

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

TERREMARK NORTH AMERICA LLC,)
 VERIZON BUSINESS NETWORK)
 SERVICES INC., VERIZON SERVICES)
 CORP., TIME WARNER CABLE INC.,) Case IPR Petition
 ICONTROL NETWORKS, INC., AND) 2015-01477
 COXCOM, LLC,)
)
) Petitioners,)
 v.) Patent 6,587,046
)
 JOAO CONTROL & MONITORING)
 SYSTEMS, LLC,)
)
) Patent Owner.)
)

ORAL DEPOSITION OF RICHARD BENNETT
Thursday, March 3, 2016
Washington, D.C.
9:38 a.m.

Reported by: Susan Ashe, RMR, CRR

DIGITAL EVIDENCE GROUP
 1730 M Street NW, Suite 812
 Washington, DC 20036
 (202) 232-0646

1 The oral deposition of RICHARD BENNETT was
 2 taken at the law offices of Venable LLP, 575 Seventh
 3 Street, Northwest, Washington, D.C. 20004, on
 4 Thursday, March 3, 2016, commencing at 9:38 a.m., in
 5 the presence of counsel for the parties.
 6 It was agreed that Susan Ashe, Registered
 7 Merit Reporter and Notary Public in and for the
 8 District of Columbia, would take said deposition in
 9 machine shorthand and, when requested, transcribe
 10 the same to typewriting by means of computer-aided
 11 transcription.
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 14
 15
 16
 17
 18
 19
 20
 21
 22

Page 2

1 APPEARANCES:
 2
 3 RAYMOND A. JOAO, ESQ.
 4 122 Bellevue Place
 5 Yonkers, New York 10703
 6 - and -
 7 SINERGIA TECHNOLOGY LAW GROUP, PLLC
 8 BY: RENE A. VAZQUEZ, ESQ.
 9 18296 St. Georges Court
 10 Leesburg, Virginia 20176
 11 rvazquez@sinergialaw.com
 12 Counsel for the Patent Owner
 13
 14 VENABLE LLP
 15 BY: MEGAN S. WOODWORTH, ESQ.
 16 BY: LESLIE A. LEE, ESQ.
 17 575 Seventh Street, Northwest
 18 Washington, D.C. 20004
 19 (202) 344-4000
 20 mswoodworth@venable.com
 21 lalee@venable.com
 22 Counsel on behalf of the Petitioner Verizon
 and the Witness

Page 3

1 APPEARANCES (Continued):
 2
 3 KILPATRICK TOWNSEND & STOCKTON LLP
 4 BY: SHAYNE E. O'REILLY, ESQ.
 5 1100 Peachtree Street, Northeast, Suite 2800
 6 Atlanta, Georgia 30309
 7 (404) 815-6500
 8 soreilly@kilpatricktownsend.com
 9 Counsel on behalf of the Petitioner CoxCom, LLC
 10
 11
 12
 13 ALSO PRESENT:
 14 Kevin Parton, Verizon In-House Counsel
 15 Steven W. Ritcheson, Esq., Insight
 16 (Via Teleconference)
 17
 18
 19
 20
 21
 22

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14 Exhibit 11 U.S. Patent 4,857,912 195

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1 No. 6,542,046 [sic].

2 Could you please mark this as

3 Exhibit 1, the notice of deposition.

4 (Whereupon, Bennett Deposition

5 Exhibit 1 was marked for identification.)

6 Q Mr. Bennett, have you seen this document

7 before?

8 A This document?

9 Q Yes.

10 A No, I haven't.

11 Q Can you please take a minute to look it

12 over.

13 (Witness complies.)

14 A Okay.

15 Q Okay. You understand you're being

16 produced here today as a witness pursuant to this

17 notice?

18 A Yes.

19 Q Okay. Mr. Bennett, have you been deposed

20 before?

