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UNITED STATES DI	STRICT COURT	
DISTRICT OF	MINNESOTA	
Timebase Pty, Ltd.,		
Plaintiff,		
vs.	Case No. 07-1687	
The Thomson Corporation,		
Defendant.		
THE HONORABLE JE	ANNE J. GRAHAM	
United States Ma	gistrate Judge	
* *	*	
TRANSCRIPT OF	PROCEEDINGS	
* *	*	
	Date: June 28, 1997	
	Reporter: Leslie Pingley	

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Exhibit 3 Dockets.Justia.com

1 2 3	Page 2		Page 4
2			
	APPEARANCES	1	MR. LITSEY: Good morning, Your
2		2	Honor. Calvin Litsey from Faegre & Benson and
		3	with me at counsel table is Ms. Wright, also from
4	MR. MICHAEL R. CUNNINGHAM, Attorney at	4	Faegre & Benson and Mark Stignani from the
5	Law, 80 South Eighth Street, Suite 500, Minneapolis,	5	Thomson Corporation.
6	Minnesota 55402 appeared on behalf of named Plaintiff.	6	THE COURT: All right. Great. Good
7		7	morning. Well, defendant's motion so you may
8		8	come to the podium first.
9	MR. JOSEPH N. HOSTENY, Attorney at Law,	9	MR. LITSEY: Thank you, Your Honor.
10	181 West Madison Street, Suite 4600, Chicago, Illinois	10	May it please the Court and counsel, as stated in
11	60602 appeared on behalf of named Plaintiff.	11	our papers, Your Honor, this is really a textbook
12		12	case for scheduling a stay of these proceedings
13		13	in accordance with well-established practice in
14	MR. CALVIN L. LITSEY and MS. ELIZABETH C.	14	this District.
15	WRIGHT, Attorneys at Law, 90 South Seventh Street,	15	We're here at the outset of the case.
16	Suite 2200, Minneapolis, Minnesota 55402 appeared on	16	There's been a reexamination filed by a third
17	behalf of named Defendant.	17	party with respect to the patent in suit on new
18		18	prior art and the patent office has determined
19		19	that that prior art presents a substantial
20	Also present: Mark Stignani, Thomson Corporation	20	question of patentability for this patent that's
21		21	being asserted.
22		22	As the plaintiff acknowledges this prior
23		23	art also happens to have been art that was relied
24		24	on in corresponding European proceedings that
25		25	have served for the basis of rejecting claims
	Page 3		Page 5
1	PROCEEDINGS	1	that are virtually identical to the ones being
2		2	asserted here.
3	(NO REPORTER WAS PRESENT - The following	3	The recent decisions we cited from Judge
4	transcript was prepared from a COPY of the	4	Ericksen, Judge Davis and Magistrate Judge Nelson
5	original court tape)	5	really, I think, provide the framework for what
6		6	should be followed here and it's not only that
	THE COURT: All right. This is the	7	those cases really establish the model in this
7	matter of Timebase, Ltd. vs. The Thomson		those cases really establish the model in this
7 8	matter of finebase, Ltu. vs. the filomson	8	District for how to stand how to handle
	Corporation and the Civil File No. is 07-1687.	8	
8			District for how to stand how to handle scheduling stays under these circumstances, but
8 9	Corporation and the Civil File No. is 07-1687.	9	District for how to stand how to handle scheduling stays under these circumstances, but they are really thoughtful opinions that I think
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25 own reexam proceeding nor did it order a 25 In fact, if you look at the language from				1 0
	25	own reexam proceeding nor did it order a	25	In fact, if you look at the language from

4 (Pages 10 to 13)

Page 14		Page 16
that quote that I just read where it talks about	1	The patent deals with electronic
the patent holder being permitted to challenge	2	publishing. Basically you take pieces or
patents both in the patent and trademark office	3	portions of text and then portions of that text
and in the District Court it's exactly the	4	that are amended, store them in a database and
observation that Judge Ericksen made when the two	5	link them in some fairly unobvious way so that
bites at the apple argument was made in the Vdata	6	you can explore the history of a written document
case. She said, no, that's exactly what Congress	7	as it may have existed a good deal of time in the
intended. And of course we're not even	8	past. For example, how a statute might have been
attempting to do that here. This is a third	9	amended, how a particular statute was amended in
party reexamination in any event.	10	a particular year, whether a particular statute
In short, Your Honor, as a matter of case	11	was amended with respect to certain wording in a
management, there's really no dispute that the	12	section and it gives you the ability the
factors employed in this District for scheduling	13	patent gives examples of legislation, but it
a stay are overwhelmingly in favor of granting	14	applies not only to legislation but also to
the motion. This is really, again, a classic	15	technical documents, medical literature and the
textbook case in which the courts can manage the	16	like. It's a useful invention.
