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 1                IN THE UNITED STATES DISTRICT COURT

 2              FOR THE EASTERN DISTRICT OF TEXAS

 3                      MARSHALL DIVISION

 4    AMERANTH, INC.          )(

 5                            )(    CIVIL DOCKET NO.

 6                            )(    2:10-CV-294-JRG-RSP

 7    VS.                     )(    MARSHALL, TEXAS

 8                            )(

 9    PAR TECHNOLOGY CORP.,    )(   MAY 30, 2012

10    ET AL.                  )(    1:30 P.M.

11                  CLAIM CONSTRUCTION HEARING

12            BEFORE THE HONORABLE JUDGE ROY S. PAYNE

13               UNITED STATES MAGISTRATE JUDGE

14

15    APPEARANCES:

16

17    FOR THE PLAINTIFF:   (See attached sign-in sheet.)

18

19    FOR THE DEFENDANTS:  (See attached sign-in sheet.)

20

21    COURT REPORTER:      MS. SHELLY HOLMES, CSR
                           Deputy Official Court Reporter
22                         2593 Myrtle Road
                           Diana, Texas  75640
23                         (903) 663-5082

24

25    (Proceedings recorded by mechanical stenography,
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transcript produced on a CAT system.)

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1   LAW CLERK: All rise.

2   THE COURT: Good afternoon. Please be

3   seated.

4   For the record, we are here for the Markman

5   hearing in Ameranth, which is Case No. 2:10-294.

6   Would counsel introduce themselves for the

7   record?

8   MR. PHILLIPS: Yes, Your Honor, Larry

9   Phillips on behalf of plaintiff, Ameranth, and I'm here,

10   Your Honor, on behalf of my partner, Michael Smith, who

11   was out of town, and wanted to introduce John Osborne

12   with the Osborne Law Firm who will be speaking today on

13   behalf of the plaintiff. And Mike Fabiano is also here

14   today. He will not be speaking. And we also have our

15   client, Keith McNally, who is president and lead

16   inventor with Ameranth.

17   THE COURT: All right. Thank you.

18   MR. JONES: Your Honor, Mike Jones on behalf

19   of Par Technology and Partech, Inc., and here today with

20   me representing those two defendants is Mr. Blake

21   Bettinger -- Blaine Bettinger, excuse me -- and

22   Mr. Frederick Price and Mr. George McGuire who will be

23   making the presentation, Your Honor, and we're ready to

24   proceed.

25   THE COURT: All right. Thank you.

4

 1   I have typically found it most helpful to

 2   proceed on a claim-by-claim basis so that we get both

 3   sides making their presentation on the same claim.

 4   Do counsel have any preference regarding

 5   whether you -- it's all right with me if you proceed

 6   from your desk -- from the table there if that works

 7   better for you, as long as you're by a mic, or if you

 8   need the technology up here, you can just take turns at

 9   the lectern. Any preference one way or the other?

10   MR. OSBORNE: I think probably the lectern

11   for me, Your Honor.

12   THE COURT: All right.

13   MR. McGUIRE: Yes, Your Honor, we'll go to

14   the lectern, as well.

15   THE COURT: All right. Good. Well, then

16   you may proceed.

17   MR. OSBORNE: Your Honor, so we'll be

18   proceeding on a term -- disputed term-by-term basis as

19   you indicated.

20   THE COURT: And if I said claim-by-claim, I

21   meant term-by-term, but --

22   MR. OSBORNE: I -- we know what you meant.

23   We think the same way.

24   I wonder if the -- if the Court might be

25   interested in a short background preliminary before I

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