — that Qualcomm started selling chips in 1995;
 3 yes?
 4 A. I will accept that, if — yes.
 5 Q. So, on that basis, what you are saying here is that
 6 it adopted what we call its refusal to license policy some
 7 time before 1995; yes?
 8 A. That is not what this says. It says we adopted
 9 a model of licensing SEPs at the end-device level
 10 before 1995, which is true.
 11 Q. Now, we do not have anyone here to tell us about
 12 the contemporaneous thinking behind the adoption of the
 13 policy, but let us look at paragraph 23 of your statement
 14 because rather than saying it did not take place, you say
 15 there were several practical reasons for Qualcomm to license
 16 at the end-device level. Do you see that {IRC/5/8}? Before
 17 you look at them, let me ask you an introductory
 18 question: it would be possible for Qualcomm to offer
 19 licences to rival chipset manufacturers, either in addition
 20 to or instead of offering licences at the end-device level,
 21 would it not?
 22 A. Is that possible? Possible for us to make offers,
 23 that is certainly possible. There are enormous practical
 24 problems with doing so and I am not sure why we would want
 25 to do that, but is it possible? Certainly.

1 Q. In fact, at one stage, Qualcomm did offer licences
 2 to rival chipset manufacturers, did it not?
 3 A. At one stage Qualcomm sought licences, sought to —
 4 sought to license its patents to chipset manufacturers,
 5 non—exhaustively, and collect royalties from those chipset
 6 manufacturers.
 7 Q. Let us look at your paragraph 23(a), where you say:
 8 "... the standards are written in a way which
 9 describes the operation of user equipment ... It is my
 10 understanding that end—device licensing is consistent
 11 with the ETSI rules, which do not require component
 12 level licensing."
 13 I am going to assume in your favour that that is
 14 correct.
 15 A. Okay.
 16 Q. You're saying that ETSI does not require Qualcomm
 17 to license at the component level, but you are not
 18 suggesting, are you, that ETSI prevents Qualcomm from doing
 19 so, are you?
 20 A. ETSI — the ETSI rules do not prohibit Qualcomm
 21 from doing so, no.
 22 Q. Can we please turn up {POF/14}, which is at tab 9.
 23 I know this is not a document you will have seen at the
 24 time, but it has been notified to you. Let us see how we
 25 go. We are way back in 1999. Mr Altman emails Lou Lupin

1 and Marv Blecker and you see there is a reference to the
 2 pros and cons, just by the first hole—punch:
 3 "The purpose of this email is to discuss the
 4 pros and cons of terminating the DSP License Agreement
 5 as a result of the Intel acquisition."
 6 DSP was a manufacturer of cellular products,
 7 including chipsets; yes?
 8 A. I do not know what DSP was. Actually when I saw
 9 this, I thought it was — this was a reference to the
 10 acquisition of Infineon. Now, the news that DSP is actually
 11 a company is news to me, but I will accept that.
 12 Q. We see from point 1 in the email that apparently
 13 DSP had a licence for various of Qualcomm's patents,
 14 including CDMA 2000 patents; yes.
 15 (Pause)
 16 "We granted DSP a license" —
 17 A. Under certain patents, yes. I was reading it to
 18 understand the scope of the licence grant, but, yes, there
 19 was a licence granted under certain patents and
 20 a cross—licence back under certain patents. It is not
 21 entirely clear to me what the licensed products are. There
 22 seems to be a hint.
 23 Q. Well, at point 2, at any rate, it says what the
 24 rates were which Qualcomm charged DSP:
 25 "Other ASIC licensees pay royalties to

1 Qualcomm at 3% with no minimum dollar amount."
 2 All I am putting to you is this shows, at least at
 3 this stage, Qualcomm was prepared to grant licences to rival
 4 chipset suppliers, back in the day; right?
 5 A. I am sorry, what is the question?
 6 Q. At this point it shows, I say, that Qualcomm was
 7 prepared to grant licences to chipset — rival chipset
 8 suppliers?
 9 A. Non—exhaustive licences, yes.
 10 Q. Well, let us see where we go with that, because if
 11 you look at the bottom of the email:
 12 "I believe that Intel will claim that we need
 13 their patents and that they will be coming after us
 14 whether or not we terminate the agreement. If we don't
 15 terminate the agreement, they will not like the minimum
 16 \$2 per chip royalty and will likely assert their
 17 patents against us to leverage this royalty down. If
 18 we do terminate the agreement, they will fight very
 19 hard against paying any significant royalty. They have
 20 pointed out to us that we made a commitment in a 1994
 21 agreement that we would license them on terms to be
 22 negotiated. That combined with our commitment to the
 23 industry to license on fair and reasonable terms free
 24 from unfair discrimination would make it difficult to
 25 argue that we [would] have the right to refuse to

1 license them.
 2 So, we will have to license them... "
 3 So Mr Altman's reference there to a commitment to
 4 the industry, that can only be a reference to Qualcomm's
 5 commitment to license its SEPs on a FRAND basis, can it not?
 6 A. I am not sure if that is the only thing it could
 7 be. I mean, there is, you know, commitments to the broader
 8 CDMA ecosystem more generally and, in particular to the
 9 carriers that have adopted CDMA based on those — on the
 10 assurances we gave them.
 11 Q. No, Mr Altman is clearly recognising that
 12 Qualcomm's FRAND obligations would make it difficult to
 13 argue that Qualcomm was not required to license Intel, is he
 14 not?
 15 A. I am not sure he is talking about the FRAND
 16 obligations as such, although I am sure that those are kind
 17 of included in his thinking. He is saying that under all of
 18 these circumstances, it would be difficult to argue that we
 19 have the right to refuse to license them. So we will have
 20 to license them and they will claim we need their patents.
 21 Q. Intel was a component supplier, it was not
 22 an end—device seller, was it?
 23 A. Yes.
 24 Q. You see, I am putting it to you that the reason
 25 that you are being, with respect, evasive about what this

1 says is because it is flatly inconsistent with what you say
2 in your paragraph 23(a) of your statement, is it not,
3 Mr Gonell?

4 A. No, I do not believe it is at all.

5 Q. In fact ---

6 A. Please explain to me the inconsistency you see,
7 because I do not see any inconsistency whatsoever.

8 Q. The inconsistency is that Qualcomm has in the past
9 taken the positive position that licensing at the component
10 level is required pursuant to FRAND obligations, not just
11 possible, but required; yes?

12 A. Okay. So, again, I am not even sure that this is
13 talking about FRAND obligations, but, in any event, this
14 would not be --- whatever FRAND obligations this document
15 would be referring to would not --- involve ETSI in any way,
16 because ETSI was not the SDO under which these relevant
17 standards were standardised. That would have been American
18 SDOs, probably TIA.

19 Q. I did not mention ETSI.

20 A. No, but paragraph 23 refers to ETSI. You are
21 claiming that this is inconsistent with paragraph 23.
22 I mentioned ETSI.

23 Q. Let us look at something else to see whether that
24 will help. Can we please turn up {POF/16}, which is in
25 cross-examination bundle 1, tab 10. A different company,

1 a different year, this document is from 2000. Beginning at
2 the bottom of page 1, you will see an email from Jon Meyer,
3 he was a senior figure at Motorola. We can see that from
4 his email sign-off?

