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

MIRROR WORLDS, LLC)
) DOCKET NO. 6:08cv88
)
-vs-)
) Tyler, Texas
) 12:30 p.m.
APPLE, INC.) September 7, 2010

TRANSCRIPT OF VOIR DIRE EXAMINATION
BEFORE THE HONORABLE LEONARD DAVIS,
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFF: MR. KENNETH L. STEIN
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produced by a Computer.

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1 PROCEEDINGS

2 (Call To Order Of The Court.)

3 (Jury Panel In The Courtroom.)

4 THE COURT: Please be seated.

5 All right. Ms. Ferguson, if you will call the case,
6 please.

7 THE CLERK: Court calls Case No. 6:08cv88 Mirror
8 Worlds, LLC v. Apple, Inc.

9 THE COURT: Announcements?

10 MR. CARROLL: Good afternoon, Your Honor. Mirror
11 Worlds is here and ready.

12 THE COURT: Thank you.

13 MR. RANDALL: Good afternoon, Your Honor. Jeff
14 Randall. Apple is ready as well.

15 THE COURT: Very good. Thank you.

16 All right. Good morning, Ladies and Gentlemen of
17 the Jury, welcome to jury service in the Eastern District of
18 Texas. I am United States District Judge Leonard Davis. This
19 is my Court Administrator, Ms. Rosa Ferguson; Court Reporter,
20 Ms. Shea Sloan; and Law Clerk, Kori Anne Bagrowski. We are
21 about to begin the trial of a civil case here today.

22 Let me first thank you for your jury service here
23 today. I know some of you may consider it a burden to be
24 here, and I understand that. But I also hope that you will
25 consider it a privilege to be here. We live in a world today

1 where every night on the news we see violence all around the
2 world because people cannot resolve their disputes any other
3 way.

4 We are fortunate here in the United States to have a
5 Constitution that guarantees to every citizen of the United
6 States the right to a trial by jury. And that is how we
7 resolve our disputes here in this country. So you are part of
8 that process today. And I want to commend you for it, I want
9 to thank you for your service, and I do hope that you will
10 consider it a small contribution that you can make as part of
11 the privilege of living in this great country of ours.

12 This is a civil case where the plaintiffs accuse the
13 defendants of infringing its patents. You have heard a little
14 bit about our patent system by the video that you have seen
15 downstairs today. I will have much more to say about this
16 case, as will the parties and the lawyers, as the case
17 evolves. But for now I wanted you to just have that basic
18 understanding this is a patent dispute. You will hear more
19 about it later.

20 Now, this case is scheduled to start trial on
21 September 20th. That is two weeks from today. I anticipate
22 that the presentation of the case will take approximately five
23 days, so we will start with the beginning of the actual trial.
24 We are going to do jury selection today, come back on the
25 20th, and then complete the trial that week.

1 Now, I do need to tell you, and those of you who are
2 selected on the jury I will remind you of this later, right
3 now we are setting it for the 20th. There is another case
4 ahead of it, so if that case does not resolve itself, this
5 case might go -- begin the week following the 20th, which
6 would be the 27th. So it would go either one of those two
7 weeks, and I just give you that information for your planning
8 purposes.

9 Right now we are beginning the first stage of the
10 trial, which is what we call Voir Dire Examination. This is
11 where I and the attorneys will be asking you some questions to
12 help us evaluate you as potential jurors in this case.

13 After we have completed this process, which will
14 take about an hour, each side is then allowed a certain number
15 of juror strikes; and the remaining eight jurors, who have not
16 been stricken, will be the jury that will hear this case. The
17 others will go home. The eight that are chosen will come
18 back, as indicated, to hear the case.

19 When they come back, we will begin the trial of the
20 case, which will consist first of opening statements by the
21 attorneys as to what they expect the evidence will show. Then
22 you will have several days of hearing testimony and exhibits
23 offered into evidence, the evidentiary phase of the case.

24 Then you will hear -- I will present to you a
25 Court's charge, which will instruct you on the law that you

1 are to follow in deciding this case.

2 Then, finally, you will hear the closing arguments
3 of the attorneys as to what they believe your verdict should
4 be in this case. So that is what will be happening today and
5 will be happening during the trial.

6 After the closing arguments, you then would retire
7 to the jury room to consider your verdict. But today we are
8 just doing Voir Dire.

9 The Voir Dire is, again, to enable the Court to
10 evaluate each of you as prospective jurors. "Voir dire" is a
11 Latin phrase which means to speak the truth, which I know each
12 of you will do as you answer the questions that are asked of
13 you today.

14 Please listen carefully to the questions that are
15 ask and don't be timid about speaking up if they should apply
16 to you. It is very important, if you have any doubt in your
17 mind whether a question applies to you, go ahead and raise
18 your hand. There are no right or wrong answers. Nobody is
19 trying to pry. It is just a matter of evaluating you and your
20 qualifications as jurors.

21 There are some people that are suited to be on
22 jurors on one particular type of case, but maybe not another.
23 So that is all we will be doing. It is going to be a fairly
24 informal process. I think you will find it interesting.

25 When you are called upon to answer a question, I

1 would ask that you please stand and state your name. A
2 microphone will be provided to you when you speak. State your
3 name so that the Court Reporter can take down who is speaking
4 because we will have a number of different people speaking.

5 To help you break the ice here this morning and get
6 you used to getting up on your feet and speaking, I'm going to
7 start with Juror No. 1, Ms. Gross. I will ask you to please
8 stand, give us your name, where you are from, and what your
9 favorite thing to do in your spare time is.

10 MS. GROSS: Judith Gross from Tyler, Texas, and I
11 read.

12 THE COURT: Okay. Thank you very much.

13 Next?

14 MS. BREWTON: Glenda Brewton. I'm from Bullard,
15 Texas. My favorite thing to do is just be with my
16 grandchildren.

17 THE COURT: All right.

18 MR. MORRISON: Mark Morrison, Tyler, Texas. I spend
19 time with my family.

20 THE COURT: Thank you, sir.

21 MR. S. CARROLL: Steven Carroll, Longview, Texas. I
22 hunt wild hogs.

23 THE COURT: Did you say you hunt wild hogs?

24 MR. S. CARROLL: Yes, sir.

25 THE COURT: I heard something earlier this morning

1 about a hog rodeo or something. Do you know anything about
2 that?

3 MR. S. CARROLL: No.

4 THE COURT: Okay. All right.

5 MS. RICHARDSON: Vanessa Richardson. I'm from
6 Troup, Texas, and I like to do craft work.

7 THE COURT: Okay.

8 MS. FERRELL: Kimberley Ferrell. I'm from Mabank,
9 and I like to spend my time outside with my friends and
10 family.

11 THE COURT: Thank you.

12 MS. DOZIER: Mildred Ann Dozier from Tyler, Texas.
13 I like to spend time with my grandchildren.

14 MR. FREEMAN: Cascey Freeman from Overton, Texas. I
15 like to spend time with my three kids.

16 MR. HOLCOMB: Ronald Holcomb from LaRue, Texas. I
17 like to walk through the woods with the dogs.

18 THE COURT: Okay.

19 MS. MOSELEY: My name is Kathy Moseley. I'm from
20 Tyler, Texas. In my spare time -- I don't have much -- but I
21 like to do yardwork.

22 THE COURT: Okay. Thank you.

23 MS. MOORE: Margarrita Moore from Tool, Texas. I
24 just like to stay busy roaming around the house.

25 THE COURT: Okay. Thank you.

1 MR. GEORGE: James George of Lindale, Texas. I like
2 to travel with my wife when she is not teaching at John
3 Tyler.

4 MS. TILL: Beverly Till. I'm from Palestine, Texas.
5 I just like working in the yard.

6 THE COURT: Okay.

7 MR. FLOYD: Gerald Floyd from Eustace, Texas. I
8 enjoy spending time with my great grandchildren.

9 THE COURT: Okay.

10 MS. BUSSELL: Ida Bussell from Tyler, Texas. And I
11 enjoy fishing with my four-year-old granddaughter.

12 THE COURT: Okay. Thank you.

13 MS. CHANDLER: My name is Frankie Chandler from Van,
14 Texas. I love my grandchildren, to play with them; and
15 cooking?

16 MR. DAY: Gary Day; Canton, Texas. Love to play
17 golf.

18 MS. WILLIAMS: My name is Patricia Williams. I'm
19 from Lake Striker out of Henderson, and I love to travel.

20 THE COURT: Thank you.

21 MR. FOSTER: My name is Mike Foster. I'm from
22 Emory, Texas. And I like to go watch my grandkids play
23 sports.

24 THE COURT: Thank you, sir.

25 MS. HARTMANN: Mary Hartmann from Palestine, Texas.

1 I like to volunteer at the school.

2 THE COURT: Thank you.

3 MS. GUEDRY: Alicia Guedry from Longview, Texas. I
4 like to exercise and shop.

5 THE COURT: Thank you. I thought shopping was
6 exercise. My wife tells me it is.

7 MS. FULLER: My name is Maria Fuller. I'm from
8 Longview, Texas. And I like to travel.

9 THE COURT: Thank you, Ms. Fuller.

10 MR. TATUM: Forrest Tatum from Palestine, Texas. I
11 like to hunt and fish and spend time with my dogs.

12 THE COURT: Thank you, Mr. Tatum.

13 All right. Very good. Now, I am going to ask you a
14 question in a moment, and I want you to listen very
15 carefully. What I am going to do is ask the attorneys for
16 both sides to introduce themselves, their client, their
17 co-Counsel, and any witnesses that they will be calling to
18 testify in this case that are from the East Texas area.

19 The reason I want you to listen very carefully to
20 that is because after they make those introductions, I am then
21 going to ask you if you know any of those people, have been
22 represented by any of those lawyers, or have any connection
23 with them or anybody in your family has any connection with
24 any of these people that they may introduce to you.

