

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

3	SUMMIT 6 LLC,	(3:11-CV-00367-0
4	Plaintiff,	(
5	VERSUS	(DALLAS, TEXAS
6		(
7	RESEARCH IN MOTION CORP.,	(
	Defendants.	(APRIL 3, 2013

VOLUME 4A
TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE REED C. O'CONNOR
UNITED STATES DISTRICT JUDGE, and a jury

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2 PROCEEDINGS.

3 MR. STEVENSON: May I resume Your Honor?

4 THE COURT: Yes, sir.

5 MR. STEVENSON: Thank you.

6 Q. (BY MR. STEVENSON) Good morning, Doctor Rhyne.

7 A. Good morning Mr. Stevenson.

8 Q. When we broke we were talking or beginning to talk about
9 the burden of proof, and I wanted to remind you and the jury
10 about that with some questions about the burden of proof that
11 you have been applying and that the jury will apply.

12 You understand United States patents are presumed valid.

13 A. Yes.

14 Q. And that is because an examiner in the patent office has
15 examined the patent.

16 A. That is part of the reason.

17 Q. And in a legal proceeding, a person or a company
18 challenging the validity of the patent bears the burden of
19 proof.

20 A. Yes.

21 Q. And you understand, Doctor Rhyne, that the burden of
22 proof is on Samsung to come forward with clear and convincing
23 evidence to disprove the validity of the patent.

24 A. Yes.

25 Q. And you understand that clear and convincing evidence is

1 evidence that leaves the jury with a firm belief that Samsung
2 has proven the facts.

3 A. That is my understanding.

4 Q. And obviously the Court is going to instruct the jury on
5 exactly the language to use for the burden of proof, but is
6 that at least an articulation of the burden of proof you have
7 heard for in cases you have worked on?

8 A. I believe I have heard that language before.

9 Q. That is like the handful of bee bees on the scale instead
10 of the single bee bee.

11 A. I wasn't here to hear that analogy, but I have heard
12 football analogies and other kinds of things.

13 Q. I understand.

14 Now, you understand that Samsung asserts that the Point2
15 photo upload facility, the PUF, was used before July 28, 1998.

16 A. Yes.

17 Q. That is the proposition that Samsung has to prove by
18 clear and convincing evidence.

19 A. Yes.

20 Q. Let's talk about Point2 and Mr. Wright. You understand
21 that Point2 was essentially an equipment exchange site.

22 A. Yes.

23 Q. More or less like classified ads for bulldozers.

24 A. Yes.

25 Q. But unlike Auto Trader or one of those sites -- Auto

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