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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

NEONODE SMARTPHONE, LLC) Docket No. WA 20-CA-505 ADA
)
vs.) Waco, Texas
)
APPLE, INC.) October 23, 2020

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

NEONODE SMARTPHONE, LLC) Docket No. WA 20-CA-507 ADA
)
vs.) Waco, Texas
)
SAMSUNG ELECTRONICS CO.,)
LTD., SAMSUNG ELECTRONICS)
AMERICA, INC.) October 23, 2020

TRANSCRIPT OF TELEPHONIC CONFERENCE
BEFORE THE HONORABLE ALAN D. ALBRIGHT

APPEARANCES:

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25 Proceedings reported by computerized stenography,
transcript produced by computer-aided transcription.

LILY I. REZNIK, OFFICIAL COURT REPORTER

13:29:54 1 THE COURT: Good afternoon. It's Alan Albright.

13:30:00 2 Ms. Miles, would you call the case, please.

13:30:02 3 THE CLERK: Sure.

13:30:03 4 Telephonic scheduling conference in Civil Action

13:30:05 5 6:20-CV-505, styled, Neonode Smartphone, LLC vs. Apple,

13:30:10 6 Incorporated; and Case No. 6:20-CV-507, styled, Neonode

13:30:17 7 Smartphone, LLC vs. Samsung Electronics Company, Limited

13:30:20 8 and Samsung Electronics America, Incorporated.

13:30:25 9 THE COURT: Welcome, everyone.

13:30:26 10 If I could hear announcements from counsel,

13:30:27 11 please, starting with the plaintiff.

13:30:31 12 MR. CHERRY: Your Honor, this is Craig Cherry

13:30:33 13 with Haley & Olson on behalf of plaintiff, and Philip

13:30:35 14 Graves of the Hagens Berman law firm. And Mr. Graves will

13:30:39 15 be speaking on behalf on all points this afternoon, your

13:30:43 16 Honor.

13:30:43 17 THE COURT: Welcome. Thank you.

13:30:49 18 MR. GRAVES: Good afternoon, your Honor.

13:30:50 19 This is Philip Graves on behalf of plaintiffs.

13:30:53 20 THE COURT: And for defendant?

13:30:58 21 MS. CHEN: Good afternoon, your Honor --

13:30:59 22 MR. GUARAGNA: John Guaragna --

13:31:02 23 MS. CHEN: Hi, John.

13:31:03 24 This is Betty Chen of Fish & Richardson on behalf

13:31:07 25 of Apple.

LLY J. REZNIK OFFICIAL COURT REPORTER

13:31:08 1 THE COURT: Okay. And are there any issues we
13:31:10 2 need to take up?

13:31:13 3 MR. GUARAGNA: Your Honor, John Guaragna, just in
13:31:15 4 case I was cut off there, for Samsung Defendants.

13:31:18 5 THE COURT: Okay.

13:31:23 6 MR. GUARAGNA: At least from the defendants, your
13:31:25 7 Honor, we do have a couple of issues we'd like to take up
13:31:27 8 with respect to some pre-Markman items.

13:31:30 9 THE COURT: Okay.

13:31:33 10 MR. GUARAGNA: And speaking for Samsung, your
13:31:35 11 Honor, there are a couple of areas of third-party
13:31:40 12 discovery that we'd like leave to commence prior to the
13:31:44 13 Markman hearing. And I'm going to address one of those
13:31:47 14 issues, and I think Ms. Chen's going to address another
13:31:49 15 one.

13:31:50 16 With respect to the first issue, your Honor, we
13:31:53 17 believe that there are material prior art references
13:32:00 18 located with Sony, and we would like leave to commence
13:32:04 19 that third-party discovery of Sony to identify and
13:32:10 20 hopefully obtain the evidence with respect to those
13:32:14 21 third-party products that we think are going to be
13:32:18 22 important pieces of prior art in this case. We'd like to
13:32:20 23 commence that discovery as soon as possible.

13:32:24 24 We're hopeful but, unfortunately, we think there
13:32:26 25 may be a need to seek some of the discovery from Sony

13:32:31 1 overseas. And as your Honor obviously has experience,
13:32:36 2 that can take some time and will take likely even longer
13:32:39 3 during the pandemic. So with your Honor's permission,
13:32:43 4 we'd like to commence that discovery of Sony. Hopefully
13:32:45 5 we won't need to go through the Hague and go overseas, but
13:32:47 6 it looks like that is probably the case; but we'll avoid
13:32:51 7 it if we can.

13:32:53 8 But, in essence, we'd just like to get those
13:32:56 9 documents, no deposition. Just simply documents and get
13:32:59 10 that perhaps started now so we'll have it because it will
13:33:01 11 matter in the litigation.

13:33:03 12 THE COURT: Yeah. Let me tell you what I'm
13:33:05 13 trying -- and, Mr. Guaragna, as part of my committee, this
13:33:09 14 is an issue I think we're going to try and address on a
13:33:12 15 more permanent basis because it's coming up a good bit,
13:33:15 16 especially worse with the COVID situation and the
13:33:20 17 inability to travel.

13:33:22 18 So I am absolutely fine with you commencing
13:33:26 19 anything that is going to make the case go more smoothly.
13:33:32 20 If you are subpoenaing things for -- I'm not sure exactly
13:33:37 21 what format you're using to try and obtain what it is
13:33:41 22 you're trying to obtain from Sony, the only thing I would
13:33:44 23 suggest that you do is, make sure that the plaintiffs are
13:33:52 24 given a chance to -- if there's something they also need
13:33:55 25 from Sony or anyone else you're going to be sending a

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