

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT AND APPEAL BOARD

TOMTOM, INC., and
TOMTOM INTERNATIONAL, B.V.,
Petitioner

v.

BLACKBIRD TECH, LLC d/b/a BLACKBIRD TECHNOLOGIES,
Patent Owner.

Case IPR2017-02023

U.S. Patent No. 6,434,212

Deposition

of

MICHAEL CALOYANNIDES, Ph.D

Washington, D.C.

Friday, September 21, 2018

10:03 a.m.

Reported by: Amy E. Sikora-Trapp, RPR, CRR, CLR

2 (Pages 2 to 5)

<p style="text-align: right;">Page 2</p> <p>1 Deposition of MICHAEL CALOYANNIDES, held at 2 the offices of: 3 Davidson, Berquist, Jackson & Gowdey, L.L.P. 4 8300 Greensboro Drive 5 Suite 500 6 McLean, Virginia 22102 7 8 Pursuant to notice, before Amy E. 9 Sikora-Trapp, Registered Professional Reporter, 10 Certified Realtime Reporter, Certified LiveNote 11 Reporter, and Notary Public within and for the 12 Commonwealth of Virginia. 13 14 15 16 17 18 19 20 21 22</p>	<p style="text-align: right;">Page 4</p> <p>1 September 21, 2018 2 C O N T E N T S 3 EXAMINATION OF 4 MICHAEL CALOYANNIDES, Ph.D. PAGE 5 By MR. DOSHI 5 6 ***** 7 8 E X H I B I T S 9 10 EXHIBIT PAGE 11 P02002 previously marked 7 12 P02001 previously marked 20 13 TomTom 1001 previously marked 23 14 TomTom 1003 previously marked 46 15 Paper No. 7 previously marked 50 16 TomTom 1002 previously marked 109 17 18 ***** 19 20 21 22</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S 2 ON BEHALF OF THE PETITIONER: 3 DIPU A. DOSHI, ESQUIRE 4 MEGAN R. WOOD, ESQUIRE 5 BlankRome LLP 6 1825 Eye Street, Northwest 7 Washington, D.C. 20006-5403 8 202-420-2200 9 ddoshi@blankrome.com 10 mwood@blankrome.com 11 ON BEHALF OF THE PATENT OWNER: 12 WALTER D. DAVIS, JR., ESQUIRE 13 Davidson Berquist Jackson & Gowdey, LLP 14 8300 Greensboro Drive 15 Suite 500 16 McLean, Virginia 22102 17 571-765-7700 18 wdavis@dbjg.com 19 20 21 22</p>	<p style="text-align: right;">Page 5</p> <p>1 P R O C E E D I N G S 2 Whereupon, 3 MICHAEL CALOYANNIDES, Ph.D., 4 called as a witness, having been first duly 5 sworn by the Notary Public (Amy E. Sikora-Trapp), 6 was examined and testified as follows: 7 EXAMINATION BY COUNSEL 8 FOR THE PATENT OWNER 9 BY MR. DOSHI: 10 Q. Good morning, Doctor. My name is 11 Dipu Doshi. How are you? 12 A. Okay. 13 Q. As you may know, I'm representing 14 petitioners in this matter. And you've been 15 deposed before? 16 A. Yes. 17 Q. Okay. And so you've been deposed 18 before so you know the ground rules on 19 deposition. Yes? 20 A. Yes. I do. 21 Q. All right. Cool. And the court 22 reporter is taking everything down so please make</p>

