

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

WI-LAN INC.,	§	
	§	
Plaintiff,	§	
v.	§	
	§	Civil Action No. 2:08-CV-247 (TJW)
RESEARCH IN MOTION CORPORATION,	§	
RESEARCH IN MOTION LTD.,	§	
MOTOROLA, INC., UTSTARCOM, INC.,	§	JURY TRIAL REQUESTED
LG ELECTRONICS MOBILECOMM	§	
U.S.A., AND LG ELECTRONICS, INC.,	§	
	§	
Defendants.	§	

**PLAINTIFF’S ANSWER TO DEFENDANT PERSONAL COMMUNICATIONS
DEVICES, LLC’S COUNTERCLAIMS**

Plaintiff Wi-LAN Inc. (“Wi-LAN”) files this Answer to Defendant Personal Communications Devices, LLC’s (“PCD” or “Defendant”) Counterclaims, filed October 21, 2009.

THE PARTIES

1. Upon information and belief, Wi-LAN admits the allegations in Paragraph 1 of the Counterclaim.
2. Wi-LAN admits the allegations in Paragraph 2 of the Counterclaim.
3. Wi-LAN admits the allegations in Paragraph 3 of the Counterclaim.
4. Wi-LAN admits the allegations in Paragraph 4 of the Counterclaim.

JURISDICTION AND VENUE

5. Answering the allegations in Paragraph 5, Wi-LAN admits that Defendant’s counterclaim arises under 28 U.S.C. §§ 2201 and 2202 and the patent laws set forth in Title 35 of

the United States Code and that this Court has jurisdiction under 28 U.S.C. §§1331 and 1338(a).
Wi-LAN denies all remaining allegations.

6. Wi-LAN admits the allegations in Paragraph 6 of the Counterclaim.

COUNT ONE

Declaratory Judgment of Non-Infringement

7. Answering the allegations in Paragraph 7, Wi-LAN incorporates by reference paragraphs 1-6 as if fully set forth herein.

8. Wi-LAN admits the allegations in Paragraph 8 of the Counterclaim.

9. Wi-LAN admits the allegations in Paragraph 9 of the Counterclaim.

10. Wi-LAN denies the allegations in Paragraph 10 of the Counterclaim.

11. Wi-LAN denies the allegations in Paragraph 11 of the Counterclaim.

12. The allegations in Paragraph 12 of the Counterclaim contain conclusions of law to which no response is required. To the extent a response is required, Wi-LAN denies the allegations in Paragraph 12.

COUNT TWO

Declaratory Judgment of Invalidity

13. Answering the allegations in Paragraph 13, Wi-LAN incorporates by reference paragraphs 1-12 as if fully set forth herein.

14. Wi-LAN admits the allegations in Paragraph 14 of the Counterclaim.

15. Wi-LAN denies the allegations in Paragraph 15 of the Counterclaim.

16. The allegations in Paragraph 16 of the Counterclaim contain conclusions of law to which no response is required. To the extent a response is required, Wi-LAN denies the allegations in Paragraph 16.

PRAYER FOR RELIEF

Wi-LAN denies that Defendant is entitled to the relief requested in subparagraphs (a)-(f) of the Counterclaim or any other relief.

DEMAND FOR JURY TRIAL

In accordance with Rule 38 of the Federal Rules of Civil Procedure and Local Rule CV-38, Plaintiff/Counterdefendant Wi-LAN respectfully demands a jury trial of all issues triable to a jury in this action.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

17. Each cause of action set forth in Defendant's counterclaim fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

18. Defendant's counterclaims are barred, in whole or in part, by the equitable defenses of estoppel, waiver, laches and/or unclean hands.

THIRD AFFIRMATIVE DEFENSE

19. Defendant has failed to make reasonable efforts to mitigate its damages, if any.

FOURTH AFFIRMATIVE DEFENSE

20. Defendant's claims are subject to a set off based upon Defendant's and/or other parties' acts and wrongdoing.

DATED: November 13, 2009

Respectfully submitted,

MCKOOL SMITH, P.C.

/s/ Sam Baxter

Sam Baxter

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**ATTORNEYS FOR PLAINTIFF WI-
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic service are being served with a copy of this PLAINTIFF'S ANSWER TO DEFENDANT PERSONAL COMMUNICATIONS DEVICES, LLC'S COUNTERCLAIMS via the Court's CM/ECF system per Local Rule CV-5(a)(3).

Date: November 13, 2009

By: /s/ Sam Baxter