25 The reason for that is to find out whether you know

1 any of these folks from -- previously from outside of court.
2 So, first, the Court will call on Mr. Carroll to introduce his
3 folks.

4 MR. CARROLL: Thank you, Your Honor, if the Court
5 please. Ladies and Gentlemen, my name is Otis Carroll. I
6 live here in Tyler. I am representing the plaintiff, the
7 patent owner in this lawsuit, and the inventor; and the
8 inventor is here with us from New Haven, Connecticut, Dr.
9 David Gelernter.

10 David, would you stand, please?

11 And David's wife Jane is out here in the courtroom.

12 Jane, would you stand, please?

13 They are from New Haven, Connecticut.

14 Thank you.

15 With us -- or with me also is Joe Diamante, Ken,
16 Stein, and Ian DiBernardo. And they are all lawyers, the real
17 lawyers, who know stuff; and they are from New York. And then
18 our client lawyer is Steven Segaloff from New York. We don't
19 have any local witnesses that I am aware of, Your Honor.

20 THE COURT: Okay. Thank you, Mr. Carroll.

21 All right. Does anyone know Mr. Carroll or any of
22 the folks that he has introduced? If you would, please raise
23 your hand. All right. Thank you.

24 Counsel for defendant, if you would like to
25 introduce your folks?

1 MR. RANDALL: Thank you, Your Honor. My name is
2 Jeff Randall. I represent Apple. I'm from Northern
3 California. With me are my colleagues. Allan Soobert is from
4 Virginia. Christian Platt is from San Diego. And with me
5 from Apple is Lisa Marie Schull, and Maurine Krall.

6 THE COURT: Thank you. Do you have any witnesses
7 from the East Texas area?

8 MR. RANDALL: Your Honor, we do not.

9 THE COURT: Thank you.

10 All right. Does anyone on the jury panel know any
11 of these folks that have just been introduced to you?

12 THE COURT: All right. Very well. At this time you
13 have been provided questionnaires, which are very helpful to
14 the parties and the Court, that answer a lot of questions
15 about each of you. And that will be helpful to us. And I
16 have allowed each side 30 minutes to question the jury panel.

17 So at this time the Court will recognize Mr. Carroll
18 for the purposes of Voir Dire Examination.

19 Mr. Carroll.

20 MR. CARROLL: Thank you, Your Honor. If the Court
21 please.

22 Mr. Carroll, I have got to start with you. There
23 aren't too many of us around that spell it right.

24 MR. S. CARROLL: No, there is not.

25 MR. CARROLL: Two R's and two L's and an O.

1 MR. S. CARROLL: And an O.

2 MR. CARROLL: A lot of people want to put an E in
3 there.

4 Let me ask you just a couple of questions. First of
5 all, you know who Steve Jobs is, do you not?

6 MR. S. CARROLL: No.

7 MR. CARROLL: The head of Apple. Have you ever seen
8 him on the TV?

9 MR. S. CARROLL: I probably have.

10 MR. CARROLL: Okay. Of course, we all know about
11 Apple, a very successful company. They started on April
12 Fool's Day, I'm told.

13 Mr. Morrison, you are nodding. Do you know about
14 all that?

15 MR. MORRISON: (Nods.)

16 MR. CARROLL: Do either of you two, Mr. Morrison or
17 Mr. Carroll, know who a guy named Ronald Wayne was in the
18 history of Apple?

19 MR. MORRISON: (Shakes head.)

20 MR. S. CARROLL: (Shakes head.)

21 MR. CARROLL: Ronald Wayne, does anybody ever know
22 that name? Let me tell you, it is a great story. Ronald
23 Wayne was the third founder of Apple. Kind of like the fifth
24 Beatle. You remember the fifth Beatle, the legendary fifth
25 Beatle? He was the third founder, and he got cold feet and

1 sold his 10 percent in Apple out for \$2300. Today it would be
2 worth 22 billion dollars.

3 Now here is my question. One of the issues in this
4 case, Mr. Carroll and Mr. Morrison, one of the facts is going
5 to be that the folks at Apple think that it is significant
6 that Dr. Gelernter's patents were sold by an earlier company
7 that tried to make a financial go of them and couldn't for a
8 lot of reasons, for a lot less money than we are asking
9 today. And they were sold to pay off some corporate debts.
10 It was what accountants call, for lack of a better term, not
11 an arm's length sale.

12 Now, we say that is not a fair representation of the
13 value of these patents today. Just like, you know, Ronald
14 Wayne selling his ten percent to Apple for \$2300, you
15 wouldn't -- nobody would say that has any bearing on the value
16 of Apple today.

17 Would you agree with that, Mr. Carroll?

18 MR. S. CARROLL: I would agree with that.

19 MR. CARROLL: Would you agree with that?

20 MR. MORRISON: (Nods.)

21 MR. CARROLL: Anybody else on the panel have any
22 trouble with that, the idea that you have a brother-in-law
23 sale, that doesn't necessarily say what the value of the
24 property is? Does anybody disagree with that? I see some
25 looks.

1 Mr. Tatum, you are kind of staring about that. Is
2 that a problem?

3 MR. TATUM: I was just trying to make sure that I
4 see you.

5 MR. CARROLL: Sir?

6 MR. TATUM: I was looking around to make sure I
7 could see you.

8 MR. CARROLL: Okay. That is even better. If the
9 fact -- if Apple tells you that whatever money we want is too
10 much -- and I can promise you they will say that because way
11 back when, David Gelernter's little company that was trying to
12 compete against the Microsofts of the world and couldn't do it
13 and the patents got sold for not a whole a lot of money to pay
14 off some debts, can you listen to all of the facts before just
15 saying they sold it for a little bit of money; they can't get
16 any more than that same little bit of money?

17 MR. TATUM: Yes, sir.

18 MR. CARROLL: You could hear that through?

19 MR. TATUM: Yes, sir.

20 MR. CARROLL: Tell me before I forget, what do you
21 do for a living?

22 MR. TATUM: I work for Central Link Telephone
23 Company.

24 MR. CARROLL: Do you use -- and I have read all of
25 the questionnaires and I ought to remember all this and I

1 don't -- do you use any Apple products?

2 MR. TATUM: No, sir, not as I know, sir.

3 MR. CARROLL: Okay. Last question I have. Do
4 you -- are you fortunate enough to have property that has
5 oil on it?

6 MR. TATUM: No, sir.

7 MR. CARROLL: Okay. Sorry.

8 Let me ask some of your panel members, anybody out
9 here enjoy any oil royalties?

10 You are from Henderson, and you don't get any oil
11 royalties?

12 MS. WILLIAMS: No.

13 MR. CARROLL: You must not have been born right?

14 MS. WILLIAMS: I was born in Phoenix.

15 MR. CARROLL: In Phoenix, Arizona?

16 MS. WILLIAMS: Yeah.

17 MR. CARROLL: Okay. Well, that explains it. Maybe
18 water rights?

19 MS. WILLIAMS: No.

20 MR. CARROLL: Okay. Anybody on the jury box have
21 any oil royalties?

22 All right. Well, let me just start this way. Ms.
23 Williams, now let me talk to you now that I know you are from
24 Phoenix and you are the only person in Rusk County without oil
25 royalties. Let me tell you how it works. Oil royalties are a

1 situation, if you own property and it has minerals underneath
2 it, and you are fortunate enough for somebody to want to drill
3 on it and they do and make money, you as owner of the property
4 get some piece of the return.

5 MS. WILLIAMS: Correct.

6 MR. CARROLL: Okay. Here is my question to you, the
7 piece of the return depends upon how much the oil company
8 makes?

9 MS. WILLIAMS: Yes.

10 MR. CARROLL: Okay. That is the same kind of
11 arithmetic that is at work in these patent lawsuits. If we
12 have property, which you saw on the film, we do, a patent is
13 property -- everybody knows that, right? Idea property. We
14 say that the folks over here in Apple made a pot of money
15 using our ideas, and we say that we are entitled to that -- a
16 piece of that pot even though we're not nearly as big as they
17 are.

18 And I will tell you right off, it is based upon how
19 successful they are. We say with our ideas. So that their
20 success in a trickle-down comes to us. Are you with me so
21 far?

22 MS. WILLIAMS: Uh-huh.

23 MR. CARROLL: What if the trickle-down, and that is
24 less than one percent, less than one percent of what we say
25 they are making using our property, comes to almost \$500

1 million, would you be tempted to say that is just too much for
2 an individual like David Gelernter and his wife Jane to get?

3 MS. WILLIAMS: No.

4 MR. CARROLL: Okay. Does anybody -- tell me what
5 company you work for?

6 MS. WILLIAMS: Tyler Ford.

7 MR. CARROLL: Tyler Ford here in Tyler.

8 MS. WILLIAMS: Uh-huh.

9 MR. CARROLL: Okay. You drive every day?

10 MS. WILLIAMS: I drive every day.

11 MR. CARROLL: I hope you are driving a Ford.

12 MS. WILLIAMS: I drive an Explorer.

13 MR. CARROLL: Explorer. Good. Thank you, ma'am.

14 Does anybody disagree with Ms. Williams? And, that
15 is, if, in fact, we are right and if, in fact, our ideas
16 generated enough profit or enough return -- I will put it that
17 way -- so that Apple made enough money and would, by sharing
18 less than one percent of it with us, would give us \$500
19 million or thereabouts, would anybody say that is too much for
20 an individual like David Gelernter, a little company like
21 Mirror Worlds to get? I don't care what the law is, I don't
22 care what the arithmetic is, it is just too much? Is there
23 anybody that believes that way? Because if you do, that is
24 okay. But you don't need to be sitting on this jury. Anybody
25 in the box?

