

As read in open court on 11/7/18

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

GODO KAISHA IP BRIDGE 1,

Plaintiff,

vs.

TCL COMMUNICATION TECHNOLOGY  
HOLDINGS LIMITED, a Chinese  
Corporation, TCT MOBILE LIMITED, a Hong  
Kong Corporation, TCT MOBILE (US), INC.,  
a Delaware Corporation, and TCT MOBILE,  
INC., a Delaware Corporation,

Defendants.

1:15CV634

**CLOSING JURY INSTRUCTIONS**

**INSTRUCTION NO. 44**

**INTRODUCTION**

Members of the jury, now that you have heard the evidence and the attorneys' arguments, it is my duty to inform you of the legal principles and considerations you are to use in arriving at a proper verdict.

It is your duty to follow the law given you in this charge and to apply these rules of law to the facts as you find them from the evidence. Do not single out any one instruction alone as stating the law, but consider the instructions as a whole. Do not be concerned with the wisdom of any rule of law that the Court states. Regardless of any opinion you may have about what the law ought to be, it would violate your sworn duty to base a verdict upon a view of the law different from the one given in these instructions, just as it would violate your sworn duty as judges of the facts to base a verdict upon anything but the evidence in the case and the reasonable inferences arising from such evidence.

The instructions I am about to give you now as well as those I gave you earlier, other than the deleted instructions, are in writing and will be available to you in the jury room. You will also receive a verdict form to use in conjunction with these instructions.

**INSTRUCTION NO. 45**

**EXPLANATORY**

Most of the instructions I gave at the beginning of the trial and during the trial remain in effect. Some instructions may have been deleted from your preliminary set and those instructions should not be considered. I will now give you some additional instructions.

Other than the instructions that have been deleted from your preliminary set, you must continue to follow the instructions that I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though some of those I gave you at the beginning of trial are not repeated here.

**INSTRUCTION NO. 46**

**REASONABLE ROYALTY – STANDARD ESSENTIAL PATENT**

You have heard evidence that the asserted patent is a standard essential patent, that is, the LTE wireless telecommunications standard cannot be practiced without infringing the patent. If you agree that the patent is essential to the LTE wireless telecommunications standard, you must ensure that your damages award reflects only the value of the patented invention and not the additional value that resulted from the patent's inclusion in the LTE wireless telecommunications standard. In other words, you may not consider the success of the standard itself in determining a reasonable royalty for the patents-in-suit.

No one factor is dispositive, and you can and should consider the evidence that has been presented to you in this case on each of the reasonable royalty relevant factors. You may also consider any other factors which in your mind would have increased or decreased the royalty the alleged infringer would have been willing to pay and the patent holder would have been willing to accept, acting as normally prudent business people.

Also, if you find that the asserted patent is a standard essential patent, because IP Bridge committed to license the patent on fair, reasonable, and non-discriminatory ("FRAND") terms, you must ensure that any damages award is consistent with and does not exceed the amount permitted under IP Bridge's FRAND obligations.

**INSTRUCTION NO. 47**

**DAMAGES – WILLFUL INFRINGEMENT**

In this case, IP Bridge argues both that TCL infringed and, further, that TCL infringed willfully. If you decide that TCL has infringed, you must go on and address the additional issue of whether or not this infringement was willful.

Willfulness requires you to determine whether IP Bridge proved by a preponderance of the evidence, that the infringement by TCL was especially worthy of punishment. IP Bridge must prove that TCL either knew, prior to IP Bridge's complaint in this case, of the Asserted Patents or was willfully blind to the Asserted Patents. In order to show that TCL was willfully blind to the Asserted Patents, IP Bridge must show that TCL believed that there was a high probability that IP Bridge owned the Asserted Patents and TCL took deliberate actions to avoid learning about the Asserted Patents. You may not determine that the infringement was willful just because TCL knew of the patent and infringed it. Instead, willful infringement is reserved for only the most egregious behavior, such as where the infringement is malicious, deliberate, consciously wrongful, or done in bad faith.

To determine whether TCL acted willfully, consider all facts. These may include, but are not limited, to:

(1) Whether or not TCL acted consistently with the standards of behavior for its industry;

(2) Whether or not TCL reasonably believed it did not infringe or that the patent was invalid;

(3) Whether or not TCL made a good-faith effort to avoid infringing the '538 and '239 Patents, for example, whether TCL attempted to design around the patents; and

(4) Whether or not TCL tried to cover up its infringement.

