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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

OZMO LICENSING, LLC) Docket No. WA 22-CA-642 ADA
)
vs.) Waco, Texas
)
DELL TECHNOLOGIES, INC.,)
DELL, INC.) June 28, 2023

TRANSCRIPT OF MARKMAN HEARING VIA VIDEOCONFERENCE
BEFORE THE HONORABLE ALAN D. ALBRIGHT

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15:07:57 1 THE COURT: Okeydokey. I am ready to move
15:07:59 2 forward. Give me one quick second. Okay. I'll hear from
15:08:19 3 Dell on this.

15:08:22 4 MR. GUARAGNA: Good afternoon, your Honor.
15:08:23 5 It's John Guaragna from DLA Piper for Dell. With
15:08:26 6 me on the line from DLA are Erin Gibson --

15:08:29 7 THE COURT: Okay. Go ahead. Jen, have you
15:08:32 8 called the case?

15:08:33 9 THE CLERK: No, sir.

15:08:35 10 THE COURT: If you'll go ahead and call the case
15:08:36 11 and I'll have Mr. Guaragna finish, please.

15:08:38 12 THE CLERK: A civil action in Case 6:22-CV-642,
15:08:42 13 Ozmo Licensing, LLC vs. Dell Technologies, Incorporated,
15:08:45 14 Et Al. Case called for a Markman hearing.

15:08:48 15 MR. GUARAGNA: Good afternoon, your Honor.
15:08:49 16 John Guaragna from Dell. John Guaragna from DLA
15:08:54 17 Piper for Dell. With me, I've got Erin Gibson also from
15:08:57 18 DLA Piper.

15:08:58 19 MS. GIBSON: Good afternoon.

15:08:59 20 THE COURT: Good afternoon.

15:09:01 21 MR. GUARAGNA: Also Brian Erickson from DLA, who
15:09:03 22 will be handling part of the argument, your Honor.

15:09:05 23 MR. ERICKSON: Good afternoon.

15:09:06 24 MR. GUARAGNA: And I've got Chris Katsantonis,
15:09:09 25 who is a junior associate here at DLA Piper, and he's

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15:09:12 1 going to be having the privilege of making his first
15:09:14 2 Markman argument before your Honor this afternoon. Also
15:09:17 3 with us, your Honor, from Dell are Dave Kuznick and Bailey
15:09:23 4 Watkins, inhouse counsel, and we're ready to proceed.

15:09:26 5 THE COURT: I think Mr. Erickson has sort of a --
15:09:29 6 almost feel like a -- I feel like it's the second coming
15:09:31 7 with the way the light is emanating from behind him.
15:09:36 8 Maybe there will be a revelation by the end of all this.

15:09:41 9 MR. ERICKSON: It's the proper reflection, your
15:09:43 10 Honor, that bothers me.

15:09:45 11 THE COURT: So the first claim term "wireless
15:09:50 12 local area network" and that's a claim term I'm sure has
15:09:56 13 never been discussed in the history of patent litigation.
15:09:59 14 And so, I will hear from Dell.

15:10:05 15 MR. ERICKSON: Thank you, your Honor. If I may
15:10:07 16 share our screen to display our slides.

15:10:09 17 THE COURT: Sure.

15:10:11 18 MR. ERICKSON: Thank you.

15:10:27 19 Your Honor, defendants' slide 3 provides the
15:10:30 20 constructions related to both the wireless local area
15:10:33 21 network and wireless personal area network terms as well
15:10:38 22 as some fine-tuning proposals from Dell. Now, the parties
15:10:42 23 briefed these terms together because the key dispute under
15:10:46 24 02 Micro is the difference between them and just when your
15:10:51 25 Honor directed us to address the first term, if may I,

15:10:54 1 because this is how they were briefed, if it's okay if we
15:10:56 2 address them together in this presentation, as well.

15:10:58 3 THE COURT: Sure.

15:11:00 4 MR. ERICKSON: Okay. Thank you, your Honor.

15:11:01 5 So defendants propose that these terms be
15:11:06 6 construed to include the numerical coverage ranges that
15:11:09 7 are found in the definitions in the intrinsic record and
15:11:11 8 the ordinary meaning of these terms. The Court's
15:11:13 9 preliminary constructions that are shown here in the
15:11:16 10 middle with Ozmo's proposals do not include the numerical
15:11:20 11 ranges proposed by Dell. The Court did preliminarily
15:11:23 12 construe wireless personal area network as a short-range
15:11:28 13 wireless network. But the Court did not construe wireless
15:11:31 14 local area network and the lack of a construction leaves
15:11:35 15 unresolved the key dispute between the parties.
15:11:38 16 Specifically, whether these networks have different
15:11:41 17 coverage ranges.

15:11:42 18 Now, based on the briefing and all of the
15:11:44 19 evidence, including the declaration of Ozmo's own experts,
15:11:48 20 which we will discuss in a moment, it appears to be
15:11:51 21 undisputed that a wireless local area network is a
15:11:56 22 longer-range wireless network relative to a wireless
15:11:59 23 personal area network. Thus, while Dell still contends
15:12:02 24 that the numerical ranges should be used in the Court's
15:12:05 25 construction, Dell has proposed a fine-tuning to the

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15:12:09 1 Court's preliminary construction of local area network to
15:12:12 2 make clear that it is a longer-range wireless network.

15:12:18 3 There's a second proposed tuning on slide 3
15:12:20 4 related to the personal area network term, which is to
15:12:24 5 delete the phrase "usable to connect peripherals to
15:12:27 6 devices in close proximity." I'll circle back to address
15:12:31 7 that one at the end of my remarks.

15:12:34 8 Moving to slide 4, your Honor, this illustrates
15:12:38 9 figure 1 from the 814 patent. There are six patents
15:12:42 10 asserted in this litigation. They all share a common
15:12:46 11 specification so the parties cite only to the 814 patent,
15:12:51 12 but you should have the understanding that this is common
15:12:54 13 to all six of the patents-in-suit.

15:12:58 14 Now, figure 1 is addressing the background of the
15:13:00 15 invention and in the background, they explain there are
15:13:03 16 many different wireless networks known in the art.
15:13:05 17 They're all standardized. You see the standards on the
15:13:08 18 left here. And they note that they can be grouped based
15:13:11 19 on targeted range. They explain that personal area
15:13:16 20 network is the shortest. It can go up to 10 meters, which
15:13:20 21 is 30 feet. Wireless local area network can go up to a
15:13:24 22 hundred meters, 300 feet. And then, you have metropolitan
15:13:28 23 area and wide area that can be measured in kilometers.

15:13:31 24 So the industry created these terms solely to
15:13:37 25 describe the different size areas covered by these

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