

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**BEFORE THE HONORABLE HAYWOOD S. GILLIAM, JR., JUDGE**

IXI MOBILE (R&D) LTD.,	)	
ET AL.	)	
	)	
PLAINTIFFS,	)	NO. C-15-3752 HSG
	)	
VS.	)	THURSDAY, FEBRUARY 21, 2019
	)	
SAMSUNG ELECTRONICS	)	OAKLAND, CALIFORNIA
CO., LTD., ET AL.,	)	
	)	MOTION TO LIFT STAY
DEFENDANTS.	)	
	)	
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IXI MOBILE (R&D) LTD.,	)	
ET AL.	)	
	)	
PLAINTIFFS,	)	NO. C-15-3755 HSG
	)	
VS.	)	THURSDAY, FEBRUARY 21, 2019
	)	
APPLE, INC.,	)	OAKLAND, CALIFORNIA
	)	
	)	MOTION TO LIFT STAY
DEFENDANTS.	)	
	)	

**REPORTER'S TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES :**

**FOR PLAINTIFFS:** CALDWELL CASSADY CURRY  
2101 CEDAR SPRINGS RD., STE. 1000  
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BY: JASON D. CASSADY, ESQUIRE  
R. SETH REICH JR., ESQUIRE

(APPEARANCES CONTINUED)

REPORTED BY: DIANE E. SKILLMAN, CSR 4909, RPR, FCRR  
OFFICIAL COURT REPORTER

TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

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**FOR PLAINTIFFS:**

HOPKINS & CARLEY  
70 SOUTH FIRST STREET  
SAN JOSE, CALIFORNIA 95113  
BY: JOHN V. PICONE III, ESQUIRE

**FOR DEFENDANT  
SAMSUNG:**

KIRKLAND & ELLIS LLP  
601 LEXINGTON AVENUE  
NEW YORK, NEW YORK 10022  
BY: TODD M. FRIEDMAN, ESQUIRE

KIRKLAND & ELLIS LLP  
300 NORTH LASALLE STREET  
CHICAGO, ILLINOIS 60654  
BY: DAVID ROKACH, ESQUIRE

**FOR DEFENDANT  
APPLE:**

SIMPSON THACHER & BARTLETT, LLP  
2475 HANOVER STREET  
PALO ALTO, CALIFORNIA 94307  
BY: BUZZ FRAHN, ESQUIRE  
MIKE MOREY, ESQUIRE

1 THURSDAY, FEBRUARY 21, 2019

2:02 P.M.

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

3 **THE CLERK:** CALLING C-15-3752, IXI MOBILE LIMITED, ET  
4 AL. VERSUS SAMSUNG ELECTRONICS, LIMITED, ET AL. AS WELL AS  
5 C-15-3755 IXI MOBILE LIMITED, ET AL. VERSUS APPLE, INC.

6 PLEASE STEP FORWARD AND STATE YOUR APPEARANCES FOR THE  
7 RECORD, PLEASE.

8 **MR. FRAHN:** BUZZ FRAHN OF SIMPSON THATCHER FOR THE  
9 DEFENDANT APPLE. I'M JOINED BY MY COLLEAGUE MIKE MOREY.

10 **THE COURT:** GOOD AFTERNOON.

11 **MR. FRIEDMAN:** GOOD AFTERNOON, YOUR HONOR. TODD  
12 FRIEDMAN FROM KIRKLAND & ELLIS ON BEHALF OF SAMSUNG. AND WITH  
13 ME IS MY COLLEAGUE DAVID ROKACH ALSO FROM KIRKLAND & ELLIS.

14 **THE COURT:** GOOD AFTERNOON.

15 **MR. PICONE:** GOOD AFTERNOON, YOUR HONOR. JOHN  
16 PICONE, HOPKINS & CARLEY, ON BEHALF OF THE PLAINTIFF.

17 **THE COURT:** GOOD AFTERNOON.

18 **MR. CASSADY:** AFTERNOON, YOUR HONOR. JASON CASSADY  
19 OF CALDWELL CASSADY & CURRY ON BEHALF OF PLAINTIFF. ALSO WITH  
20 ME MY ASSOCIATE SETH REICH.

21 **THE COURT:** GOOD AFTERNOON.

22 ALL RIGHT. IS THAT IT? SO WE ARE HERE FOR A HEARING ON  
23 THE MOTION TO LIFT THE STAY. AND THEN WE HAVE TO TALK ABOUT  
24 WHAT HAPPENS NEXT IF I DO LIFT THE STAY.

