

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

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNM RAINFOREST INNOVATIONS * June 22, 2021
*
VS. * CIVIL ACTION NOS.
*
ASUSTEK COMPUTER, INC. * W-20-CV-142
DELL TECHNOLOGIES, INC., ET AL W-20-CV-468

BEFORE THE HONORABLE ALAN D ALBRIGHT
DISCOVERY HEARING (via Zoom)

APPEARANCES:

For the Plaintiff: Michael W. Shore, Esq.
William D. Ellerman, Esq.
Corey Martin Lipschutz, Esq.
Shore Chan DePumpo LLP
901 Main Street, Suite 3300
Dallas, TX 75202

Charles L. Ainsworth, Esq.
Robert Christopher Bunt, Esq.
Parker, Bunt & Ainsworth, P.C.
100 East Ferguson, Suite 418
Tyler, TX 75702

For Defendant Asustek Computer:

Jonathan K. Waldrop, Esq.
Marcus A. Barber, Esq.
Jack Shaw, Esq.
Kasowitz Benson Torres, LLP
333 Twin Dolphin Drive, Suite 200
Redwood Shores, CA 94065

Allen Franklin Gardner, Esq.
Allen Gardner Law, PLLC
609 S. Fannin
Tyler, TX 75701

1 (June 22, 2021, 10:32 a.m.)

2 DEPUTY CLERK: Discovery hearing in Civil Actions
3 W-20-CV-142, styled UNM Rainforest Innovations versus Asustek
4 Computer, Incorporated, and Case No. W-20-CV-468, styled UNM
5 Rainforest Innovations versus Dell Technologies Incorporated
6 and others.

7 THE COURT: If I could have announcements from counsel. I
8 see Mr. Waldrop, perhaps he's going to speak up.

9 MR. WALDROP: Good morning, Your Honor.

10 MR. AINSWORTH: Judge, this Charley Ainsworth, Michael
11 Shore, Will Ellerman and Chris Bunt for the plaintiffs, and
12 we're ready to proceed.

13 THE COURT: Very good. Thank you, Mr. Ainsworth.

14 MR. AINSWORTH: Sorry to interrupt.

15 THE COURT: No problem.

16 MR. GARDNER: Your Honor, Allen Gardner and Jonathan
17 Waldrop for Asus, and we are ready to proceed as well. Jack
18 Shaw as well.

19 THE COURT: I think I saw Mr. Fulghum in there. Anyone
20 else?

21 MR. MITCHELL: Good morning, Your Honor. This is Jonah
22 Mitchell with Reed Smith on behalf of Dell. I know you just
23 noted Mr. Fulghum from Baker Botts here on behalf of Dell as
24 well. A colleague of mine from Reed Smith, Pete Chassman, is
25 on as well, as well as our client, Lauren Hoffer from Dell, is

1 here as well.

2 THE COURT: Welcome to anyone who's attending who's not
3 outside counsel. I appreciate them taking the time to attend.

4 I'm happy to take -- you all have caught me. I'm waiting
5 for the jury, but I'm done with the week-long trial. I'm happy
6 to help. What can we take up?

7 MR. SHORE: Your Honor, I think the primary issue or first
8 issue is the sequence and timing of the deposition of Mr. Wang,
9 the ITRI corporate representative and an individual deponent.
10 And I guess to give you a slightly more color than the position
11 statements, is that the defendants -- I think all but Dell,
12 maybe Dell also -- are attempting to force the deposition of
13 Mr. Wang this month, actually next week.

14 In one of the cases discovery hasn't even opened yet, the
15 D-Link case. But Mr. Wang's counsel -- and I'll let him speak
16 for himself in a minute, but he's made it clear that Mr. Wang
17 is only going to appear one time. I believe he's only saying
18 that ITRI as a corporate representative is only going to appear
19 one time across all these cases. And they've also said that
20 we're only going to get three and a half hours of deposition
21 time with Mr. Wang across all of these cases, which is
22 ridiculous.

23 They have -- now, they'll say that they agreed to give
24 seven hours, but of course the seven hours is with an
25 interpreter. So every question has to be interpreted, every

1 answer has to be interpreted. They're saying they're not going
2 to allow any extra time. They're only going to allow 14 hours
3 total, seven hours per side across all of these cases, which
4 basically gives us three and a half hours of deposition time
5 which we think is crazy.

6 But setting that aside, there's -- the other problem in
7 that, we have sent discovery to all of the defendants asking
8 them for their communication with ITRI and Mr. Wang, including
9 communications between counsel for ITRI and counsel for
10 Mr. Wang and all of these defendants.

11 They have not produced a single piece of paper. They have
12 said that all of their communications with Mr. Wang are
13 privileged. All of their communications with ITRI are
14 privileged, which is bizarre since each of these defendants is
15 trying to invalidate all of these patents that ITRI claims it
16 owns.

17 So how they can be aligned when ITRI says we own these
18 patents, which they don't. And we've already proven they don't
19 through unequivocal assignments to Sino Matrix that disclaimed
20 all contrary agreements or contracts and then a subsequent
21 unconditional assignment to UNMRI from Sino Matrix.

22 But they're trying to say that there is this secret -- and
23 they admit it's secret. And we actually produced a declaration
24 from Mr. Wang in another lawsuit in New Mexico where he
25 literally says all of these agreements are secret. They're

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.