

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

TYLER DIVISION

DATE: April 14, 2011

JUDGE
LEONARD DAVIS

REPORTER: Shea Sloan

LAW CLERKS: Nicole Mitchell & Anna Phillips

BEDROCK TECHNOLOGIES, LLC V GOOGLE, INC.	CIVIL ACTION NO: 6:09-CV-269 JURY TRIAL - DAY 4
ATTORNEYS FOR PLAINTIFFS	ATTORNEY FOR DEFENDANT
SEE SIGN-IN SHEETS	

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

OPEN: 8:15 am

ADJOURN: 3:35 pm

TIME:	MINUTES:
8:15 am	Trial resumed. Hearing outside the presence of the jury.
	Mr. Cassady addressed the Court on DX 191 and objects. Mr. Briggs responded. Mr. Cassady replied. Mr. Briggs responded. Court sustained the objection.
8:20 am	Court in recess until 8:30 a.m.
8:28 am	Trial resumed.
	Court inquired of witnesses. Ms. Pennypacker indicated they were to have Jaffay, Ugone, Dr. Nemes. Mr. Cawley has a rebuttal on Dr. Jones. Court addressed the parties and cautioned them on the time remaining.
	Court asked for the Jury to be brought in. Jury entered and seated in the courtroom.
	Court welcomed the Jury back.
	KEVIN Jaffay on the witness stand. Direct examination of Dr. Jaffay continued.
	Mr. Stern passed the witness. Cross examination of Dr. Jaffay by Mr. Stevenson.
10:25 am	Court in recess until 10:40 am

DAVID J. MALAND, CLERK

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BY: *Rosa L. Ferguson*, Courtroom Deputy

TIME:	MINUTES:
10:40 am	Trial resumed. Jury seated in the courtroom.
	Cross examination of Dr. Jaffay continued.
	Mr. Stevenson passed the witness. Redirect examination of Dr. Jaffay by Mr. Stern. Mr. Stevenson asked to approach the bench. (Bench Conference held). Court gave the Jury an instruction to disregard question and answer regarding calling David Miller as a witness. Redirect examination continued.
	Mr. Stern passed the witness. No further questions of this witness.
	Mr. Jones called Dr. KEITH UGONE to the witness stand. Witness previously sworn.
	Direct examination of Dr. Ugone by Mr. Jones.
	Mr. Cassady asked to approach and a slide be taken down. (Bench Conference held).
	Direct examination of Dr. Ugone continued.
	Mr. Jones passed the witness.
11:55 AM	Court in recess until 12:30 pm
12:40 pm	Trial resumed. Jury not present in the courtroom.
	Court addressed the parties and the parties were tendered a copy of the charge. Court asked parties to review and as soon as testimony is done today, Court will take up objections to the charge.
	Court asked for Jury. Jury entered and seated in the courtroom.
	Dr. Keith Ugone on the witness stand. Cross examination of Dr. Ugone by Mr. Cassady.
	Mr. Cassady passed the witness. Redirect examination of Dr. Ugone by Mr. Jones.
	Mr. Jones passed the witness. Recross examination of Dr. Ugone by Mr. Cassady.
	Mr. Cassady passed the witness. No further questions of this witness.
	Mr. Stern indicated Defendant RESTS.
	Mr. Hejny called Dr. MARK JONES to the witness stand. Witness previously sworn.
	Mr. Stevenson asked to approach the bench. (Bench Conference Held).
	Redirect examination of Dr. Jones by Mr. Hejny.
	Mr. Stern asked to approach the bench. (Bench Conference Held). Redirect examination of Dr. Jones continued.
	Mr. Stern asked that the courtroom be sealed if source code was going to be shown. Court sealed the courtroom and asked those not subject to the protective order be excused.
1:37 pm	RECORD SEALED. Cross examination of Dr. Jones continued.
	Mr. Hejny passed the witness.