1 Mr. Carroll, you are grinning at me.

2 MR. S. CARROLL: If you can prove it.

3 MR. CARROLL: Okay. That is the point. If, in
4 fact, the money is there and if, in fact, it is generated
5 using our property, do you see any difference between Amoco
6 drilling on Grandma farm and a boomer coming in and people
7 saying Grandma shouldn't have that much money, and you say,
8 no, it is her property, right?

9 MR. S. CARROLL: That's right.

10 MR. CARROLL: Anybody disagree with Mr. Carroll? I
11 love being able to say that. Because I know nobody is going
12 to disagree with you. They may disagree with me. Thank you.

13 Okay. Let me --

14 David, do you mind standing up one more time? Thank
15 you. Okay. You can be seated.

16 David Gelernter is going to figure very prominently
17 in this lawsuit. In 19 --

18 Your Honor, may I take a step or two this way?

19 THE COURT: Yes, you may.

20 MR. CARROLL: In 1992 David Gelernter wrote this
21 book, and it is called Mirror Worlds. Everybody see it?
22 David Gelernter is a professor of computer science at Yale
23 University, which is the --

24 Second oldest?

25 MR. GELERNTER: Third.

1 MR. CARROLL: Third oldest university in the United
2 States. I say this without, you know, embarrassing him, I
3 hope; but he is a smart guy. And he wrote this book in 1992
4 predicting that one day people in his field in computers would
5 be smart enough to make a computer serve us rather than us
6 serving the computers.

7 And the way David Gelernter viewed the world was
8 that it would be a mirror of our world. He says, "This book
9 describes an event that will happen some day soon. You will
10 look into a computer screen and see reality." Just like a
11 mirror. That is where the name of the company comes from.

12 And what he decided that would have to happen in
13 order for computers to begin to do for us what he thought they
14 would be able to do, is they would have to make sense to us.
15 And one of the ways they would make sense to us is that they
16 would organize data the way we live our lives, that is, past
17 present, and future. Stream.

18 Now, has anybody in the jury box ever heard of a
19 terrorist called the Unabomber? Anybody out here? David
20 Gelernter was a victim of the Unabomber. He was blown up when
21 he opened a package at his office in Yale, and he was one of
22 23 people over a 15-year period who were targeted by this
23 terrorist.

24 And, fortunately, his injuries were not fatal.
25 Three of them were to various folks. He has an injured hand.

1 You can probably see it. And he has problems with one of his
2 eyes. But he was targeted because of his -- because of the
3 significance of the views that were in this book.

4 Now, has anybody other than just knowing that this
5 Unabomber terror campaign occurred, does anybody know any
6 specifics about the terror bomber?

7 Okay. Let me tell you why it is relevant, why it is
8 pertinent to this case. The evidence is going to be that
9 David Gelernter went from writing books and thinking about
10 this new world that would be a mirror of my world and your
11 world, to actually putting pen to paper and trying to invent
12 this Mirror Worlds as a consequence of being blown up. He
13 gets blown up and he decides that life is just too short and
14 he needs to make real what he dreamed about in this book.

15 Has anybody -- well, let me ask it this way: Has
16 anybody had an experience like that, a life-changing
17 experience where something bad happened to you or one of your
18 family members and it caused you to decide I have got to get
19 some things done in my life? Anybody on the panel? Anybody
20 out here? I haven't either. So we are all fortunate in that
21 regard.

22 But that is the significance of this Unabomber
23 terrorism and David Gelernter?

24 Okay. Who is afraid of computers? Anybody? Nobody
25 is afraid of them? And "by afraid of them," I mean, who would

1 rather not fool with them? Nobody. That is amazing. Wait a
2 minute. Wait a minute. I knew I would have a taker.

3 Ms. Brewton?

4 MS. BREWTON: Yes.

5 MR. CARROLL: You live down in Bullard?

6 MS. BREWTON: Yes.

7 MR. CARROLL: You would rather not fool with them?

8 MS. BREWTON: I don't know how to fool with them.

9 MR. CARROLL: Let me ask you this, and I hope Ms.
10 Gelernter doesn't mind me using her as an example: Jane
11 Gelernter is a musician and a smart person just like you are a
12 smart person, but computers always turned her off. And it
13 bugged her husband that these tools weren't anything that
14 suited her need. Do you see what I am saying?

15 MS. BREWTON: Yes.

16 MR. CARROLL: Does that strike a cord with you?

17 MS. BREWTON: Yes.

18 MR. CARROLL: Okay. His idea was that the goofy
19 things ought to work for us. Does that make sense?

20 MS. BREWTON: Yes.

21 MR. CARROLL: If they would work for you, would you
22 be interested in learning about them?

23 MS. BREWTON: I'm starting to try to learn how to
24 turn it on and work it.

25 MR. CARROLL: Guess what, that is where I was a few

1 years ago. I was the only one in my family that didn't know
2 about it?

3 MS. BREWTON: Me, too.

4 MR. CARROLL: I am kind of taking baby steps. One
5 of the things that we know about computers, and you are going
6 to learn in this lawsuit if you are on the jury -- and it is
7 an amazing thing -- is the amount of information every day
8 that is being created. Do you know what the Library of
9 Congress is?

10 MS. BREWTON: Yes.

11 MR. CARROLL: And I wrote this down. There is a
12 fact that comes from Apple folks -- so it must be true -- is
13 that in 2002, which was eight years ago, there was enough new
14 information created to fill up 37,000 Libraries of Congress.
15 New information. And these computers, they can store it. But
16 the idea is how can we know where it is and get it if we need
17 it? That is where this man came in.

18 Let me ask you one more question while we have you
19 up. We had sued Apple. I know from your questionnaire you
20 got sued on some kind of an estate or trust deal?

21 MS. BREWTON: Yes.

22 MR. CARROLL: And I am sorry that happened because
23 from your questionnaire it looks to me like it was kind of
24 thin?

25 MS. BREWTON: Yes.

1 MR. CARROLL: And I don't know how to ask it other
2 than just to ask it, is this going to be tough for you to give
3 us a fair shake because we are suing and you have been sued?

4 MS. BREWTON: No, I can still be fair about it.

5 MR. CARROLL: Okay. Is it such a bitter thing
6 though that when you just walk into a courtroom that you just
7 think nobody should be here?

8 MS. BREWTON: No.

9 MR. CARROLL: Thank you. I guessed that would be
10 the answer, but thank you for telling me that.

11 Is there anybody else on the jury panel who has got
12 an attitude about lawsuits that they just shouldn't be
13 around? I mean, a lot of folks have that attitude. That is
14 fine. But you don't need to be on this jury if you have that
15 attitude. Anybody?

16 Anybody ever belonged to a group that advocated
17 changing the rules for lawsuits? Okay.

18 One of the things that -- Mr. George, may I talk
19 with you just for a minute?

20 MR. GEORGE: You sure can.

21 MR. CARROLL: You wrote on your questionnaire, if I
22 understood it right, that -- was it your employer or former
23 employer Electric Mobility Corp had some patents?

24 MR. GEORGE: Yes, one is pending right now.

25 MR. CARROLL: Okay. Did you have anything to do

1 with the application or the process?

2 MR. GEORGE: No, no. We just helped in the design.

3 MR. CARROLL: What kind of business is Electric
4 Mobility in?

5 MR. GEORGE: Durable medical equipment.

6 MR. CARROLL: Okay. You used to work for Cardinal?

7 MR. GEORGE: Pardon?

8 MR. CARROLL: Did you work for Cardinal, or did I
9 get somebody else -- somebody on the panel worked for
10 Cardinal.

11 You did? Okay.

12 You know who Cardinal is, right, a big distributor?
13 Maybe you don't.

14 MR. GEORGE: No.

15 MR. CARROLL: Let me ask you this: You saw the film
16 downstairs?

17 MR. GEORGE: Yes, sir.

18 MR. CARROLL: The patent film?

19 MR. GEORGE: Yes, sir.

20 MR. CARROLL: And one of the things that the patent
21 film teaches is that patents are issued after a process that
22 is pretty comprehensive. Would you agree with that?

23 MR. GEORGE: Yes, sir.

24 MR. CARROLL: They leave that with a stamp being
25 valid. You heard the man on the film say that?

1 MR. GEORGE: Yes, sir.

2 MR. CARROLL: There are going to be two different
3 things that are happening in this lawsuit, I believe -- unless
4 things change -- and that is, number one, our friends at Apple
5 are going to say we didn't do it, we didn't take your property
6 and make all this money. Then they are going to say but if we
7 did, if we did, your patent is no good to start with, and we
8 are going to show it is no good.

9 Now, the Judge is going to tell you and may have
10 already told you, there are two different rules about proving
11 that. Did you hear that this morning on the film?

12 MR. GEORGE: Yes, sir.

13 MR. CARROLL: I appreciate you standing up. I am
14 about to let you sit down.

15 MR. GEORGE: May I make one comment though?

16 MR. CARROLL: Yes.

17 MR. GEORGE: My company just finished coming out of
18 a lawsuit, I believe, that they figured out how to beat the
19 patent. They have several patents anyway. So I do know that
20 it can be broke.

21 MR. CARROLL: A patent can be invalidated?

22 MR. GEORGE: Yes, it can be.

23 MR. CARROLL: If this table is a football field --
24 do you have a favorite football team?

25 MR. GEORGE: No, I am not much in sports. I work.

1 MR. CARROLL: If this table is a football field and
2 this water jug is the 50-yard line, when we are trying to
3 prove that Apple took our property and made all that money, we
4 have just got to get the nose of the ball past the 50.
5 Everybody see that? That is what preponderance of the
6 evidence means.