5 A. Okay, hold on a second. I am confused as to the
6 tab. POF/16, tab 10, I am sorry.

7 Q. Tab 10 ---

8 A. Pardon me. I went to 16.

9 Q. No, please.

10 A. All right, I am with you now.

11 Q. You are there. Good.

12 So {POF/16/1}, about halfway down the page, there
13 is a date line and name, Jon Meyer, and he wrote on
14 31 January 2000. He is the Corporate Vice-President and
15 Assistant General Counsel, director of patents, trademarks
16 and licensing at Motorola. If you look at the email, let us
17 start in the second paragraph:

18 "We have discussed Qualcomm's request for
19 a license proposal from Motorola encompassing
20 Qualcomm's intended GSM chipset business. Motorola has
21 decided that, for the moment, we do not wish to alter
22 our long-standing GSM licensing practices. As
23 a result, Motorola declines to offer Qualcomm the
24 licence ... it has requested."

25 So what we are seeing here, by contrast, is that

1 Qualcomm has asked Motorola for a licence in respect of its
2 GSM patents. GSM is a 2G standard; yes?

3 A. GSM is a 2G standard, yes.

4 Q. Motorola, here, is in the role of saying:

5 "Motorola declines to offer Qualcomm the license that
6 it has requested. Motorola's offer of a GSM license to
7 Qualcomm under Motorola's standard terms and conditions
8 remains open to Qualcomm.

9 "Motorola has elected to offer licenses to any
10 manufacturer of GSM equipment (as opposed to components) on
11 fair, reasonable and non-discriminatory terms. We believe
12 that our licensing program fulfils our commitment to make
13 licenses under essential patents available. Motorola has
14 not asserted and does not presently intend to assert its
15 essential patents against suppliers of GSM chipsets ...
16 Rather, Motorola intends to pursue license negotiations
17 directly with the end equipment manufacturers.

18 Motorola will represent to Qualcomm that we will treat
19 Qualcomm no differently from any other supplier of GSM
20 chipset technology."

21 Then:

22 "With respect to Qualcomm's draft CDMA license
23 proposal to Motorola, we have decided that further
24 discussions between us on the basis of your partial proposal
25 ... are not warranted. It is apparent that Qualcomm's

1 licensing programs with respect to 3G standards are not yet
2 at the point at which prompt resolution of the issues
3 between Motorola and Qualcomm is likely."

4 So they are not interested in your proposal.

5 What happens then is Motorola has declined, the
6 boot is on the other foot here, and Motorola is saying it
7 has instead adopted a practice of licensing its GSM patents
8 to manufacturers of GSM equipment, as opposed to components.
9 So what Motorola is here describing, that is end-device
10 licensing, is it not?

11 A. Yes.

12 Q. Let us see the reaction from Mr Altman at the top
13 of the page, Steve Altman, back to Jon Meyer:

14 "Jon, I was very surprised by your response.
15 We spoke not too long ago about our concern that your
16 investor relations representative ... contacted our ...
17 analysts asserting ... the large chip market was
18 multimode ... that Motorola holds the largest number of
19 essential patents for GSM and that Qualcomm will not be
20 able to participate in that market without entering
21 into a GSM license with Motorola. Now, when we inquire
22 about the license and Motorola's commitment to the
23 industry to license its essential patents, Motorola's
24 response is that it doesn't grant such licenses, that
25 its refusal to grant such licenses fulfils its

1 commitment to the industry ... does not presently
 2 intend to assert its essential patents ... "
 3 Etc. Etc.
 4 "What that suggests is that Motorola can later
 5 change its position and assert its patents against chipset
 6 suppliers, including Qualcomm, and such chipset suppliers
 7 will not know what Motorola's term are until after they have
 8 invested substantial amounts of money and are supplying
 9 products. I frankly don't understand this logic. Will
 10 Motorola assert or not assert its essential ... patents
 11 against chipset suppliers."
 12 So, Mr Altman is expressing a concern and indeed
 13 he seems angry that Qualcomm will not be able to enter into
 14 the GSM market without entering into a GSM license with
 15 Motorola, does not he?
 16 A. I agree that Mr Altman is expressing a concern.
 17 I would describe the concern differently. I do not agree
 18 that he seems angry. It does not strike me that this is his
 19 tone at all. But what I see going on here is Motorola's
 20 investor relations people have been out there telling the
 21 street, telling the --- the street people that cover
 22 Qualcomm, "Hey, Qualcomm is making noises about entering the
 23 market. They are going to have to deal with us". We
 24 approached Motorola about that. Mr Meyer wrote to Steve and
 25 said what he said and Steve --- Steve being a lawyer ---

1 former lawyer, I guess at this point, but legally trained ---
 2 is seizing on the fact that what Mr Meyer said is that
 3 Motorola does not --- has not asserted and does not presently
 4 intend to assert.
 5 So basically what Steve is saying here is: hold on
 6 a second, you are telling the street one thing and what you
 7 are telling me is your present intention is not to assert,
 8 but you seem to be leaving it open and that is a problem.
 9 That is a problem for us. Tell us what you mean. That is
 10 what is going on here.
 11 Q. Steve is a lawyer and he is legally trained and he
 12 refers to Motorola's "commitment to the industry to license
 13 its essential patents". So Steve is suggesting that
 14 Motorola's FRAND commitment requires it to grant licences to
 15 Qualcomm, is he not?
 16 A. I believe you misquoted that because it says ---
 17 what I see is Steve saying:
 18 "Motorola's response is that it doesn't grant
 19 such licenses, that its refusal to grant such licenses
 20 fulfils its commitment to the industry, that Motorola
 21 does not presently intend to assert its essential
 22 patents ... "
 23 Blah, blah, blah.
 24 So your quote was not exactly correct, but Steve
 25 is summarising what he is taking from Mr Meyer's email.

1 Q. My quote, with respect, is exactly correct, if you
 2 start reading one phrase before where you started reading:
 3 "Motorola's commitment to the industry to license
 4 its essential patents ... "
 5 That phrase is a suggestion that Motorola's FRAND
 6 commitment requires it to grant licences, is it not?
 7 A. (Pause) I think that is all it could mean, yes.
 8 Q. That is completely different from the view you
 9 expressed at the paragraph we looked at 43(a) in your
 10 witness statement, is it not?
 11 A. No, it is not.
 12 Q. Now, Madam, I have a few more questions but I am
 13 moving on to a completely different subject. I might be
 14 able to do them in five minutes. Alternatively, we could
 15 rise now and come back at 1.55pm, but I am in your hands.
 16 THE CHAIR: So you think you can do them in
 17 five minutes. How much might the spill over be and will you
 18 then be finished ---
 19 MR MOSER: No.
 20 THE CHAIR: --- this section?
 21 MR MOSER: I am looking for --- yes, I would be
 22 finished with this section, yes.
 23 THE CHAIR: Then ---
 24 MR MOSER: Well, not entirely, but I will be
 25 finished with this part of this section.

1 THE CHAIR: Mr Moser, you are asking the
 2 questions. Would you prefer in terms of sequencing to rise
 3 now or would you like to keep going for five minutes and
 4 then break, given that you will not finish this section
 5 either way?
 6 MR MOSER: We will keep going for five minutes.
 7 THE CHAIR: All right.
 8 MR MOSER: I will try and make it --- let us see if
 9 we can make it last five minutes.
 10 A. I am at your disposal.
 11 Q. If we could cast an eye over paragraphs 23(b) and
 12 (c) of your statement {IRC/5/8}. 23(b) and (c), tab 1. You
 13 make various points there about alleged efficiencies of
 14 end-device licensing; yes? I went over these with
 15 Mr Rogers. I do not want to go over it again with you.
 16 I just want to put one point to you, which is that these
 17 paragraphs do not reflect the true reason why Qualcomm has
 18 adopted the RTL policy or the EDL policy. I will first show
 19 you the relevant materials and then I will let you respond.
 20 So please turn up {POF/321}, which is in this bundle at
 21 tab 47. That is a meeting with the IRS. It is a transcript
 22 of a meeting between Qualcomm, the inland revenue service
 23 in May 2012, starting at page 69, if you will. I think you
 24 have seen this document {POF/321/69} you were at the
 25 meeting, although it seems you turned up a little late.

