



Using Cell Phone Evidence to Build Your Defense

Written by Patents Communications Expert Witness

Expert Witness No. 1612

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Walk down any street or visit any store and one easily comes to the conclusion that we are living in a world where cell phones are an integral part of our lives. Today's cell phones contain so much electronically stored evidence (ESI) that it is playing an increasingly important role in the prosecution of defendants when cell phones are used in the commission of a crime. Understanding this evidence when defending a client in a criminal or civil matter is essential.

Does cell phone evidence exist? Counsel must determine what kind of cell phone was used during the time-frame of the offenses, including relevant features of the phone, and was the defendant the subscriber on the account?

Was the cell phone evidence properly obtained by the prosecution? Were proper handling techniques used? Was any of the stored evidence contaminated or deleted?

Getting a subpoena in a timely manner in order to get access to the cell phone records during the time of the alleged crime is critical. Certain records are only saved for a finite time period.

Expert witnesses are essential resources to consider. If used efficiently and intelligently, they can be very important to a defense strategy. An expert can play an important role in educating counsel as to the nature of electronically stored evidence (ESI) and the proper methods of handling such evidence. This ESI can be valuable impeachment evidence. It can be used to corroborate a defendant's alibi or present exculpatory, non exculpatory or mitigating defenses. Therefore, proper handling of this ESI is important. The expert may also assist counsel in litigating cell phone evidence issues, such as filing a motion for the court to order a subpoena for cell phone records.

A testifying expert can be the deciding factor supporting motions for discovery as well as the suppression or inadmissibility of evidence (e.g. improper handling of evidence, failure to submit all evidence contained on the cell phone, etc). An expert who is qualified as a communication expert can provide evidence to support the defense and impeach the testimony of the prosecution's forensic witness on such issues as cell phone location, GPS, text messaging and other commonly used wireless communications features. An expert can also point out the limitations and problems associated with the wireless communications network which can raise questions as to the exact location of the defendant's cell phone.

An expert witness who is qualified as a communications expert can be an important resource in a criminal defense and counsel can be assured the client is receiving the most effective legal representation possible.

Expert 1612 is an experienced telecommunications expert witness in wire and wireless technologies.

Expertise includes cell phone tracking whereby he can testify as to the accuracy of cell tower records in relation to actual location of the cell phone and to the limitations of the cellular network.

Expert has over 15 years experience as an expert witness in Intellectual Property Infringement cases for telecommunications technology. He provides expertise for patent claims review, prior art discovery and claim construction for court. Expert has written reports, given depositions and testified. Expert has over 30 US & International patents.

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289 Church Ave., Chula Vista, CA 91910 (800) 683-9847 (619) 422-5559 Fax (619) 422-8101