Exhibit 36

Case 1:14-cv-02396-PGG-SN   Document 239-18   Filed 11/12/20   Page 2 of 24

9/25/2019   Network-1 Technologies, v. Google LLC and Youtube LLC   Jim Schrempp
                          Confidential - Outside Attorneys' Eyes Only

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NETWORK-1 TECHNOLOGIES, INC.,
          PLAINTIFF,
     vs.   No. 14 Civ. 2396 (PGG)
GOOGLE LLC AND YOUTUBE, LLC,   14 Civ. 9558 (PGG)
          DEFENDANTS.

_____

CONFIDENTIAL - OUTSIDE ATTORNEYS' EYES ONLY
VIDEOTAPED DEPOSITION OF
JIM SCHREMPP
Wednesday, September 25, 2019

Reported By: KATHLEEN WILKINS, CSR #10068,
          RPR-RMR-CRR-CCRR-CLR-CRC

     BE IT REMEMBERED that on Wednesday, September
25, 2019, commencing at the hour of 11:04 a.m.
thereof, at CROWELL & MORING, Three Embarcadero
Center, 26th Floor, San Francisco, California, before
me, Kathleen A. Wilkins, RPR-RMR-CRR-CCRR-CLR-CRC,
a Certified Shorthand Reporter, in and for the State
of California, personally appeared JIM SCHREMPP, a
witness in the above-entitled court and cause, who,
being by me first duly sworn, was thereupon examined
as a witness in said action.

_____
DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646

1   MR. LEDAHL: Brian Ledahl from
2 Russ August & Kabat on behalf of the plaintiff,
3 Network-1.
4   MR. RAMSEY: This is Gabe Ramsey, along
5 with my colleague Kayvan Ghaffari, from
6 Crowell & Moring, counsel for the witness,
7 Jim Schrempp.
8   THE VIDEOGRAPHER: Will the court reporter
9 please swear in the witness, and then we can begin.
10   JIM SCHREMPP,
11   having been duly sworn,
12   was examined and testified as follows:
13   EXAMINATION BY MR. DANG
14 BY MR. DANG:
15   Q. Would you please state your name for the
16 record.
17   A. Jim Schrempp.
18   Q. Have you ever been deposed?
19   A. Yes.
20   Q. Okay. Just a quick refresher on how this
21 will go.
22   I've got a series of questions for you.

Page 10

---

1 If any of them are poor questions or could be
2 rephrased, definitely let me know, and I'll try to
3 ask a better question.
4   I was going to try to take a break maybe
5 every hour or so. But if you want a break sooner or
6 you want to keep going, just let me know.
7   A. Mh-hmm.
8   Q. Does that sound good?
9   A. Yeah.
10   Q. All right. Let's start with your
11 education.
12   Where did you go to school?
13   A. I went to college at Cal Poly, San Luis
14 Obispo.
15   Q. And did you receive your undergrad there
16 or your master's or any other degrees there?
17   A. Undergraduate degree in computer science.
18   Q. Okay. And when did you graduate?
19   A. 1980.
20   Q. And did you take any classes on content
21 recognition or machine learning while in school?
22   A. To be honest with you, I can't recall.

Page 11

---

1   Q. Okay. Do you have any papers related to
2 audio content recognition?
3   A. No, I don't think so.
4   Q. What about patents?
5   A. Classes in patents? I'm sorry. I
6 didn't --
7   Q. Oh, sorry.
8   Do you have any patents related to the
9 field of audio content recognition?
10   A. I do.
11   Q. About how many, would you say?
12   A. I think I'm named inventor on, I would
13 guess, 20, 25. I'm not precise. Don't know a
14 precise count.
15   Q. Okay. And when did you start obtaining
16 those patents on audio content recognition?
17   A. Probably in the year 1990 -- '99, I think
18 we started.
19   Q. And where were you employed in 1999?
20   A. Audible Magic.
21   Q. Are you still employed at Audible Magic?
22   A. No.

