

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

7. The allegations in Paragraph 7 of the Counterclaim contain a prayer for relief as to which no response is required. To the extent a response is required, Wi-LAN denies that UTStarcom is entitled to the declaration requested in Paragraph 7.

SECOND CLAIM FOR RELIEF

DECLARATION OF INVALIDITY OF THE '802 PATENT

8. Answering the allegations in Paragraph 8, Wi-LAN incorporates by reference paragraphs 1-7 as if fully set forth herein.

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

10. The allegations in Paragraph 10 of the Counterclaim contain a prayer for relief as to which no response is required. To the extent a response is required, Wi-LAN denies that UTStarcom is entitled to the declaration requested in Paragraph 10.

THIRD CLAIM FOR RELIEF

DECLARATION OF NONINFRINGEMENT OF THE '222 PATENT

11. Answering the allegations in Paragraph 11, Wi-LAN incorporates by reference paragraphs 1-10 as if fully set forth herein.

12. Wi-LAN admits the allegations in Paragraph 12 of the Counterclaim.

13. The allegations in Paragraph 13 of the Counterclaim contain a prayer for relief as to which no response is required. To the extent a response is required, Wi-LAN denies that UTStarcom is entitled to the declaration requested in Paragraph 13.

FOURTH CLAIM FOR RELIEF

DECLARATION OF INVALIDITY OF THE '222 PATENT

14. Answering the allegations in Paragraph 14, Wi-LAN incorporates by reference paragraphs 1-13 as if fully set forth herein.

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

16. The allegations in Paragraph 16 of the Counterclaim contain a prayer for relief as to which no response is required. To the extent a response is required, Wi-LAN denies that UTStarcom is entitled to the declaration requested in Paragraph 16.

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.

PRAYER FOR RELIEF

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

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

17. Each cause of action set forth in Defendant's counterclaims 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.

DATED: October 14, 2009

Respectfully submitted,
MCKOOL SMITH, P.C.

/s/ Sam Baxter

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**ATTORNEYS FOR PLAINTIFF WI-
LAN, INC.**

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 UTSTARCOM INC.'S COUNTERCLAIMS TO THIRD AMENDED COMPLAINT via the Court's CM/ECF system per Local Rule CV-5(a)(3).

Date: October 14, 2009

By: /s/ Sam Baxter