case by staying the proceedings and allowing what	17	I am not certain where the defendants
is happening in the patent and trademark office	18	have gotten some of the ideas they have about
to run it's course, especially here where it's	19	what we supposedly asked them for. My partner,
clear there's no prejudice to the plaintiff from	20	Art, had a conversation, I believe it was with
doing it. It gets it's remedy at the end of the	21	Mr. Litsey when the question came up whether we
day. We're at the very early stages of	22	would agree to a stay and we made three
litigation. No discovery has been conducted and	23	suggestions.
we're here. There's been a substantial question	24	One, we said, look, if Thomson, and you
raised about the validity of this patent that	25	have to keep in mind that representatives of

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1 1 will be addressed in those proceedings. Thomson or some of it's subsidiaries and 2 Once that proceeding runs it's course, 2 representatives of Timebase negotiated a number 3 then we will either be back here in front of the 3 of years ago in an effort to reach an agreement 4 4 Court and litigating this case or we'll be back concerning this 592 patent. They were unable to 5 here with a substantially different patent and so 5 do so. One of the things that Timebase did was б therefore it makes sense to wait and manage this 6 provide a standstill period so that the people 7 7 case and just stay the proceedings until that -they were negotiating with at Thomson would have 8 8 until the PTO has finished it's work in those the opportunity to go and investigate the patent, 9 9 proceedings initiated by a third party. so we believe that Thomson or it's subsidiaries 10 10 THE COURT: Okay. Thank you. have investigated the patent. I believe 11 11 MR. LITSEY: Thank you. Mr. Stignani who is here today was involved in 12 12 THE COURT: And response? some of those negotiations. I was not. 13 MR. HOSTENY: Thank you, Your Honor. 13 So we made three suggestions. We said, 14 Joe Hosteny on behalf of Timebase. 14 look, if you are going to do a reexamination, if 15 15 A little bit of background. Timebase is you have any inclination to do a reexamination, 16 16 do it quickly. We know this other one is out a small company. It is an Australian company. 17 In fact, it's gone through some changes because 17 there filed by an attorney in Connecticut on 18 the original inventors of the technology left, 18 behalf of some anonymous third party. We don't 19 19 encountering some financial difficulties and the know who it is. So we suggested first do a 20 20 patent is now in different hands. reexamination quickly so we don't have a double 21 21 The investors in Timebase are not simply length stay. And I will get to it in a moment. 22 22 people interested in making money on a patent. The stays can be extremely long and that's one of 23 23 They are pension funds and this is an investment Timebase's concerns and that was why it suggested 24 24 by those pension funds or what they call to Thomson if you want to do a reexamination do 25 Superannuation funds in Australia. 25 it now or do it very, very soon.

5 (Pages 14 to 17)

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1	The second thing we suggested was let's	1	and the motion for a stay did not address any of
2	make that reexamination have the maximum benefit	2	those three points and that's why our response
3	and let's do it in a way that minimizes the	3	lays them out and that's why our response says we
4	prejudice to Timebase and the waste of everyone's	4	don't like a stay. I don't want a stay because I
5	time after a reexamination is over.	5	have seen stays go on for, in my personal
6	More specifically we said, and you know I	6	experience, five years. I have seen a stay go on
7	will quote just as Mr. Litsey will quote, all of	7	in a case in my office for seven years. I've
8	those court decisions extolling the benefits of	8	seen a stay go on in a case in my office for
9	reexamination. The benefits are get the expert	9	three years, so they are not all 19 months.
