

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3

4 COXCOM, LLC,

Petitioner,

5 CASE IPR2015-01760

6 vs.

PATENT 6,549,130

7 JOAO CONTROL & MONITORING
8 SYSTEMS, LLC,

9 Patent Owner.
10
11

12 VOLUME I
13 DEPOSITION OF
14 RICHARD BENNETT

15 April 28, 2016

16 9:44 A.M.

1100 Peachtree Street, NE

Suite 1100

17 Atlanta, Georgia

18 Lee Ann Barnes, CCR-1852, RPR, CRR
19
20
21
22
23
24

25 Job No. CS2300074

<p style="text-align: center;">Page 2</p> <p>1 APPEARANCES OF COUNSEL</p> <p>2</p> <p>3 On behalf of the Petitioner:</p> <p>4 KILPATRICK TOWNSEND & STOCKTON LLP</p> <p>5 D. CLAY HOLLOWAY, ESQ.</p> <p>6 1100 Peachtree Street, NE</p> <p>7 Suite 2800</p> <p>8 Atlanta, Georgia 30309-4528</p> <p>9 404.815.6537</p> <p>10 404.541.3484 (facsimile)</p> <p>11 cholloway@ktslaw.com</p> <p>12</p> <p>13 On behalf of the Patent Owner:</p> <p>14 INSIGHT, PLC</p> <p>15 STEVEN RITCHESON, ESQ.</p> <p>16 9800D Topanga Canyon Boulevard, #347</p> <p>17 Chatsworth, California 91311</p> <p>18 818.882.1030</p> <p>19 swritcheson@insightplc.com</p> <p>20</p> <p>21 Also Present:</p> <p>22 Raymond Joao</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Page 4</p> <p>1 INDEX TO EXHIBITS</p> <p>2 Patent Owner's</p> <table border="1"> <thead> <tr> <th>Exhibit</th> <th>Description</th> <th>Page</th> </tr> </thead> <tbody> <tr> <td>3</td> <td>Exhibit 1 Notice of Deposition of Richard Bennett</td> <td>23</td> </tr> <tr> <td>4</td> <td>Exhibit 2 Declaration of Richard Bennett in Support of Petition for Inter Partes Review of U.S. Patent No. 6,549,130 Under 35 U.S.C. §§ 311-319 and 37 C.F.R. §§ 42.1-.80 & 42.100-.123</td> <td>15</td> </tr> <tr> <td>5</td> <td>Exhibit 3 U.S. Patent Application No. 08/622,749</td> <td>25</td> </tr> <tr> <td>6</td> <td>Exhibit 4 United States Patent No. 6,549,130 B1</td> <td>54</td> </tr> <tr> <td>7</td> <td>Exhibit 5 Decision, Institution of Inter Partes Review, 37 C.F.R. §42.108</td> <td>63</td> </tr> <tr> <td>8</td> <td>Exhibit 6 U.S. Patent No. 5,875,430</td> <td>70</td> </tr> <tr> <td>9</td> <td>Exhibit 7 U.S. Patent No. 5,805,442</td> <td>135</td> </tr> <tr> <td>10</td> <td>Exhibit 8 Declaration of Richard Bennett in Support of Petition for Inter Partes Review of U.S. Patent No. 7,397,363 Under 35 U.S.C. §§ 311-319 and 37 C.F.R. §§ 42.1-.80 & 42.100-.123</td> <td>16</td> </tr> </tbody> </table> <p>11 (Original exhibits are attached to the</p> <p>12 Original transcript.