25 HAVING REVIEWED THE PAPERS, I'LL HEAR FROM THE PARTIES

1 BRIEFLY, BUT I THINK THE PLAINTIFFS SUMMED IT UP VERY WELL  
2 WHEN THEY SAID ENOUGH IS ENOUGH. I FEEL THIS IS A TEXTBOOK  
3 EXAMPLE OF THE FAILURE OF GOOD INTENTIONS IN STAYING A CASE  
4 PENDING THE RESOLUTION OF IPR. AND NOW WE HAVE A CIRCUMSTANCE  
5 WHERE THE INITIAL IPR IS COMPLETED AND AT SOME LEVEL IT HAD  
6 THE DESIRED EFFECT, AND THEN IT SLIMMED THE CASE DOWN TO ONE  
7 ASSERTED CLAIM, BUT IN THE MEANTIME THERE WAS AN EX PARTE  
8 REEXAMINATION AND THEN SCORES OF OTHER CLAIMS HAVE NOW BEEN  
9 GENERATED. IT REMAINS TO BE SEEN WHETHER THOSE WILL BE ADDED  
10 TO THIS CASE VIA AMENDMENT, AND THAT WOULD NEED TO BE DONE BY  
11 A MOTION, BUT THERE'S NO PROSPECT REALISTICALLY OF  
12 STREAMLINING OR HONESTLY A TIMELY RESOLUTION OF THIS CASE AT  
13 THIS POINT.

14 WE COULD END UP WITH THIS CASE STAYED FOR ANOTHER THREE  
15 YEARS. AND ON BALANCE, I THINK IT'S TIME TO MOVE THIS CASE  
16 FORWARD. AND THE FACTS THAT MOTIVATED THE STAY WHEN I ENTERED  
17 IT, WELL INTENTIONED AS THEY WERE, HAVE JUST NOT BORNE OUT AND  
18 THE BALANCE HAS SHIFTED. WE NEED TO RESOLVE THIS CASE. IT'S  
19 GOING TO TAKE POTENTIALLY YEARS TO RESOLVE AS IT IS EVEN FROM  
20 NOW.

21 THAT'S MY VERY STRONG IMPRESSION. I WILL LET ANYONE MAKE  
22 A RECORD THAT YOU'D LIKE TO.

23 **MR. FRAHN:** YOUR HONOR, BUZZ FRAHN FOR APPLE. AND  
24 SINCE YOU SORT OF STATED THE TENTATIVE IN A WAY THAT IS  
25 ADVERSE TO US, IF IT'S OKAY, I WILL START.

1 I WOULD URGE YOUR HONOR TO MAYBE CONSIDER AN ALTERNATIVE  
2 OUTCOME, AND HERE'S WHY. OF THE 41 CLAIMS THAT WERE  
3 ORIGINALLY ASSERTED IN THIS CASE, 40 OF THEM ARE DEAD. THE  
4 41ST IS TERMINALLY ILL. IT HAS BEEN REJECTED ON FOUR SEPARATE  
5 GROUNDS. THAT'S CLAIM 10 OF THE '532 PATENT. AND THAT REEXAM  
6 IS GOING TO PLAY OUT IN THE NEAR FUTURE.

7 ON THE SCORES OF CLAIMS THAT IXI RECEIVED THROUGH ITS EX  
8 PARTE REVIVAL OF THE '033 AFTER THAT HAD BEEN COMPLETELY  
9 KILLED AS TO ALL OF ITS ASSERTED CLAIMS, WE ARE GOING TO KNOW  
10 FROM THE PTAB BY JUNE WHETHER THE IPR'S THAT APPLE FILED AS  
11 SOON AS IT POSSIBLY COULD, NINE MONTHS FROM THE ISSUANCE OF  
12 THOSE CLAIMS, WE WILL KNOW BY JUNE WHETHER THOSE WOULD BE  
13 INSTITUTED OR NOT.

14 THE CONCERNS ABOUT JUDICIAL EFFICIENCY, WASTE OF  
15 RESOURCES, AND INCONSISTENT RESULTS WOULD BE EQUALLY PRESENT  
16 NOW AS THEY WERE WHEN THE COURT ENTERED THE ORIGINAL STAY. IF  
17 THE COURT IS TO ADJUDICATE INVALIDITY ISSUES ON THOSE SCORES  
18 OF CLAIMS WHILE A PARALLEL PROCEEDING IS GOING ON AT THE PTAB,  
19 IT CERTAINLY RISKS WASTING A LOT OF YOUR TIME AND A LOT OF THE  
20 PARTIES' TIME AS WELL IF THE PTAB COMES OUT TO A RESOLUTION,  
21 AS WE THINK THEY WILL, TO REJECT THOSE CLAIMS.

22 SO I WOULD URGE THE COURT TO MAINTAIN THE STAY, YOU KNOW,  
23 AT LEAST UNTIL WE HAVE FURTHER INSIGHT IN THE SHORT-TERM WITH  
24 WHAT'S GOING TO HAPPEN AT THE PATENT OFFICE.

25 **THE COURT:** I THINK THAT'S THE PROBLEM. THE THEORY,

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