7 MR. GEORGE: Right.

8 MR. CARROLL: If they are trying to kill our patent,
9 which they are -- just like your company was successful in
10 killing somebody else's patent --

11 MR. GEORGE: They got ours.

12 MR. CARROLL: Oh, they killed --

13 MR. GEORGE: They killed ours.

14 MR. CARROLL: Sorry.

15 MR. GEORGE: Yes.

16 MR. CARROLL: They have to move that ball way down
17 into the red zone, the difference between the 50 and the red
18 zone?

19 MR. GEORGE: Right.

20 MR. CARROLL: This is called preponderance of the
21 evidence. And this is called clear and convincing evidence.
22 Now, it is not a criminal case where you have got to get it
23 almost down to the goal line. But it is a different and
24 harder and tougher job to kill a patent than to prove
25 infringement because they come out presumed to be, what?

1 Valid.

2 Now, does anybody think that is unfair; that for
3 Apple to try to kill our patent they have a tougher row to hoe
4 than we do in trying to prove our property? Anybody think
5 that is unfair? Because that is the law. I didn't make it.
6 Judge didn't make it. Okay. Everybody can apply the law.
7 Thank you for talking to me.

8 Your Honor, I have got, what, about eight minutes
9 left, ten minutes?

10 THE COURT: About eight minutes, yeah, a little
11 less.

12 MR. CARROLL: Thank you.

13 Ms. Moseley, where are you? There you are. I
14 see -- you said in your deal, your questionnaire, that you got
15 sued also?

16 MS. MOSELEY: Uh-huh.

17 MR. CARROLL: It got tossed out?

18 MS. MOSELEY: Right.

19 MR. CARROLL: Did you have to come to court?

20 MS. MOSELEY: No, no.

21 MR. CARROLL: Same question that -- I ought to be
22 able to remember names, but I am at the point I can't -- Ms.
23 Brewton. We are suing somebody, is that going to -- the fact
24 that you got sued and the thing got thrown out, is it going to
25 cause you to think that Apple probably isn't guilty of what we

1 say?

2 MS. MOSELEY: Well, I was pleased with my results.
3 You know, when somebody tried to sue me it didn't pan out, so
4 I was pleased. I don't know all of the facts here. I know
5 the facts in my case.

6 MR. CARROLL: Right. That's all I'm asking. Can
7 you start fresh with us?

8 MS. MOSELEY: Sure.

9 MR. CARROLL: Hear us out?

10 MS. MOSELEY: Yes.

11 MR. CARROLL: What do you do?

12 MS. MOSELEY: I am a substance abuse counselor.

13 MR. CARROLL: Here in Tyler?

14 MS. MOSELEY: Henderson.

15 MR. CARROLL: In Henderson. Well, you two ought to
16 get in a carpool or something. You are going to different
17 ways though.

18 MS. MOSELEY: Yes.

19 MR. CARROLL: Thank you.

20 Let's see. Now, is it Ms. Guedry or Guedry
21 (different pronunciation)?

22 MS. GUEDRY: Guedry.

23 MR. CARROLL: Guedry. May I chat with you, Ms.
24 Guedry just for a second. Your husband is a nurse anesthetist
25 and got sued, a malpractice deal?

1 MS. GUEDRY: Well, I don't really know that he got
2 sued. You know, they are supervised by MD's. And he was
3 called in because he was -- he personally was not the one. Do
4 you see what I am saying?

5 MR. CARROLL: Yeah. But you put down on your
6 questionnaire in the answer to the suit question, you know,
7 that information -- and I am glad he wasn't personally
8 involved. But my question is, just like I talked to your
9 fellow jurors up here, is that going to cause us to start out
10 behind? This is a property rights suit not a personal injury
11 suit.

12 MS. GUEDRY: Right.

13 MR. CARROLL: So should I be worried that your
14 husband's situation is going to bleed into our deal?

15 MS. GUEDRY: No.

16 MR. CARROLL: You are a nurse, correct?

17 MS. GUEDRY: Uh-huh.

18 MR. CARROLL: Have you ever had to fool with a
19 lawsuit?

20 MS. GUEDRY: No.

21 MR. CARROLL: Well, good. (Knocks on podium.)

22 MS. GUEDRY: I don't work right now.

23 MR. CARROLL: Okay. And I forgot. I don't know
24 this. Do you live here?

25 MS. GUEDRY: Longview.

1 MR. CARROLL: Do you know Eric Albritton?

2 MS. GUEDRY: I have heard the name. I don't know.

3 MR. CARROLL: Eric is a local lawyer in Longview who
4 is working with Apple on this case. Would that matter to you?
5 Do you have any relationship with Eric?

6 MS. GUEDRY: Huh-uh.

7 MR. CARROLL: Anybody else know Eric Albritton in
8 Longview? If you do, would it make a difference in this
9 lawsuit?

10 Thank you, Ms. Guedry.

11 THE COURT: You have about three minutes.

12 MR. CARROLL: Thank you, Your Honor.

13 Let me ask, where is Ms. Richardson? Ms.
14 Richardson, your father-in-law had something to do with
15 patents?

16 MS. RICHARDSON: Yes, but I don't know what.

17 MR. CARROLL: Does he own patents?

18 MS. RICHARDSON: Uh-huh, he does. Charles
19 Richardson.

20 MR. CARROLL: Okay. All right. One of the things
21 that you probably learned from the film this morning, and I
22 hope all of you saw this, is that there is no patent police?

23 MS. RICHARDSON: Right.

24 MR. CARROLL: In other words, when somebody has a
25 patent like your daddy-in-law or like David Gelernter and they

1 think somebody is using it without their permission, they
2 can't -- the Patent Office doesn't have anything to do with
3 that. They have to come to a courthouse just like this one
4 and to get a jury just like you-all to hear them out and
5 enforce their property rights if that is what the facts show.

6 MS. RICHARDSON: Correct.

7 MR. CARROLL: Does that create a problem for you?

8 MS. RICHARDSON: No.

9 MR. CARROLL: Okay. Anybody on the panel have a
10 problem with that? Because that is just the way it is, that
11 is the system.

12 All right. Thank you, ma'am.

13 MS. RICHARDSON: You are welcome.

14 MR. CARROLL: Ladies and Gentlemen, that's all of
15 the questions I have. I look forward to presenting the case
16 with my colleagues here to the eight of you who will judge our
17 facts. Thank you.

18 Thank you, Your Honor.

19 THE COURT: Thank you, Mr. Carroll.

20 Mr. Randall.

21 MR. RANDALL: Thank you, Your Honor. Good
22 afternoon. My name is Jeff Randall. I represent Apple, and I
23 am going to ask you-all some questions as well.

24 First, let me just tell you a little bit about
25 Apple. Apple started in the '70s. It is clearly a very

1 successful company right now. It is probably one of the most
2 successful and well-respected technology companies there is.
3 It hasn't always been that way.

4 In fact, early on in the '70s they came up with a
5 great idea, Steve Jobs and his colleagues came up with a great
6 idea to make computers easy to work with. His idea was to use
7 graphical images on the screen.

8 So at that time IBM was the dominant player. IBM
9 had all of the computers nearly in the market, and you had to
10 plug in codes and function keys and commands into the
11 keyboard. You had to type them in. So in the first place you
12 had to know what those codes were, and you had to know what to
13 type in. And it was difficult. If you think computers are
14 hard now, they were really hard to use then.

15 And Apple's idea was let's put these pictures on the
16 computer screen so people can see them, and we will use those
17 images to allow computers to be easy to use by people. And,
18 for instance, you could use a mouse, you could put your
19 document on the screen, you could go into the document and
20 work on it and save it and sit it right there on your
21 desktop.

22 You could take your mouse, a little device in your
23 hand, click on that document and drag it right across the
24 screen. If you wanted to get rid of it, you put it right in a
25 garbage can. If you want to empty the garbage can, you would

1 click on that little garbage can and say empty the garbage
2 can. Simple, easy-to-use computer. That is what Apple did.
3 Apple was successful. Apple came out with a lot of great
4 computers in the '80s.

5 They came out with their Macintosh computer in the
6 '80s, and then Microsoft came along and they took a lot of
7 those graphical images on the computer and allowed -- wrote
8 software and allowed all these other PC's to use that
9 software, like HP and Compaq and IBM and all these other
10 computer companies. And Apple struggled.

11 Apple was not always successful. Apple struggled
12 mightily. Then Apple fought back and in the last eight years
13 have been very successful. They invested in their employees.
14 They invested in research and development. They have 37,000
15 employees in the United States and worldwide and they have
16 become successful and they have come back and they did that
17 through innovation. They did that through studying what
18 people wanted with technology, how they could use it. And
19 they wanted to make it easy for people to use. That is the
20 story behind Apple, in a nutshell.

21 I want to ask you, we have heard from Mr. Carroll
22 about how successful Apple is. True, Apple is successful now.
23 It started out well, struggled, and it came back. That is
24 what happened.

25 Now, does anybody here think that just because Apple

1 is successful, just because they have done well, they have
2 invested in their employees and they have invested in research
3 and development and they have come out with great products
4 that people really like -- and they have made money, no
5 question about that -- does anybody think that just because
6 Mirror Worlds has sued them, without putting on any evidence
7 at all -- what Mr. Carroll said wasn't evidence -- but without
8 putting any evidence at all on, does anybody here think that
9 maybe Mirror Worlds deserves some of that?

10 Without hearing any evidence, without hearing any
11 testimony? Without hearing any witnesses, does anybody think,
12 well, look, Apple has got a lot of money, they have done very
13 well, they are successful, they ought to give some to Mirror
14 Worlds? Does anybody feel that way?

15 Okay. Does anybody feel that just because Mirror
16 Worlds has patents and because they have patents, somehow
17 Apple must have used those patents? Again, without hearing
18 any witnesses, without hearing any testimony, does anybody
19 feel right now they got a head start? No? Okay.