1 A. I did? I do not remember that, but certainly I was
2 at this meeting.

3 Q. Yes. Nothing turns on it, but you — well, if we
4 look at page 6 {POF/321/6}, you appear —

5 A. Page 6?

6 Q. I think we do not have page 6 but on screen, there
7 we are, line 17, Mr Gonell, "Sorry I'm late".

8 A. Yes, well there you are. I was late. Okay.

9 Q. That is not an accusation.

10 A. I accept that I was late. I certainly said it.

11 Q. Good.

12 MR. GONELL: "Fabian Gonell.

13 MS KILLION: "Fabian, hi.

14 MR. GONELL: "Hi.

15 MR SCHNECK: "Fabian works for Eric and he's one
16 of our lead QTL attorneys, I guess."

17 High praise.

18 A. Yes, indeed.

19 Q. Anyway, back to business. If we turn to page 70,
20 please {POF/321/70}, at line 24 Mr Howell, who is the IRS
21 person, says that it sounds like it was a business decision
22 to opt to collect the royalty on the handset level because
23 it was worth a lot more at the time.

24 Then over the page, at 71 {POF/32 1/71}, let us
25 have a look at what Mr Blecker says. He says, at 2:

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1 "Oh, it's more than that, it's more than that.
2 That's an understatement.

3 MR. HOWELL: "Okay.

4 MR. BLECKER: "Because it had the potential
5 of threatening our entire revenue stream at
6 the handset level.

7 MR. HOWELL: "Okay.

8 MR. BLECKER: "Right? There was a potential
9 that depending on how this thing all turned
10 out and courts ruled on it, et cetera, et
11 cetera, our entire handset revenue stream
12 could have been threatened.

13 MR. HOWELL: "Okay.

14 MR. BLECKER: "So, you know, the ninety-five
15 percent of our royalty revenues that you guys
16 gladly take taxes on in the United States
17 could have disappeared, and we could have
18 been left with this chip royalty revenue.
19 That's the real threat.

20 MR. GONELL: "But having — having to choose
21 between one or other then you're right,
22 obviously the handset is humongously more ...
23 lucrative for a bunch of — a bunch of
24 reasons."

25 Now, first of all, I am going to take it as read

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1 that when you talked to the IRS you were telling the truth;
2 right?

3 A. Yes, to the best of my ability, of course.

4 Q. Of course. What you are saying there is that
5 charging a royalty on the end-device is worth much, much
6 more money for Qualcomm than charging it at the chipset
7 level. That is what it says; right?

8 A. That is why — what I am communicating, yes, for
9 a whole host of reasons.

10 Q. Okay. Well, let us look at page 72 {POF/321/72}.

11 A. Page 72, okay.

12 Q. Line 24 onwards. This is you:

13 " ... As a matter of economic theory people
14 should be — companies should be {POF/321/73}
15 indifferent as to whether their chip costs 2X ... and
16 they pay no royalty or the chip costs 1X, and then they
17 pay 1X — they pay 1X as royalty as a matter of
18 economic theory ... But in reality, the practicality of
19 that is not workable.

20 MR. HOWELL: "Yeah.

21 MR. BLECKER: "Yeah, but if I would average
22 royalty on all the handsets we collect
23 royalties on — I don't remember what it is
24 anymore, I used to know the number — but
25 if — if it were ten dollars, for example,

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1 you couldn't charge a ten-dollar royalty on
2 a chipset that cost five dollars, or six
3 dollars, or seven dollars.

4 MR. GONELL: "Theoretically you could —

5 MR. BLECKER: "You could.

6 MR. GONELL: "— but as a practical matter
7 you can't. As a practical matter it's hard.

8 MR. BLECKER: "Yeah, and it would be hard to
9 convince a court that that was a fair royalty
10 [rate]... "

11 So the point that you and your colleague are
12 making is, in principle, Qualcomm could theoretically charge
13 the same royalty rate to chipset manufacturers as it charges
14 to handset manufacturers but, practically speaking, you
15 could not get away with charging a \$10 royalty on a \$5
16 chipset; right?

17 A. So, no, I would not agree with that. I would say,
18 as a theoretical matter of economics, FRAND is FRAND. If
19 a royalty for the patents is \$4, then it does not matter
20 whether it is paid at the chipset level or at the handset
21 level; the royalty is the royalty.

22 As a practical matter, it is not possible for us to
23 choose to collect the royalty from one or the other. As
24 a practical matter, we have to do that at the — at the
25 handset level.

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1 Marv suggests — the only thing that is suggestive
 2 of what you — of the last bit you said about "get away
 3 with" is Marv says, at line 20:
 4 "... it would be hard to convince a court
 5 that that was a fair royalty also."
 6 But I immediately disagree and I do disagree
 7 because, you know, I think courts are fairly sophisticated
 8 and courts can listen to economic evidence and I actually
 9 think that, in a proper situation, courts would agree that
 10 FRAND equals FRAND and my view, then and now, as to how this
 11 whole thing would work out, and I gave a speech on this at
 12 one point in London, is that, in the case of licensing
 13 upstream, the party seeking the licence has to account for
 14 the uncertainty, has to account for the difficulties, the
 15 practical difficulties that arise from licensing upstream.
 16 So if we, Qualcomm, are seeking that licence, we
 17 are going to have to take that burden on, we are going to
 18 have to compensate for that uncertainty and deal with it.
 19 If the other side is asking for the licence, they are going
 20 to have to deal with it.
 21 Q. Mr Gonell, you are trying to deny the obvious. It
 22 is clear from what you — this is my last question — and
 23 Mr Blecker has told IRS here, truthfully, that the real
 24 reason for adopting end-device licensing, rather than
 25 component level licensing, is nothing to do with what you

1 have just mentioned; it is quite simply because it would be
 2 more lucrative — humongously more lucrative because it
 3 enables you to charge a royalty that is tied to the value of
 4 the handset itself, does it not?
 5 A. No, I disagree with that. They are not separate
 6 things. Charging — charging at the handset level is
 7 enormously more lucrative because we do not have to deal
 8 with all of the practical problems, right, that I allude to
 9 here and that I mentioned briefly, in part, in my witness
 10 statement that we can go on about, but there are enormous
 11 practical problems that mean that when you license upstream
 12 you must give a value if you are insisting on the licence
 13 and, yes, as a profit-maximising entity, we are going to
 14 license at the place where we can get the maximum profit,
 15 consistent with the value, but just — but we are still
 16 limited by FRAND and by the commercial market to FRAND
 17 value.
 18 THE CHAIR: Shall we break there?
 19 MR MOSER: I did say one more question, but one
 20 question arising out of that because you disagree with me,
 21 Mr Gonell, but turn over to page 74 {POF/321/74}.
 22 A. 74, yes, I am here.
 23 Q. Line 2, Mr Blecker:
 24 "... it's on the handset is where the money
 25 is."

