EXHIBIT 1

1

1   IN THE UNITED STATES DISTRICT COURT
          FOR THE EASTERN DISTRICT OF TEXAS
2   TYLER DIVISION

3
   VIRNETX, INC.   )
4   DOCKET NO. 6:10cv417
       -vs-   )
5   Tyler, Texas
)   8:23 a.m.
6 APPLE, INC.   November 2, 2012

7

8   TRANSCRIPT OF TRIAL
                     MORNING SESSION
9   BEFORE THE HONORABLE LEONARD DAVIS,
     UNITED STATES CHIEF DISTRICT JUDGE, AND A JURY
10

11

12   A P P E A R A N C E S

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14 FOR THE PLAINTIFFS:

15
   MR. DOUGLAS CAWLEY
16 MR. BRADLEY W. CALDWELL
   MR. JASON D. CASSADY
17 MR. JOHN AUSTIN CURRY
   McKOOL SMITH
18 300 Crescent Court, Ste. 1500
   Dallas, TX 75201
19

20

21 COURT REPORTERS: MS. JUDITH WERLINGER
                          MS. SHEA SLOAN
22   shea_sloan@txed.uscourts.gov

23

24 Proceedings taken by Machine Stenotype; transcript was
   produced by a Computer.
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36

1   ANSWER: It seems very fair to me.

2   Why -- why would -- why should I do that?

3 Regardless of whether I should or shouldn't, that is

4 absolutely true; I have not looked at any of the VirnetX

5 patents.

6   QUESTION: You were one of the primary

7 developers of the FaceTime functionality; is that right?

8   ANSWER: That's correct. I was one of

9 the primary developers of FaceTime.

10   (End of video clip.)

11   MR. CASSADY: That concludes the

12 depositions, Your Honor.

13   THE COURT: All right. Who will be your

14 next witness?

15   MR. CAWLEY: Thank you, Your Honor. At

16 this time, VirnetX will call to the stand Patrick Gates.

17   THE COURT: Mr. Gates.

18   PATRICK GATES, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

19   DIRECT EXAMINATION

20 BY MR. CAWLEY:

21   Q.   Good morning, Mr. Gates.

22   A.   Good morning. Thank you.

23   Q.   Are you Apple's representative at this trial?

24   A.   Yes, sir. That's correct.

25   Q.   That's why you've been sitting at the table

37

1   throughout the whole trial, right?

2   A.   That's right.

3   Q.   Who chose you to be at the trial?

4   A.   Actually, I don't know who made that decision.

5   I was approached to come here by our counsel in this

6   case, but I don't know who originally had the idea of me

7   having to do that.

8   Q.   So a lawyer approached you and asked you to be

9   here?

10   A.   Yes, sir.

11   Q.   But you don't know who it was at Apple that

12 made the decision that you're the one who -- who should

13 get that duty?

14   A.   That's correct.

15   Q.   Okay. Where do you live?

16   A.   I live in San Francisco, California.

17   Q.   Well, welcome to Texas.

18   A.   Thank you.

19   Q.   Now, it's not convenient for Apple to bring

20 witnesses to the Eastern District of Texas for a patent

21 infringement trial, is it?

22   A.   Well, when you say convenient, Texas is not

23 that far. It's a pretty short flight, so it's not a

24 huge deal. You know, at the same time, I think we have

25 a lot of people that are working on products; and we

38

1   would like to focus on those products. And there's

2   definitely a time tradeoff.

3   Q.   Do you remember when your deposition was

4   taken?

5   A.   Yes, sir.

6   Q.   And do you remember when you were asked this

7   question at your deposition?

8   A.   Sorry. Which question, whether it's

9   inconvenient to --

10   Q.   Yes, sir.

11   A.   I -- I think I remember that question.

12   Q.   Let me refresh your recollection. I'm

13   going -- I'm going to take a look at Page 35, Line 24

14   through 36, Line 4 of your deposition.

15   MR. CAWLEY: This is Clip 1. Can you

16   play Clip 1?

17   (Video clip playing.)

18   QUESTION: Is it inconvenient for Apple

19   to go to the Eastern District of Texas for a patent

20   infringement trial?

21   ANSWER: I don't think it's any less

22   convenient than any other place we go.

23   (End of video clip.)

24   Q.   (By Mr. Cawley) Is that the answer you gave in

25   your deposition, Mr. Gates?

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