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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BRIGHT DATA, LTD., (CAUSE NO. 2:19-CV-395-JRG)
Plaintiff, ()
vs. ()
TESO, LT UAB, et al (NOVEMBER 5, 2021)
Defendants, (MARSHALL, TEXAS)
(8:00 A.M.)

VOLUME 5

TRIAL ON THE MERITS
BEFORE THE HONORABLE RODNEY GILSTRAP
UNITED STATES CHIEF DISTRICT JUDGE
and a jury

SHAWN M. McROBERTS, RMR, CRR
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1 he walked through a very long claim to prove that.

2 Our burden of proof is met by way more than the feather.
3 We only need the feather, but we've gone well beyond that.
4 They don't even dispute how our system works -- their system
5 works.

6 Invalidity. Now, patents are presumed valid. We start
7 with the premise that the Patent Office did its job. They had
8 a technical person at the Patent Office review and have a lot
9 of back and forth here.

10 I want to show you something. We saw these ribbon copies
11 of the patent, but they only give this to you after they've
12 done a whole review.

13 Now, the other side showed you one paragraph that the
14 Patent Office had back and forth. But maybe you don't know
15 this: When you send -- when you try to get a patent, they
16 scrutinize it. And every time you go back and forth debating
17 what the patent is and whether you really deserve it, there's
18 a piece of paper that goes to the Patent Office. That one
19 paragraph is in this 600-plus page stack of paper that
20 represents all the back and forth that Bright Data went
21 through to make sure that these patents were valid before they
22 got them issued. And there's just as thick a stack for the
23 '510.

24 So they did this process two times. In 2019, they went
25 through a huge process at the Patent Office to make sure that

1 the patents were valid, and in 2020 they did it again. And
2 the Patent Office agreed. That's why their burden is so much
3 higher. It's really -- once that's happened, do you really
4 want to second-guess the work that those people did?

5 You would need a firm belief or conviction or, as Your
6 Honor said, an abiding belief or conviction, that this
7 absolutely is not valid, that the Patent Office messed up
8 twice. Somehow in the 1200 pages of communications, those
9 patent examiners were clueless. And if you don't find that,
10 you have to say no to invalidity in this case.

11 Lack of written description. They say you didn't
12 describe this invention in 2009. We already showed you their
13 documents describing the patent did say they were doing this
14 routing technology. They knew about it. We just proved this
15 to you.

16 Doctor Rhyne was trying to make it easy on you, and he
17 said, look, anybody knows in this time period with this patent
18 specification that you can put a client device in a proxy
19 server in Figure 3. Okay? That's fair.

20 They questioned this. Well, would you really do this?
21 Well, we also cited you text that says in the patent that you
22 would put a proxy server between the client devices. And
23 Doctor Freedman admitted that you would -- that, in fact, a
24 client and an agent are actually the same kind of device in
25 the system in Figure 3. He said that right on the stand.

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