

Confidential

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

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ALOFT MEDIA, LLC,  
Plaintiff,

vs.

ADOBE SYSTEMS INCORPORATED and  
MICROSOFT CORPORATION,  
Defendants.

) CASE NO.  
) 2007-CV-355-LED

-----

AND RELATED COUNTERCLAIM )  
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CONFIDENTIAL DEPOSITION OF KEVIN JOSEPH ZILKA

THURSDAY, MAY 15, 2008

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BY: MELINDA M. IBANEZ, CSR NO. 10686, CRP

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Volume 1 of the Confidential Deposition of KEVIN JOSEPH ZILKA, taken on behalf of ADOBE SYSTEMS INCORPORATED, at 100 Park Center Plaza, Number 300, San Jose, California, commencing at 8:32 a.m., THURSDAY, MAY 15, 2008, before Melinda M. Ibanez, Certified Shorthand Reporter No. 10686, pursuant to Notice.

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KEVIN JOSEPH ZILKA

me are Ryan Hatch and Mark Tung, representing Adobe Systems, Incorporated.

MR. CEDEROTH: Richard Cederoth, Sidley Austin, representing Microsoft.

THE VIDEOGRAPHER: The court reporter today is Melinda Ibanez, certified shorthand reporter contracted by Behmke Reporting & Video Services.

Would the court reporter please swear in the witness.

(The witness was duly sworn.)

THE VIDEOGRAPHER: Please begin.

KEVIN JOSEPH ZILKA,  
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. CHEN:

Q. Good morning, Mr. Zilka. We met off the record.

Could you please state your full name for the record, spell the last name, please.

A. Indeed Kevin Joseph Zilka, last name Z, as in zebra, i-l-k-a.

Q. What is your residence address?

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KEVIN JOSEPH ZILKA

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A. 1067 Laurie Avenue, San Jose, California, 95125.

(Reporter interruption.)

THE WITNESS: L-a-u-r-i-e.

BY MR. CHEN:

Q. Have you ever testified in a deposition before?

A. I have.

Q. How many times?

A. Just once.

Q. When was that?

A. About a month, month and a half ago. No more than that.

Q. What were the circumstances of that deposition?

A. I was testifying on behalf of a client.

Q. What sort of lawsuit?

A. Patent litigation.

Q. Which client?

A. McAfee.

Q. What role were you testifying in? As the prosecuting patent attorney?

A. Indeed.

Q. Have you ever testified in court before?

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KEVIN JOSEPH ZILKA

A. Okay.

Q. What is Aloft Media, the plaintiff in this case? What type of entity is it?

A. It is a limited liability corporation.

Q. Who are the participants in that corporation?

A. I am the -- I believe listed in the corporate documentation as the -- as one -- as the main -- the primary participant.

Q. Are there others?

A. In terms of -- when you say participant, can you clarify.

I mean we -- we have services of a -- law firms as well, but are you talking about the corporate structure?

Q. Yes. Why don't you start there and give me an overview of the corporate structure of Aloft Media, LLC.

A. I am listed as the president of Aloft Media, and, to my knowledge, there's no other officers or anything other than myself.

Q. Are there any other individuals who are employed in any capacity by Aloft Media aside from yourself?

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08:40:07 1 KEVIN JOSEPH ZILKA

08:40:09 2 A. No.

08:40:11 3 Q. Are you the only owner of Aloft Media?

08:40:15 4 A. Yes.

08:40:23 5 Q. When was Aloft Media formed?

08:40:26 6 A. I'd have to look at the corporate documents

08:40:40 7 for the exact time and date. It might be in or

08:40:44 8 around 2006, but I'm not -- I would have to look at

08:40:45 9 the corporate documents to confirm that.

08:40:47 10 Q. What was your purpose in forming Aloft

08:40:49 11 Media?

08:40:59 12 MR. MORGAN: Objection, form.

08:41:01 13 THE WITNESS: It's basically the typical

08:41:04 14 corporate -- purpose of forming a corporation is to

08:41:06 15 separate, you know, personal assets from corporate

08:41:17 16 assets, and I would say that was one reason.

08:41:18 17 BY MR. CHEN:

08:41:21 18 Q. Any others?

08:41:23 19 A. From my experience working with corporations

08:41:26 20 and individuals starting corporations, that's

08:41:28 21 something that, you know, is a first step, in terms

08:41:34 22 of forming an entity to do business.

08:41:36 23 Q. What was the business purpose that you had

08:41:40 24 in mind for Aloft Media when you formed it?

25 MR. MORGAN: Objection, form.

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