

Exhibit 3

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANCORA TECHNOLOGIES, INC.,)	
)	
PLAINTIFF,)	NO. C-15-3659 YGR
)	
VS.)	TUESDAY, MARCH 8, 2016
)	
APPLE, INC.,)	OAKLAND, CALIFORNIA
)	
)	MOTION FOR JUDGMENT
)	ON THE PLEADINGS
DEFENDANT.)	
_____)	

BEFORE THE HONORABLE YVONNE GONZALEZ ROGERS, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFF:

BROOKS KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MISSOURI 48085

BY: JOHN S. LEROY, ESQUIRE
MARK A. JOTANOVIC, ESQUIRE

ALSO PRESENT:

MIKI MULLOR, INVENTOR

FOR DEFENDANT:

MORRISON & FOERSTER
425 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94105

BY: RICHARD S. HUNG, ESQUIRE
CHRISTOPHER F. JEU,, ESQUIRE

REPORTED BY:

DIANE E. SKILLMAN, CSR 4909, RPR, FCRR
OFFICIAL COURT REPORTER

TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

1 TUESDAY, MARCH 8, 2016

3:22 P.M.

2 P R O C E E D I N G S

3 **THE CLERK:** CALLING CIVIL ACTION 15-3659 ANCORA
4 TECHNOLOGIES VERSUS APPLE.

5 COUNSEL, PLEASE STATE YOUR APPEARANCES.

6 **MR. LEROY:** GOOD AFTERNOON, YOUR HONOR. JOHN LEROY
7 FROM BROOKS KUSHMAN ON BEHALF OF THE PLAINTIFF ANCORA.

8 **MR. JOTANOVIC:** MARK --

9 **THE COURT:** I CAN'T HEAR A WORD YOU'RE SAYING.

10 **MR. JOTANOVIC:** I APOLOGIZE, YOUR HONOR. MARK
11 JOTANOVIC ON BEHALF OF ANCORA.

12 **MR. LEROY:** WE ALSO HAVE WITH US TODAY MIKI MULLOR,
13 THE INVENTOR OF THE PATENT-IN-SUIT.

14 **THE COURT:** OKAY.

15 **MR. HUNG:** GOOD AFTERNOON, YOUR HONOR. RICHARD HUNG
16 OF MORRISON & FOERSTER FOR APPLE.

17 WITH ME TODAY IS CHRISTOPHER JEU ALSO WITH MORRISON &
18 FOERSTER.

19 **THE COURT:** OKAY. GOOD AFTERNOON, GENTLEMEN.

20 SO AS I THINK YOU HEARD IN MY LAST TWO CASES, I HAVE BEEN
21 VERY DIRECTED IN MY ORAL ARGUMENT. I'M GOING TO BE LESS SO
22 WITH YOURS, AND THAT IS BECAUSE I AM -- I THINK THIS IS A
23 CLOSE CALL, FRANKLY.

24 I, YOU KNOW, IN A POST-ALICE WORLD, THESE KINDS OF PATENTS
25 ARE FRANKLY MUCH LESS COMPELLING THAN THEY USED TO BE. THIS

1 PARTICULAR PATENT, FOR ME, GOES BACK A LONG WAY. I THINK IT
2 WAS THE FIRST PATENT CASE THAT I THINK I MAY HAVE GOTTEN,
3 CERTAINLY THE ONE I THOUGHT ABOUT THE MOST IN TERMS OF THAT
4 CLAIM CONSTRUCTION AND WHAT THE WORD "PROGRAM" MEANT. THE
5 FEDERAL CIRCUIT DIDN'T AGREE WITH ME, BUT ALICE HAS CHANGED
6 THE LANDSCAPE. SO PLAINTIFF'S RELIANCE ON PRE-ALICE DECISIONS
7 ON PATENT OFFICE COMMENTS REALLY CARRY MUCH LESS WEIGHT.