TIME:	MINUTES:
2:25 PM	Court in recess until 2:40 pm
2:40 pm	Trial resumed. Jury seated in the courtroom.
	RECORD UNSEALED.
	Dr. Mark Jones on the witness stand. Cross examination of Dr. Jones by Mr. Stern.
	Mr. Stern passed the witness. Redirect examination of Dr. Jones by Mr. Hejny.
	Mr. Hejny passed the witness. No further questions of the witness.
	<p>Mr. Cassady addressed the Court and 3 lists to offer. Mr. Cassady offered <i>Plaintiff's Exhibits Offered on Wednesday, April 13, 2011</i>, to be marked as Plaintiff's Exhibit List 3, and without objection, these exhibits admitted.</p> <p>Plaintiff's Exhibit List 3 lists: Plaintiff's Exhibit # 6A - 6S, 239.</p> <p>Mr. Cassady offered <i>Plaintiff's Exhibits Offered on Thursday, April 14, 2011</i>, to be marked as Plaintiff's Exhibit List 4, and without objection, these exhibits admitted.</p> <p>Plaintiff's Exhibit List 4 lists: Plaintiff's Exhibit # 57, 94 and 104.</p> <p>Mr. Cassady offered <i>Plaintiff's Cumulative Exhibits Admitted through Wednesday, April 13, 2011</i>, to be marked as Plaintiff's Exhibit List 5, and without objection, these exhibits admitted.</p> <p>Plaintiff's Exhibit List 5 lists: Plaintiff's Exhibit # 1-5, 6A - 6S, , 8 - 19, 21 - 24, 26 - 30, 33 - 35, 38 - 45, 47, 48, 50, 54 - 64, 66, 70 - 73, 76, 77, 84, 105, 107 - 112, 115 - 117, 124 - 127, 129, 134 - 173, 175 - 199, 201, 202, 222 - 225, 227 - 235, 237 - 240, 243 - 257.</p>
	<p>Ms. Pennypacker offered <i>Defendant's Cumulative Exhibits Admitted Through Wednesday, April 13, 2011</i>, to be marked as Defendant's Exhibit List 3, and without objection, these exhibits admitted.</p> <p>Defendant's Exhibit List 3 lists: Defendant's Exhibit #3, 7, 8, 10, 11, 19 -24, 27 - 31, 33 - 42, 44 - 49, 51 - 54, 56 - 61, 66 - 72, 78 - 80, 82 - 109, 111, 113, 115, 118, 120 - 122, 126 - 132, 153, 181 - 183, 185, 189, 207, 208, 218 - 221 and 223.</p> <p>Ms. Pennypacker offered <i>Defendant's Exhibits Offered on Thursday, April 14, 2011</i>, to be marked as Defendant's Exhibit List 4, and without objection, these exhibits admitted.</p> <p>Defendant's Exhibit List 4 lists: Defendant's Exhibit # 204 & 212.</p>
	Mr. Cawley addressed the Court and subject to motions, Plaintiff closes.
	Mr. Stern asked to approach the bench. (Bench Conference held).
3:20 pm	Court addressed the Jury and thanked them for their service. Court outlined the schedule and proceedings for tomorrow. Court excused the Jury until 9:00 a.m. tomorrow morning. Court reminded Jury of instructions.
	Jury not present in the courtroom.

TIME:	MINUTES:
	Court addressed the Plaintiff and inquired if it wished to make their motions.
	<p>Mr. Stevenson moves for JMOL on invalidity affirmative defense with regard to anticipation. Motion denied.</p> <p>Mr. Stevenson moved for JMOL on obviousness under combination prior art references. Motion denied.</p> <p>Mr. Stevenson moved for JMOL with regard to defenses under Sec. 112 - best mode, written description. Mr. Stern responded. Court grants as to the other 112 and Sec 101 defenses.</p> <p>Mr. Stevenson moved for JMOL on defense of laches. Mr. Stern agrees. By agreement, Motion granted.</p> <p>Mr. Stevenson moved for JMOL ownership of patent and has standing to sue. Motion is granted by agreement.</p>
	Mr. Stern addressed the Court on wilfully infringing and claim was dropped. JMOL granted by consent as to wilfulness.
	Mr. Jones moved for JMOL with regard to damages. Motion denied.
	Court moved on to the Court's charge.
	Plaintiff has no objections to the charge.
	Mr. Jones addressed the Court on the Verdict Form regarding Question #3 . Request denied.
	Mr. Stevenson addressed the Court on date of conception. Ms. Snider addressed the Court and directed to page 14 and proposed to delete the last paragraph on Page 14 all the way to the second paragraph on Page 15. Court asked if any objection. Parties conferred. Mr. Stern has no objection. Court will take out that language.
	<p>Mr. Stern renews JMOL with respect to invalidity. Motion denied.</p> <p>Mr. Stern renew JMOL for noninfringement. Motion denied.</p>
	Court gave parties their times: Plaintiff has used 11 hours and 27 and Defendant used 11 hours and 37 minutes. Mr. Stern asked if the remaining time could be used at closing. :) Court indicated no. :)
3:35 pm	There being nothing further, Court adjourned for the day.