

BEFORE HONORABLE DANA M. SABRAW, JUDGE PRESIDING

AND RELATED COUNTERCLAIM

COUNSEL APPEARING:

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1 DIEGO, CALIFORNIA - TUESDAY, MARCH 12, 2019 - 8:47 A.M.

2 * * *

3 (WHEREUPON THE FOLLOWING PROCEEDINGS WERE HELD
4 IN OPEN COURT, OUT OF THE HEARING OF THE JURY)

5 THE CLERK: NO. 1 ON CALENDAR, CASE NO. 17CV1375,
6 QUALCOMM INCORPORATED VERSUS APPLE INCORPORATED; JURY TRIAL,
7 DAY SEVEN.

8 THE COURT: GOOD MORNING.

9 WE HAVE COUNSEL AND PARTIES PRESENT. WE ARE OUTSIDE
10 OF THE PRESENCE OF THE JURY.

11 WE ARE READY TO DISCUSS THE ISSUES WITH RESPECT TO
12 DR. RINARD, AM I CORRECT?

13 MR. MUELLER: YES, YOUR HONOR.

14 THE COURT: I HAVE READ ALL OF THE BRIEFING, WHICH I
15 APPRECIATE IT. IT IS AMAZING THE QUANTITY AND QUALITY OF
16 BRIEFING THAT IS PRODUCED IN SUCH A SHORT PERIOD OF TIME.

17 BASED ON THE SUBMISSION AND THE TRANSCRIPTS,
18 INCLUDING THE REPORT OF DR. RINARD AND THE DEPOSITION, I WOULD
19 BE INCLINED TO OVERRULE THE OBJECTION.

20 I THINK HIS TESTIMONY IS CONSISTENT. IT IS NOT NEW,
21 IT IS CONSISTENT WITH WHAT HE HAS PREVIOUSLY PLACED IN HIS
22 REPORT OR IN DEPOSITION.

23 DO YOU SUBMIT ON THAT, OR DO YOU HAVE ANY ADDITIONAL
24 ARGUMENT?

25 MR. MUELLER: YOUR HONOR, IF I COULD, JUST BRIEFLY

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1 JUST FOR THE RECORD.

2 THE COURT: YES.

3 MR. MUELLER: AS TO A COUPLE POINTS.

4 THIS FIRST IS, WE DON'T THINK THIS PARTICULAR
5 ARGUMENT WAS DISCLOSED, BUT WE WILL JUST MAINTAIN THAT FOR THE
6 REASONS WE SET OUT IN OUR PAPERS.

7 I DO JUST WANT TO PUT, AGAIN, ON THE RECORD THE
8 REASONS WHY THIS CLAIM CONSTRUCTION IS SIMPLY WRONG.

9 IF I COULD VERY, VERY BRIEFLY TAKE YOUR HONOR
10 THROUGH IT.

11 THE COURT: YES.

12 MR. MUELLER: IF WE GO TO CLAIM 1. THE ARGUMENT
13 THAT WE ARE CONCERNED WITH, YOUR HONOR, IS DR. RINARD'S
14 ATTEMPT TO TAKE LANGUAGE FROM THE FIRST CLAUSE BELOW SECONDARY
15 PROCESSOR, AND THIS IS SYSTEM MEMORY IN A HARDWARE BUFFER.
16 AND HE HIGHLIGHTED, IN WHAT WE BELIEVE IS A NEW OPINION, THIS
17 PHRASE, AT LEAST ONE DATA SEGMENT OF AN EXECUTABLE SOFTWARE
18 IMAGE.

19 AND THAT WAS THE ARGUMENT THAT WE BELIEVE WAS NEW.
20 HE TOOK THAT AND HE SAID WELL, THAT CARRIES THROUGH, THROUGH
21 THE REST OF THE CLAIM. AND UNDER HIS INTERPRETATION WOULD
22 MEAN THERE NEED ONLY BE -- ACTUALLY HE SAYS TWO -- DATA
23 SEGMENTS THAT ARE TRANSMITTED. THE AT LEAST ONE LANGUAGE, AND
24 THEN HE COUPLES THAT WITH THE SCATTER LOADING CONCEPT TO SAY
25 THERE NEEDS TO BE TWO, BUT ONLY TWO. AND THAT OTHER DATA

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1 SEGMENTS NEED NOT MEET THE RESTRICTIONS OF THE CLAIM.

2 THE PROBLEM WITH THAT IS THE NEXT CLAUSE, THE
3 SCATTER LOADER CONTROLLER, IS A SEPARATE COMPONENT WITHIN THE
4 SYSTEM. AND IT EXPLICITLY REQUIRES THAT IT BE CONFIGURED, THE
5 SCATTER LOADER CONTROLLER BE CONFIGURED TO SCATTER LOAD EACH
6 RECEIVED DATA SEGMENT.

7 AND IT CONTINUES IN A PARTICULAR FASHION.

8 THAT IS A REQUIREMENT FOR THE SCATTER LOADER
9 CONTROLLER CONFIGURATION. IT IS EXPRESS, IT IS UNAMBIGUOUS.

10 THE CASE THAT THEY RELIED ON IN THE BRIEFING TO YOUR
11 HONOR LAST NIGHT, PROPRIETECT LP VERSUS JOHNSON CONTROLS.
12 THIS IS 2013 WESTLAW 6795238 STATES -- AND I AM QUOTING HERE
13 FROM PAGE 10 IN THE WESTLAW OPINION.

14 THE COURT THERE WAS RELYING ON THIS TERM, EACH
15 GROOVE, AND SAID IT APPEARS AFTER THE PHRASE A PLURALITY OF
16 GROOVES -- AND HERE IS THE KEY -- NEVER IN A SEPARATE CLAUSE
17 OR ON ITS OWN. AND IT DISTINGUISHED THE APPLE CASE THAT WE
18 CITED TO YOUR HONOR IN OUR BRIEF ON THE BASIS THAT HERE EACH
19 GROOVE APPEARS IN THE SAME CLAUSE.

20 THAT IS NOT WHAT WE HAVE HERE IN CLAIM 1. THERE IS
21 A SEPARATE CLAUSE FOR THE SCATTER LOADER CONTROLLER. IT IS
22 REQUIRED BY THAT CLAUSE THAT THE SCATTER LOADER CONTROLLER BE
23 CONFIGURED TO SCATTER LOAD EACH RECEIVED DATA SEGMENT.

24 AND THE ARGUMENT THAT IS BEING PRESENTED NOW IS THAT
25 THE SCATTER LOADER CONTROLLER COULD MEET THAT REQUIREMENT BY

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