**INSTRUCTION NO. 48**

**JUDGE'S OPINION**

In the trial of this case and in these instructions, I have in no way attempted to express my opinion about who should prevail upon the issues submitted to you. You must not construe any statement, action, or ruling on my part during the trial as an indication of my opinion about the proper outcome of your verdict. During the course of a trial, I might have occasionally asked questions of a witness to bring out facts not fully covered in the testimony. Do not assume that I hold any opinion on the matters to which the questions related.

**INSTRUCTION NO. 49**

**EVIDENCE AND OBJECTIONS**

During the trial I have ruled on objections to certain evidence. You must not concern yourselves with the reason for such rulings since they are controlled by rules of law.

You must not speculate or form or act upon any opinion about how a witness might have testified in answer to questions which I rejected during the trial, or upon any subject matter to which I forbade inquiry.

In coming to any conclusion in this case, you must be governed by the evidence before you and by the evidence alone. You may not indulge in speculation, conjecture or inference not supported by the evidence.

The evidence from which you are to find the facts consists of the following: (1) the testimony of the witnesses; (2) documents and other things received as exhibits; and (3) any facts that have been stipulated—that is, formally agreed to by the parties.

The following things are not evidence: (1) statements, comments, questions and arguments by lawyers for the parties; (2) questions by jurors; (3) objections to questions; (4) any testimony I told you to disregard; and (5) anything you may have seen or heard about this case outside the courtroom.



**INSTRUCTION NO. 50**

**REASONABLE INFERENCES**

While you should consider only the evidence in the case, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified in the light of common experience. In other words, you may make deductions and reach conclusions which reason and common sense lead you to draw from the facts which have been established by the testimony and evidence in the case.

**INSTRUCTION NO. 51**

**SOCIAL MEDIA**

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as the telephone, a cellphone, smartphone, tablet or computer, the Internet, any Internet service, any text or instant messages service, any Internet chatroom, blog, or website such as Facebook, LinkedIn, YouTube, Twitter, or Instagram to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict.

In other words, you cannot talk to anyone on the phone, correspond with anyone, or electronically communicate with anyone about this case. You can only discuss the case in the jury room with your fellow jurors during deliberations.

**INSTRUCTION NO. 52**

**NOTE-TAKING**

Throughout the course of the trial you have been allowed to take notes of the testimony. You may take your notes into the jury room for use in your deliberations. Remember, however, your notes are not evidence. The courtroom deputy is charged with the task of keeping the official record of all exhibits received into evidence during the trial. At the close of trial, she will deliver all exhibits you are to consider in your deliberations.

Your notes should be used only as aids to your memory. You should not give your notes precedence over your independent recollection of the evidence. You should rely on your own independent recollection of the proceedings, and you should not be influenced by the notes of other jurors. Your notes are not entitled to any greater weight than each juror's recollection or impression of the testimony given during this trial. After you have reached a verdict, your notes will be destroyed.

**INSTRUCTION NO. 53**

**DELIBERATIONS AND VERDICT**

In conducting your deliberations and returning your verdict, there are certain rules you must follow.

First, when you retire to the jury room, first select one of your number to be foreperson to preside over your discussions and to speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement because a verdict—whether liable or not liable—must be unanimous. Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors. Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

Third, you will take with you when you retire for your deliberations an official verdict form on which you will indicate a verdict or special interrogatories to answer. Please follow the directions carefully when filling it out. A verdict must be agreed to by all of you, that is, it must be unanimous. Your verdict must be signed by the foreperson.

Fourth, if you need to communicate with me during your deliberations, you may send a note to me through the courtroom deputy, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Your answer may not come immediately because I may need to assemble the attorneys and confer with them before I respond. Remember that you should not tell anyone—including me—how your votes stand numerically.

Finally, when you arrive at your verdict and the form of verdict has been completed, you will have concluded your task. Notify my chambers and I will receive your verdict promptly. If you do not agree on a verdict by 5:00 this evening, you may separate and return for further deliberations tomorrow. You may separate for meals whenever you choose. If you do separate, you are not allowed to discuss this case with anyone, even another juror.