10	involved. He's a neutral expert. It's a patent	10	That's one of the problems.
11	examiner, let that person take a look. Then the	11	I realize you have to make a decision
12	Court's time is saved. The party's time is saved	12	based on the statistical data, but that's why
13	and money is not wasted relitigating issues.	13	stays scare plaintiffs and patent owners because
14	We said that's fine. Here's a way to do	14	they can be so, so long and so that's the basis
15	that. Let's have that reexamination considered	15	of the conditions we suggested and that's why we
16	not only what this anonymous third party has put	16	came here and we said we're not necessarily
17	in to play, but also anything that you, the	17	opposing a stay, but we do think and we cited, I
18	defendants, have that you would like to put in to	18	think it's the Landis case, stays are not
19	play that fall within the scope of reexamination,	19	automatic. Stays in litigation are not
20	not all prior art, but patents and printed	20	automatic. They are a discretionary decision of
21	publications. We said if you presently possess.	21	a Court when it weighs the factors that applies
22	We didn't ask anybody to go dig up anything,	22	to both sides and looks at the potential up and
23	although frankly I think they are probably very	23	downside or prejudice to both sides and I think
24	busy digging up things right now. We said	24	if we're going to have a reexamination it's
25	anything that it presently possessed should be	25	reasonable for Thomson to give us any prior art,
	Page 19		Page 21
1	put into that reexamination so it could be	1	not any prior art I should say, any patents or
2	considered as well.	2	printed publications in it's possession now so
3	This is computer technology. It's	3	that those can go into the reexamination.
4	database technology. It deals with markup	4	I think it's also reasonable while this
5	languages and I think it would be a shame to go	5	case is on the Court's docket that Thomson has a
6	through a reexamination to resolve three	6	noried of time in which to file it's own
			period of time in which to file it's own
7	documents only to get to the end of that	7	reexamination request or should not do so.
8	reexamination and have Thomson tells us that here	8	reexamination request or should not do so. On the last condition, it was something
8 9	reexamination and have Thomson tells us that here is three more documents, three more publications,	8 9	reexamination request or should not do so. On the last condition, it was something we asked them to do. I am not even asking the
8 9 10	reexamination and have Thomson tells us that here is three more documents, three more publications, three more patents or in the cases of what I have	8 9 10	reexamination request or should not do so. On the last condition, it was something we asked them to do. I am not even asking the Court to impose that condition. I simply will
8 9 10 11	reexamination and have Thomson tells us that here is three more documents, three more publications, three more patents or in the cases of what I have seen some defendants do, scores of patents and	8 9 10 11	reexamination request or should not do so. On the last condition, it was something we asked them to do. I am not even asking the Court to impose that condition. I simply will say that if we're all here some day down the road
8 9 10 11 12	reexamination and have Thomson tells us that here is three more documents, three more publications, three more patents or in the cases of what I have seen some defendants do, scores of patents and publications. Let's get them into the	8 9 10 11 12	reexamination request or should not do so. On the last condition, it was something we asked them to do. I am not even asking the Court to impose that condition. I simply will say that if we're all here some day down the road after a reexamination and we're all looking at a
8 9 10 11 12 13	reexamination and have Thomson tells us that here is three more documents, three more publications, three more patents or in the cases of what I have seen some defendants do, scores of patents and publications. Let's get them into the reexamination now. That benefits everyone.	8 9 10 11 12 13	reexamination request or should not do so. On the last condition, it was something we asked them to do. I am not even asking the Court to impose that condition. I simply will say that if we're all here some day down the road after a reexamination and we're all looking at a piece of literature considered by the patent
8 9 10 11 12 13 14	reexamination and have Thomson tells us that here is three more documents, three more publications, three more patents or in the cases of what I have seen some defendants do, scores of patents and publications. Let's get them into the reexamination now. That benefits everyone. The last point was, and this is something	8 9 10 11 12 13 14	reexamination request or should not do so. On the last condition, it was something we asked them to do. I am not even asking the Court to impose that condition. I simply will say that if we're all here some day down the road after a reexamination and we're all looking at a piece of literature considered by the patent office and Thomson is arguing that that piece of
