

**FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SAINT LAWRENCE COMMUNICATIONS §
LLC, §

Plaintiff, §

v. §

ZTE CORPORATION, ZTE USA, INC., and §
ZTE (TX) INC., §

Defendants. §

CASE NO. 2:15-CV-349-JRG
(LEAD CASE)

SAINT LAWRENCE COMMUNICATIONS §
LLC, §

Plaintiff, §

v. §

MOTOROLA MOBILITY LLC, §

Defendants. §

CASE NO. 2:15-CV-351-JRG

ORDER


Before the Court is Defendants ZTE USA Inc., ZTE (TX) Inc. (collectively “ZTE”), and Motorola Mobility LLC’s (“Motorola”) Motion to Exclude Expert Testimony of Oded Gottesman Under Daubert. (Dkt. No. 429.) On February 16, 2017, SLC and ZTE filed a notice indicating that ZTE had withdrawn the entirety of its arguments in the motion to exclude Dr. Gottesman. (Dkt. No. 435.) On February 28, 2017, Motorola filed a notice that it had withdrawn the arguments in Sections III(A)(1–4). (Dkt. No. 452.) Accordingly, the only remaining live disputes in the motion are brought by Motorola and are contained within Sections III(B)(1–2).

Motorola argues that Dr. Gottesman’ opinions related to infringement, essentiality, and market praise are not based on a reliable methodology and should be stricken for two reasons.

(Dkt. No. 429 at 7.) First, Motorola argues that Dr. Gottesman improperly relies on attorney arguments in reaching his opinions. (*Id.*) According to Motorola, Dr. Gottesman both improperly relies on the argument of HTC's attorneys in the German litigation and on the argument of SLC's attorneys in the present suit. (*Id.* at 7–8.) Second, Motorola argues that Dr. Gottesman improperly relies on the opinion testimony of fact witnesses. (*Id.* at 8–9.) In light of Dr. Gottesman's purportedly flawed methodology, Motorola requests that the Court the portions of Dr. Gottesman's report contained in paragraphs ¶¶ 897, 899–903, 929, 937–948, 952–997.

After reviewing the briefing of the parties, the Court disagrees with Motorola's arguments. The Court is not persuaded that the reliability of Dr. Gottesman's opinions, or the methodology he employed in reaching those opinions, is materially flawed. Accordingly, striking the entirety of certain opinions contained in his report is inappropriate. The proper recourse for Motorola is to address any perceived deficiencies during cross examination of Dr. Gottesman. This motion, to the extent it has not been previously withdrawn, is DENIED.

So ORDERED and SIGNED this 8th day of March, 2017.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE