

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

SUMMIT 6 LLC,	(	3:11-CV-00367-O
Plaintiff,	(	
	(	
	(	
VERSUS	(	DALLAS, TEXAS
	(	
	(	
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

A P P E A R A N C E S:

FOR THE PLAINTIFF: THEODORE STEVENSON, III  
McKool Smith  
300 Crescent Court  
Suite 1500  
Dallas, TX 75201  
214/978-4000  
214/978-4044 FAX (fax)  
tstevenson@mckoolsmith.com.

PHILLIP M. AURENTZ  
McKool Smith PC  
300 Crescent Court  
Suite 1500  
Dallas, TX 75201  
214/978-4206  
214/978-4044 (fax)  
paurentz@mckoolsmith.com.

FOR THE PLAINTIFF:

ASHLEY N. MOORE  
McKool Smith PC  
300 Crescent Court  
Suite 1500  
Dallas, TX 75201  
214/978-6337  
214/978-4044 (fax)  
amoore@mckoolsmith.com

1 JOHN B. CAMPBELL  
2 Mckool Smith  
3 300 W 6th St.  
4 Suite 1700  
5 Austin, TX 78701  
6 512/692-8730  
7 512/692-8744 (fax)  
8 jcampbell@mckoolsmith.com

9 BRADLEY W. CALDWELL  
10 Caldwell Cassady Curry, P.C.  
11 1717 McKinney  
12 Suite 700  
13 Dallas, TX 75202  
14 214/593-7129  
15 214/978-4044 (fax)  
16 bcaldwell@caldwellcc.com

17 FOR THE DEFENDANT: JAMES R. NELSON  
18 DLA Piper US LLP  
19 1717 Main St.  
20 Suite 4600  
21 Dallas, TX 75201-4605  
22 214/743-4512  
23 214/743-4545 (fax)  
24 jr.nelson@dlapiper.com

25 FOR THE DEFENDANT: MARK D. FOWLER  
DLA Piper LLP (US)  
2000 University Ave  
East Palo Alto, CA 94303  
650/833-2048  
650/833-2001 (fax)  
mark.fowler@dlapiper.com

CLAUDIA WILSON FROST  
DLA Piper LLP  
1000 Louisiana  
Suite 2800  
Houston, TX 77002  
713/425-8450  
713/300-6050 (fax)  
claudia.frost@dlapiper.com

ANDREW P. VALENTINE  
DLA Piper LLP (US)  
2000 University Avenue  
East Palo Alto, CA 94303-2214  
650-833-2000  
650-833-2001 (fax)

1 ERIK FUEHRER  
2 DLA Piper US LLP  
3 2000 University Avenue  
4 East Palo Alto, CA 94303  
5 650/833-2045  
6 650/833-2001 (fax)  
7 erik.fuehrer@dlapiper.com

8 TODD S. PATTERSON  
9 DLA Piper LLP (US)  
10 401 Congress Ave  
11 Suite 2500  
12 Austin, TX 78701  
13 512/457-7000  
14 512/457-7001 (fax)  
15 todd.patterson@dlapiper.com

16 COURT REPORTER: SHAWN M. MCROBERTS, RMR, CRR  
17 1100 Commerce Street, Room 1654  
18 Dallas, Texas 75242  
19 214/753-2349  
20 shawn\_mcroberts@txnd.uscourts.gov

21 Proceedings reported by mechanical stenography, transcript  
22 produced by computer.  
23  
24  
25

## TRIAL - Volume 4A - APRIL 3, 2013

P R O C E E D I N G S .

MR. STEVENSON: May I resume Your Honor?

THE COURT: Yes, sir.

MR. STEVENSON: Thank you.

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

A. Good morning Mr. Stevenson.

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

You understand United States patents are presumed valid.

A. Yes.

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

A. That is part of the reason.

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

A. Yes.

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

A. Yes.

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

# 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.