

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

TYLER DIVISION

DATE: September 29, 2010

JUDGE
LEONARD DAVIS

REPORTERS: Shea Sloan & Judy Werlinger

LAW CLERKS: Kori Anne Bagrowski

MIRROR WORLDS, LLC V APPLE, INC.	CIVIL ACTION NO: 6:08-CV-88 JURY TRIAL - DAY 3
ATTORNEYS FOR PLAINTIFFS Ken Stein (Strook & Stroock & Lavan) Ian Dibernardo (Strook & Stroock & Lavan) Alex Solo (Strook & Stroock & Lavan) Joe Diamante (Strook & Stroock & Lavan) Chuck Cantine Otis Carroll (ICK Law Firm) David Gelernter, Inventor	ATTORNEY FOR DEFENDANT Jeff Randall (Paul Hastings Janofsky & Walker) Allan Soobert (Paul Hastings) Christian Platt (Paul Hastings) Bud Tribble, Client Representative

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

OPEN: 9:00 a.m.

ADJOURN: 5:30 pm

TIME:	MINUTES:
9:00 am	Trial resumed. Jury seated in the jury box.
	Court inquired if the Plaintiff had any exhibits to offer. Mr. Carroll offered two lists, Plaintiff's List of Exhibits Admitted on September 28, 2010, Marked as Plaintiff's Exhibit #2 and Plaintiff's List of Exhibits to be Admitted on September 29, 2010, Marked as Plaintiff's Exhibit List #3, and without objection, the exhibits listed therein are admitted.
	<i>Plaintiff's Exhibit List #2</i> lists Plaintiff's Exhibits #1, 6, 11, 83-89, 191, 193, 336, 338, 344, 669, 1136, 1183, 1184, 1191, 1660, 1676, 1684; and, John Levy Direct Demonstrative Slides. <i>Plaintiff's Exhibit List #3</i> lists Plaintiff's Exhibit #6, 11, 21, 37, 40, 43, 57, 109, 110, 113, 114, 116-119, 127, 130, 131, 138, 139, 140, 141, 144, 149, 156, 161, 191, 192, 193, 198, 210, 211, 212, 220, 221, 290, 298, 336, 338, 386-395, 398, 696, 730, 731, 773, 893, 933, 970, 976, 983, 991, 1186, 1191, 1214, 1660, 1684, 1821, 1994, 1995.
	Mr. Randall has no lists to offer at this time.

DAVID J. MALAND, CLERK

FILED: 9.29.2010

BY: Rosa L. Ferguson, Courtroom Deputy

TIME:	MINUTES:
	DR. JOHN LEVY on the witness stand. (Witness previously sworn).
	Cross examination of Dr. Levy by Mr. Randall. No further questions of Dr. Levy.
	Mr. Carroll will be calling Bud Tribble as an adverse witness. Mr. Randall asked to approach the bench. (Bench conference held).
	Mr. Carroll called BUD TRIBBLE to the witness stand. (Witness previously sworn).
	Cross examination of Dr. Tribble by Mr. Carroll.
10:40 am	Court in recess to take up criminal matters.
11:20 am	Trial resumed. Jury seated in the courtroom.
	Cross examination of Dr. Tribble by Mr. Carroll continued. Mr. Randall asked to approach the bench. (Bench conference held).
12:00 pm	Court recessed the Jury until 12:30 pm
12:30 pm	Trial resumed. Jury seated in the courtroom.
	Cross examination of Dr. Tribble by Mr. Carroll continued. No
	Mr. Carroll called WALT BRATIC to the witness stand. (Witness previously sworn).
	Direct examination of Mr. Bratic by Mr. Carroll.
	Mr. Carroll passed the witness. Cross examination of Mr. Bratic by Mr. Randall.
	Mr. Randall passed the witness. No further questions of this
	Mr. Carroll indicated that the Plaintiff rests.
	Mr. Randall addressed the Court regarding a motion.
	Court recessed the jury until 2:25 pm.
	Jury not present in the courtroom.
	Mr. Randall moved for JMOL on all claims and counterclaims on 1) Failure to establish literal infringement; 2) Failure to establish infringement under doctrine of equivalent; 3) failure to present evidence of induced infringement; 4) Failure to present evidence of contributory infringement; 5) Failure to present no evidence of infringement; 6) Failure to present evidence of willful infringement; 7) Failure to meet burden of proof on damages. Mr. Stein responded. Court grants directed verdict as to the 271(f) claim and as to inducement and contributory infringement. Court would like to hear argument on the '427 patent on claims 16 & 18 on display of a curser. Mr. Stein responded. Court grants as to literal infringement as to Claims 16 & 18. Court asked to hear argument as to why they've made out a Doctrine of Equivalents (DOE). Mr. Stein presented argument. Mr. Randall responded on DOE. Mr. Stein further addressed the Court. Court inquired If the '427 goes out of the case entirely, what does it do to the case? Mr. Randall responded it would remove from the case entirely all of the accused iPhones, iPads, and iPods. Court will take under advisement. Court would like briefing by 8:00 pm this evening, and in all other respects, court denies motion.

TIME:	MINUTES:
2:25 pm	Court in recess.
2:30 pm	Trial resumed. Jury seated in the courtroom.
	Mr. Randall called BUD TRIBBLE to the witness stand. (Witness previously sworn).
	Direct examination of Dr. Tribble by Mr. Randall.
	Mr. Soobert called GITTA SALOMON to the witness stand. (Witness sworn by the Clerk).
	Direct examination of Ms. Salomon by Mr. Soobert.
	Mr. Soobert passed the witness. Cross examination of Ms. Salomon by Mr. Stein.
	Mr. Randall called BRIAN CROLL to the witness stand. (Witness sworn by the Clerk). Mr. Randall indicated Mr. Platt to examine witness.
	Direct examination of Mr. Croll by Mr. Platt.
	Mr. Platt passed the witness. Cross examination of Mr. Croll by Mr. Diamante.
	Mr. Diamante passed the witness. No further questions of this witness.
4:15 pm	Court in recess until 4:30 pm.
4:30 pm	Trial resumed. Jury seated in the courtroom.
	Mr. Platt called GREG JOSWIAK to the witness stand. (Witness sworn by the Clerk)
	Direct examination of Mr. Joswiak by Mr. Platt.
	Mr. Platt passed the witness. Cross examination of Mr. Cantine.
	Mr. Cantine passed the witness.
	Mr. Randall will have 3 short videos, the first is of Ed Stone. Mr. Randall gave Court the time for the video.
	Mr. Randall called ED STONE by Video Deposition. Video played to the Jury.
	Mr. Randall called FRANK WEIL by Video Deposition. Video played to the Jury.
5:30 pm	Court addressed the parties and outlined the schedule for the remaining two days.
	Court reminded the jury of its instructions. Jury excused for the day.
	Jury not present in the courtroom. Court inquired if there were any matters to bring up. Mr. Randall addressed the Court
	Court asked to see in chambers, lead counsel for each side and decision makers for each side in chambers.
5:30 pm	There being nothing further, Court adjourned for the day.