Page 12

---

1   Q. Do you have any current relation with
2 Audible Magic?
3   A. I am on the board of directors.
4   Q. And when did you join the board of
5 directors?
6   A. In -- when I joined the company.
7   Q. Okay. What was your position at Audible
8 Magic when you joined the company? Was it just as a
9 board -- on the board of directors, or did you have
10 another job title?
11   A. It was vice president of software
12 development.
13   Q. And around that time, in 1999, did you
14 ever begin working on a product called Clango?
15   A. Yes.
16   Q. And in general terms, what was Clango?
17   A. Clango was a media recognition tool that
18 would run on a personal computer, monitor a stream
19 of audio, return -- if it could identify audio, it
20 would. It would return title, artist, a link to
21 purchase. I think you could add it to a favorites
22 list, you know, that kind of stuff.

Page 13

Case 1:14-cv-02396-PGG-SN   Document 239-18   Filed 11/12/20   Page 4 of 24

9/25/2019   Network-1 Technologies, v. Google LLC and Youtube LLC   Jim Schrempp
Confidential - Outside Attorneys' Eyes Only

1   Q.   Is it fair to say that Clango identified
2   audio by its content?
3   A.   Yes.
4   MR. LEDAHL: Objection. Form.
5   BY MR. DANG:
6   Q.   And what was your role in working on
7   Clango in 1999?
8   A.   I was vice president of software
9   development. I was responsible for the whole
10   product.
11   Q.   Okay. And who else at Audible Magic was
12   working on Clango at that time?
13   A.   I don't know if I have a complete list. I
14   would say Erling Wold, Tom Blum, Doug Keislar,
15   Jim Wheaton, Alan Edel, Lou Kvitek. We had some
16   contractors in at the time. They didn't -- they
17   didn't stay long. That's all I can -- there may
18   have been more, but, yeah.
19   Q.   And why try to identify songs based on
20   their audio content?
21   MR. LEDAHL: Object to the form.
22   THE WITNESS: State -- could you give me

Page 14

1   the question again.
2   BY MR. DANG:
3   Q.   Yeah. Why -- why were you working on a
4   product that sought to identify audio by its
5   content?
6   MR. LEDAHL: Same objection.
7   THE WITNESS: So we had -- we had this
8   idea that there was a market for -- audio was being
9   streamed, and people didn't have metadata
10   associated -- they were starting to listen to audio.
11   It was either being streamed or they were playing it
12   from files on their system, and that they wouldn't
13   know necessarily what the name of the exact title or
14   the artist was for the particular piece of music or
15   whatever audio they were listening to at the time.
16   I think they were music focused.
17   So we thought, well, if we could identify
18   it, then we could link those people to some kind of
19   a purchase, and we could make money, you know,
20   from -- by selling -- I think we were originally
21   selling Amazon CD -- you know, we would buy the CD
22   at Amazon and pass it on to the person.

Page 15

1   BY MR. DANG:
2   Q.   And do you remember around when you first
3   had this idea?
4   MR. LEDAHL: Objection. Vague.
5   THE WITNESS: 1999, I believe. There
6   was -- yeah. I think the first idea for this --
7   it's pretty clear in my mind. I don't know the
8   date. But we were on a ski trip in Tahoe, and we
9   had this idea of pushing a button on the radio.
10   Somebody said, "Boy, I don't know what
11   that song is on the radio."
12   And another person said, "Boy, I wish you
13   could push a button on the radio and get the
14   answer."
15   And I was sitting in the back seat of this
16   Tahoe, you know, Ford -- whatever the brand is, you
17   know, SUV. And I remember thinking, well, actually,
18   we could do that. You know, that could be done.
19   And then it morphed from there over time
20   into identifying content off the -- that people were
21   listening to on their laptops or their PCs rather
22   than being over the radio. But that was -- that was

Page 16

1   the genesis point. So pretty clear in my mind for
2   that.
3   BY MR. DANG:
4   Q.   Do you have an understanding of what the
5   term "watermarking" means?
6   A.   Yeah. Generally familiar with that.
7   Q.   And what do you -- what is your
8   understanding of the term "watermarking" in this
9   field?
10   A.   In this field, my belief is watermarking
11   means inserting some -- some binary files into a
12   file that can later be extracted to identify that
13   file or that stream of bits. Tip -- yeah.
14   Q.   At the outset of the Clango project, did
15   you give any consideration to using watermarking to
16   identify audio?
17   MR. LEDAHL: Object to form.
18   THE WITNESS: I don't know that we -- we
19   probably thought of -- tried to think of a lot of
20   things, but I don't think watermarking was practical
21   for that kind of application. It just didn't --
22   didn't make sense to us, or I don't think it did,

Page 17

Pages 14 to 17

1   yeah.

