

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

4 ANCORA TECHNOLOGIES, INC. *

*

5 VS. *

July 7, 2020

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6 LG ELECTRONICS, INC., ET AL *

*

CIVIL ACTION NO. AU-20-CV-34

7 SAMSUNG ELECTRONICS CO., LTD, *

*

ET AL

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

10 APPEARANCES:

11 For the Plaintiff:

Charles L. Ainsworth, Esq.
 Robert Christopher Bunt, Esq.
 Parker, Bunt & Ainsworth, P.C.
 100 East Ferguson, Suite 418
 Tyler, TX 75702

Andres Healy, Esq.
 Susman Godfrey L.L.P.
 1201 Third Avenue, Suite 3800
 Seattle, WA 98101

13 For Defendant LG:

Elizabeth M. Chiaviello, Esq.
 Winstol D. Carter, Jr., Esq.
 Thomas R Davis, Esq.
 Morgan Lewis and Bockius LLP
 1000 Louisiana Street, Suite 4000
 Houston, TX 77002

Collin W. Park, Esq.
 Morgan Lewis & Bockius, LLP
 1111 Pennsylvania Ave., N.W.
 Washington, DC 20004-2541

14 For Defendant Samsung:

Anupam Sharma, Esq.
 Covington & Burling LLP
 3000 El Camino Real
 5 Palo Alto Square, 10th Floor
 Palo Alto, CA 94306

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Eric T. O'Brien, Esq.
Covington & Durling LLP
850 Tenth Street, NW, One City Center
Washington, DC 20001-4956

Melissa Richards Smith, Esq.
Gillam & Smith, LLP
303 South Washington Avenue
Marshall, TX 75670

Court Reporter:

Kristie M. Davis
United States District Court
PO Box 20994
Waco, Texas 76702-0994

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1 (July 7, 2020, 2:01 p.m.)

2 MS. MILES: Telephonic discovery hearing in Civil Action
3 1:20-CV-34, styled Ancora Technologies, Incorporated versus LG
4 Electronics, Incorporated and others.

5 THE COURT: If I could hear from counsel for plaintiff
6 first and then counsel for defendants, and then we'll take up
7 the issues that brought us together.

8 MR. HEALY: Thank you, Your Honor. This is Mr. Healy on
9 behalf of the plaintiff. I believe Charley Ainsworth is also
10 on the line.

11 THE COURT: Okay.

12 MR. BUNT: This is also Chris Bunt, Your Honor, on for
13 Ancora as well.

14 THE COURT: Very good. Thank you, sir.

15 MR. DAVIS: And, Your Honor, this is Tom Davis for Morgan
16 Lewis for LG. On the line also are Elizabeth Chiaviello,
17 Collin Park and Win Carter.

18 THE COURT: Very good. I have gone through -- and Josh is
19 sitting here with me to try and help me get through this. I've
20 gone through the e-mails and I know you guys have worked pretty
21 hard to get this resolved. I'm glad for that and I'm glad that
22 you've come to me, and hopefully we'll get through this today.
23 I'm not sure exactly which side would be best starting off
24 telling me what needs to be done. So I'll allow you all to
25 decide who should go first and we'll just work our way through

1 trying to get this source code produced.

2 MR. HEALY: Yes, Your Honor. This is Mr. Healy. I'm
3 happy to start if Your Honor desires.

4 THE COURT: Fine.

5 MR. HEALY: Okay. So two issues today, Your Honor.
6 Number one, as you may recall at the last hearing on June 17th,
7 one of the issues we raised with the Court was that during our
8 first code review, which started in May, we had told LG that
9 there were a number of missing code modules. In particular of
10 concern to us were the code associated with what's called a CU
11 or C update API and the update center functionality. To make a
12 long story short, rather than producing the source code for
13 these modules, LG appears to have perhaps inadvertently
14 produced the programs themselves. Given that we've been unable
15 to get sort of a direct answer from LG as to when that code
16 would be made available, we raised that issue with the Court,
17 and in response the Court directed LG to let us know by the
18 following Monday whether LG actually had that code, which was a
19 bit of a question mark at that point, and if so, when it would
20 be made available.

21 The following Monday LG responded, and that's Exhibit 1 at
22 Pages 3 through 4, and what LG told us was that it did have the
23 code but then said that it would be too burdensome to collect
24 and produce that code, and instead LG proposed to load onto the
25 source code computer something called a decompiler so that,

1 according to LG, our expert could decompile the relevant
2 programs into source code.

3 I'll have to admit, Your Honor, that I did not know what a
4 decompiler was or what was entailed, so I reached out to my
5 experts to sort of get the scoop as to what -- if that was a
6 viable option. They explained to me that basically decompiling
7 takes an executable program and a table to successfully
8 decompile it, basically breaks it down and translates it back
9 into source code. So I thought, well, maybe this is a viable
10 option.

11 My experts further explained to me, however, that
12 decompiling has some fairly significant drawbacks. Number one,
13 and I think most importantly for our discussion today, the
14 decompiler that LG proposed to use does not work with code
15 written in C or C plus plus, and it's -- according to my
16 expert, the modules we are interested in, the two in
17 particular, are written in C or C plus plus. So in short, it
18 won't work with -- for the very purpose we're asking for it
19 for.

20 Number two, my experts told me that decompiled code won't
21 include any of the programming comments that source code
22 normally includes which are helpful to understand how the code
23 works. Decompiled code also is known to exclude something
24 called variable names which my expert explained was also
25 problematic.

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