8 9 10 11 12 13 14 15	reexamination and have Thomson tells us that here is three more documents, three more publications, three more patents or in the cases of what I have seen some defendants do, scores of patents and publications. Let's get them into the reexamination now. That benefits everyone. The last point was, and this is something that every party faced with a reexamination	8 9 10 11 12 13 14 15	reexamination request or should not do so. On the last condition, it was something we asked them to do. I am not even asking the Court to impose that condition. I simply will say that if we're all here some day down the road after a reexamination and we're all looking at a piece of literature considered by the patent office and Thomson is arguing that that piece of literature should, despite a contrary decision by
8 9 10 11 12 13 14 15 16	reexamination and have Thomson tells us that here is three more documents, three more publications, three more patents or in the cases of what I have seen some defendants do, scores of patents and publications. Let's get them into the reexamination now. That benefits everyone. The last point was, and this is something that every party faced with a reexamination request and every Court faced with a	8 9 10 11 12 13 14 15 16	reexamination request or should not do so. On the last condition, it was something we asked them to do. I am not even asking the Court to impose that condition. I simply will say that if we're all here some day down the road after a reexamination and we're all looking at a piece of literature considered by the patent office and Thomson is arguing that that piece of literature should, despite a contrary decision by the examiner, invalidate a claim or claims, we're
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8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	reexamination and have Thomson tells us that here is three more documents, three more publications, three more patents or in the cases of what I have seen some defendants do, scores of patents and publications. Let's get them into the reexamination now. That benefits everyone. The last point was, and this is something that every party faced with a reexamination request and every Court faced with a reexamination request has to confront and that is will the defendant reargue the same piece of prior art that was considered in the reexamination after the reexamination is over. So we asked if they would agree to be bound. We didn't tell them they had to be. We asked if they would agree to be bound.	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	reexamination request or should not do so. On the last condition, it was something we asked them to do. I am not even asking the Court to impose that condition. I simply will say that if we're all here some day down the road after a reexamination and we're all looking at a piece of literature considered by the patent office and Thomson is arguing that that piece of literature should, despite a contrary decision by the examiner, invalidate a claim or claims, we're wasting our time. We're really, truly wasting our time. By the way, one point on the reexamination statistics, I do not think that the majority of statistics as represented by the defendants result in patents being cancelled. I think the majority of patents first, I cannot

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	Page 22		Page 24
1	request that was not granted. It is routine for	1	is in place by a third party and it makes sense
2	examiners to say there's a substantial new	2	as a matter of case management to wait until
3	question of patentability unless that reference	3	that's run it's course before we all run off and
4	is already in the file, so they always do that.	4	conduct a bunch of discovery.
5	Secondly, in my experience most patents	5	Of course, the Courts permit parties to
6	come out of reexamination and I think that's the	6	do both. We have chosen not to. We would prefer
7	correct reading of the statistics cited in the	7	to be in court not in an ex parte proceeding
8	party's briefs. Most patents come out of	8	where we don't get to present our evidence.
9	reexamination with at least some claims confirmed	9	If for any reason my client instructed us
10	and therefore you have a patent in most instances	10	later to seek a reexam in this case, then we
11	that survives.	11	would be back A, we wouldn't necessarily be
12	I have nothing further unless the Court	12	seeking a stay and B, if we were we would be back
13	has any questions for me.	13	in front of Your Honor and we could read me the
14	THE COURT: I have a procedural	14	riot act and deny a motion if we brought another
15	question that popped up in my head when you guys	15	motion to stay, so that issue is really not even
16	were talking that you're the European findings	16	before the Court.
