

## Biography

Keith Mallinson is founder of [WiseHarbor](#), providing expert commercial consultancy since 2006 to technology and services businesses as well as multilateral organizations such as the 3<sup>rd</sup> Generation Partnership Project (3GPP) and the GSM Association (GSMA) in wired and wireless telecommunications and applications serving consumer and professional markets. He is a [regular columnist](#) in the trade press including [RCR Wireless](#) and with [IP Finance -- "where money issues meet intellectual property rights"](#).

Mallinson led Yankee Group's global Wireless/Mobile research and consulting team as Executive Vice President, based in Boston, from 2000 to 2006. His responsibilities also included consumer media and enterprise communications. Until then, he had overall responsibility for the firm's European division, based in London, as Managing Director from 1995 until 2000. He was the European Research Director prior to 1995.



Mallinson has 25 years' experience in the telecommunications industry, as research analyst, commercial consultant and as a testifying expert witness. Complementing his industry focus, he has a broad skill set including technologies, market analysis, regulation, economics and finance. He has published numerous reports, academic papers and speaks publicly at industry conferences on a wide variety of topics including 5G technology and standards development, fixed mobile convergence, semiconductor technologies, the Internet of Things, standard-essential patents and licensing.

Mallinson has an undergraduate electronic engineering degree from Imperial College London and an MBA from the London Business School, including an academic exchange with Northwestern University's Kellogg Graduate School of Management in Illinois.

## Expert Testimony

Mallinson's engagements as a testifying expert witness include:

### **Aircomm of Avon, L.L.C., ET AL v. DISH Wireless L.L.C., v. Crown Castle USA Inc.**

**Case No.** 2022CV32353

**Retained by:** Wheeler Trigg O'Donnell LLP on behalf of the defendants.

**Case:** A tower lease contract dispute including counterclaims between tower collocation operator Crown Castle and new-entrant 5G mobile network operator DISH Wireless.

**Engagement:** Provided overview of the US cellular ecosystem including technologies, market developments and competition among different types of suppliers, compared master lease agreement terms and made damages assessments. Submitted expert report in November 2023, deposed in January 2024 and testified in April 2024 jury trial. DISH prevailed against Crown Castle's demand for disputed additional rent.

### **JERMAINE THOMAS, ET AL., v. CRICKET WIRELESS, LLC.**

**Case No.** 3:19-cv-07270-WHA

**Retained by:** Wagstaff & Cartmell LLP on behalf of the plaintiffs.

**Case:** Class action on alleged deceptive marketing and fraudulent pricing scheme in 4G/LTE smartphones and wireless carrier services. Class certified by the Court in August 2021.

**Engagement:** Submitted expert reports including Class Certification Report in March 2021, Merits Report in July 2021 and Rebuttal Report in July 2021. Deposed in March and August 2021.



**STATE OF NEW YORK, et al., v. DEUTSCHE TELEKOM AG, et al.,  
Case 1:19-cv-5434-VM-RWL**

**Retained by:** New York State Office of the Attorney General on behalf of the plaintiffs —18 States.

**Case:** Proposed blocking of merger between T-Mobile US, Inc. and Sprint Corporation.

**Engagement:** Submitted expert report on technical and commercial issues including spectrum supply in September 2019, reply report in November 2019 and with deposition in November 2019.

**SAMSUNG ELECTRONICS AMERICA, INC., v. YANG KUNG "MICHAEL" CHUNG, THOMAS PORCARELLO, YOON-CHUL "ALEX" JANG, JIN-YOUNG SONG, ALL PRO DISTRIBUTING, INC. Civil Action No. 3:15-CV-04108-L**

**Retained by:** Bell Nunnally & Martin LLP on behalf of the plaintiff.

**Case:** Various illegal actions alleged concerning repair parts and mobile phones.

**Engagement:** Submitted financial damages expert report in October 2018 with deposition in December 2018. Case settled immediately before trial in 2023.

**TCL COMMUNICATION TECHNOLOGY HOLDINGS, LTD, ET AL. v  
TELEFONAKTIEBOLAGET LM ERICSSON, ET AL. Case No. SACV14-00341 JVS (DFMx)  
Consolidated with CV15-02370 JVS**

**Retained by:** McKool Smith, P.C. on behalf of the defendant.

**Case:** Dispute about FRAND-based licensing in mobile phones.

**Engagement:** Submitted expert reports in April and June 2016 on various issues including patent essentiality determination, applicable royalty-rate benchmarks and other methods for valuing patent portfolios including SEPs in mobile, wireless and video technologies. Deposition was followed by trial testimony in March 2017.

***In Re TFT-LCD (Flat Panel) Antitrust Litigation*, No. 3:07-md-01827 (N.D. Cal)**

**Retained by:** Defense counsel on behalf of many codefendants.

**Case:** Antitrust actions alleging price fixing among sellers of thin film transistor liquid crystal display products.

**Engagement:** Submitted expert reports on technological and commercial aspects of mobile communications products and services, and LCD and semiconductor manufacturing in February 2012, July 2012, October 2013 and May 2014. Deposed in 2012, January 2014 and July 2014.

***American Tower Asset Sub, LLC et al. v Buffalo-Lake Erie Wireless Systems Co., LLC  
Supreme Court of the State of New York County of Erie***

**Retained by:** Counsel on behalf of plaintiff.

**Case:** Damages sought in contractual disputes.

**Engagement:** Testifying expert witness opinion on commercial issues, asset valuations and damages relating to cellular operations and towers. Case settled in 2013.

