

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 NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SUMMIT 6 LLC,) 3:11-CV-367-0
Plaintiff,)
v.) Jury Trial Volume 1
RESEARCH IN MOTION CORP.,)
Defendants.) April 1, 2013

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

FOR THE PLAINTIFF:

MR. THEODORE STEVENSON, III.
McKool Smith
300 Crescent Court
Suite 1500
Dallas, TX 75201
214/978-4000
Fax: 214/978-4044 FAX
tstevenson@mckoolsmith.com

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

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

MR. JOHN B. CAMPBELL
McKool Smith
300 W 6th St
Suite 1700
Austin, TX 78701
512/692-8730
Fax: 512/692-8744
jcampbell@mckoolsmith.com

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

MR. BRADLEY W CALDWELL
Caldwell Cassidy Curry, P.C.
1717 McKinney
Suite 700
Dallas, TX 75202
214/593-7129
Fax: 214/978-4044
bcaldwell@caldwellcc.com

FOR THE DEFENDANT:

MR. JAMES R. NELSON
DLA Piper US LLP
1717 Main St
Suite 4600
Dallas, TX 75201-4605
214/743-4512
Fax: 214/743-4545
jr.nelson@dlapiper.com

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

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

MR. ANDREW P. VALENTINE
DLA Piper LLP (US)
2000 University Avenue
East Palo Alto, CA 94303-2214
650-833-2000
Fax: 650-833-2001
andrew.valentine@DLAPiper.com

MR. ERIK FUEHRER
DLA Piper US LLP
2000 University Avenue
East Palo Alto, CA 94303
650/833-2045
Fax: 650/833-2001
erik.fuehrer@dlapiper.com

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

MR. TODD S. PATTERSON
DLA Piper LLP (US)
401 Congress Ave
Suite 2500
Austin, TX 78701
512/457-7000
Fax: 512/457-7001
todd.patterson@dlapiper.com

COURT REPORTER:

MR. DENVER B. RODEN, RMR
United States Court Reporter
1050 Lake Carolyn Pkwy #2338
Irving, Texas 75039
drodenrmr@sbcglobal.net
Phone: (214) 753-2298

The above styled and numbered cause was reported by computerized stenography and produced by computer.

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 SCOTT LEWIS, PLAINTIFF WITNESS, was sworn

23 DIRECT EXAMINATION

24 **BY MR. STEVENSON:**

25 Q. Good morning, Mr. Lewis.

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.