

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 TYLER DIVISION

4 VIRNETX, INC.)
5 -vs-) DOCKET NO. 6:10cv417
6 APPLE, INC.) Tyler, Texas
7) 12:05 p.m.
8) November 5, 2012

9 TRANSCRIPT OF TRIAL
10 AFTERNOON SESSION
11 BEFORE THE HONORABLE LEONARD DAVIS,
12 UNITED STATES CHIEF DISTRICT JUDGE, AND A JURY

13
14 A P P E A R A N C E S

15 FOR THE PLAINTIFFS:

16 MR. DOUGLAS CAWLEY
17 MR. BRADLEY W. CALDWELL
18 MR. JASON D. CASSADY
19 MR. JOHN AUSTIN CURRY
20 McKOOL SMITH
21 300 Crescent Court, Ste. 1500
22 Dallas, TX 75201

23 COURT REPORTERS: MS. JUDITH WERLINGER
24 MS. SHEA SLOAN
25 shea_sloan@txed.uscourts.gov

26 Proceedings taken by Machine Stenotype; transcript was
27 produced by a Computer.

28

1 FOR THE PLAINTIFF:

2 MR. ROBERT M. PARKER
MR. ROBERT CHRISTOPHER BUNT
3 PARKER BUNT & AINSWORTH
100 East Ferguson, Ste. 1114
4 Tyler, TX 75702

5

6

7

8

FOR THE DEFENDANT:

9

MR. DANNY L. WILLIAMS
10 MR. TERRY D. MORGAN
MR. RUBEN S. BAINS
11 MR. CHRIS CRAVEY
MR. MATT RODGERS
12 MR. DREW KIM
MR. SCOTT WOLOSON
13 WILLIAMS, MORGAN & AMERSON, P.C.
10333 Richmond, Ste. 1100
14 Houston, TX 77042

15

MR. ERIC ALBRITTON
16 MR. STEPHEN E. EDWARDS
MS. DEBRA COLEMAN
17 MR. MATTHEW C. HARRIS
ALBRITTON LAW FIRM
18 P.O. Box 2649
Longview, TX 75606

19

20 MR. JOHN M. DESMARAIS
MR. MICHAEL P. STADNICK
21 DESMARAIS, LLP - NEW YORK
230 Park Avenue
22 New York, NY 10169

23

24

25

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

2 (Jury out.)

3 COURT SECURITY OFFICER: All rise.

4 THE COURT: Bring the jury in, please.

5 (Jury in.)

6 THE COURT: Please be seated.

7 MR. CASSADY: May it please the Court.

8 THE COURT: All right, Mr. Cassady. You
9 may proceed.

10 CHRISTOPHER VELLTURO, Ph.D., DEFENDANT'S WITNESS,

11 PREVIOUSLY SWORN

12 CROSS-EXAMINATION

13 BY MR. CASSADY:

14 Q. Dr. Vellturo, my name is Jason Cassady. We've
15 met before, right?

16 A. Yes.

17 Q. In fact, I came up to Boston and I took your
18 deposition just a month or two after my son was born,
19 right?

20 A. That sounds right, yes.

21 Q. Okay. And I want to talk about a couple of
22 things you showed the jury. Okay?

23 A. Sure.

24 Q. The first one is this slide right here. You
25 showed the jury this, and you were trying to explain to

1 the jury that the iPhone had a lot of sales prior to the
2 implementation of FaceTime, right?

3 A. That's one of the things we discussed. Yes.

4 Q. Okay. So -- and you say the total number here
5 is about 25.8 million units, right?

6 A. Yes.

7 Q. Well, I took that and I combined it into a
8 slide.

9 MR. CASSADY: If you would go to
10 Slide 42, Mr. Moreno.

11 Q. (By Mr. Cassady) I took that 25.8 million
12 units and I put it into one bar, and I want to talk
13 about what you didn't show the jury.

14 After FaceTime was implemented -- let's go
15 ahead and go to the next click -- this is what happened
16 to the iPhone sales; isn't that right?

17 A. Right, after FaceTime, along with many, many
18 other things were added to the phones. That's part of
19 what Apple does.

20 Q. Yeah. I know we've added the features, but
21 the point is, FaceTime, the big blue bar, 63.3 million
22 units, more than twice the number before was added,
23 right?

24 A. Well, these are iPhone sales. So these
25 aren't -- these aren't FaceTime sales. But, yes, demand

1 for Apple's phones continues to grow and grow.

2 Q. Okay. But you didn't show the jury that big
3 blue bar of sales with FaceTime, did you?

4 A. No. That wasn't part of what my proposition
5 was.

6 Q. Okay. And then you've said -- and I was kind
7 of caught off guard by it -- you said there is no
8 evidence that relay servers affect the users of
9 FaceTime.

10 Do you remember that?

11 A. I think I said I haven't seen in any reports
12 that indicated that users notice any difference.

13 Q. Okay. You've been in this trial, right?
14 You've been sitting back there watching the whole time,
15 right?

16 A. Yes.

17 Q. Okay.

18 MR. CASSADY: Let's go ahead and go the
19 Slide 13.

20 Q. (By Mr. Cassidy) The second highlighting,
21 overuse of relay servers will degrade the user
22 experience.

23 That's very clear to the exact point you just
24 made. And this is an Apple document.

25 A. I'm sorry. What Apple document is this?

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.