***GWT, LLC v. Allison, Angier & Bartmon, LLP, et al. Berkshire Superior Court C.A No 09-182***

**Retained by:** Defense counsel on behalf of defendants.

**Case:** Alleged malpractice in bankruptcy proceedings.

**Engagement:** Testifying expert witness opinion on commercial issues and asset valuations relating to cellular towers. Case settled in October 2013.

**UNITED STATES OF AMERICA, et al., v. AT&T INC., T-MOBILE USA, INC., AND DEUTSCHE TELEKOM AG,**

**Case 1:11-cv-01560-ESH**

**Retained by:** Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C. on behalf of Defendants.

**Case:** Proposed blocking of merger between AT&T, Inc. and T-Mobile USA, Inc.

**Engagement:** Market analysis. Proposed merger was aborted in 2011— before completion and submission of my expert report.



***In re Eastern Towers Inc.***, No. 1:10-cv-10207-FDS (D. Mass.).

**Retained by:** Mintz Levin Cohn Ferris Glovsky and Popeo P.C. on behalf of plaintiffs Joseph G. Butler as Chapter 7 Trustee and John Strachan.

**Case:** Suit for breaches of fiduciary duty.

**Engagement:** Determine fair market value for a portfolio of towers and opine on the fairness or otherwise of a commercial agreement. Submitted expert opinion report in 2008 and deposed in 2009. Updated valuation report submitted September 2011. Trial testimony in April 2012.

***United Mobile Technologies, LLC et al v. Pegaso PCS, S.A. DE C.V. et al***, 1:05-cv-10528-LAP (S.D.N.Y.).

**Retained by:** Kubli and Associates, on behalf of plaintiff United Mobile Technologies.

**Case:** Disputed termination of supply by defendant for intellectual property licensing including software licensing and system integration in cellular text and multimedia messaging.

**Engagement:** *Quantum meruit* damages assessment with expert and rebuttal reports, deposition and trial testimony in September 2010.

***Global Signal Acquisitions II, LLC v. Unison Site Management Corp.***, No. 08-L-335 (Circuit Court, Kane County, Illinois).

**Retained by:** McCullough, Campbell & Lane LLP on behalf of defendant Unison Site Management.

**Case:** Defendant client is subject to an adverse cellular tower contract breach claim judgment.

**Engagement:** Review plaintiffs' damages assessment. Submitted expert report in July 2010, deposed in October 2010 and case settled in November 2010.

***OpenMotion LLC v. Yellow Book USA***, No. A0602350 (Ct. of Common Pleas, Hamilton, Ohio).

**Retained by:** Taft, Stettinius & Hollister LLP, on behalf of plaintiff OpenMotion

**Case:** Breach of contract relating to mobile search and advertising.

**Engagement:** Damages assessment with expert report submitted in 2006.

***Wireless Consumers v. AT&T Cellular et al***, 1:02-cv-02637-DLC (S.D.N.Y.).

**Retained by:** Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C. (for Verizon Wireless); Friedman Kaplan Seiler & Adelman LLP (for AT&T Wireless); Sidley Austin Brown & Wood LLP (for T-Mobile); Hunton & Williams (for Cingular); Anderson Kill & Olick, PC (for Sprint PCS).

**Case:** Wireless telephone services antitrust litigation on alleged tying of cellular and PCS handset sales with service contracts. Defendants' motion for summary judgment granted, August 2005.

**Engagement:** Analysis on relevant markets with expert report, rebuttal report and deposition.

***Omnipoint Communications Inc. v. the Country Club of New Canaan, Inc.***, Civ. No. 3:03CV00900(AWT) (D. Conn.).

**Retained by:** LeBoeuf, Lamb, Greene & MacRae, LLP on behalf of plaintiff Omnipoint (T-Mobile).

**Case:** Cellular tower breach of contract.

**Engagement:** Damages assessment with expert report submitted.

***Omnipoint Communications Inc. v. the City of White Plains***, No. 01 Civ. 3285 (S.D.N.Y.).

**Retained by:** Greenberg Traurig, LLP on behalf of plaintiff Omnipoint (T-Mobile).

**Case:** Permit for cellular tower. Judgment in 2004.

**Engagement:** Damages assessment, expert report and trial testimony.

***Peltz v. Hatten***, 279 B.R. 710 (D. Del. 2002).

**Retained by:** Williams & Connolly on behalf of defendant Mark Hatten.

**Case:** Bankruptcy liquidation.

**Engagement:** Market assessment and company valuation. Expert report, rebuttal report, deposition and trial testimony.



### **Cases not made public**

Mallinson prepared an expert report considering the value of various patented smartphone features in a case that settled prior to trial in 2016.

Mallinson testified as an expert witness in smartphone patent-licensing agreement disputes in arbitration in 2013 and in 2022.

### **Non-testifying work**

In addition, Mallinson also provides ongoing expert services on a non-testifying expert basis to some of the world's largest wireless cellular service and technology companies. Work includes competitive analysis on mobile technologies and services markets in support of several patent infringement, licensing and antitrust disputes worldwide. He works directly with these companies, including at the General Counsel level, with outside counsel including several other major law firms, and with other advisors including economists, accountants and technical specialists.

### **Other considerations**

Mallinson has never been discredited or impeached and his expert methodologies have never been rejected by any court.

References are available upon request.