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	Exhibit	Description	Page	3	Exhibit 1 Notice of Deposition of Richard Bennett	23	4	Exhibit 2 Declaration of Richard Bennett in Support of Petition for Inter Partes Review of U.S. Patent No. 6,549,130 Under 35 U.S.C. §§ 311-319 and 37 C.F.R. §§ 42.1-.80 & 42.100-.123	15	5	Exhibit 3 U.S. Patent Application No. 08/622,749	25	6	Exhibit 4 United States Patent No. 6,549,130 B1	54	7	Exhibit 5 Decision, Institution of Inter Partes Review, 37 C.F.R. §42.108	63	8	Exhibit 6 U.S. Patent No. 5,875,430	70	9	Exhibit 7 U.S. Patent No. 5,805,442	135	10	Exhibit 8 Declaration of Richard Bennett in Support of Petition for Inter Partes Review of U.S. Patent No. 7,397,363 Under 35 U.S.C. §§ 311-319 and 37 C.F.R. §§ 42.1-.80 & 42.100-.123	16
Exhibit	Description	Page																										
3	Exhibit 1 Notice of Deposition of Richard Bennett	23																										
4	Exhibit 2 Declaration of Richard Bennett in Support of Petition for Inter Partes Review of U.S. Patent No. 6,549,130 Under 35 U.S.C. §§ 311-319 and 37 C.F.R. §§ 42.1-.80 & 42.100-.123	15																										
5	Exhibit 3 U.S. Patent Application No. 08/622,749	25																										
6	Exhibit 4 United States Patent No. 6,549,130 B1	54																										
7	Exhibit 5 Decision, Institution of Inter Partes Review, 37 C.F.R. §42.108	63																										
8	Exhibit 6 U.S. Patent No. 5,875,430	70																										
9	Exhibit 7 U.S. Patent No. 5,805,442	135																										
10	Exhibit 8 Declaration of Richard Bennett in Support of Petition for Inter Partes Review of U.S. Patent No. 7,397,363 Under 35 U.S.C. §§ 311-319 and 37 C.F.R. §§ 42.1-.80 & 42.100-.123	16																										
<p style="text-align: center;">Page 3</p> <p>1 INDEX OF EXAMINATION</p> <p>2 WITNESS: RICHARD BENNETT</p> <p>3 EXAMINATION PAGE</p> <p>4 By Mr. Ritcheson 5</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Page 5</p> <p>1 Deposition of RICHARD BENNETT</p> <p>2 April 28, 2016</p> <p>3</p> <p>4 (Reporter disclosure made pursuant to</p> <p>5 Article 8.B of the Rules and Regulations of the</p> <p>6 Board of Court Reporting of the Judicial</p> <p>7 Council of Georgia.)</p> <p>8 RICHARD BENNETT, having been first duly sworn,</p> <p>9 was examined and testified as follows:</p> <p>10 EXAMINATION</p> <p>11 BY-MR. RITCHESON:</p> <p>12 Q. Could you state and spell your name for</p> <p>13 the record, please?</p> <p>14 A. Richard Bennett, B-E-N-N-E-T-T.</p> <p>15 Q. Thank you, Mr. Bennett. My name is Steven</p> <p>16 Ritcheson. I introduced myself earlier. I'm one of</p> <p>17 the attorneys representing a company known as Joao</p> <p>18 Control and Monitoring Systems.</p> <p>19 Do you understand that?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. I'm going to refer to that entity</p> <p>22 as "JCMS" today.</p> <p>23 Is that all right with you?</p> <p>24 A. That's fine.</p> <p>25 Q. Okay. My understanding is that you are</p>																											