1 That is the truth of the matter, is it not?
 2 A. The truth as a matter — of the matter is exactly
 3 what I described and I do not think what Mr Blecker is
 4 saying is any — is inconsistent with anything I have said
 5 here, at that meeting or in my witness statement.
 6 MR MOSER: That would be a convenient moment.
 7 I am sorry, I —
 8 THE CHAIR: That is all right.
 9 MR MOSER: — was 100% over.
 10 THE CHAIR: So we will return at 2.05pm.
 11 Just to remind you that we are rising, I think, at
 12 4.25pm today and also just to remind you that we will be
 13 rising somewhat earlier tomorrow. I had suggested between
 14 4.00pm and 4.15pm tomorrow. So perhaps this afternoon you
 15 can indicate to us whether you need us to sit early tomorrow
 16 so that you can finish both of these witnesses by the end of
 17 the day tomorrow.
 18 MR MOSER: I will. I expect I am going to say
 19 that half an hour tomorrow morning would be very helpful.
 20 THE CHAIR: All right.
 21 MR MOSER: But we will see where we are at 4.20pm.
 22 THE CHAIR: Are you intending that Mr Gonell will
 23 be finished today or will he be in purdah overnight?
 24 MR MOSER: I am intending he will be finished
 25 today. We might just not make it.

1 THE CHAIR: All right. Thank you very much.
 2 (1.07 pm)
 3 (The luncheon adjournment)
 4 (2.05 pm)
 5 MR MOSER: Mr Gonell, I would like to ask you
 6 about one of those manufacturers we saw in the email who was
 7 seeking an exhaustive licence, namely MediaTek. Let us have
 8 a look at what was agreed with MediaTek and that is at
 9 {POF/204}, cross-examination bundle 1, tab 33.
 10 You will see there, dated 19 November 2009, on its
 11 face a Non-Exhaustive CDMA ASIC Agreement. Qualcomm did not
 12 want there to be any misunderstanding about this being
 13 non-exhaustive, did it?
 14 A. Well, I was not involved in the negotiations for
 15 this agreement so I do not know if that title was our idea
 16 or their idea, but it is in fact a non-exhaustive agreement
 17 or at least intended to be so.
 18 Q. You were involved, by the time this was signed,
 19 I imagine, because it is signed on 19 November 2009, the
 20 Effective Date; yes?
 21 A. No.
 22 Q. All right. But you are aware of this agreement?
 23 A. I am aware of this agreement, yes.
 24 Q. Let us see how we go. It seems to me that, in
 25 broad terms, this is an agreement that Qualcomm will not

1 assert its CDMA SEPs against MediaTek provided that MediaTek
 2 only sells chipsets to OEMs who have their own licences for
 3 these SEPs, but let us look at the specific figure terms and
 4 see what we can find.

5 If you go to page 16 {POF/204/16}, there is
 6 a heading, heading 4.

7 A. I am with you.

8 Q. "Qualcomm's covenants not to assert."

9 A. Yes.

10 Q. Now, this is a bit complicated, but if you look at
 11 4.1(a), subject to the terms of the agreement and so on:

12 "Qualcomm, on behalf of itself and its
 13 Affiliates, hereby covenants not to Assert any of
 14 Qualcomm's CDMA Technically Necessary Patents against:

15 "(i) MediaTek or any of its Authorized
 16 Affiliates for designing and developing for itself (and
 17 having designed and developed but only Authorized
 18 Contractors ..."

19 And so forth.

20 Can I ask you, please, to read down to halfway of
 21 the next page, 17, by the second hole—punch until you get as
 22 far as "Authorized Purchasers for incorporation by such
 23 Authorized Purchasers in Subscriber Units" {POF/204/17}.

24 A. You are asking me to read 4.1(a)(i)?

25 Q. (i), yes?

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1 A. Okay. (Pause)

2 Q. As far as (z):

3 "Otherwise transferring the right to use such
 4 MediaTek CDMA ASICs... by such Authorized Purchasers in
 5 Subscriber Units"?

6 A. So you are asking me to read (i) to (ii)?

7 Q. Yes.

8 A. So I have read those sections. I have not gone
 9 back and looked at the definitions of the defined terms that
 10 are used in these sections, but I have read the sections.

11 Q. Well, let us have a look at that. So there are
 12 some lengths gone to in relation to not to assert. Then the
 13 first point, after that, is (i):

14 "Authorized Purchasers for incorporation by
 15 such Authorized Purchasers in Subscriber Units".

16 Do you see that?

17 A. Yes.

18 Q. "Authorized Purchasers" is defined at page 6
 19 {POF/204/6}. Authorized Purchasers means:

20 "only those entities which have been granted
 21 a license by Qualcomm under at least Qualcomm's CDMA
 22 Technically Necessary Patents to make, use and sell
 23 Subscriber Units under a license agreement."

24 "Subscriber Units" includes handsets; yes?

25 A. Subscriber units includes handsets.

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1 Q. Yes. Qualcomm also imposed onerous reporting
 2 obligations on MediaTek under this agreement, did it not?
 3 Do you remember that?

4 A. There were reporting obligations. Whether or not
 5 they were onerous is a matter of opinion.

6 Q. Well, fair enough. But let us look at them and see
 7 what our opinions are. If you go to page 55 {POF/204/55},
 8 "Records and audits". So it talks about records:

9 "MediaTek shall, and cause its Affiliates to,
 10 keep accurate and complete books."

11 It defines what such books shall include.

12 A little further down:

13 "MediaTek shall furnish Qualcomm within
 14 thirty (30) days after the end of each calendar quarter
 15 a certificate."

16 Four lines down, you see:

17 "In addition, MediaTek shall require
 18 Authorized Distributors to furnish to MediaTek
 19 a certificate, in the form attached hereto ... signed
 20 by a responsible official ..."

21 And so on.

22 "... reasonable efforts to verify the accuracy of
 23 such information provided by Authorized Distributors and so
 24 long as MediaTek used reasonable efforts to verify the
 25 accuracy of such information MediaTek shall not be liable to

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1 Qualcomm for any inaccuracy in the information provided by
 2 such authorised distributors."

3 So MediaTek is required to keep quite detailed
 4 records of the sales it has made to both Authorized and
 5 Non—Authorized Purchasers and to furnish these to Qualcomm
 6 at the end of each quarter; yes?

7 A. Well, this refers to records and sales of
 8 MediaTek's CDMA's under this agreement and so far what you
 9 have — what you have shown me shows me that sales under
 10 this agreement would include sales to Authorized Purchasers
 11 and you included Non—Authorized Purchasers there so I am not
 12 so sure about that, but it is possible. Certainly the
 13 second sentence suggests Non—Authorized Purchasers. You
 14 mean, this seems like records that MediaTek would keep in
 15 the ordinary course of its business.

16 Q. "Such books and records shall include the date of
 17 transaction involving sales of MediaTek CDMA ASICs,
 18 including but not limited to the number of items sold to
 19 each Authorized Purchaser, Non—Authorized Purchaser,
 20 Authorized Distributors and the identity of such authorised
 21 purchased, Non—Authorized Purchaser and Authorised
 22 Distributer."

23 So that is everything, is it not?

24 A. I mean, I am not sure that there is anything else.
 25 I think that is all the CDMA ASICs that I can think of.

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1 There are other products though, sure.
 2 Q. That is all highly confidential information for
 3 a company; yes?
 4 A. I would think, yes.
 5 Q. MediaTek is one of Qualcomm's competitors, is it
 6 not?
 7 A. Yes.
 8 Q. So is it not extraordinary that one competitor
 9 should require another to provide it with precise details of
 10 its sales volumes? It is just a blatant restriction of
 11 competition, is it not?
 12 A. No, I do not agree that it is a restriction of
 13 competition in the slightest and I am not sure it is that
 14 unusual in circumstances where there are patent rights being
 15 exchanged.
 16 Q. Do you remember that there was correspondence
 17 between MediaTek and Qualcomm in relation to these
 18 arrangements that you were involved in?
 19 A. I remember that --- at a later point, when I was
 20 involved and MediaTek objected to the reporting requirement
 21 and wanted be free of them.
 22 Q. Let us have a look at {POF/331/6}. That is in
 23 cross-examination bundle 3 at tab 112. 331, page 6. It is
 24 a letter of 4 March 2013, addressed to you, from MediaTek.
 25 Are you there?