8 SO I WILL HEAR FROM YOU FOR A MOMENT. I'LL GIVE YOU A FEW
9 MINUTES, UNLIKE I DID NOT GIVE THE OTHER LAWYERS THAT YOU
10 LISTENED TO MUCH TIME BECAUSE AS YOU COULD TELL, FRANKLY, IN
11 THE LAST ONE, IF YOU LET LAWYERS GO, THEY JUST KEEP GOING ON
12 AND ON AND ON AND ON.

13 BUT I WILL TELL YOU THAT, THAT I THINK IT IS A CLOSE CALL.
14 AND AS A CONSEQUENCE, I DON'T KNOW -- YOU KNOW, I'LL GET AN
15 ORDER OUT HERE SHORTLY. BECAUSE AS I SAID, I'M TRYING TO
16 CLEAR MY DECKS. AND I SUSPECT THAT WHOEVER I RULE IN -- THE
17 ONE WHO DOESN'T -- WELL, IF I GRANT THE MOTION, THEN I
18 SUSPECT, AS WITH THE LAST CASE, THE PLAINTIFFS WILL TAKE ME UP
19 TO THE FEDERAL CIRCUIT. AND IF I DENY IT, THEN THE CASE WILL
20 GO ON.

21 I AM CURIOUS, AND MAYBE YOU CAN TELL ME AT THE END,
22 WHETHER YOU HAVE AT ALL ATTEMPTED TO RESOLVE THIS CASE.

23 **MR. LEROY:** WE HAVE.

24 **MR. HUNG:** INCLUDING RECENTLY.

25 **THE COURT:** BUT I DON'T KNOW, PERHAPS IT HELPS TO

1 KNOW THAT I THINK IT'S A CLOSE CALL.

2 **MR. LEROY:** IT DOES HELP, YOUR HONOR. AND I WOULD
3 LIKE TO HELP YOU NAVIGATE THROUGH THESE OPINIONS, BUT BE VERY
4 SPECIFIC. BECAUSE WHAT I THINK IS ABSENT, PERHAPS, IN THE
5 BRIEFING ARE THE SPECIFICS.

6 *ALICE* TELLS US, JUST LIKE INFRINGEMENT AND INVALIDITY, THE
7 ANALYSIS IS BASED ON THE CLAIMS. IT'S NOT BASED ON ATTORNEY
8 ABSTRACTIONS. HERE, THE CLAIM DOES SOMETHING VERY SPECIFIC IN
9 COMPUTER HARDWARE THAT THE PATENT OFFICE EXPRESSLY TOLD US
10 HADN'T BEEN DONE BEFORE.

11 AND, YOUR HONOR, IT IS A DIFFERENT LANDSCAPE. I HAVE READ
12 YOUR HONOR'S OPINIONS ON, YOU KNOW, *POST-ALICE*. WE CITE THE
13 PTO AND THE OTHER MATERIALS BECAUSE THEY ARE THOUGHTFUL, NOT
14 BECAUSE -- WE SAID THEY ARE NOT BINDING. WE UNDERSTAND THAT.
15 BUT THERE WAS AN EXAMPLE PERTAINING TO BIOS.

16 BUT IF I MAY TALK A LITTLE BIT ABOUT THE INVENTION
17 SPECIFICALLY --

18 **THE COURT:** WELL, LET'S -- I HAVE TO -- AND I WILL
19 SAY THAT THE ONE THING THAT I DID WHEN I STARTED READING YOUR
20 OPPOSITION BRIEF IS I STRUCK ALMOST THE WHOLE FIRST PAGE.

21 IN THE NORTHERN DISTRICT, WE DO TUTORIALS WITH THE EXPRESS
22 UNDERSTANDING THAT THEY ARE NOT TO BE USED. AND CITING THE
23 TUTORIAL TRANSCRIPT AND ATTACHING IT TO YOUR OPPOSITION WAS
24 ENTIRELY INAPPROPRIATE. ENTIRELY INAPPROPRIATE. SO I LOOKED
25 FOR THE NEXT CITE, AND THAT'S WHEN I STARTED READING. IT IS

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