<p style="text-align: right;">Page 6</p> <p>1 a -- an expert that has been retained by Cox 2 Communications; is that accurate? 3 A. That's correct. 4 Q. Were you actually retained by Cox or by a 5 law firm on behalf of Cox? 6 A. By a law firm on behalf of Cox. 7 Q. And what law firm is that? 8 A. Kilpatrick Townsend & Stockton. 9 Q. Have you been retained by any other law 10 firms to act as an expert on behalf of any entity 11 with respect to a JCMS patent? 12 A. Yes, I have. 13 Q. What other entities? 14 A. Venable and K&L Gates. 15 Q. And who is or was Venable's client? 16 A. Theirs was Verizon and some entities 17 associated with Verizon. 18 Q. Does Terremark sound familiar? 19 A. Yeah, Terremark. 20 Q. And that's T-E-R-R-E-M-A-R-K? 21 A. I believe so. 22 Q. And who is or was the K&L client? 23 A. Time Warner Cable or some entity 24 affiliated with Time Warner Cable. 25 Q. Have you heard of a company named Icontron</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Okay. During the day today, we're going 2 to take breaks occasionally, and tomorrow. We'll 3 take breaks occasionally, but you're not allowed to 4 speak with counsel about your testimony, either the 5 testimony you've given or the testimony you expect 6 to give. 7 Do you understand that? 8 MR. RITCHESON: Objection. Form. 9 THE WITNESS: I wasn't aware of that. 10 Q. (By Mr. Ritcheson) Okay. If -- in light 11 of that, will you follow my instruction not to speak 12 with your counsel about your testimony or would you 13 like me to inquire about it as we go ahead? 14 MR. HOLLOWAY: There's no bar. If you 15 want to ask him questions after the break if we 16 talked about stuff, you're allowed to do that. 17 MR. RITCHESON: There is a bar, as you 18 probably know or you may not know. There is a 19 bar that prohibits you from speaking with 20 Mr. Bennett regarding his testimony. 21 MR. HOLLOWAY: There is a rule that states 22 if I talk to him while he's on the stand, you 23 are allowed to ask him about that. 24 MR. RITCHESON: We'll find the rule for 25 you.</p>
<p style="text-align: right;">Page 7</p> <p>1 Networks? 2 A. Yes, I have. 3 Q. Is that one of the entities that you were 4 also -- 5 A. Could be. 6 Q. Okay. One of the things that -- you've 7 been deposed before; correct? 8 A. Yes. 9 Q. And, in fact, you've been deposed with 10 respect to some of the JCMS patents before? 11 A. Yes, I have. 12 Q. One of the key things I'd like to remind 13 you of, and it's for our sake, as well as the court 14 reporter's, make sure we give each other time to 15 finish our questions and answers before we start 16 again; okay? 17 A. That's great. 18 Q. Okay. Roughly how many times have you 19 been deposed before? 20 A. Just the times that -- on the two patents 21 that I was deposed on relative to JCMS. 22 Q. Okay. Do you have any -- do you have any 23 questions about the -- this process that I can 24 answer for you? 25 A. No.</p>	<p style="text-align: right;">Page 9</p> <p>1 MR. HOLLOWAY: Okay. 2 Q. (By Mr. Ritcheson) With respect to any 3 breaks we take, I'll ask you what you said to your 4 attorneys if you spoke with him; okay? Okay? 5 A. You're welcome to ask me that. 6 Q. Now, this isn't your first time acting as 7 an expert; correct? 8 A. Correct. 9 Q. How many times have you acted as an expert 10 before? 11 A. I acted as an expert in two previous cases 12 with Kilpatrick Townsend and I filed expert 13 declarations, and I've -- yeah, that's it as an 14 expert. I've worked as a consultant with law firms, 15 as well. 16 Q. It's true that you've never testified at a 17 trial before? 18 A. That's correct. 19 Q. Okay. Are you paid hourly for your 20 services as an expert in this case? 21 A. Yes, I am. 22 Q. And how much do you charge for an hour? 23 A. I don't actually remember the rate for 24 this case. I think it's 5- to \$600 an hour, 25 something like that.</p>