21 A No, I haven't.

22 Q This is the first time?

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1 PROCEEDINGS

2 Whereupon,

3 RICHARD BENNETT,

4 the Witness, called for examination, having been

5 first duly sworn according to law, was examined and

6 testified as follows:

7 EXAMINATION

8 BY MR. JOAO:

9 Q Good morning, Mr. Bennett.

10 My name is Raymond Joao. I'm a

11 registered patent attorney, and I'm with Joao

12 Control & Monitoring Systems.

13 With me is my backup counsel, Rene

14 Vazquez, of Sinergia law firm.

15 As I said, I'm with Joao Control &

16 Monitoring Systems. And we usually shorten that by

17 referring to it as "JCMS."

18 Is that okay with you?

19 A That's fine.

20 MR. JOAO: Okay. We're here today to

21 obtain your testimony regarding the IPR

22 involving Terremark and JCMS and U.S. Patent

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1 A Yes.

2 Q Do you understand the process?

3 A I think I do.

4 Q Okay. Well, if you need me to explain

5 anything -- I'm going to ask you questions, and I'm

6 going to get your answer.

7 If you need me to explain anything,

8 you know -- please, don't answer a question you

9 don't understand. I'm happy to explain my question.

10 And you're being asked to answer

11 these questions under oath.

12 Please be audible for the reporter.

13 And I'll do the same.

14 And speak slowly, so she gets

15 everything.

16 Pursuant to your involvement in this

17 IPR -- how did you get involved in this IPR?

18 A As I recall, I was contacted by a law

19 firm, who gave me some general information about a

20 case and asked if I had any expertise in that area

21 and time available to work on the IPR.

22 Q Do you know the name of the law firm that

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1 reached out to you?
 2 A I think it probably was Venable, but I'm
 3 not -- I can't swear to it.
 4 I don't actually remember.
 5 Q Okay.
 6 A I'd have to go back and look at my e-mail
 7 history and see what that was.
 8 Q Do you remember the name of the lawyer
 9 that you spoke with?
 10 A Initially? No.
 11 Q Okay.
 12 A In fact, I'm not even sure that the first
 13 phone call was from a lawyer.
 14 It could have been from a clerk or
 15 someone like that.
 16 Q But what law firm did you become engaged
 17 by?
 18 A It was a group of law firms that were, I
 19 think, pretty much the named parties on the....
 20 Q Well, do you know the named parties on
 21 this IPR?
 22 A Well, I mean, we have Terremark,

Page 10

1 Verizon -- let's see....
 2 Terremark North America LLC; Verizon
 3 Business Network Services, Incorporated; Verizon
 4 Services Corporation; Time Warner Cable,
 5 Incorporated; Icontrol Networks, Incorporated; and
 6 CoxCom, LLC.
 7 Q Anyone else that you spoke to, other law
 8 firms or other companies, regarding your retention
 9 in this matter?
 10 A It would have been the law firms
 11 representing these companies.
 12 Q What were you asked to do in this IPR
 13 process?
 14 MS. WOODWORTH: Objection. That's
 15 actually getting into privileged information.
 16 I'm going to instruct the witness not
 17 to answer.
 18 Q You've performed certain duties pursuant
 19 to being retained by these law firms.
 20 Is that true?
 21 A Yes.
 22 Q Can you explain what you've done?

Page 11

1 A I wrote an expert report, the exhibit that
 2 I'm here to discuss.
 3 Q By "expert report," are you referring to
 4 your declaration?
 5 A Yeah, the expert declaration.
 6 Q Okay. Did you do any other work, other
 7 than write the exhibit -- the declaration?
 8 You had to do something in order to
 9 write the declaration. Right?
 10 A Yeah. I had discussions.
 11 Q Okay. Did you review documents?
 12 A Yes, I reviewed documents.
 13 Q Can you please tell me what documents you
 14 reviewed?
 15 A Well, I reviewed the patent, the -- well,
 16 I'll call it the "'046" patent.
 17 I reviewed the prior art that's
 18 mentioned in my declaration, such as the paper by
 19 Fuhr, et al.; the paper by Goldberg; the AKNAR
 20 patent; the article by Sheng; the Everett patent;
 21 and the description of the EDC-1000 Electronic
 22 Imaging System.