17	are applicable here?	17	And frankly with respect to being
18	MR. HOSTENY: No, they are not.	18	efficient, if the plaintiff truly wanted to be
19	European patent law has different legal standards	19	efficient there's nothing preventing the
20	entirely and in frankly in our view they	20	plaintiff from putting in whatever references it
21	have they write claims differently from how	21	wants into the current reexam. It gets to argue
22	U.S. claims are written. I don't know. I can't	22	with the patent office about that. We're totally
23	go in to detail on what the standards of	23	a bystander here. We don't get to participate.
24	obviousness they apply. We think the examiner	24	They're suggesting that we give up our
25	has been rigorous to the point of being	25	day in court, be ordered to start our own
	Page 23		Page 25
1	nonenialista an these nontinular references and	1	
1 2	persnickety on these particular references and	12	proceeding under what feasible procedures we decide what we have to do or not do and whether
3	our point of view and our client's point of view is they are going to get by those references and	3	we would be back in front of the court as to
4	they are going to get achieve patent	4	whether we complied or not or whether somebody is
5	protection in Europe.	5	taking my deposition about whether I had a Sports
6	I think what's going on in Europe has	6	Illustrated article or something that was prior
7	little or nothing to do with the decision that	7	art that should have been put in. I mean it
8	Your Honor has to make here regarding a stay.	8	would be tantamount to ridiculousness, so we
9	THE COURT: Okay. All right. Thank	9	don't want to be in that proceeding. The
10	you. So what about the idea that, you know, what	10	proceeding exists.
11	about this whole idea that at, you know, after	11	If the plaintiff believes there's
12	let's say 20 months or 24 let's say two years	12	additional art it's it's obligation to go out and
13	down the line then you decide that you want to	13	do what any reasonable patent owner does, conduct
14	have a reexamination and we go on. I mean I	14	an examination, find the art and present it to
15	don't like stays that go on for that period of	15	the patent office and it's free to do that. We
16	time of either. Either we're in or out at a	16	should not be compelled as part of our defense in
17	certain point, so how do we deal with that?	17	this case to initiate proceedings that we don't
18	MR. LITSEY: First of all, as I told	18	want to be a part of.
19	Mr. Hosteny's partners, Art Gasey, when they	19	We're simply asking the Court in view of
20	first raised this with us, he must not have	20	proceedings that already exist, in view of the
21	spoken to his colleague about what we talked	21	fact that the European patent office which
22	about because I rejected these proposals out of	22	actually I think the obviousness standard is
23	hand. They are unreasonable. They don't make	23	harder for a defendant there to overcome, they
24	any sense. I said we're not intending to start	24	have written a lot about the claims there, all of
25	our own reexam. There's a reexam that currently	25	which are very pertinent. They haven't denied
د ۲	our own reexam. There's a reexam that currently	L ² J	

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1	that they are virtually the same as the ones	1	considering prior art references to the 592
2	here.	2	patent and it will apparently narrow the issues
3	The patent examiner here has found a	3	from what I can tell.
4	substantial question of patentability. I think	4	So what I really get to is the prejudice
5	it makes ultimate sense. This is again a	5	and tactical advantage and piece of that and
б	textbook case in which it makes sense to wait,	6	whether this is just being done to cause
7	stay these proceeding until that has run it's	7	prejudice or for tactical advantage. Well, it
8	course and then we can be off to Australia or	8	could be that there is strategy here that
9	whatever or we may not even back here since at	9	recognizes that. However, it does appear to me
10	least in 10 to 12 percent of the cases it's	10	that that's something that the Court can, in
11	rejected in it's entirety as it has been in	11	fact, control.
12	Europe twice.	12	In this case we don't have we don't
13	THE COURT: Okay. All right. Thank	13	have U.S. products. We don't have U.S. presence
14	you. I am going to take just a few minutes. I	14	really and there really isn't a great argument
15	am going to look at a couple of things and then I	15	regarding prejudice except that they were hoping
16	believe I am going to be able to render an	16	by the conditions that they were seeking, that is
17	opinion here on the bench, so you folks know	17	the plaintiffs, to at least make this efficient
18	what's going on because either we're going to do	18	and that I can agree with, is efficiency is good.
