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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

MULTIMEDIA CONTENT ) Docket No. W 18-CA-207 ADA  
MANAGEMENT, LLC )  
)  
vs. ) Waco, Texas  
)  
DISH NETWORK, LLC ) April 26, 2019

TRANSCRIPT OF MARKMAN HEARING  
BEFORE THE HONORABLE ALAN D. ALBRIGHT

APPEARANCES:

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Proceedings reported by computerized stenography,  
transcript produced by computer.

09:16:45 1 THE CLERK: The Court calls: Waco case  
09:16:49 2 18-CV-207, Multimedia Content Management, LLC vs. DISH  
09:16:56 3 Network, for Markman hearing.

09:16:57 4 THE COURT: Counsel, if you all would announce,  
09:16:59 5 please.

09:17:01 6 MR. JOHNSON: Ben Johnson with Aakash Parekh and  
09:17:04 7 Jeff Toler for Plaintiff Multimedia, LLC, your Honor.

09:17:08 8 THE COURT: Mr. Johnson, are you going to be  
09:17:10 9 doing the majority of the speaking?

09:17:11 10 MR. JOHNSON: Yes.

09:17:12 11 THE COURT: Okay. Great. Good morning.

09:17:13 12 MR. GUY: Good morning, your Honor.

09:17:14 13 Guy Hopkins with Baker Botts for DISH Network,  
09:17:17 14 LLC. With me is Thomas Carter, Ali Dhanani and Brad  
09:17:24 15 Bowling from my firm. And also here with us is Jim Hanft  
09:17:29 16 and Larry Katzin. Larry Katzin is vice-president and  
09:17:34 17 associate general counsel. Mr. Hanft is director of  
09:17:38 18 intellectual property. And also with us is John Palmer.

09:17:42 19 THE COURT: Well, let me say, I always appreciate  
09:17:44 20 it when folks who ask their clients show up. I think it's  
09:17:50 21 important that the clients see and grade my papers and  
09:17:55 22 grade your papers and, though, I have no doubts there on  
09:17:59 23 behalf of Baker Botts. And so, I appreciate anyone taking  
09:18:02 24 the time to come to court and participating.

09:18:05 25 I can't remember, though, did we say we were

09:18:09 1 going to do a tutorial in this case or not? I just don't  
09:18:12 2 remember.

09:18:13 3 MR. GUY: Your Honor, I believe you commented  
09:18:15 4 that having gone through the motion to dismiss, that you  
09:18:18 5 felt that there was no need for a tutorial. We'd be happy  
09:18:22 6 to go through that, if you'd like, but I believe that as  
09:18:24 7 we take up the terms, if you'd like, we would also give a  
09:18:28 8 brief introduction of the technology relevant to that  
09:18:31 9 term.

09:18:31 10 THE COURT: Yeah. Let's do it that way. That's  
09:18:33 11 what I thought I said and -- so everyone knows, I've  
09:18:38 12 carefully gone through everything and let me go on record.  
09:18:41 13 A couple of y'all were -- yesterday, I was at an  
09:18:45 14 intellectual property law association meeting here and I  
09:18:48 15 talked about it.

09:18:51 16 Baker Botts provided me with a audio version of  
09:18:56 17 their Markman briefing. I'm going to make a couple of  
09:19:00 18 comments about that. Number one, I can't tell you how  
09:19:04 19 much I appreciate it. It was exceptionally helpful. I  
09:19:12 20 listened to everything that was submitted. Some of the  
09:19:15 21 stuff I'm saying just publicly because I'm going to  
09:19:18 22 actually then -- I think I'm gong to actually enter an  
09:19:20 23 order.

09:19:20 24 I was so satisfied with the manner in which the  
09:19:23 25 audio files were provided to me. I have a new enough

09:19:29 1 truck that I don't have a CD player, so I couldn't play  
09:19:31 2 the CD. But I also have a young law clerks who are  
09:19:35 3 competent enough that they will take what you gave me and  
09:19:38 4 put it on Dropbox. So I was able to put it on my phone  
09:19:42 5 and my iPad and listen to it on the drive up because I am  
09:19:45 6 -- I can use Bluetooth, which still amazes me. But I  
09:19:49 7 listen to everything that you all submitted.

09:19:51 8 And, frankly, it helped both sides because just  
09:19:55 9 having -- just hearing, you know, y'all's version made it  
09:20:00 10 much better. It made me -- helped me understand both  
09:20:06 11 sides' arguments much better, even though yours was, in  
09:20:10 12 many ways, in the negative of, you know, while they're  
09:20:13 13 long, it was still very helpful to help me go through it.

09:20:17 14 So I was so impressed by what you submitted that  
09:20:22 15 I believe I'm going to make -- in the future, I'm going to  
09:20:24 16 make it mandatory for everyone to submit audio versions of  
09:20:27 17 any -- before I have a Markman hearing. I want you to  
09:20:31 18 know that it was -- for -- at least for me, it was  
09:20:33 19 exceptionally helpful, and wanted to say thank you for  
09:20:37 20 doing it.

09:20:37 21 MR. GUY: Thank you, your Honor.

09:20:38 22 I've already gotten a number of requests for  
09:20:41 23 exactly the format you'd like. So if you'd like to say on  
09:20:43 24 the record that you want it on a jump drive for your  
09:20:46 25 truck, then that would be very helpful for everybody now.

09:20:48 1 THE COURT: Jump drive on the truck. Also, I  
09:20:51 2 will say this on the record and I'm going to put this in  
09:20:53 3 the order. The one thing I learned from listening to your  
09:20:55 4 version, what I don't need is case citations. You know, I  
09:21:01 5 have the case citations in the written briefs, and so, it  
09:21:06 6 only -- it takes up audio time that's unnecessary for the  
09:21:10 7 entire case. I would be fine if you made a point or had a  
09:21:15 8 quote and then, just said, see case citation, because I  
09:21:18 9 have the written briefs and have reviewed them.

09:21:21 10 And so -- and let me add, I think I'm going to  
09:21:24 11 make it mandatory for all Markman hearings, but that  
09:21:30 12 doesn't mean that I would not invite it for when you all  
09:21:34 13 have your motions in limine, when you all have your  
09:21:37 14 Daubert, whatever you wanted to submit, you know, with my  
09:21:41 15 current lifestyle where I have hours. And I'm going to  
09:21:48 16 say this, Mr. Palmer. I don't mean it to come out the way  
09:21:50 17 it does. I have many hours in Waco where I don't have a  
09:21:53 18 lot to do. And I love being in Waco, so that comes out  
09:21:58 19 not the way I mean it, but I fill those hours usually by  
09:22:02 20 running, or walking, or doing something where I can be  
09:22:06 21 listening to these things, and I prefer to do that.

09:22:09 22 So I have hours where I'm listening to things and  
09:22:13 23 this is -- it's very -- a very good use of my time. So I  
09:22:18 24 was very pleased with what you all did. I think it  
09:22:21 25 benefitted both parties and it was terrific. So thank you

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