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

 3    ANCORA TECHNOLOGIES, INC.      *
                                     *
 4    VS.                            *         February 7, 2020
                                     *
 5    LG ELECTRONICS, INC., ET AL    *
                                     *   CIVIL ACTION NO. AU-20-CV-34
 6    SAMSUNG ELECTRONICS CO., LTD, *
         ET AL                       *

 7
            BEFORE THE HONORABLE ALAN D ALBRIGHT, JUDGE PRESIDING
 8                     TELEPHONIC DISCOVERY HEARING

 9    APPEARANCES:

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                                Waco, Texas 76702-0994
25         Proceedings recorded by mechanical stenography, transcript
      produced by computer-aided transcription.
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03:00 1   (February 7, 2020, 3:00 p.m.)

03:00 2   THE COURT: Good morning. It's Alan Albright.

03:00 3   MS. MILES: Hi, Judge. It's Suzanne.

03:00 4   MR. AINSWORTH: Hello, Judge Albright.

03:00 5   THE COURT: Good afternoon.

03:00 6   MR. AINSWORTH: This is Charley Ainsworth and Andres Healy

03:00 7   for the plaintiff Ancora.

03:00 8   THE COURT: Good afternoon.

03:00 9   MR. FRISCH: Good afternoon. You have Jared Frisch of

03:01 10 Covington & Burling for defendant Samsung.

03:01 11   THE COURT: Okay. Anyone else that is going to be

03:01 12 talking?

03:01 13   MS. CHIAVIELLO: Good afternoon, Your Honor. This is

03:01 14 Elizabeth Chiaviello from Morgan Lewis on behalf of LG.

03:01 15   THE COURT: Okay. Good afternoon to you.

03:01 16   Anyone else?

03:01 17   Okay. I'm not sure why I'm here, but I'm happy to help.

03:01 18 Whoever is going to start, please feel free to go.

03:01 19   MR. HEALY: Thank you, Your Honor. This is Andres Healy

03:01 20 of Susman Godfrey on behalf of the plaintiffs. I'm happy to

03:01 21 report that we reached agreement with defendant on all but one

03:01 22 issue, and that one issue is what we're hoping to get Your

03:01 23 Honor's guidance on today.

03:01 24   THE COURT: Okay.

03:01 25   MR. HEALY: The issue is that the number of pages of

03:01 1 source code that plaintiffs -- I guess either parties would be

03:01 2 entitled --

03:01 3   THE COURT: Okay.

       4   MR. HEALY: And I apologize. I'm getting a little bit of

       5 feedback. So hopefully Your Honor can hear me.

       6   THE REPORTER: This is Kristie. I'm having a hard time

       7 hearing you. I'm the court reporter.

       8   (Brief off-the-record discussion.)

03:02 9   MR. HEALY: Your Honor, plaintiff's position on the sole

03:02 10 issue in dispute is simple. We have received from Mr. Albright

03:02 11 what we understand to be the Court's model protective order or

03:02 12 default protective order, and plaintiff's preference is to

03:02 13 stick to the Court's default. That provides that we are

03:03 14 entitled, or I guess any party is entitled to 250 pages -- to

03:03 15 print 250 pages per accused architecture. That's what we'd

03:03 16 prefer to stick with. Defendant's position is they'd like to

03:03 17 change that language and instead limit plaintiffs to 250 pages

03:03 18 per chip set vendor.

03:03 19   So what that effectively means is that, if of the hundreds

03:03 20 of products at issue in this case, if they're all, for example,

03:03 21 equipped with a Qualcomm chip set, that we would be limited to

03:03 22 250 pages of printed code across all those products regardless

03:03 23 of whether they actually include different code, different

03:03 24 functionality or entirely different products.

03:03 25   And so just very simply, Your Honor, we have two reasons

03:03 1   why we ask the Court to reject defendants' request to depart

03:03 2   from the default. Number one, as plaintiffs have explained to

03:03 3   defendant, we understand the Court's limit of per accused

03:04 4   architecture to take into account the fact that different

03:04 5   products have different codes. As a result, we've told them,

03:04 6   look. If two or three or a hundred products all have the same

03:04 7   relevant code, we understand that the Court's default limits us

03:04 8   to 250 pages across all those products because they share the

03:04 9   same relevant architecture and code. We have no issue with

03:04 10 that. Frankly, we hope that's the case. If all the code is

03:04 11 the same, that makes our job a lot easier, and we frankly have

03:04 12 no interest in reviewing, much less printing duplicative code.

03:04 13   But defendants have told us that the code is likely not

03:04 14 the same, that different products and different chip sets may

03:04 15 have different code. And that leads me to number two, Your

03:04 16 Honor, is defendants also told us that the code is going to be

03:04 17 the best source of proof in this case. In fact, Samsung's

03:04 18 counsel told us during the meet and confer process that there's

03:05 19 not a whole lot of technical documents that go into the details

03:05 20 of the functionality at issue and that they think that we're

03:05 21 going to have to get those details from the code.

03:05 22   So to limit us to 250 pages of code across so many

03:05 23 different products, so many different chip sets seems to us to

03:05 24 be an unreasonable limitation, and we prefer to remain with

03:05 25 what the Court has established as a -- rule.

03:05 1   Unless the Court has any questions, that's my -- I'm done

03:05 2 for now, Your Honor.

03:05 3   THE COURT: Okie-dokie.

03:05 4   MR. FRISCH: Your Honor, if I may, this is Jared Frisch

03:05 5 from Covington for defendant Samsung.

03:05 6   THE COURT: Yes, sir.

03:05 7   MR. FRISCH: Yes. So to just address a few of those

03:05 8 points, you know, we do think there is going to be, you know,

03:05 9 source code that needs to be produced, and we do think that

03:05 10 it's going to be relevant to the accusations that plaintiffs

03:06 11 have made.

03:06 12   The issues that we see, Your Honor, with the language that

03:06 13 Ancora is asking for is that in the present context, we think

03:06 14 of that kind of giving Ancora free reign and the real upper

03:06 15 limit on the amount of code that's going to be printed. And

03:06 16 what we would like in the present instance is just some sort of

03:06 17 clarity on the presumptive limit for the time being.

03:06 18   Now, as we have said to Ancora a few times in meet and

03:06 19 confers, we'd be happy, you know, after they've reviewed the

03:06 20 code to discuss any reasonable increases in the number of pages

03:06 21 that would be necessary. But we're not sure right now what's

03:06 22 really being staged as the number of accused architectures.

03:06 23   As Mr. Healy, I think, stated, there's hundreds of accused

03:06 24 products in these cases, the two cases. In the infringement

03:06 25 contentions we've only received charts -- you know, one set of

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