19	Rule 16 or we're not is the bottom line, so give	19	But that does not equal having undue prejudice or
20	me about 10 minutes and I will be right back.	20	tactical disadvantage and so I find that that
21		21	also mitigates towards having a stay.
22	(A recess was had in the proceedings)	22	The main the main problem I see is
23		23	delay, possible delay. That's the main problem I
24	THE COURT: We're back on the record	24	see and I believe that the Court can control that
25	in the Timebase case. I am ready to make my	25	in terms of whether or not there is there are
	Page 27	7	Page 29
1			
1	decision known.	1	future requests for reexaminations and stays.
2	decision known. I am actually a fairly practical person,	1 2	future requests for reexaminations and stays. Reexamination so be it, but request for stays I
2 3	decision known. I am actually a fairly practical person, but there are some parts of what plaintiff has	1 2 3	future requests for reexaminations and stays. Reexamination so be it, but request for stays I should say.
2 3 4	decision known. I am actually a fairly practical person, but there are some parts of what plaintiff has talked about that makes some sense to me, but as	1 2 3 4	future requests for reexaminations and stays. Reexamination so be it, but request for stays I should say. The one area I wanted to touch on
2 3	decision known. I am actually a fairly practical person, but there are some parts of what plaintiff has	1 2 3	future requests for reexaminations and stays. Reexamination so be it, but request for stays I should say. The one area I wanted to touch on specifically is really the last thing that was
2 3 4 5	decision known. I am actually a fairly practical person, but there are some parts of what plaintiff has talked about that makes some sense to me, but as I read the cases and I certainly note the ones that are in this District as well as the other	1 2 3 4 5	future requests for reexaminations and stays. Reexamination so be it, but request for stays I should say. The one area I wanted to touch on specifically is really the last thing that was discussed here which I should say we realized was
2 3 4 5 6	decision known. I am actually a fairly practical person, but there are some parts of what plaintiff has talked about that makes some sense to me, but as I read the cases and I certainly note the ones that are in this District as well as the other ones that are cited, I just I just have to	1 2 3 4 5 6	future requests for reexaminations and stays. Reexamination so be it, but request for stays I should say. The one area I wanted to touch on specifically is really the last thing that was discussed here which I should say we realized was not on the tape, so maybe you could describe what
2 3 4 5 6 7	decision known. I am actually a fairly practical person, but there are some parts of what plaintiff has talked about that makes some sense to me, but as I read the cases and I certainly note the ones that are in this District as well as the other ones that are cited, I just I just have to keep coming back to the question is whether I	1 2 3 4 5 6 7	future requests for reexaminations and stays. Reexamination so be it, but request for stays I should say. The one area I wanted to touch on specifically is really the last thing that was discussed here which I should say we realized was not on the tape, so maybe you could describe what it was that you said at the very end so it could
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8 (Pages 26 to 29)

	Page 30		Page 32
1	THE COURT: All right. I did	1	as much time as it wants to take and tells the
2	consider that because I understand how that would	2	plaintiff or the patent owner to respond in 30 to
3	potentially increase the efficiency of going	3	60 days, usually 30 days, but I think the
4	through all of this with at least this	4	examiners indicated you have three to four months
5	reexamination, but I don't believe that I have	5	so there's a chance we will have something by six
6	I just don't see how one decides there's going to	6	months, at least from the patent office and
7	be a stay and then makes that conditional	7	probably a response.
8	exactly. I suppose one would do that if I could	8	THE COURT: Okay. Then I am going to
9	find that there was undue prejudice and I just	9	say I would like I would like to have, in
10	can't make that finding because I suppose there	10	essence, a status letter six months in six
11	could be prior art between now and or the	11	month periods and if nothing else it reminds me
12	printed publication, something that is found a	12	what's going on in this case and reminds everyone
13	year from now and there's not much we can do	13	to don't forget about it.