<p style="text-align: right;">Page 6</p> <p>1 sure that your answers are audible. Yes? 2 A. Yes. Of course. 3 Q. Okay. If you don't understand any 4 question, please just let me know and I'll try to 5 clarify. Is that okay? 6 A. Of course. 7 Q. All right. If you need a break, 8 please let me know, and we'll take a break at 9 your convenience. 10 A. Very good. 11 Q. Okay. There's no reason that 12 you -- well, let me rephrase that. 13 Any reason you can't give accurate 14 and truthful testimony today? 15 A. No. 16 Q. Okay. All right. And you are 17 represented by counsel here today? 18 A. That is correct. 19 Q. All right. When were you first 20 contacted by Blackbird for consulting in this 21 matter? 22 A. I don't recall the exact date, but</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Its title is "CV For," has my name, 2 and it proceeds in some level of detail about my 3 background. 4 MR. DOSHI: Off the record. 5 (Discussion off the record.) 6 Q. Doctor, if you could turn to 7 page 13 of 15 of Exhibit 2002. 8 A. That's the résumé, the CV? 9 Q. Yes. 10 A. So you said 15? 11 Q. 13. 12 A. Yeah. I have it. 13 Q. Okay. And these are some specific 14 cases that you have represented as -- I'm sorry. 15 Let me rephrase that. 16 It says these are some -- a listing 17 of recent specific cases that you were retained 18 as an expert witness in? 19 A. That is correct. 20 Q. And you've been opposite of TomTom 21 before. That fourth case, you see a patent case? 22 A. I do.</p>
<p style="text-align: right;">Page 7</p> <p>1 within the last five, six months. 2 Q. Five, six months. And do you 3 recall who contacted you? 4 A. Well, I was first contacted by the 5 referral service that matches expert witnesses 6 with attorneys. And then after that I was 7 contacted by one of the attorneys associated in 8 this case, but I don't remember his name. 9 Q. You were contacted, said five, six 10 months ago. So that would have been in 2018? 11 A. It was in 2018, to the best of my 12 recollection. It may have been four months. I 13 don't remember exactly. 14 Q. Okay. Let's look through your CV. 15 I have here your CV that was marked as 16 Exhibit 2002. Yeah, 2002. 17 (Exhibit Number P02002 previously 18 marked.) 19 A. Thank you. 20 Q. Do you recognize this document? 21 A. I do. 22 Q. What do you recognize it to be?</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. And it says "TomTom v. Dr. Michael 2 Adolph"? 3 A. Yes. 4 Q. So you've previously been in 5 opposition to TomTom before? 6 A. Yes. To the best of my 7 recollection, there was no deposition, no court 8 case. But I was consulted on that, yes. 9 Q. Okay. And here it says "I 10 supported Michael Adolph's team." 11 Do you see that? 12 A. I do. 13 Q. And then it says in parentheses 14 "Plaintiff"? 15 A. Yeah. That is, from what I recall 16 now, going to memory, it was a case where the 17 plaintiff became a defendant and the defendant 18 became a plaintiff, suing each other, so I'm 19 not quite sure exactly who is the plaintiff and 20 who is the defendant. 21 Q. Understood. Okay. 22 Do you know what year approximately</p>