20 You are going to hear testimony that Apple has
21 patents too, obviously. Apple was the first company that
22 successfully commercialized using pictures and graphics on the
23 computer screen and making personal computers easy for people
24 to use, the first company that successfully did that. They
25 have patents on this.

1 In fact, they have patents that were filed three
2 years before Mirror Worlds, three years before. And Mirror
3 Worlds actually infringes Apple's patents, and we are going to
4 show that.

5 Now, does anybody here have any issues at all with
6 listening to the testimony, listening to the witnesses, and
7 then ultimately deciding whether Mirror Worlds infringes
8 Apple's patents, the patents that were filed three years
9 before Mirror Worlds' patents? Does anybody have an issue
10 about that? Okay.

11 Another thing that is going to happen and happened
12 today is that Mirror Worlds gets to go first. They get to go
13 first. Not us. Even though we are claiming they infringe our
14 patents, they are claiming we infringe their patents, they are
15 going to get to put their case on first. Our witnesses are
16 going to come, and we have Apple executives that are going to
17 come and they are going to testify about exactly how their
18 products operate.

19 We believe that when you hear that testimony, you
20 are going to find that Apple does not infringe these patents.
21 But in any event, will you be able to sit, all of you -- and I
22 don't know who will be on our jury -- but will everybody be
23 able to sit and listen to all of the testimony, wait for our
24 turn to put our case on, put our witnesses on? Does anybody
25 have a problem with that?

1 Another issue I have got to ask a few issues
2 about -- there are a few issues that are going to come up in
3 this case. I heard Mr. Carroll mention that Mr. Gelernter and
4 we are entitled to certain money from Apple, we are entitled
5 to this, we are entitled to that. Well, actually a hedge fund
6 owns Mirror Worlds and owns this. It is the hedge fund that
7 is asking for the money.

8 Does anyone here invest in hedge funds or have an
9 investment in hedge funds, either you or any of your family
10 members?

11 And there was testimony -- there was argument about
12 Mr. Gelernter and that he suffered a horrific accident. There
13 is no question about that. All right. It doesn't have
14 anything to do with whether or not Mirror Worlds infringes,
15 with whether or not Apple infringes, with whether or not these
16 patents are valid or not. That doesn't have anything to do
17 with it.

18 Okay. Now, does anybody here feel differently,
19 feel, well, maybe he is a victim of something, we ought to
20 consider it in deciding these facts in this case? Because if
21 anybody does, I really need to know that. All right?

22 Mr. Carroll asked you guys if any of you have gone
23 through a very horrific incident in your life that changed
24 their life, and I understand that. This is a big issue. This
25 doesn't have anything to do with this case. It is a horrific

1 accident that occurred. And I am sorry, and I think everybody
2 should be sorry about that. But it doesn't have anything to
3 do with this case. Does anybody feel differently? Because if
4 you do, please speak up now.

5 Now, this case, both sets of patents, the Apple
6 patents and the Mirror Worlds patents, deal with two
7 fundamental issues. And you are going to hear testimony on
8 this. The two fundamental issues are, how do you organize
9 documents on your computer?

10 Now, you are going to hear testimony from Apple and
11 Microsoft do it a certain way, Unix systems do it a certain
12 way. They use folder systems almost like a file folder that
13 some people would use at work. Right? So maybe you have a
14 file folder at home and maybe you put family photos in it.
15 And maybe photos of your grandson in one folder -- you put
16 photos of your granddaughter in another. But all of those go
17 in a folder called family photos.

18 That's how Apple organizes its documents. That is
19 how Apple has always organized its documents. That is how
20 Microsoft documents work. All of that is done way before
21 Mirror Worlds came up with their idea, which is to put
22 documents in a chronological order. Everything that goes in
23 the computer goes in chronological order as opposed to putting
24 them -- organizing them in file names and folders. That is
25 how Apple does it.

1 That is not that difficult. The other issue in the
2 case is, how are those documents and images displayed on the
3 computer screen so we can all see them and use them? Those
4 are two issues. How are the documents organized and stored in
5 the computer, and how are they displayed visually on the
6 computer screen?

7 Now, if we do our job, all of those issues will be
8 clear. And over time in the course of this trial you will
9 hear witnesses testify about that information. You will hear
10 experts testify. You will see videos. You will see exhibits.
11 And it is our job to make these issues clear to you.

12 Does anybody feel uncomfortable with your ability to
13 listen to that type of testimony on those issues and
14 ultimately decide this case? Because it is an important case
15 to us. Is there anybody that feels like, for whatever reason,
16 you just can't do that? I say that because I want to know.
17 It doesn't mean you won't ultimately be on the jury, but it
18 just means I need to know where everybody stands.

19 There was some talk about the video, and I know that
20 earlier you heard and you watched this video about the Patent
21 Office and you saw that -- and Mr. Carroll was talking about
22 the football field and the red zone and everything else.

23 Does anybody have an understanding about whether or
24 not the Patent Office has all of the prior inventions an all
25 of the prior art before it? So, for instance, I think you saw

1 the video and you know that when the Patent Office gets a
2 patent application, when the Patent Office gets a patent
3 application, typically they read the application, typically
4 the inventors submit all of the other inventions that they are
5 aware of, all of the other written articles, all of the other
6 patents, anything they have done -- like this book, this 1992
7 book, which the Patent Office didn't have in this case.

8 But they submit that information to the Patent
9 Office, and the Patent Office then looks at that information
10 and decides whether or not to give this patent out. Well,
11 sometimes -- I think you heard this in the video -- well,
12 sometimes the Patent Office doesn't have all that information.
13 They don't have it.

14 And in this case you are going to hear evidence that
15 the Patent Office in this case didn't have the Apple patent
16 that was filed three years before. They didn't have lots of
17 other company's products, software, and even some of the
18 articles written by these gentlemen, the inventors. They
19 didn't have that when they decided to give these patents out.

20 Now, does anybody have a problem in deciding this
21 case about whether or not these patents are valid if you find
22 that the Patent Office didn't have all of the information?
23 They didn't have the Apple patents. They didn't have other
24 companies' software and products, they didn't have other
25 companies' articles. They didn't have all of the articles by

1 Mr. Gelernter and his colleagues.

2 Yes?

3 MR. GEORGE; As long as you prove that your patent
4 was before his.

5 MR. RANDALL: Yeah, that's right. I accept that
6 challenge I heard earlier about proving it and making it
7 clear.

8 We certainly will do that. I do have a couple
9 follow-up questions for you, sir. Mr. James -- Mr. George,
10 I'm sorry.

11 MR. GEORGE: Yes, sir.

12 MR. RANDALL: Your company had some patents that
13 were ultimately invalidated; is that right?

14 MR. GEORGE: I'm a sales rep for that company, and
15 they have several patents over the years. We worked with them
16 from the ground floor. We give them ideals and took it and
17 ran with it and got patents. We thank the Lord for that
18 because it put us in a real good place in the industry here
19 over the next few months anyway.

20 MR. RANDALL: Yeah. Was there a lawsuit about those
21 patents?

22 MR. GEORGE: One right now is -- I won't talk about
23 it anyway, but they felt -- I talked to the president of the
24 company. He felt that they found a loophole, and so they were
25 able to beat the patent anyway.

1 MR. RANDALL: Did they knock out all of the patents
2 or just one of them?

3 MR. GEORGE: No, no, just the one.

4 MR. RANDALL: And do you know if they invalidated
5 that patent because they found some -- and this is called
6 "prior art" if someone else did it before you, someone else
7 came up with this idea of putting documents in a chronological
8 order kind of like you put photographs or like you write in a
9 diary or like you write a story; but if someone else came up
10 with this idea about putting documents in chronological order
11 and we were able to prove that, would you have any problem?

12 MR. GEORGE: No, sir, as long as you prove it.

13 MR. RANDALL: You wouldn't have any problem finding
14 these patents invalid?

15 MR. GEORGE: No.

16 MR. RANDALL: And there is nothing about your case
17 and your company's experience that would taint you or bias you
18 in any way in this case.

19 MR. GEORGE: No, sir. They just found a loophole.
20 They didn't dot the T -- or dot the I or didn't cross the T.
21 They found it, you know.

22 MR. RANDALL: Was it a loophole, or was it something
23 significant?

24 MR. GEORGE: Pardon?

25 MR. RANDALL: Was it just a loophole like not

1 crossing --

2 MR. GEORGE: They found another way of doing it is
3 what they did.

4 MR. RANDALL: All right. Okay. Thank you.

5 Now, Mr. Carroll also talked about finding oil on
6 land. I think the suggestion there was that -- I think the
7 assumption there was that the land that he was talking about
8 was Mirror Worlds' land.

9 So I think when you saw the video about the Patent
10 Office, you understand that just because someone comes to the
11 Patent Office with a patent and says I think this is mine, it
12 doesn't mean that -- necessarily mean that it is theirs.

13 Does anybody have a problem with that notion; that
14 they actually have to prove it is theirs and that ultimately
15 this is the only place we are going to invalidate it is right
16 here in court?

17 If Apple looks at this patent -- I want to see if
18 everybody understands this. And if anybody has a problem with
19 it, I would like to know. If Mirror Worlds says this is our
20 invention. Our invention is putting documents in a
21 chronological order, and no one else ever came up with it.
22 They say, therefore, we have this valid patent. And then we
23 look at it and say, well, no, number one, we did that three
24 years before you did. You can certainly do that. Number two,
25 all these other companies out there did it. Number three,

1 none of this stuff was ever before the Patent Office when they
2 gave you these patents.

3 Now, does anybody have any problem with deciding
4 those issues ultimately if we are able to prove it? Okay.

5 There is also a rule that is going to apply in this
6 case. It is kind of a hard and fast rule about a patent.
7 That is, if you are going to be an inventor and you are going
8 to go to the Patent Office, you have got to show them the
9 information, writings and everything else that you have. And
10 sometimes the Patent Office doesn't get all that information.