14	about that, so it seems to me that while I	14	I wanted to mention that for use if
15	certainly understand it that's not something I	15	anyone is going to follow this up to the District
16	can make a condition of the stay.	16	Court that Vdata was my primary authority in
17	I will be limiting it, however, to the	17	really looking at this. I will even go ahead and
18	reexamination process. I am not going to do	18	mention that this Court actually ruled a slightly
19	including all appeals at this point.	19	differently in another matter, but I don't think
20	Were you requesting all appeals?	20	it's a published opinion in Cognex vs. VCode, but
21	MR. LITSEY: We were, Your Honor,	21	that case was, I find, and I will do it just now
22	and we would, of course, understand if the Court	22	so everyone understands that I at least
23	wanted to extend the stay until that until the	23	considered it, I find that case to be different.
24	patent office was done with it. We could revisit	24	It was in a different posture in terms of it's
25	the issue in the event that there's an appeal	25	procedural posture and it was also different in
	Page 31		Page 33
1	from that, but if there is an appeal then usually	1	terms of what that case was about. It was about
2	that is included in a stay because that completes	2	more than just the patents and so I for the
3	the process.	3	reasons I stated in Cognex and affirmed by Judge
4	THE COURT: Okay. Well, I suppose we	4	Ericksen, did not allow the stay in that case,
5	can visit that when we need to, but at this point	5	but I find that this is more like the Vdata and
6	I am limiting it to the reexamination process and	6	that is why I am acknowledging that I believe
7	I don't what I would like is to keep somewhat	7	all all of the factors go towards a stay in
8	control over it. In other words, we don't all	8	this case.
9	walk out the door and you folks remember the	9	Now, if there is no disclosure at this
10	case, but a year from now whether we will	10	point of current printed publications that the
11	remember it or not, I would like a letter that's	11	defendant knows and if there happens to be a
12	filed.	12	reexamination later, then I do think it's clear
13	My suggestion would be on a six-month	13	that it becomes less and less compelling to allow
14	interval to tell me what's going on in the case.	14	any kind of serial stays if, in fact, there were
15	You folks know better than I, is that too	15	things that could be done now that might have
16	frequent? Is nothing going to be able to be	16	made the examination process that's currently
17	reported within	17	under way more efficient ish, so I just throw
18	MALE SPEAKER: I wish I could say.	18	that out there for everyone's consideration and
19	THE COURT: Okay.	19	certainly while I am not making I am not
20	MALE SPEAKER: There's a chance that	20	making a ruling ahead of time, my main concern
21	we will have, you know, an office action I'm	21	about this whole thing in terms of how these
22	estimating within three to four months.	22	things have played out over the years is serial
23	THE COURT: Good.	23	stays are not something I prefer to do, so I will
24 25	MALE SPEAKER: And typically the	24	just say that. Okay.
	patent office will typically the patent takes	25	Well, so I am granting the motion, all of

^{9 (}Pages 30 to 33)

	Page 34	
1 2 3 4 5 6 7	that to say I am granting the motion. Okay. Anything else we can do today? Oh, that means we're not going to have the Rule 16. All right. Thank you all. Thanks for being here and for good argument and good written materials. I appreciate it.	
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	Page 35	
1	STATE OF MINNESOTA)	
) ss.	
2 3	COUNTY OF DAKOTA)	
4	BE IT KNOWN, that I transcribed the	
5	tape-recorded proceedings held at the time and place	
6 7	set forth herein above;	
8	That the proceedings were recorded	
9	electronically and stenographically transcribed into	
10 11	typewriting, that the transcript is a true record of	
12	the proceedings, to the best of my ability;	
13	That I am not related to any of the	
14 15	parties hereto nor interested in the outcome of the	
15 16	action;	
17	WITNESS MY HAND AND SEAL:	
18		
19 20		
21		
22	Leslie Pingley	
23 24	Notary Public	
24 25		
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10 (Pages 34 to 35)