

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
22 Deputy Official Court Reporter
23 2593 Myrtle Road
24 Diana, Texas 75640
25 (903) 663-5082

(Proceedings recorded by mechanical stenography,

transcript produced on a CAT system.)

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

I N D E X

May 30, 2012

Page

Appearances	1
Hearing	3
Court Reporter's Certificate	106

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.

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

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.