11 Okay. And so there is going to be proof here in
12 this case that there is actually some writings, articles,
13 articles written by Dr. Gelernter's own student, his own
14 student wrote an article. And there is other articles that
15 were written that were never before the Patent Office and
16 never considered.

17 So there is a rule that says if you describe your
18 invention in a writing that is public more than a year before
19 you file your application, it is invalid.

20 Okay. Now, some people may think that is a little
21 harsh, these guys wrote it themselves. Gelernter may have
22 written it. His student may have written it. Other people
23 may have written these articles. Does anybody think that that
24 rule, which is a rule, that you would have difficulty applying
25 it, difficulty applying a rule that says if you describe this

1 invention in a writing a year before, then you don't get your
2 patent no matter who else did it before you? Would anybody
3 have a problem applying that?

4 Let me ask a few questions. Ms. Richardson?

5 MS. RICHARDSON: Yes.

6 MR. RANDALL: Now, your father-in-law had one or
7 more patents; is that right?

8 MS. RICHARDSON: Yes.

9 MR. RANDALL: Do you know what the subject matter --

10 MS. RICHARDSON: It has to do with oil field
11 equipment is all I know.

12 MR. RANDALL: Oil field?

13 MS. RICHARDSON: Yes.

14 MR. RANDALL: Did he ever collect money off those
15 patents?

16 MS. RICHARDSON: Yes, uh-huh.

17 MR. RANDALL: Did he ever have to sue to get any of
18 that money?

19 MS. RICHARDSON: No.

20 MR. RANDALL: Did you ever have anything to do with
21 the patents?

22 MS. RICHARDSON: Oh, no.

23 MR. RANDALL: Okay. All right. Does the fact that
24 your father-in-law had patents affect you one way or the
25 other?

1 MS. RICHARDSON: No, it doesn't.

2 MR. RANDALL: You are still right in the middle
3 here, not one way or --

4 MS. RICHARDSON: Right.

5 MR. RANDALL: Thank you.

6 MS. RICHARDSON: You are welcome.

7 MR. RANDALL: Now, I noticed that there were a
8 number of people that sat on juries before, and some of those
9 juries were civil cases and then there were a lot of other
10 criminal cases that I saw.

11 Now, has anybody sat on a jury that didn't reach a
12 verdict? It is one thing if the case settles, I understand
13 that; but did anybody sit on a jury where you sat there and
14 deliberated and just couldn't reach a verdict? No.

15 Yes. Can you let me know the circumstances behind
16 that?

17 MR. HOLCOMB: Pardon me.

18 Can you let me know the circumstances behind that
19 matter?

20 MR. HOLCOMB: It was a rape case in Athens, Texas.

21 MR. RANDALL: Yes.

22 MR. HOLCOMB: We deliberated for days on it. One
23 lady held us up. We couldn't persuade her to say he was
24 guilty or not. All of the evidence pointed towards it, so it
25 was a hung jury.

1 MR. RANDALL: Well, I used to be a prosecutor, so I
2 know that is a difficult issue. Mr. Holcomb, did that
3 experience -- now, I understand that a hung jury is a
4 difficult issue; but did that experience affect you in such a
5 way that you couldn't be a fair and impartial juror in this
6 case?

7 MR. HOLCOMB: No, I don't because when they retried
8 him they were only out for an hour and a half and found him
9 guilty, so justice was done.

10 MR. RANDALL: There we go. All right. Okay. Well,
11 good. There is nothing about that case that is going to
12 affect your ability to serve as a juror here?

13 MR. HOLCOMB: No.

14 MR. RANDALL: Thank you very much, sir.

15 Now, since -- some form of technology is going to be
16 discussed in this case, it is a patent case and I told you
17 about the issues and how documents are organized and how they
18 are displayed on the screen.

19 Is there anybody here that knows enough about
20 computers and technology that they actually write software?
21 No? Okay.

22 Does anybody here provide assistance to other people
23 in using computers, whether it is students -- I know we have a
24 lot of teachers here. Whether it is students or anyone else
25 do you ever provide assistance to people. Yes? Raise your

1 hand.

2 MS. FERRELL: Kimberley Ferrell.

3 MR. RANDALL: Thank you. So what kind of help do
4 you provide?

5 MS. FERRELL: Oh, computers are very prominent in
6 education. I mean they come out of first grade knowing what
7 icons are on the screen. We know -- we are all the way to
8 white boards, interactive boards. I teach seventh grade, so
9 it is a very prominent thing in education.

10 MR. RANDALL: Okay. And is there anything in
11 that -- in your work with seventh graders that pushes you
12 either one direction or the other in this case in terms of
13 your ability to decide the issues?

14 MS. FERRELL: Not at all.

15 MR. RANDALL: Thank you very much.

16 Anyone else? Yes, okay, let's go through these.
17 Ms. Till, right?

18 MS. TILL: Uh-huh.

19 MR. RANDALL: Explain how you assist folks?

20 MS. TILL: I just always assist other co-workers in
21 learning programs and things.

22 MR. RANDALL: Have you used Microsoft Windows?

23 MS. TILL: Yes.

24 MR. RANDALL: Have you used Apple computers?

25 MS. TILL: No, I have not used Apple.

1 MR. RANDALL: Okay. Well, in this case they operate
2 almost in the same way in terms of keeping documents with file
3 names and folder names. You are familiar with that?

4 MS. TILL: Yes.

5 MR. RANDALL: All right. Let's see, who else up
6 front, Mr. Carroll?

7 MR. S. CARROLL: Yes, sir.

8 MR. RANDALL: Can you explain how you assist folks
9 in using computers?

10 MR. S. CARROLL: A couple of ways. One, when I
11 worked for a major company in Dallas. I troubleshoot
12 software, find their bugs in it, and then send it back to the
13 developer to fix it. And now I own a telecom company where I
14 provide white boards for schools or computers, as well as
15 phone systems.

16 MR. RANDALL: All right. So you are familiar with
17 the way folks use file names and file folders --

18 MR. S. CARROLL: Yes, sir.

19 MR. RANDALL: -- and organize their documents?
20 Okay. Terrific. Is there anything about your work with the
21 telecom company that is going to affect one way or the other
22 your ability to handle decisions in the case?

23 MR. S. CARROLL: No.

24 MR. RANDALL: Thank you very much.

25 Let's see. Okay. Mr. Morrison?

1 MR. MORRISON: Yes, sir. I'm a tech support agent
2 for an Internet service provider. Basically, what I do is
3 help people get connected to the Internet, use email
4 applications, functions like that.

5 MR. RANDALL: I saw in your questionnaire, video
6 data phone?

7 MR. MORRISON: Right, I work for a cable company as
8 well. We provide Internet, cable, and VoIP phone. So I
9 support customers in getting those connected and keeping them
10 connected.

11 MR. RANDALL: How long have you been familiar with
12 operating computers?

13 MR. CARROLL: Well, I guess early '90s would have
14 been my first experience with computers. I had one of the
15 first Tandy's and worked through that. I have been mostly
16 with PCs and Windows applications but have used Apple some.

17 MR. RANDALL: Okay. Terrific. Thank you very much.

18 THE COURT: You have about three minutes left, Mr.
19 Randall.

20 MR. RANDALL: Thank you.

21 We are going to have witnesses in this case.
22 Professor Gelernter is from Yale. We have witnesses who we
23 will play from video from the Massachusetts Institute of
24 Technology, MIT. We will have professors from Columbia.
25 Apple senior executives, a lot of them have advance degrees as

1 well.

2 However, they are not going to decide this case. It
3 is your decision, and you-all go back to that jury room and
4 you will think about the witnesses, their demeanor, their
5 testimony, exhibits we utilized, the arguments that we made;
6 and you are going to make the decision.

7 Can all of you make that decision without putting
8 undue weight to someone's testimony because they were an MIT
9 professor or Yale professor or Columbia professor? Can you
10 make the decision on your own without simply saying, well,
11 this person on their resume had a certain school, I better
12 listen to them? Can y'all make your own independent decision
13 in this case? That is all I ask you to do.

14 It has been a pleasure talking to you. I look
15 forward to presenting the case to you. Please keep your mind
16 open and allow us to present our case and our witnesses.

17 Thank you very much.

18 THE COURT: Thank you, Mr. Randall.

19 All right. Ladies and Gentlemen of the Jury,
20 that's all the attorneys' questions for you. I have one final
21 question, and it is a very broad one. After everything you
22 have heard so far about this case, is there any reason that
23 would suggest to you that, for whatever reason, you do not
24 feel that you would be the person that ought to sit on this
25 jury? Anybody have any other reason they would like to bring

1 to the Court's attention.

2 All right. That's -- let's see, Ms. Ferrell.

3 MS. FERRELL: I just keep having this one thought
4 and I have been hearing what I am hearing, but it keeps coming
5 back to the Patent Office for me. I'm, quite frankly, kind of
6 angry that we have created a system that we are all sitting
7 here having to decide this because it sounds like it is a
8 faulty system and I'm stuck because I don't know what to do
9 with it. It doesn't matter whom I hear, I am angry that we
10 are at this point. So I don't know if I need more
11 clarification. I feel like you deserve that I am sitting here
12 thinking that.

13 THE COURT: Okay. Let me be sure I understand, your
14 concern is that this should have perhaps been resolved by the
15 Patent Office?

16 MS. FERRELL: Yes, I keep hearing that we have a
17 faulty system in which we do not have an accurate way of
18 putting these facts down and so that we are landing here. I
19 mean, I feel sympathy for both sides at this point because I
20 keep hearing the Patent Office, the Patent Office may not
21 have, the Patent Office didn't know. And so that is what it
22 keeps coming back to. So it is not going to decide whether I
23 can decide this case. I just felt like it may be necessary to
24 know that that is forefront in my mind right now.

