

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

DATE: July 18, 2007

JUDGE
LEONARD DAVIS

COURT REPORTERS:
Therese Casterline & Jana Bald

LAW CLERKS: Andrea Houston, Nicole Mitchell

<p>AdvanceMe, Inc. Plaintiff</p> <p>vs.</p> <p>Capital Business Corporation, et al Defendants</p>	<p>CIVIL ACTION NO: 6:05-CV-424 BENCH TRIAL DAY 3</p>
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ATTORNEYS FOR PLAINTIFFS	ATTORNEY FOR DEFENDANT
Ronald Lemieux (Paul Hastings) Michael Edelman (Paul Hastings) Robert Matz (Paul Hastings) Shanee Williams (Paul Hastings) Vid Bhakar (Paul Hastings) Otis Carroll (ICK Firm) Deborah Race (ICK Firm) Parris Sanz - In House Counsel Glen Goldman - CEO	Jeff Sanders (Roberts & Ritholz) Brian Buss (V&E) Joseph Gray (V&E) Willem Schuurman (V&E) Doug McSwane (Potter Minton) Matt Rowan (Potter Minton) <i>For Merchant & Reach</i>

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 9:07 am

ADJOURN: 3:31 pm

TIME:	MINUTES:
9:07 am	Trial resumed.
9:09 am	Mr. Matz addressed the Court on Video Deposition on Wilden, and believes it is cumulative, and would like to submit a written transcript as evidence. Mr. Schuurman responded and would like an opportunity to see the video. Mr. Matz responded as to having both parts, the plaintiff's designations and defendant's designations on the transcript. Mr. Schuurman addressed the Court. Mr. Matz further addressed the Court. Court will accept the written transcript.
9:11 am	Mr. Lemieux calls GLENN GOLDMAN to the stand. Witness previously sworn.

DAVID J. MALAND, CLERK

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BY: Rosa L. Ferguson, Courtroom Deputy

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TIME:	MINUTES:
9:12 am	Direct examination of Mr. Goldman by Mr. Lemieux.
9:41 am	Mr. Lemieux passed the witness. Mr. Shuurman reserves his cross for their case in chief.
9:41 am	Mr. Lemieux indicated that this concludes their testimony and plaintiff rests.
9:41 am	Mr. McSwane presented Oral Motion for Judgment as a Matter of Law under 3 grounds.
9:42 am	Mr. Lemieux responded. Court inquired on the Doctrine of Equivalence.
9:43 am	Mr. McSwane responded as to Shamos' testimony and moves for directed verdict on doctrine of equivalence.
9:44 am	Mr. Edelman responded as to the doctrine of equivalence.
9:45 am	Mr. McSwane responded as to the infringement contentions. Court will deny Motion at this time and will carry it along.
9:46 am	Mr. Sanders called BILL BENEDICT to the stand. (Witness previously sworn per Mr. Sanders).
9:47 am	Direct examination of Mr. Benedict by Mr. Sanders. Court questioned the witness. Direct examination of Mr. Benedict by Mr. Sanders continued.
10:16 am	Mr. Sanders passed the witness. Cross examination of Mr. Benedict by Mr. Matz.
10:31 am	Court in recess until 10:45 am.
10:50 am	Trial resumed.
10:50 am	Cross examination of Mr. Benedict continued. Mr. McSwane addressed the Court on prior art. Mr. Matz responded. Court and parties discussed prior pretrial hearings and issues. Mr. McSwane addressed the Court on members of the JDA and Judge Love's rulings. Mr. Matz addressed the Court.
11:01 am	Cross examination of Mr. Benedict continued.
11:03 am	Mr. Matz passed the witness. Redirect examination of Mr. Benedict by Mr. Sanders.
11:06 am	Mr. Sanders passed the witness. Witness finally excused.
11:07 am	Court asked Mr. Benedict some additional questions.
11:09 am	Court excused the witness. Mr. Sanders called LARRY BOUCHARD to the stand. Witness sworn by the clerk.
11:09 am	Direct examination of Mr. Bouchard by Mr. Sanders. Mr. Lemieux objected to opinion evidence. Mr. Sanders responded. Mr. Lemieux further objected. Court instructed witness to testify only to what he knows.
11:18 am	Direct examination of Mr. Bouchard continued. Mr. Lemieux objected to some of the testimony. Court sustained objection. Direct examination of Mr. Bouchard continued.
11:59 am	Mr. Lemieux objected to some testimony as hearsay. Objection sustained. Direct examination of Mr. Bouchard continued.

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TIME:	MINUTES:
12:08 pm	Court in recess until 1:00 pm.
1:00 pm	Trial resumed.
1:02 pm	Cross examination of Mr. Bouchard by Mr. Carroll.
1:17 pm	Mr. Bouchard objects to testimony. Court overruled objection. Cross examination of Mr. Bouchard by Mr. Carroll continued.
1:59 pm	Court asked witness some questions.
2:02 pm	Mr. Carroll passed the witness. Redirect examination of Mr. Bouchard by Mr. Sanders. Mr. Sanders moved to admit the Demonstrative Board as Defendant's Exhibit 426. With objection being overruled, Defendant's Exhibit 426 admitted.
2:09 pm	Mr. Gray called Tim Litle. Court inquired how long his testimony would be. Mr. Gray responded.
2:09 pm	Court in recess for 10 minutes.
2:24 pm	Trial resumed. Mr. Gray called TIM LITTLE to the stand. Witness previously sworn. Mr. McSwane asked Mr. Bouchard to be permanently excused. No objection, Witness excused.
2:24 pm	Direct examination of Mr. Litle by Mr. Gray
3:30 pm	Mr. Gray passed the witness. Court addressed the parties and will recess for the day. Court addressed the parties on tomorrow's schedule and asked parties to be ready and on stand by to proceed when the suppression hearing is over. Court advised parties that plaintiff has expended 8:10 hours and Dft has used 5:45 hours.
3:31 pm	Court in recess until tomorrow morning (after suppression hearing).