<p style="text-align: right;">Page 10</p> <p>1 that was? 2 A. Oh, guessing, about five, six years 3 ago. 4 Q. Okay. And was that relating to 5 TomTom's watches? 6 A. No. It was relating to TomTom's 7 GPS navigators that people use in their cars to 8 go from point A to point B. 9 Q. Understood. Under No. 3 you have 10 multiple different IPR cases at the patent 11 office. 12 Do you see that? 13 A. I do. 14 Q. And, to the best of your 15 recollection, under A you list IPR2015-01220. 16 Do you see that? 17 A. I do. 18 Q. Were you representing patent owner 19 or petitioner in that? 20 A. I don't recall what this number 21 corresponds to which case. I don't remember. 22 Q. Okay. How about the next one?</p>	<p style="text-align: right;">Page 12</p> <p>1 and for accessing the outside world. 2 Q. That's interesting. And were these 3 all related IPRs that related to Securus? 4 A. No. Only two of them, to the best 5 of my recollection, were. 6 Q. Understood. Have you previously 7 provided testimony at trial? 8 A. Yes, I have. 9 Q. Has your testimony ever been 10 excluded from trial? 11 A. Well, yes, but for a technicality. 12 Namely, there was one case of the ITC court in 13 Washington where I had been told to be ready to 14 testify for one day, it was on a Monday, and I 15 was. Then the case went on Tuesday, and I also 16 came on Tuesday. They said, oh, we will need to 17 take it to Wednesday. I said, I'm sorry, but I 18 have a heart operation scheduled. 19 I've had a number of heart 20 surgeries before and after, but -- and the 21 opposing party says, well, we have to examine him 22 tomorrow, so tomorrow I will be on the operating</p>
<p style="text-align: right;">Page 11</p> <p>1 A. None of them. They're just 2 numbers, so I don't remember what it was about. 3 Q. Okay. Sure. And then you have 4 numerous others as well under E. I take it that 5 you don't recall the numbers or the matters? 6 A. Exactly. 7 Q. Okay. Do you recall generally if 8 you were supporting the patent owner or the 9 petitioner in any of these IPRs? 10 A. Not -- most likely it was a mix. 11 In some case, it was the petitioner. In some 12 case, it was the patent owner. I don't recall 13 the specifics. 14 Q. Okay. And how many times -- well, 15 let me ask -- let me rephrase that. 16 Were you deposed in some of these 17 IPR cases? 18 A. Yes. I recall being deposed on 19 one, two, perhaps more of them. It had to do 20 with a company called Securus, S-E-C-U-R-U-S. 21 Securus or Securus, however it's pronounced. It 22 had to do with a telephone system used in prisons</p>	<p style="text-align: right;">Page 13</p> <p>1 table, and so I just cancel. 2 So then they move to have my 3 testimony that was given excluded because they 4 claimed they did not have the opportunity to 5 further examine me beyond the dates they had 6 specified. 7 Q. And was that the only time that 8 your testimony -- 9 A. Yes. 10 Q. I'll finish the question. Was that 11 the only time that your testimony was excluded? 12 A. To the best of my recollection, 13 yes. 14 Q. Did any of these cases or IPR 15 proceedings involve a pedometer? 16 A. No. 17 Q. To the best of your recollection? 18 A. No. They did not. To the best of 19 my recollection, no. 20 Q. Let's go over your work history a 21 little bit. 22 A. Sure.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. Actually, let me turn back to your 2 testimony. Your experience or history. 3 How long have you been consulting 4 as an expert? 5 A. Oh, roughly since the year 2000, 6 give or take a year. 7 Q. And how many times, to the best of 8 your recollection, have you provided testimony 9 either in a deposition or at trial? 10 A. I would say in about 80 to 11 90 percent of those cases. 12 Q. 80 to 90 percent of the cases? 13 A. That I was involved as an expert 14 witness, yes. 15 Q. So would that be more than 10 times 16 that you've been deposed and/or gave testimony at 17 trial? 18 A. Oh, yeah. Yeah. I would say on 19 the order of a hundred, give or take some. 20 Q. 100 times? 21 (Reporter-initiated discussion off 22 the record.)</p>	<p style="text-align: right;">Page 16</p> <p>1 A. I'm sorry. With? 2 Q. Wearable electronics. 3 A. Yes. 4 Q. Okay. Could you explain that? 5 A. Yeah. For pretty much all of my 6 professional career, I was involved in the 7 development and -- oversight and development by 8 others of devices that were meant to be carried 9 on the person of the intended user. And doing 10 that, of course, I had to concern myself with all 11 of the issues that come to bear on portable 12 devices, such as power consumption and so on. 13 Q. And what kind of devices were they? 14 A. Oh, transmitters, receivers, 15 recording devices, with or without sensors. 16 That's the general class of devices. Also in GPS 17 receivers. 18 Q. How about phones? 19 A. You mean cellphones? 20 Q. Yes. 21 A. And the question about them was 22 what, again, to be precise?</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Yes. I'm sorry. I know that to 2 answer. That -- that's a yes, okay. 3 Q. And how many times have you 4 testified at trial? 5 A. One, two, three, four that come to 6 mind. Five. 7 Q. Now, were all of these patent 8 matters? 9 A. No. They were not. 10 Q. Okay. Was the majority of the 11 cases that you were involved in patent matters? 12 A. That is correct. 13 Q. Okay. Could you put a percentage 14 to that? 15 A. As to what is the majority, you 16 mean? 17 Q. Yes. 18 A. I would say 95 percent. 19 Q. So primarily? 20 A. That is correct. 21 Q. Do you have industry experience 22 with wearable electronics?</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Did you work on cellphones? 2 A. Oh, yeah. Yeah. Very extensively. 3 Q. Were any of the devices that you 4 worked on actually commercialized? 5 A. Yes. 6 Q. Do you recall which ones? 7 A. Well, I was involved, for example, 8 in some of the development of GPS receivers that 9 were meant to be handheld. That was in the days 10 that a GPS receiver itself was a novelty, let 11 alone a portable one. 12 I was involved in the -- in the 13 design and development of, again, as I mentioned, 14 transmitters, receivers, sensors, recorders. 15 Does that answer your question? 16 Q. Yes. And the receivers and 17 transmitters, were they incorporated into 18 cellphones? 19 A. Some were and most were for 20 specialized purposes. 21 Q. What do you mean by "specialized 22 purposes"?</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.