25 THE COURT: Thank you very much for sharing that.

1 There will be instructions for those of you selected on the
2 jury regarding the law, the effect of the Patent Office's
3 decision. I will say, generally, it is like any other
4 Government function, you know, they do a very good job; but a
5 mistake can be made.

6 There are a number of issues in this case other than
7 the validity of the patent. There is the issue of
8 infringement. There will be issues of damages. So our system
9 provides that a jury, after the case has been thoroughly
10 vetted by both sides and had discovery and bring their
11 evidence before you, then you will ultimately decide whatever
12 issues the Court propounds to you. So I appreciate your
13 comments, and thank you for sharing that.

14 Anyone else have anything they would like to add?

15 Yes, ma'am. Ms. Guedry?

16 MS. GUEDRY: Yes. I'm sure I'm not the only one
17 that has a comment like this, but I know how to use a computer
18 and I know how to get it to do what I want it do for me, but I
19 just feel really overwhelmed with this. Like I said, I'm sure
20 I'm not the only one, but I know simple things. And I already
21 kind of feel overwhelmed because about, you know, just hearing
22 them present what they have and even watching the thing
23 downstairs, I just feel like it is somewhere over my head.

24 So I am concerned, you know, as far as being fair
25 and all this, you know, I have to understand -- you know,

1 sometimes you have to spell it out for me.

2 THE COURT: Thank you. I appreciate you mentioning
3 that. And I will -- I try a lot of patent cases. I have
4 tried seven already this year. And it is a common occurrence
5 that jurors on the first day of jury selection have the very
6 feeling you have. But I have told those jurors and I will
7 tell you that I have yet to have a jury that felt that way at
8 the end of the case when they go to deliberate a verdict.

9 These lawyers, excellent lawyers on both sides.
10 They have very strong resources on both sides. They are going
11 to bring to you expert witnesses that are going to do a very
12 good job of educating you as to what their points of view
13 are. They are going to do a very good job of simplifying this
14 case and getting it down to what the true disputes are that
15 you need to resolve.

16 So I have seen this kind of deer-in-the-headlights
17 look before from jurors at the beginning of a trial; but
18 invariably -- I go back and visit with every jury after a
19 trial and, invariably, they have a great deal of confidence in
20 the verdict that they have reached, whatever it may be,
21 because they have been well-educated, they have listened, they
22 have taken notes; and I think those of you that are selected,
23 that you are going to find this a very rewarding and
24 educational experience, an opportunity that a lot of people
25 don't ever have to hear a case like this.

1 And by the time we are finished -- and they are
2 going to do a good job of simplifying it for you -- that I
3 think you are going to feel very comfortable with it. Thank
4 you very much for your comment.

5 Anyone else?

6 All right. Very well. Now, what we are going to do
7 next is I am going to give you a short recess, and we are
8 going to be recessed until 1:25. It will be 20 minutes. At
9 the end of the recess if you will come back in the courtroom
10 and just have a seat on this side of the courtroom in no
11 particular order, and then we will call out the names of the
12 eight of you that are selected for the jury. You will come
13 forward, be sworn in, the others will be excused.

14 Those eight of you selected, I will have some brief
15 instructions for you, and then you will be excused for the
16 day. I have one instruction for you. And, that is, while we
17 are in recess, don't go out and discuss this case with each
18 other or with anyone else. You can talk about the weather or
19 the rain or what you did last weekend or your hobbies or
20 whatever, but don't discuss this case. And there are good
21 reasons for that. And I will have more for the eight of you
22 that are selected, more instructions in that regard when we
23 come back.

24 Do the attorneys have anything they need to discuss
25 with me at the Bench before I let the jury go?

1 MR. CARROLL: Briefly, Your Honor.

2 THE COURT: Okay. If you would please approach.

3 (Bench conference.)

4 MR. CARROLL: Your Honor, we have a cause challenge
5 for two of the jurors.

6 THE COURT: Okay.

7 MR. CARROLL: Steven Carroll. On his questionnaire
8 he indicated he uses Spotlight and Time Machine; two of the
9 accused instrumentalities. Our concern is that it would be
10 impossible for him to obey the Court's instruction not to
11 dismiss that and because he knows them and uses them and
12 apparently he used them very often in his work -- uses
13 computers, number one.

14 And number two, we challenge Ms. Ferrell because of
15 her --

16 THE COURT: Which one?

17 MR. CARROLL: No. 6, Ms. Ferrell because of her
18 views of the patent -- views of the Patent Office. We feel
19 like she would blame the Patent Office rather than hear
20 evidence of invalidity, so that is our cause challenge.

21 THE COURT: Do you have challenges?

22 MR. RANDALL: I do. I don't think that is a
23 sufficient grounds for cause, either one.

24 THE COURT: I will hear argument on them when I let
25 the jury go. Anything else to visit about with either one of

1 them?

2 MR. CARROLL: No.

3 (Bench conference concluded.)

4 THE COURT: All right. Ladies and Gentlemen of the
5 Jury, I think I told you 1:25, and I should have said 2:25.
6 But now I am going to say 2:30 because we have taken a little
7 more time than I thought, so we will be in recess until 2:30.
8 Enjoy your break in the hallway and come back in a few minutes
9 before then. Thank you.

10 Please exit the courtroom as quickly and quietly as
11 you can.

12 (Jury Panel out.)

13 THE COURT: You may be seated.

14 All right. Did plaintiff have -- I'm not sure --

15 Ms. Sloan, did you get those challenges at the
16 Bench?

17 (Reporter Note: The Reporter acknowledged to the Judge
18 she got the challenges.)

19 THE COURT: Mr. Carroll, do you have anything you
20 would like to add to the record?

21 MR. CARROLL: Quickly, our challenges are to No. 4
22 Steven A. Carroll based on his answer to the questionnaire
23 that he uses Spotlight and Time Machine.

24 THE COURT: I'm not sure -- oh, I see. Spotlight
25 and Time Machine. Why is that so prejudicial?

1 MR. CARROLL: We believe it would be difficult, if
2 not impossible, to avoid the Court's admonition not to do any
3 self-experimentation because these are features of the
4 computer program; that once he is told about them, he can
5 outside the courtroom call them up and look at them and do his
6 own extra-judicial comparison of what is going on. And so
7 that is the challenge as to Mr. Carroll.

8 THE COURT: Let me hear a response as to Mr.
9 Carroll.

10 MR. RANDALL: Your Honor, may I address the Court
11 from this podium?

12 THE COURT: Yeah, that would be fine.

13 MR. RANDALL: Your Honor, number one, our view is
14 that is not sufficient prejudice to strike this juror for
15 cause. Mr. Carroll had a full and fair opportunity to
16 question that juror on whether or not he knew of or used those
17 features.

18 He never elicited either answer. I think the juror
19 questionnaire says do you know of or use the following. He
20 hasn't elicited whether the juror has an Apple computer,
21 whether he has that software, or he simply knows of it.

22 And, frankly, any other -- that risk with respect to
23 other jurors may be not as great, but there is a risk other
24 jurors could go off and do this, too. I am sure Your Honor
25 would give that instruction in this case like every other case

1 that they should not do anything such as an experiment outside
2 the courtroom.

3 THE COURT: Okay. Thank you.

4 All right. Mr. Carroll, No. 6.

5 MR. CARROLL: The second one is Ms. Ferrell, who
6 expressed to the Court her disappointment with the Patent
7 Office and felt like the Patent Office was to blame for us
8 being here. We believe that that attitude reflects an
9 inability to follow what will be the Court's instruction about
10 the constitutional right of a patent owner to come to Court
11 and the constitutional right of a defendant or a
12 counter-defendant such as us to challenge validity in court.

13 THE COURT: All right. Response?

14 MR. RANDALL: Your Honor, you did, when Mr. Carroll
15 first raised this issue a few moments ago at the Bench, you
16 did give him an opportunity to question that potential juror
17 again and to probe that deeper if he would like to. He passed
18 on that.

19 I don't think that -- what she said she couldn't
20 follow the Court's rules. I think we both asked the entire
21 panel numerous times whether they could be fair and impartial,
22 particularly on all of the poignant issues that we both
23 raised. They all passed and they all said yes. The only
24 thing she raised -- I believe she raised an issue about some
25 frustration with whether these things should ultimately be

1 resolved in the Patent Office. Frankly, they would be, but I
2 don't think that was sufficient grounds either for cause.

3 THE COURT: All right. The Court is going to excuse
4 Mr. Carroll, Juror No. 4, for cause; and deny the challenge
5 for cause as to Juror No. 6, Ms. Ferrell. That will --

6 (Pause in proceedings - Conference between the Court and
7 Judicial Administrator.)

8 THE COURT: Ms. Ferguson has advised me that one of
9 the jurors, No. 2, Ms. Brewton approached the Court Security
10 Officer in the hallway and said she may have some medical
11 issues with her family. I can either bring her back in and
12 question her about that, or we can agree to excuse her by
13 agreement. Whatever -- Mr. Carroll, what would be --

14 MR. CARROLL: Your Honor, I don't want her to be
15 here if she has medical problems.

16 MR. RANDALL: I agree, Your Honor.

17 THE COURT: We will excuse Juror No. 2 for cause, as
18 well, by agreement.

19 All right. So let's see. We had 23, we just let
20 two go. That leaves us with 21. We need eight for the jury.
21 That leaves us with 13, so each side will have six strikes,
22 and we will strike down through Juror No. 22. Is my
23 arithmetic correct?

24 MR. RANDALL: I think we would strike down to 21,
25 would we not, Your Honor?

1 THE COURT: Oh, you're right, because we excused two
2 with -- actually we will strike through 20 with the two for
3 cause and the one that we won't get to. We won't get to --
4 well, no, wait a minute. I was correct the first time I
5 think. We will strike down through 22, and we won't get to
6 Mr. Tatum.