Page 10	<p>1 Q. Is that the same amount that was</p> <p>2 applicable to the other proceedings that you</p> <p>3 mentioned involving the JCMS patents?</p> <p>4 A. On JCMS, yes, it's the same rate as the</p> <p>5 previous JCMS cases.</p> <p>6 Q. We're here today to discuss two IPRs. Do</p> <p>7 you understand what I mean by "IPR," inter partes</p> <p>8 review?</p> <p>9 A. Yes.</p> <p>10 Q. So if I say "IPR," you understand what I'm</p> <p>11 talking about?</p> <p>12 A. Yes, although it's ambiguous.</p> <p>13 Intellectual property rights also means IPRs.</p> <p>14 Q. Okay. For the purposes of today, let's</p> <p>15 have it be inter partes view.</p> <p>16 A. Yeah.</p> <p>17 Q. There's two IPRs that we're here to talk</p> <p>18 about today.</p> <p>19 You understand that; correct?</p> <p>20 A. Uh-huh (affirmative).</p> <p>21 Q. That's a "yes"?</p> <p>22 A. Yes.</p> <p>23 Q. One of the other rules, by the way, is to</p> <p>24 give an actual verbal response so that she knows</p> <p>25 what to write down; okay?</p>	Page 12	<p>1 A. About the same.</p> <p>2 Q. So you haven't done anything since you did</p> <p>3 your declaration?</p> <p>4 A. You mean how much time did I spend, say,</p> <p>5 preparing for this deposition?</p> <p>6 Q. Or anything you've done in the interim</p> <p>7 since you completed the declaration.</p> <p>8 A. Since I completed those, the only thing</p> <p>9 I've done is prepared for this deposition, which I</p> <p>10 did by simply rereading all the exhibits that were</p> <p>11 filed.</p> <p>12 Q. And how much time did you spend in</p> <p>13 preparing for today's deposition?</p> <p>14 A. I spent about 10 to 15 hours.</p> <p>15 Q. That's total, right, not per IPR?</p> <p>16 A. Yes.</p> <p>17 Q. When were you actually retained by an</p> <p>18 entity with respect to the JCMS patents?</p> <p>19 A. With respect to the ones we're dealing</p> <p>20 with today?</p> <p>21 Q. Yes.</p> <p>22 A. That would have been last July.</p> <p>23 Q. And who initially retained you last July?</p> <p>24 A. I believe it was Mr. Holloway, wasn't it?</p> <p>25 MR. RITCHESON: What was the question?</p>
Page 11	<p>1 A. Okay.</p> <p>2 Q. You understand that those IPRs relate to</p> <p>3 the '130 patent and the '363 patent?</p> <p>4 A. Yes, I do.</p> <p>5 Q. With respect to those two matters, you</p> <p>6 submitted a declaration?</p> <p>7 A. Yes, I did.</p> <p>8 Q. Two declarations --</p> <p>9 A. Yes.</p> <p>10 Q. -- one for each?</p> <p>11 A. Yes.</p> <p>12 Q. Roughly how much time did you spend</p> <p>13 preparing those two declarations?</p> <p>14 I should ask a foundational question. Did</p> <p>15 you prepare those declarations?</p> <p>16 A. Yes.</p> <p>17 Q. How much time did you spend preparing</p> <p>18 those declarations?</p> <p>19 A. I think it was roughly on the order of 20</p> <p>20 hours.</p> <p>21 Q. 20 hours each or 20 hours total?</p> <p>22 A. I think probably about 20 hours total. It</p> <p>23 could have been more. I'd have to check my records.</p> <p>24 Q. And how much time have you spent in --</p> <p>25 with respect to the '363 and '130 IPRs?</p>	Page 13	<p>1 I'm sorry.</p> <p>2 THE WITNESS: Were you the one who</p> <p>3 retained me?</p> <p>4 MR. HOLLOWAY: My name may have been on</p> <p>5 the letter.</p> <p>6 THE WITNESS: Yeah, I got an e-mail from</p> <p>7 somebody in the -- in the office here.</p> <p>8 Q. (By Mr. Ritcheson) And that was on behalf</p> <p>9 of Cox Communications; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Were you then subsequently retained by the</p> <p>12 Venable and K&L firms?</p> <p>13 A. That was a previous matter.</p> <p>14 Q. That was a previous matter. Okay.</p> <p>15 When were you retained by those firms?</p> <p>16 A. That was some months prior to being</p> <p>17 retained on this matter.</p> <p>18 Q. With respect to the declaration that you</p> <p>19 provided in this case, did you provide copies of</p> <p>20 that, drafts of that, for comment to Venable and</p> <p>21 K&L?</p> <p>22 MR. HOLLOWAY: Could you read that back?</p> <p>23 (Whereupon, the record was read by the</p> <p>24 reporter as follows:</p> <p>25 Question, "With respect to the</p>

