

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

SMARTFLASH LLC and )  
SMARTFLASH TECHNOLOGIES ) DOCKET NO. 6:13cv447  
LIMITED )

-vs-

) Tyler, Texas  
) 1:16 p.m.  
APPLE INC. ) February 16, 2015

TRANSCRIPT OF TRIAL  
AFTERNOON SESSION  
BEFORE THE HONORABLE RODNEY GILSTRAP,  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFFS:

MR. BRADLEY W. CALDWELL  
MR. JASON D. CASSADY  
MR. JOHN AUSTIN CURRY  
CALDWELL CASSADY & CURRY  
2101 Cedar Springs Rd., Ste. 1000  
Dallas, Texas 75201

MR. T. JOHN WARD, JR.  
WARD & SMITH LAW FIRM  
P.O. Box 1231  
Longview, Texas 75606

1 FOR THE DEFENDANTS:

2

3 MR. JAMES R. BATCHELDER  
4 ROPES & GRAY LLP  
5 1900 University Ave., 6th Floor  
6 East Palo Alto, California 94303-2284

5

6 MS. CHING-LEE FUKUDA  
7 MR. KEVIN J. POST  
8 ROPES & GRAY LLP  
9 1211 Avenue of the Americas  
10 New York, New York 10036-8704

9

10 MR. ERIC ALBRITTON  
11 ALBRITTON LAW FIRM  
12 P. O. Box 2649  
13 Longview, Texas 75606

12

13

14

15

16 COURT REPORTERS: MS. SHELLY HOLMES, CSR, TCRR  
17 OFFICIAL COURT REPORTER  
18 shelly\_holmes@txed.uscourts.gov

17

18 MS. SHEA SLOAN, CSR, RPR  
19 OFFICIAL COURT REPORTER  
20 shea\_sloan@txed.uscourts.gov

19

20

21

22

23

24 Proceedings taken by Machine Stenotype; transcript was  
25 produced by a Computer.

25

1 your first witness.

2 MR. CALDWELL: Thank you, Your Honor.

3 The Plaintiff calls Mr. Patrick Racz. And while  
4 Mr. Racz is walking to the witness stand, may I --

5 THE COURT: Before he walks to the witness stand,  
6 he needs to be sworn in.

7 MR. CALDWELL: Perfect.

8 THE COURT: Or what do you have, Counsel?

9 MR. CALDWELL: I was just going to ask permission  
10 to pass a notebook to opposing counsel and take some  
11 materials to the witness stand.

12 THE COURT: You have leave to circulate that while  
13 the witness is sworn.

14 MR. CALDWELL: Thank you, Your Honor.

15 (Witness sworn.)

16 THE COURT: Now if you'll have a seat on the  
17 witness stand, please.

18 All right. Counsel, you may proceed.

19 MR. CALDWELL: Thank you, Your Honor.

20 Would the Court like or the Court Reporter or  
21 anyone like a copy of the witness's witness binder?

22 THE COURT: If you want to pass it up, that's  
23 perfectly fine. If you don't, it's your call.

24 MR. CALDWELL: I'm certainly willing to, just in  
25 case it helps with spellings or anything like that.

1           May I approach, Your Honor?

2           THE COURT:   You may.

3           MR. CALDWELL:   May it please the Court.

4           THE COURT:   Proceed.

5           PATRICK RACZ, PLAINTIFFS' WITNESS, SWORN

6                           DIRECT EXAMINATION

7           BY MR. CALDWELL:

8           Q.    Would you please introduce yourself to the jury?

9           A.    Yes.   My name is Patrick Racz.

10          Q.    Why are you here, Mr. Racz?

11          A.    I'm one of the inventors of the patents-in-suit.

12          Q.    What did you invent that is at issue in this case?

13          A.    I invented particular devices and methods for combining  
14   payment functionality, secure downloading, storage, and rules  
15   for the use of content on one portable device that you would  
16   carry with you.

17          Q.    Could that be a phone or an MP3 player?

18          A.    It would include those, sir, yes.

19          Q.    Who benefits from your invention, Mr. Racz?

20          A.    Content developers, publishers, artists, songwriters,  
21   device manufacturers, and users.

22          Q.    We will go through your invention in detail momentarily,  
23   but I'd like to introduce you to the jury.

24                How old a man are you?

25          A.    I'm 54 years old.

1 Q. Married?

2 A. I am, sir, yes. Married to Carol. I have two children:  
3 Jake, who is 19, and Luke, who is 14.

4 Q. Where did you grow up, Mr. Racz?

5 A. I grew up on the island of Jersey, which is a small  
6 island in the English channel. I'm not from there  
7 originally. My parents moved there when I was about three  
8 years old to buy a farm, settle down and bring up their  
9 children.

10 Q. Tell me about your educational background. Do you have  
11 a high school or college education?

12 A. No, I don't, sir, no.

13 Q. Why not?

14 A. I actually left home and school at a very early age. It  
15 would be the equivalent of 8th grade here in the United  
16 States.

17 Q. What did you do when you left home?

18 A. I went to live on a neighboring island of Guernsey. I  
19 worked in a commercial greenhouse learning about propagation  
20 and growing plants, a greenhouse nursery.

21 Q. Did you eventually get some college education?

22 A. I did sir, yes. When I returned to Jersey, I attended  
23 Highlands College for horticulture, advanced education. I  
24 learned about commercial horticulture.

25 Q. How were you able to pay for your education, sir?

# 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.