1   IN THE UNITED STATES DISTRICT COURT
                FOR THE NORTHERN DISTRICT OF TEXAS
2   DALLAS DIVISION

3 SUMMIT 6 LLC,   )   3:11-CV-367-O
      Plaintiff,   )
4 v.   )   Jury Trial Volume 1
  RESEARCH IN MOTION CORP.,   )
5 Defendants.   )   April 1, 2013

6   **BEFORE THE HONORABLE REED C. O'CONNOR**
               United States District Judge
7   *In Dallas, Texas*

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1 held by its predecessor companies privileged. See *Love v.*

2 *Tyson Foods, Inc.* 677 F3d. 258 at 261 out of the Fifth

3 Circuit, 2012. A Court can prevent a party from asserting

4 inconsistent positions under the doctrine of judicial

5 estoppel.

6 　　　In addition, Defendant's Exhibit No. 2029 would also

7 be admissible as non-hearsay because defendants should be

8 permitted to offer it to show Plaintiff's notice of the

9 potential prior use of the invention claimed in the Point2

10 '802 Patent and how that notice affected Plaintiff's

11 subsequent conduct regarding the acquisition of the Point2

12 '802 Patent. See *United States v. Bright,* 630 F.2d. 804, page

13 815, footnote 18, in the Fifth Circuit, 1980. Plaintiff's

14 subsequent conduct of not purchasing the Point2 patent is

15 relevant because it tends to show that plaintiff had concerns

16 that the '802 Patent was invalid based on Point2's actions

17 regarding the photo upload facility. This information is

18 relevant to Samsung's defense that the activity at Point2 also

19 renders the '482 Patent invalid.

20 　　　So, I needed to clear that up after worrying about it

21 all weekend since I got the e-mails wrong.

22 　　　Who is the first witness?

23 　　　**MR. STEVENSON:** Scott Lewis.

24 　　　**THE COURT:** Scott Lewis.

25 　(Jury in.)

1   **THE COURT:** Okay, ladies and gentlemen. Thank you

2   all for being here and being here on time. I'm sorry for the

3   ten minute delay but we get here early -- earlier than you all

4   and try to resolve issues to get you into the box so we don't

5   have to get you in the box and then excuse you when those

6   issues come up. We try to resolve them in the morning and in

7   the evenings and we were doing that today and it ran just a

8   little bit long, so please accept my apologies. With that

9   said we're going to keep moving through the case and I'll turn

10   the floor over to Mr. Stevenson.

11   **MR. STEVENSON:** Thank you, Your Honor. Summit 6

12   calls as its next witness the inventor Scott Lewis.

13   **THE COURT:** Mr. Lewis, please come up.

14   **MR. NELSON:** Your Honor, can we move this slightly?

15   **THE COURT:** Yes, sir. Come on up. Mr. Lewis, were

16   you sworn in the other day?

17   **THE WITNESS:** Yes, I was.

18   **THE COURT:** Go ahead and have a seat here. Speak

19   into that microphone good and loud so everyone can hear what

20   you have to say.

21   **THE WITNESS:** Okay. Thank you.

22   <u>**SCOTT LEWIS, PLAINTIFF WITNESS,**</u> was sworn

23   <u>**DIRECT EXAMINATION**</u>

24   **BY MR. STEVENSON:**

25   Q. Good morning, Mr. Lewis.

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