1 A. Yes.
 2 Q. "Dear Mr. Gonell."
 3 Look at "Second":
 4 "Second, in my September 2012 letter, [says
 5 MediaTek], we asked whether Qualcomm treats MediaTek
 6 differently than other chip and component suppliers
 7 with respect to reporting of customer names and sales
 8 quantities. Your response did not address this
 9 question. Could you please tell us whether all other
 10 Qualcomm-chip supplier agreements require the chip
 11 suppliers to provide such information to Qualcomm? To
 12 clarify, we are not asking Qualcomm to disclose the
 13 terms of any agreements ... we are simply if there is
 14 variation ... regarding reporting, so we can determine
 15 if there may be a way to modify our agreement in this
 16 regard."
 17 It is fair to say, is it not, MediaTek does not
 18 seem happy --- I know you do not like that --- does not seem
 19 content about its own reporting obligations?
 20 A. Well, as I said, I do not like "happy", I do not
 21 think "content" actually solves my problem. I am not so
 22 sure corporations have emotions in that respect. However,
 23 I think it is fair to say that MediaTek wanted to explore
 24 modifying those arrangements.
 25 Q. Yes. It seems it wrote in September '12, so it is

1 repeatedly asking whether Qualcomm requires others to
 2 provide this information and then at fourth, there is
 3 a reiteration of a request to provide MediaTek with FRAND
 4 royalty rates to evaluate the possibility of obtaining
 5 a licence. That is at bottom of that page, 6. So MediaTek
 6 is expressing a renewed interest in an exhaustive royalty
 7 licence; yes?
 8 A. They are asking for FRAND --- what our FRAND terms
 9 would be for such a licence. I am not sure whether I would
 10 say they were expressing interest. I am not sure that this
 11 was sincere interest in such a licence, but they are asking
 12 for terms for such licence.
 13 Q. They are not just asking out of an idle interest.
 14 They are asking for a purpose and the purpose is to have
 15 such licence; yes?
 16 A. No, I do not think the purpose was such a licence.
 17 I do not think they wanted such a licence.
 18 Q. Let us look at another page in this because you
 19 reply. If you can turn to page 9.
 20 A. Page 9?
 21 Q. 9 {POF/331/9}.
 22 A. My reply of March 14?
 23 Q. Yes.
 24 A. I am with you.
 25 Q. Your reply to Mr Ju of MTK. In the first paragraph

1 you note that you say --- in the first full paragraph:
 2 "... you asked whether we are treating MediaTek
 3 differently ... with respect to certain reporting
 4 requirements. We do not intend to do so, and in our
 5 negotiations of similar agreements with other chip suppliers
 6 since we reached agreement with MediaTek we have sought
 7 substantially similar reporting requirements. Certain of
 8 our past agreements (entered into before we reached
 9 agreement with MediaTek and under different
 10 circumstances)... involved different exchanges of value.
 11 Some lacked reporting requirements, while others included
 12 them."
 13 So there were suppliers, other than MediaTek, who
 14 were subject to similar requirements to report confidential
 15 sales information; yes?
 16 A. Well, I do not remember, but certainly what I say
 17 here and so I believe it to be true, is that certain of the
 18 past agreements included reporting requirements.
 19 Q. Yes.
 20 A. Yes.
 21 Q. In the third paragraph, the one that begins
 22 "Third":
 23 "... you asked whether we are willing to discuss
 24 a direct license with MediaTek. We are willing to discuss
 25 any mutually beneficial business arrangement with MediaTek,

1 including the possibility of replacing the Non-Exhaustive
 2 CDMA ... and the Non-Exhaustive Patent ... Agreement... We
 3 are also willing to discuss modifications to those
 4 agreements. Having said that, we don't understand why
 5 MediaTek now wishes to discuss a license with Qualcomm.
 6 What has changed since our companies negotiated and entered
 7 into the comprehensive and long-term Patent Agreements at
 8 MediaTek's request?"

9 You do not respond to the request for a FRAND
 10 royalty rate, do you?

11 A. This is a response.

12 Q. It goes on:

13 "Your letter includes statements about Qualcomm's
 14 FRAND obligations. While we don't believe it is productive
 15 to engage in a written debate on those points, we do feel
 16 compelled to point out that we disagree with several of
 17 those statements."

18 So you disagree with what MediaTek have said about
 19 FRAND; right?

20 A. Well, we disagreed with at least several of the
 21 statements that they said about our FRAND obligations.

22 Q. We look at MediaTek's reply at page 11
 23 {POF/331/11}.

24 A. Yes.

25 Q. From Mr Ju and the main paragraph that starts, "We

1 note ...":

2 "We note your statement that you 'disagree
 3 ... ' regarding the import of Qualcomm's FRAND
 4 commitments. Whatever those disagreements, we hope and
 5 assume you agree with the basic premise that Qualcomm
 6 is obligated by its commitments to standard-setting
 7 organizations to enter into license agreements with
 8 parties willing to agree to FRAND terms as to
 9 Qualcomm's declared-essential patents. You have
 10 previously stated that Non-Exhaustive CDMA ASIC
 11 Agreement is not a license. We are now asking for
 12 a license --- and in particular, a FRAND license."

13 So Qualcomm is being asked by MTK to provide
 14 a FRAND licence; yes?

15 A. That is what is stated in this letter .

16 Q. Yes. On page 15 you reply again {POF/331/15}.

17 A. Page 15?

18 Q. 15, your letter of 3 April, the main paragraph:

19 "We do not believe that Qualcomm is under any
 20 obligation to offer MediaTek a license with respect to
 21 the manufacture or sale of Components in response to
 22 MediaTek's request to replace the existing patent
 23 agreements between our companies with such a license."

24 So you are rejecting the proposition that Qualcomm
 25 is under an obligation to offer MediaTek a licence, are you

1 not?

2 A. In these circumstances, we are rejecting the notion
 3 that we are under a legal obligation to offer MediaTek
 4 another agreement, licence or otherwise, that replaces the
 5 existing agreement.

6 Q. This is a very different approach or view from what
 7 Qualcomm said back in 2000, when we looked at that
 8 correspondence with Motorola, when the shoe was on the other
 9 foot, was it not?

10 A. No, not at all .

11 Q. Now, I think these discussions resulting in an
 12 amended agreement, dated 1 July 2013. I do not think we
 13 need turn it up, but for present purposes the main point is
 14 that the restriction on MediaTek only making sales to
 15 Authorized Purchasers was removed; yes?

16 A. Well, to be clear, what you took --- what you took
 17 me to before was not such a restriction. It was just
 18 a description of what was covered under the non-assert,
 19 which is not to say that there was not such a restriction .
 20 We only looked at a part of that agreement. What I recall
 21 about the amendment was that we dealt with a number of
 22 issues that MediaTek wanted to deal with, the reporting
 23 requirements, language issues and stuff like that. We dealt
 24 with some of those immediately. Other things we dealt with
 25 in terms of having some kind of stance that we ultimately

1 had some kind of stance and then termination of the
 2 agreement altogether.

3 Q. Yes. I think what I said is not particularly in
 4 dispute because it is from your defence, but my simple point
 5 is going to be by the point that change was made, the
 6 restrictions had been in place for four years; yes?