7 Okay. Any questions?

8 MR. CARROLL: No, Your Honor.

9 THE COURT: Be in recess until 2:30.

10 (Recess taken.)

11 (Jury in.)

12 THE COURT: Please be seated.

13 All right. Ms. Ferguson, if you will call the names
14 of the jurors.

15 And if you will come forward, the Court Security
16 Officer will show you where to sit.

17 THE CLERK: Juror No. 1, Vanessa Richardson. Juror
18 No. 2, Mildred Dozier. Juror No. 3, Margarrita Moore. Juror
19 No. 4, Beverley Till. Juror No. 5, Gerald Floyd. Juror No.
20 6, Frankie Chandler. Juror No. 7, Michael Foster. And Juror
21 No. 8, Mary Hartmann.

22 THE COURT: All right. For those of you who were
23 not selected, our condolences and our thanks for being here
24 today and participating in the process. You are free to leave
25 at this time if you wish, or you are welcome to stay if you

1 like. If you wish to leave, please do so immediately,
2 quickly, and quietly so we may proceed.

3 (Unselected Jury Panel Members excused.)

4 THE COURT: All right. Ms. Ferguson, if you will
5 administer the oath to the jury, please.

6 (Jury sworn.)

7 THE COURT: Thank you. Please be seated.

8 All right. Ladies and Gentlemen of the Jury, you
9 have been selected as the jury to try this case. I have some
10 instructions to give you at this time. Please listen
11 carefully to them.

12 Until this trial is over, do not discuss this case
13 with anyone, and do not discuss it to -- let anyone to discuss
14 this case in your presence. This includes your family,
15 friends, and fellow jurors.

16 Do not discuss this case even with the other jurors
17 until all of the jurors are in the jury room at the end of the
18 case, and I have actually given you permission to begin
19 deliberating.

20 So in a nutshell what this means is when you take a
21 break with the jury, when you go to lunch, some of you may
22 decide to go to lunch together. Talk about anything you wish,
23 but don't talk about this case.

24 When you go home this evening or to work tomorrow
25 your spouse or co-worker may ask you, did you get picked on a

1 jury? You can say yes. If they say, what kind of case? You
2 can say it is a civil case, patent case. But don't say any
3 more about it, what it involves, who it involves, or anything
4 of that nature.

5 The reason for this is very important, and that is,
6 in a trial of a case you are to decide the case only from the
7 evidence that you hear from that witness stand and the
8 documents that are admitted into evidence. So if you start
9 visiting with somebody about it and they start saying, well, I
10 know such and such and that type of thing, then you have
11 violated the very principle that the trial is based on, so
12 don't discuss the case with anyone else.

13 If anyone should attempt to discuss the case with
14 you or approach you concerning it, you should inform the Court
15 immediately. I don't think that will happen; but if it
16 should, please do so.

17 Also, hold yourself completely apart from the people
18 involved in the case; the parties, the witnesses, the
19 attorneys, and the persons associated with them.

20 During the course of the trial you are going to be
21 going to lunch at the same time, the attorneys and the parties
22 and witnesses are. You may be riding on an elevator with
23 them. You have got a juror badge on. I have instructed them
24 not to have any conversations with you, and I am instructing
25 you not to have any conversations with them.

1 So they are not going to get their feelings hurt,
2 don't get your feelings hurt. It is okay to nod, but no
3 conversation. And the reason for that is two-fold. Again,
4 not that anyone would say anything improper, but not only do
5 you need to be fair and impartial but as a jury you need to
6 convey the appearance of fairness and impartiality.

7 If one of you were in the hallway talking about a
8 football game last weekend with one of the attorneys on one
9 side, the other side might walk by and wonder what are they
10 talking about? So it is not only -- not to imply that anyone
11 would do anything wrong, but we just need to maintain that
12 sense of formality.

13 This also means that if any of you have a social
14 Internet site tool like Facebook, MySpace, or Twitter, do not
15 discuss or even mention the case at all on any of those
16 sites. Do not post updates about what is going on on the
17 case. Do not send or receive text messages about the case.

18 There have been some cases in other states where a
19 juror would sit there and Twitter what is going on in the case
20 or what they think of it. Totally improper. Mistrial
21 declared. Case had to be tried over. And as you can see,
22 there has been a lot of time and money spent getting the case
23 to this point, so we don't want anyone to do anything that
24 would jeopardize that. If you should see any other juror or
25 hear about that, anyone communicating anything about the case,

1 you do need to tell me immediately.

2 Do not make any independent investigation of any
3 fact or matter in this case. Do not learn anything about the
4 case from any other source. I don't think there will be
5 anything on TV or in the newspaper. But if there should be,
6 just don't read it or flip the channel.

7 Also -- and this is very important -- do not use the
8 Internet or Google to find out more information about the
9 case, the parties or the attorneys in the case. Again, that
10 comes back to what I told you earlier. What you are to decide
11 this case on is just what is admitted into evidence from the
12 witness stand and from the documents.

13 So if one of you were to go home tonight and start
14 Googling up "Apple" or "Mirror Worlds" you would be getting
15 information that, number one, it has not been admitted into
16 evidence, so you would have violated my instructions; and,
17 number two, you would have information that the other jurors
18 don't have. So don't make any type of independent
19 investigation. You are to be guided solely by what you see
20 and hear during the course of the trial.

21 Now, this case right now I am setting it and putting
22 you on notice to be back here on Monday, September 20th at
23 9:00 am. That is two weeks from today. There is another case
24 that is set for that same time. If it has not resolved itself
25 by then, it will go first and it will go that week; and your

1 case will be pushed to the next week, September 27th.

2 So does everyone have the 1-800 number for the
3 court? Anybody that doesn't have it? Okay. Call that 1-800
4 number, and there will be a message on there regarding this
5 case. So if you will call it on Sunday evening, there will be
6 a message there telling you whether you need to be here on
7 Monday, the 20th or you need to be here on the 27th or the
8 25th or whatever day. If there has been any change, that is
9 your link to the Court as far as what is going on.

10 So call that number and check on the status of it
11 before you come in on Monday, the 20th. But we will either
12 see you on the 20th or the 27th in all probability.

13 Any questions from any of the jurors? Okay. Once
14 again, thank you for your service on this jury, and I am about
15 to excuse you, and you will go to the jury room. The Court
16 Security Officer will take you there. That is where you will
17 be finally dismissed for the day. That is where you will
18 gather when you report back here for the trial.

19 And try to be here about 10 or 15 minutes early just
20 to be sure there aren't any delays because if one of you is
21 late getting here, it holds up everything. So we will try to
22 have some coffee and doughnuts, something for you to snack on.
23 Be here about 10 minutes early and report to the jury room on
24 Monday, the 20th unless you are informed otherwise.

25 Thank you. And jury is excused.

1 (Jury out.)

2 THE COURT: Please be seated.

3 All right. Is there anything -- well, let me
4 inquire of the parties first, where are y'all on mediation?

5 MR. CARROLL: We have talked to Mr. Patterson a
6 couple of times, and he is in contact with us. I think that
7 is probably the best way to put it.

8 MR. RANDALL: Yeah, that is about as optimistic as
9 we have gotten.

10 THE COURT: All right.

11 MR. CARROLL: I am optimistic.

12 THE COURT: All right. I would encourage both sides
13 to continue to visit with Mr. Patterson. You have got a
14 couple of weeks before the trial starts. Once the trial
15 starts, I know y'all are going to be spending a lot of your
16 clients' money over the next several weeks and through the
17 trial. Once it gets started, sometimes it is hard to stop.

18 Rather than the unpredictability of what the crazy
19 jury or crazy Judge might do in this case, you still have your
20 futures in your own hands if you will try to work out a
21 business solution to your problems. So I encourage you to do
22 that.

23 Is there anything the Court could help you with
24 today before we recess?

25 MR. CARROLL: No, Your Honor.

1 MR. RANDALL: No, Your Honor, the parties have a few
2 additional motions in limine to try to work out, and we have
3 got the depo designations and exhibit issues to continue to
4 work on.

5 THE COURT: Did you get your claims pared down and
6 your -- I know you didn't get a stipulation filed, but are we
7 close enough both sides are satisfied?

8 MR. RANDALL: Not that -- that is still an open
9 dispute. They reduced the claims to 12. We still think it is
10 too many, but that is where we are at. In terms of the
11 stipulation, we haven't reached a stipulation, so that is
12 still an open issue. I would like to think we could close
13 that gap.

14 MR. CARROLL: That's right, Your Honor. We have
15 agreed to cut down on the claims, for all of the obvious and
16 right reasons. Apparently, we are fussing over argument. We
17 are continuing to talk, though, over the language. I mean, we
18 want to -- you know, we want a nonsuit or dismiss with
19 prejudice or whatever. Our friends at Apple want some
20 additional concessions. We are still talking with them.

21 THE COURT: Y'all continue to work on that and see
22 if you can resolve it.

23 Anything further?

24 MR. RANDALL: No, Your Honor.

25 MR. CARROLL: No, Your Honor.

1 THE COURT: All right. Y'all have a good week. We
2 will see you in a couple of weeks if you don't get it
3 resolved. You can check in with my -- I know you know this,
4 but you can check in with my staff and they will let you know
5 the status of the SHURflo case. You are in it. You will
6 already know. Be sure to share that.

7 MR. CARROLL: I told them I would let them know if
8 you are fortunate enough to let us out.

9 (Proceedings concluded.)

10

11 C E R T I F I C A T I O N

12

13 I certify that the foregoing is a correct transcript from the
14 record of proceedings in the above-entitled matter.

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17 /s/ Shea Sloan

18 SHEA SLOAN, CSR, RPR
19 OFFICIAL COURT REPORTER
STATE OF TEXAS NO. 3081

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