

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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:

For the Plaintiff: Mr. Philip J. Graves
Hagens, Berman, Sobol,
Shapiro, LLP
301 North Lake Avenue, Suite 920
Pasadena, California 91101

Mr. Craig D. Cherry
Haley & Olson, P.C.
100 North Ritchie Road, Suite 200
Waco, Texas 76712

For Apple, Inc.: Ms. Betty H. Chen
Fish & Richardson, PC
111 Congress Avenue, Suite 810
Austin, Texas 78701

1 **(Appearances Continued:)**

2 For Samsung Electronics: Mr. John M. Guaragna
3 DLA Piper, LLP
4 401 Congress Avenue, Suite 2500
Austin, Texas 78701

5 Court Reporter: Ms. Lily Iva Reznik, CRR, RMR
6 501 West 5th Street, Suite 4153
7 Austin, Texas 78701
8 (512) 391-8792
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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.

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

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.