<p style="text-align: right;">Page 14</p> <p>1 declaration that you provided in this case, did 2 you provide copies of that, drafts of that, for 3 comment to Venable and K&L?") 4 THE WITNESS: So you're asking me about 5 the process and the preparation of my expert 6 declaration and what sort of communication I 7 had with the attorney? 8 Q. (By Mr. Ritcheson) I'm asking you if you 9 had communication with attorneys at the Venable and 10 K&L firm with respect to your declarations? 11 MR. HOLLOWAY: You can answer that "yes" 12 or "no." 13 THE WITNESS: Yes. 14 Q. (By Mr. Ritcheson) Who? 15 MR. HOLLOWAY: Wait, wait, wait. Just so 16 we're clear, he's asking about the declarations 17 in the Cox-only IPRs. 18 THE WITNESS: Okay. 19 MR. RITCHESON: Yes. 20 MR. HOLLOWAY: So I just want to make sure 21 the question's clear. 22 Q. (By Mr. Ritcheson) Yes. Do you 23 understand what I'm getting at? 24 A. You want to know who I talked to at 25 Kilpatrick about the --</p>	<p style="text-align: right;">Page 16</p> <p>1 recognize that? 2 A. Yes, I do. 3 Q. Okay. As a matter of convention, we 4 frequently refer to patents by the last three 5 numbers. 6 A. Yes, I'm familiar with that. 7 Q. So we'll refer to this, okay, as the '130 8 declaration. 9 A. That's fine. 10 Q. Okay. So with respect to Exhibit 2, did 11 you provide Exhibit 2 in draft form to the attorneys 12 at Venable or K&L Gates for comment? 13 A. Yes, I did. 14 Q. Okay. There's also another declaration 15 that you provided with respect to the '363 patent. 16 I don't think we marked that. We might as well take 17 care of that while we're here. 18 (Patent Owner's Exhibit 8 was marked for 19 identification.) 20 Q. (By Mr. Ritcheson) Exhibit 8 that we've 21 had marked for identification is the Declaration of 22 Richard Bennett in Support of Petition for Inter 23 Partes Review of U.S. Patent No. 7,397,363. 24 Have you seen this document before? 25 A. Yes, I have.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Well, first I want to make sure that any 2 ambiguity is clarified. 3 With respect to the declarations that you 4 submitted in these IPRs that we're here to talk 5 about today -- you know what, strike that. We've 6 had these marked, so let's actually -- 7 MR. HOLLOWAY: Let's use numbers or names 8 for them. 9 MR. RITCHESON: Exactly. Exactly. 10 MR. HOLLOWAY: Thank you. 11 Q. (By Mr. Ritcheson) With respect to -- and 12 I've got -- I'm sorry it's disorganized, but there's 13 a pile in front of you that -- 14 MR. HOLLOWAY: Is this for me? 15 MR. RITCHESON: That is for you. 16 MR. HOLLOWAY: Okay. 17 MR. RITCHESON: It was arranged hastily. 18 MR. HOLLOWAY: That's fine. Thank you. 19 (Patent Owner's Exhibit 2 was marked for 20 identification.) 21 Q. (By Mr. Ritcheson) With respect to 22 Exhibit No. 2, this is a Declaration of Richard 23 Bennett in Support of Petition for Inter Partes 24 Review of U.S. Patent No. 6,549,130. 25 Let me hand this to you and ask you if you</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Okay. And are Exhibit 2 and Exhibit 8, 2 are those the declarations that you submitted with 3 respect to the '130 and '363 patents, respectively? 4 A. They appear to be. 5 Q. With respect to Exhibit 8, did you provide 6 drafts of Exhibit 8 to attorneys at Venable and/or 7 K&L Gates for comment? 8 A. Yes, I did. 9 Q. Did you actually receive comments from 10 Venable and K&L Gates attorneys with respect to 11 Exhibits 2 and 8? 12 A. Yes, I did. 13 Q. And did you incorporate those comments 14 into the final version of the declaration that you 15 submitted in this matter? 16 A. Some I did; some I didn't. 17 Q. Okay. 18 MR. HOLLOWAY: I'm going to object to this 19 entire line because the witness is actually 20 wrong. 21 THE WITNESS: Oh. 22 MR. RITCHESON: Well, I object to your 23 objection. 24 Q. (By Mr. Ritcheson) With respect to the -- 25 strike that.</p>

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.