2   //

3   BY MR. DANG:

4   Q.   And could you describe a little more why

5   you thought that watermarking wasn't practical.

6   A.   Well, we were trying to identify

7   content -- excuse me -- that would be available in

8   the wild. So we couldn't necessarily -- we wanted

9   to identify content that had been released you know,

10   years ago, so a CD of The Doors that had been

11   released years before watermarking was even

12   available, it wouldn't have a watermark in it.

13   We wanted to identify content that didn't

14   require us to insert anything into the initial

15   stream. We wanted to identify content that was

16   available from anywhere.

17   Q.   And did Clango have any competitors at the

18   time it was being developed?

19   MR. RAMSEY: Objection. Vague.

20   THE WITNESS: Yeah, not that I'm aware of.

21   I mean not that I recall, I should say.

22   BY MR. DANG:

Page 18

1   Q.   Did Audible Magic work with a company

2   called Muscle Fish in developing Clango?

3   A.   We did, yes.

4   Q.   What was Muscle Fish?

5   A.   My understanding, Muscle Fish was a

6   consulting group of four engineers that had

7   developed an audio identification technology. And

8   we worked with them to apply that technology to --

9   to our solution for Clango.

10   Q.   I know it's a while ago. Do you remember

11   the four engineers who --

12   A.   I do.

13   Q.   -- formed the consulting group?

14   A.   I do. It was Tom Blum, Erling Wold,

15   Jim Wheaton, and Doug Keislar.

16   Q.   And what was the role of Muscle Fish in

17   developing Clango, then?

18   MR. LEDAHL: Objection. Vague.

19   THE WITNESS: Muscle Fish supplied the --

20   just as a form here, they object, I still answer?

21   MR. RAMSEY: Yeah, yeah, yeah.

22   THE WITNESS: Okay. Thanks.

Page 19

1   So you will tell me if I shouldn't answer?

2   MR. RAMSEY: Yes, sir, I will. I will be

3   very clear about that.

4   THE WITNESS: I thought so. I was just

5   making sure.

6   So could you repeat the question, then.

7   BY MR. DANG:

8   Q.   Yeah.

9   What was the role of the folks at Muscle

10   Fish in developing Clango?

11   A.   So they were responsible for the

12   underlying audio identification technology, the core

13   thing that would actually make it work.

14   Q.   And did you work with everyone at Muscle

15   Fish, or were there particular individuals at Muscle

16   Fish who you worked with?

17   A.   Well, in '99 -- or 2000 -- early, I guess

18   my primary contact was Erling Wold in those days.

19   Q.   And what would Erling -- what was the form

20   in which Erling Wold would provide you with work

21   product related to Clango?

22   MR. LEDAHL: Object to form.

Page 20

1   THE WITNESS: At the time, we would be --

2   you know, so we were developing software that would

3   wrap around a library. And he was supplying a

4   library to us that we would incorporate in our

5   product. So I would -- his delivery would probably

6   be -- probably be email or FTP. I'm not -- I

7   actually don't remember exactly how we got the

8   product delivered.

9   BY MR. DANG:

10   Q.   Okay. Well, let's take a step back.

11   What in -- what in general terms is a

12   library?

13   A.   So a library would be a piece of software

14   produced that could be linked into or somehow called

15   from another piece of software to do some particular

16   function, is my just rough definition.

17   Q.   And generally speaking, how often was

18   Erling providing you with these libraries?

19   MR. LEDAHL: Objection.

20   THE WITNESS: That would -- pretty

21   frequently. I mean, I think we used to get them

22   sometimes -- it could be a day-by-day things if

Page 21

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.