7 A. By the time it was amended, whatever the
 8 obligations were of the 2009 amendment, had been in place
 9 right up until that time so four years.

10 Q. They had been in place because Qualcomm believed
 11 that these restrictions that you have described hampered
 12 MediaTek's ability to compete, did you not? That was the
 13 point of them.

14 A. No.

15 Q. Can we have a look at {POF/207}. That is back in
 16 cross-examination bundle 1, tab 34. It is an email from
 17 someone called Jeremy Blair, attaching some PRC minutes.
 18 This is November 24, 2009, a few days after Qualcomm and
 19 MediaTek entered into their Non-Exhaustive CDMA ASIC
 20 Agreement. You are not on the email, but this document was
 21 in the list notified to you so if you go to page 41
 22 {POF/207/41}, we will see a slide. You see the slide
 23 headed, "Strategy Recommendations"? It is --- did I say
 24 {POF/207/41}? Yes. The reference to "Make sure MTK can
 25 only go after customers with WCDMA SULA" in the first arrow;

1 do you see that?
 2 A. I do see that, yes.
 3 Q. That is a reference, is it not, to the non—assert
 4 agreement that we saw was confined to sales to Authorized
 5 Purchasers so OEMs with licences or SULAs?
 6 A. No, I doubt very much that that is reference to
 7 that. I do not think any of these people would have known
 8 that that agreement existed, quite frankly.
 9 Q. It was a few days after the agreement had been
 10 made. The reference to "go after" clearly means compete
 11 for, does it not?
 12 A. I am sorry, what was your question?
 13 Q. The reference to "go after", "can only go after
 14 customers", that means compete for, does it not?
 15 A. That is what I would understand that to mean, yes.
 16 Q. Because the express objective in the square on the
 17 right is to reduce the number of MTK's, MediaTek's,
 18 customers; right?
 19 A. They think that that recommendation would have that
 20 result. These are not licensing people so I do not think
 21 they would have any idea of the patent arrangements between
 22 the companies.
 23 Q. Well, is it not a happy coincidence that those
 24 precise arrangements were put in place a few days earlier
 25 because there is then a reference to executing a strategy to

1 destroy MediaTek's 2G margin and profit in the next square
 2 and take away the dollars that MTK can invest in 3G. Do you
 3 see that?
 4 A. "Formulate and execute a GSM/GPRS strategy to
 5 destroy MTK's 2G margin & profit". I see that, yes.
 6 Q. Then:
 7 "Take away the \$\$ that MTK can invest in 3G"
 8 on the right?
 9 A. Yes.
 10 Q. That is evidence of a clear strategy to suppress
 11 competition from MediaTek, is it not?
 12 A. I mean, it is evidence that they were exploring
 13 different strategies they could use against MediaTek that
 14 they felt was a competitive threat to their business.
 15 Q. Not just exploring, because the non—assert
 16 agreement pursues this strategy already, does it not?
 17 A. No, I do not think these people knew anything about
 18 the non—assert agreement and I do not think that this —
 19 yes, I do not think — this certainly was not communicated
 20 to the licensing people that I know of.
 21 Q. Well, let us leave it there and move on to
 22 a different subject. Can I ask you, please, to take a look
 23 at your statement, tab 1 of the hard copy bundle, at
 24 {IRC/5/24}. Here you will find your paragraph 73 you say
 25 there:

1 "Apple knew that its CMs already had
 2 licensing arrangements in place with Qualcomm, and
 3 instead relied upon those CM licenses up until Apple
 4 and Qualcomm entered into the GPLA in 2019."
 5 Yes?
 6 A. Yes.
 7 Q. Now a different subject. That is the arrangement
 8 where the CMs are companies which Apple uses to manufacture
 9 its product, including iPhones, and the most significant of
 10 these, I think, is called Foxconn, is that right?
 11 A. Foxconn is one of their CMs and I think it is the
 12 one that makes — at least at one point made most of their
 13 iPhones.
 14 Q. You carry on in 73 and you say:
 15 "The CM licenses were ... full portfolio
 16 license at a [standard] royalty rate of 5%"
 17 Which I assume includes LTE SEPs, does it?
 18 A. The licences were full portfolio licences which
 19 meant they covered certainly all of Qualcomm's CDMA patents
 20 and they would have other patents included and there might
 21 have been capture periods or not, depending on the licence,
 22 and so it may or may not have included LTE SEPs, depending
 23 on the particular agreement and the particular time period.
 24 Q. Well, let us explore that a little more, but,
 25 before we do that, can I just understand you correctly.

1 Apple wanted chips from Qualcomm so they needed a licence;
 2 yes?
 3 A. No.
 4 Q. Well, at least under the CMs' licences. You
 5 explain they would be licensed for the use of the chips
 6 under the CMs' licences which were full portfolio licences.
 7 Then the CMs would be supplied with the QC — Qualcomm
 8 chipsets for use in phones which they manufactured for
 9 Apple; correct?
 10 A. I do not understand that question.
 11 Q. This would be —
 12 A. Can you rephrase?
 13 Q. That is how this arrangement worked. The CMs were
 14 licensed. They were supplied with Qualcomm chipsets for use
 15 in iPhones which they manufactured for Apple.
 16 A. Right, and therefore Apple did not need its own
 17 licence.
 18 Q. But they were permitted to use these chipsets under
 19 the licence that was provided to the CMs; right?
 20 A. Who is the "they" in that question?
 21 Q. Apple.
 22 A. Yes.
 23 Q. I am sorry, I do not know why this is such hard
 24 work. I thought —
 25 A. Because your questions are unclear, but I will try

1 to do my best to understand them.
 2 Q. Let us have a look at Qualcomm's defence, shall we?
 3 It is at {IRA/2/1}. It is in cross-examination bundle 3,
 4 tab 129.
 5 A. Okay.
 6 Q. Let us have a look at page 78 {IRA/2/78}.
 7 A. Okay.
 8 Q. Paragraph 129, under the heading, "Apple's CMs:
 9 period from 1 October 2015 to 19 January 2017"
 10 "Apple was not a direct licensee of Qualcomm during
 11 this period. In the premises, Qualcomm's conduct cannot
 12 have been abusive ..."
 13 Etc.
 14 This is the period when you were Senior
 15 Vice-President of licensing strategy at QTL; right?
 16 A. I do not remember the exact time I got that title
 17 and that position, but it is about that time, yes.
 18 Q. Let us go to page 79, paragraph 132 {IRA/2/79}.
 19 The bit I want to show you starts about halfway down 132,
 20 after the pink bit:
 21 "The CMs' SULAs meant that each of CMs was
 22 licensed to use Qualcomm's LTE SEPs well before
 23 Qualcomm supplied any LTE baseband chipsets to any OEM,
 24 including baseband chipsets for Apple products.
 25 Likewise, the CMs did not need a separate LTE-specific

1 licence in order to be licensed to supply multimode LTE
 2 mobile phones."
 3 So taking that in turn, the first is that the
 4 SULAs meant that CMs were licensed to use Qualcomm SEPs in
 5 their supply of baseband chipset for Apple products; right,
 6 including LTE?
 7 A. I am sorry, your question is?
 8 Q. What you are saying there is that the CMs' SULAs
 9 meant that each of the CMs was licensed to use Qualcomm LTE
 10 SEPs and including baseband chipsets for Apple products?
 11 A. Okay. Well, this is Qualcomm's defence so I am not
 12 necessarily saying it is my statement or not and I am not
 13 saying you are saying what you are saying. What I read here
 14 is:
 15 "The CMs' SULAs meant that each of CMs was licensed to
 16 use Qualcomm LTE SEPs well before Qualcomm supplied any LTE
 17 baseband chipsets to any OEM, including baseband chipsets
 18 for Apple products."
 19 Okay.
 20 Q. Do you agree with that?
 21 A. I would have to look at each of the SULAs to say
 22 whether I agree with that in whole or in part, but I agree
 23 with that at least in part.
 24 Q. Okay. Let us look at the next bit and see if you
 25 agree with that. Do you agree that:

1 "Likewise, the CMs did not need a separate
 2 LTE-specific licence in order to be licensed to supply
 3 multimode LTE... phones."
 4 Do you agree with that?
 5 A. I wholeheartedly agree with that, yes.
 6 Q. All right. This is said to be part of Qualcomm's
 7 overall approach so you regard at least some licences as
 8 effectively rolling licences that cover both the technology
 9 existing at the date the licence was entered into and future
 10 technology that falls within its scope, do you not? Your
 11 view is you do not have to renegotiate the rate every time
 12 a new CDMA patent is issued, for example? That is what you
 13 say, is it not?
 14 A. That is true.
 15 Q. Can I check my understanding on a couple of other
 16 points? I know you retired from Qualcomm in 2024, but
 17 presumably, as legal counsel from 2017 in QTL, you were
 18 aware of this litigation when it was commenced, were not
 19 you?
 20 A. I was, yes.
 21 Q. You were well-acquainted with the contents of
 22 Qualcomm's defence therefore, at least by the time you
 23 prepared your witness statement, were you not?
 24 A. I do not know that I had reviewed Qualcomm's
 25 defence in detail. I would have — if you show me

1 a particular document, I can see the date, I will see if
 2 that refreshes my memory. I do not — I just do not know.
 3 Q. Well, I cannot do better than show you the defence.
 4 When did you first see the defence?
 5 A. I do not know when I first saw the defence.
 6 Q. In your witness statement, at paragraph 8
 7 {IRC/5/3}, you tell us about your responsibilities in
 8 relation to Qualcomm and its licensing agreements, how they
 9 were structured and what you referred to as day-to-day
 10 responsibility for what I call the nuts and bolts of the QTL
 11 legal operations. Do you see that there? So at least will
 12 you agree that you must have been familiar with the terms of
 13 Qualcomm's important licensing agreements, like those with
 14 Samsung and Apple?
 15 A. Oh, yes, that I certainly would agree with.
 16 Q. Apple CMs?
 17 A. No. You know, I was broadly familiar with the
 18 terms of the agreements and Apple's CMs, but I had not been
 19 involved in negotiating them.
 20 Q. Well, let us see how we go, if I ask you something
 21 about the CMs' licences, and by all means let me know if you
 22 are not familiar.
 23 Can we look at the SULA between Qualcomm and
 24 Foxconn, which we have already mentioned. That is at
 25 {POF/95}, cross-examination bundle 3, tab 109.

1 A. Okay. There are just a couple of pages of the
 2 agreement in here.
 3 Q. Okay. Well, maybe we will have to use the screen.
 4 I am sorry if there is something that is not there. Let us
 5 see. I want to start — forgive me, there will be one or
 6 two pages not in the bundle for some reason. It is not in
 7 mine either. Can we just look at the screen. You will see
 8 "Subscriber Unit License Agreement" and it is entered into
 9 on October 18, 2005. Now, you will tell me, of course, that
 10 was before you arrived at Qualcomm; yes?
 11 A. That was before I arrived at Qualcomm, yes.
 12 Q. Now, it was however amended in 2009. So I am going
 13 to ask you whether you are familiar with the terms of this
 14 agreement and the 2005 agreement which was amended in your
 15 time?
 16 A. I was not involved in that until — so no, I am not
 17 familiar with those, as I sit here, but I have no doubt that
 18 if you give me the agreements, I would be able to interpret
 19 them.
 20 Q. Okay. Well, let us try that, because obviously you
 21 have seen some of the documents.
 22 If we look at page 11, which —
 23 A. Of which agreement are you showing me now?
 24 Q. Of this agreement we are looking that.
 25 A. Of the 2005 agreement?

1 Q. Yes.
 2 A. Okay.
 3 Q. That is a page that seems not to be in the bundle
 4 but it is in front of you {POF/95/11}. Look at
 5 paragraph 5.1. Sorry, can we go back to page 10
 6 {POF/95/10}. It starts on page 10:
 7 "Qualcomm License.
 8 "5.1. Grant of License From Qualcomm.
 9 Subject to the terms and conditions of this Agreement,
 10 including but not limited to timely payment of the
 11 Up Front License Fee [to Qualcomm and so on.]"
 12 If you look at this provision, you will see,
 13 I think, that the licence is limited in two ways. Can we
 14 first look at the third line on the right—hand side, on
 15 page 11 {POF/95/11}. This is a licence under Qualcomm's
 16 intellectual property. Do you see that in the third line?
 17 A. Yes.
 18 Q. That is a term that is defined elsewhere in the
 19 agreement and we can come to it.
 20 Secondly, it is a licence that only permits
 21 Foxconn to exploit the IP in relation to wireless
 22 applications, solely for wireless applications, in ways that
 23 are then set out:
 24 "make (and have made), import and use ... Sell
 25 (and offer to Sell)... "

1 You see there. Feel free to read the next part to
 2 yourself. (Pause)
 3 A. Go on.
 4 Q. Yes. If we look at the definition of Qualcomm's
 5 intellectual property, that is on page 7 {POF/95/7}, which
 6 is also in the hard copy bundle but it may be convenient to
 7 stick with this version. So at page 7, halfway down the
 8 page, Qualcomm's intellectual property means:
 9 "Qualcomm's Technically Necessary IPR and
 10 Qualcomm's Included Commercially Necessary IPR and
 11 InterDigital's Patents; provided that, notwithstanding the
 12 foregoing, the term 'Qualcomm's Intellectual Property' shall
 13 not include any intellectual property, including but not
 14 limited to patents, owned by SnapTrack..."
 15 You are familiar with these kinds of definitions
 16 and clauses, are you not?
 17 A. Yes.
 18 Q. This — Qualcomm's intellectual property includes
 19 two main things. It includes Qualcomm's technically
 20 necessary IPR and Qualcomm's included commercially necessary
 21 IPR. It also includes some InterDigital patents but those
 22 are not relevant.
 23 So do you agree that in this licence document QC's
 24 technically necessary IPR is limited to patents which are
 25 essential to CDMA standards?

1 A. I mean, you would have to show me the definition of
 2 "technically necessary IPR."
 3 Q. Yes, page 9 {POF/95/9}. If you look at the screen:
 4 "'Technically Necessary IPR' includes only each claim
 5 of any patents (foreign and domestic), issued on, prior to
 6 or after the Effective Date, which (i) the Party and/or its
 7 Affiliates has the right to license ..."
 8 A. Yes. Can you take me to CAI, please?
 9 Q. Yes, CAI is at page 3 {POF/95/3}. Common Air
 10 Interface or CAI, you will see there "means the (i) the
 11 TIA's IS-95 digital cellular standard, (ii) the ITU's
 12 cdma2000" etc. This is the CDMA standard, is it not?
 13 A. So I do not — I am not entirely sure of the import
 14 of the last clause, clause 4, but, in general, I would say
 15 Technically Necessary IPR" certainly includes a patent
 16 essential to CDMA and CDMA 2000" standards and (4) says "any
 17 other CDMA standard" that has certain properties, and I am
 18 not exactly sure what that would cover and what it would not
 19 cover in the real world.
 20 THE CHAIR: Mr Moser, I do not want to put you off
 21 your stride. I am just not really following the line of
 22 questioning. What does it go to?
 23 MR MOSER: I hope the line of questioning will
 24 become clearer if I ask my next question of Mr Gonell
 25 because therefore — I mean, one thing that QC's technically

1 necessary IPR does not include is patents which are
2 essential to LTE or 5G, because LTE or 5G are OFDMA
3 standards and not CDMA-based standards; correct?