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1 Q Did you review the file history of the
 2 '046 patent?
 3 A No.
 4 Q Did you review any of the prior art that
 5 was considered by the patent office in the '046
 6 patent?
 7 A When I analyzed the '046 patent, I looked
 8 at some of the references that the patent referred
 9 to.
 10 Q Do you remember which references?
 11 A I would have looked at the references
 12 cited on page 1 of the patent.
 13 There's a Cushing, Tokitsu, Shave,
 14 Connors, Johnson, Callahan --
 15 Q I'm sorry. I'm sorry. Where are you
 16 looking on the patent?
 17 A On the first page of the patent.
 18 Q Okay.
 19 A There's a section on -- in Column 1 -- it
 20 begins in Column 1 at line 56, references cited.
 21 Q Yes.
 22 A And then there's a list of U.S. patent

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1 documents.

2 Q Yes. You reviewed all of these documents

3 on page 1, Cushing down through Stephenson?

4 A Yeah -- not in great detail, but enough to

5 understand the general scope.

6 Q And how about the other publications

7 listed below on that same page: Author unknown,

8 Onstar Literature -- down to Alper Caglayan?

9 A I don't think I looked at the Onstar

10 Literature.

11 Bruce Schneier -- I'm familiar with

12 his work. I think I probably read that book at some

13 point in the past. He's an extremely well-known

14 figure in cryptography.

15 There's a book by Panko. I don't

16 believe I would have read that.

17 And I didn't read Simson Garfinkel or

18 the other book by Lesnick.

19 Q How about Adam; Adam, Nabil?

20 A No, I didn't read that.

21 Q How about the patents on page 2 of the

22 patent document, '046 patent document.

Page 14

1 On pages 2 and 3, there are a list of

2 patents.

3 Did you review all of those?

4 A No, I didn't.

5 Q Okay. You understand that these documents

6 could be referred to as "prior art"?

7 A Yes, I suppose they could -- certainly as

8 parts of the prior art.

9 Q Were you given a budget when you were

10 retained --

11 A No.

12 Q -- for this work? No budget.

13 Did you do everything that you were

14 supposed to do to complete your assignment?

15 A Yes.

16 Q What is your hourly rate that you're being

17 paid to be an expert?

18 A I don't recall what I'm charging in this

19 case.

20 Q Do you have invoices that you've presented

21 to the firms to be paid?

22 A Yeah, I have presented invoices and been

Page 15

1 paid.

2 Q Would you have any objection to giving us

3 copies?

4 MS. WOODWORTH: That's not up to him.

5 There are specific rules in place in

6 an IPR regarding discovery, and that wouldn't

7 fall within what's required.

8 Q When did you first read the JCMS patents

9 or any of its claims or any of their claims,

10 especially this patent or any other JCMS patent?

11 A I don't recall the date.

12 I'd have to check.

13 Q Do you understand the JCMS patent, '046,

14 sufficiently to support the opinions you're going to

15 give in this case?

16 A I believe I do.

17 Q When did you first believe that one or

18 more claims of the JCMS patent, '046, was invalid?

19 A When I read the '046 patent for the first

20 time, I had serious doubts as to the validity of the

21 entire set of claims or certain of the -- certain of

22 the claims, anyway.

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1 Q Have you ever provided expert testimony

2 regarding patent invalidity?

3 A No; this is the first time.

4 I've given testimony on infringement.

5 Q So without having any experience in

6 invalidity, you made a determination that the claims

7 were invalid?

8 A Um-hum.

9 Q Can you please give me a yes --

10 A Yes -- yes, I did. That was my

11 impression.

12 Q And when did you first communicate your

13 belief regarding that one or more claims of the JCMS

14 patent, '046, was invalid?

15 A That would have taken place within a week

16 or so of my initial reading of the '046 patent.

17 Q Any idea as to when in time that was?

18 A It seems like it was somewhere around last

19 August or September.

20 I mean, I'd have to check my calendar

21 or my e-mail logs to see when I first began

22 communicating with the lawyers that were handling

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