4 A. Yes, and they do not exist at this point so ...

5 Q. But I understood that you might be arguing that
6 somehow, nevertheless, LTE SEPs were covered by this licence
7 because they would fall under the definition of
8 "Commercially Necessary IPR"?

9 A. Yes. We have just gone through the definition of
10 "Technically Necessary IPR," if you want to go to the
11 definition of "Commercially Necessary IPR", we can go and
12 talk about that.

13 Q. I think I did not look at that. Let us have a look
14 at that. It is on page 4 {POF/95/4}. If you look at
15 "Included Commercially Necessary IPR", one of the things you
16 will see is there is a date cut off, only patents which have
17 been issued on or before the Effective Date are included in
18 that definition and therefore the licence under 5.1; yes?

19 A. Yes.

20 Q. I can tell you that for Foxconn the Effective Date
21 was originally in 2005 and then 2009 when the licence was
22 amended.

23 A. Yes.

24 Q. In your witness statement you tell us that,
25 especially in the case of SEPs, the licence will cover not

1 only patents in existence at the time of the agreement, but
2 also patents that QC — that Qualcomm acquires later. We
3 discussed that a moment ago, but for a licensee it is not
4 any good having a licence only to some of the licence or
5 SEPs, you need a licence to all of them. It is necessary to
6 have a licence that covers SEPs which may be granted or
7 acquired after the licence is signed, right? Otherwise
8 taking a licence only to SEPs in existence at a certain date
9 would be like buying only some pieces of a puzzle and not
10 much use on their own. That is right, is it not?

11 A. No, I do not necessarily agree with that. It
12 depends on a lot of different things, but I would agree that
13 manufacturers of standards-compliant products want to
14 capture all of the essential patents that they are using.

15 THE CHAIR: Is this going to whether the CMs'
16 licences covered LTE SEPs for Apple?

17 MR MOSER: Yes.

18 THE CHAIR: Or general — in general?

19 MR MOSER: In general. It is the supply to Apple
20 that we are of course interested in.

21 THE CHAIR: But I do not understand it is your
22 case that they did not.

23 MR MOSER: It is Qualcomm's case that they did.

24 THE CHAIR: Yes. But I do not understand it to be
25 your case that they did not. I am just looking at your note

1 that is handed up and I do not think I am reading out
2 anything that is confidential because it is not highlighted.
3 I am looking at paragraph 11. It does not say there that
4 the CMs' licences did not actually cover Apple. You say it
5 is irrelevant.

6 Actually you say in the second sentence:
7 "Prior to 2019 Apple was licensed by the
8 CMs."

9 So I am not sure what point you are putting to the
10 witness.

11 MR MOSER: Well, I can short-circuit the point by
12 saying they told Apple that they were licensed for LTE. If
13 you look at the actual agreement, it is far less clear that
14 they were.

15 THE CHAIR: All right. But you are trying to
16 explore what the agreement says, but your second sentence in
17 paragraph 11 says:

18 "Prior to 2019 Apple was licensed by its
19 CMs."

20 That is one of the purposes of this document so
21 that we understand what your case is. You seem to be
22 putting something that is not actually your case to the
23 witness, so I am just wondering what the point of that is.

24 MR MOSER: I will just take instructions to see
25 whether we need this line of questioning.

1 THE CHAIR: Yes.
2 (Pause)

3 Are you moving on now?

4 MR MOSER: I would like to persist with this
5 line of questioning because we say it will become obvious
6 later on why it matters.

7 THE CHAIR: But it is not obvious to me now and
8 I have asked for a note which clarifies your case. The note
9 has presumably been signed off by you. One of the reasons
10 for establishing this, and why I wanted the note earlier
11 than I did, was precisely so that we could understand the
12 parameters for the cross-examination of the witnesses.

13 Now you are not saying here that it is any part of
14 your case that Apple was licensed by the CMs. So I do not
15 understand why you are pursuing this line of questioning.
16 You have taken some time over these questions which I do not
17 understand.

18 MR MOSER: Forgive me for one moment. (Pause)
19 How these licences work is going to become

20 important once we talk about 5G so I do not really want to
21 abandon this line of questioning because —

22 THE CHAIR: But you were not asking about 5G; you
23 were asking about whether the licences covered LTE SEPs.

24 MR MOSER: But it is going to have to have the
25 same effect when we come to 5G.

1 THE CHAIR: Then you can put the question in
 2 relation to 5G, but I do not think — at the moment, you are
 3 not making any point, as far as I see, about whether the
 4 licence is covered LTE. If you are going to tell me it is
 5 pleaded somewhere, then we will need to explain why it is
 6 pleaded but it is not in your note.

7 MR MOSER: Well, it is their pleaded case.
 8 Perhaps I will come to 5G in due course, in the course of my
 9 cross-examination, perhaps at that point I can pick this up
 10 again.

11 THE CHAIR: You can, because your latest note says
 12 categorically that your case is that prior to 2019 Apple was
 13 licensed via its CMs so I do not think it is fair to put to
 14 the witness something that is inconsistent with that.

15 MR MOSER: Well, Madam, I take your point. I have
 16 explained why eventually we do have to revisit this.

17 THE CHAIR: All right.

18 MR MOSER: Perhaps I could take it more shortly
 19 because I have revealed, as it were, — I have given away
 20 the ending, but, for now, I will move on.

21 If I move on, we are going to have to go back into
 22 outer ring private session.

23 THE CHAIR: All right.
 24 (2.51 pm)

25

1 (Redacted — confidential information)
 2 Housekeeping
 3 THE CHAIR: All right. Slightly ahead of
 4 schedule, I think. Does that mean that we do not need to
 5 start at 10 o'clock tomorrow or do you still want to start
 6 at 10.00am tomorrow, Mr Moser?

7 MR MOSER: It is hard to say. My learned friend
 8 Mr Armitage will be doing the cross-examination of
 9 Mr Katouzian.

10 THE CHAIR: I see.

11 MR MOSER: Can we perhaps start at 10.15am as
 12 a compromise?

13 THE CHAIR: It is up to you. If you want us to
 14 start at 10.00am, we can start at 10.00am.

15 MR MOSER: Yes, let us start at 10.00am to be on
 16 the safe side, if that is all right, because I think
 17 tomorrow is a shortish day. There is a swearing in or
 18 something.

19 THE CHAIR: Yes, exactly. That was the reason for
 20 my question. I think we should be rising at 4.00pm —
 21 around 4.00pm. If we need to spill over for a few
 22 minutes —

23 MR MOSER: In that case 10.00am and if he stops
 24 before 4.00pm, you will have to forgive us.

25 THE CHAIR: No, that is all right. I am sure

1 everyone will be happy to go back to the ranch a bit
 2 earlier .

3 So we will start at 10.00am tomorrow then. That
 4 will then be the last of the factual witnesses and then we
 5 will go into the hot-tub from Wednesday.

6 MR MOSER: Yes.

7 THE CHAIR: All right. Thank you very much.
 8 10.00am tomorrow.
 9 (4.08 pm)

10 (The court adjourned until 10.00 am
 11 on Tuesday, 14 October 2025)

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