

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

NOVEMBER 1, 2012

LEONARD DAVIS, Judge Presiding

Law Clerk(s): Gabrielle LaHatte
Chief Staff Attorney: Nicole Mitchell

Court Reporter: Shea Sloan
Judicial Assistant: Carrie King

VIRNETX INC. V. APPLE INC.	CIVIL ACTION NO: 6:10-CV-417
ATTORNEYS FOR PLAINTIFF See Sign-In Sheet	JURY TRIAL – DAY 2 ATTORNEYS FOR DEFENDANTS See Sign-In Sheet
On this day, came the parties by their attorneys and the following proceedings were had:	
OPEN: 8:52 AM	ADJOURN: 5:20 PM

TIME:	MINUTES:
8:52 AM	Preliminary Proceedings: Pretrial matters taken up.
	Eric Albritton for Defendant addressed the Court regarding procedure for offer of proof issue. Adam Curry for Plaintiff does not object to procedure proposed by Mr. Albritton.
	Mr. Albritton discussed objections related to Dr. Jones' testimony. Court responded; requested to hear arguments.
	Chris Cravey presented Defendant's objections to Dr. Jones' testimony. Court inquired regarding specific objections to testimony and demonstratives. Mr. Cravey responded. Mr. Curry responded for Plaintiff. Mr. Cravey further responded; discussed case law. Objection sustained. Mr. Curry requested clarification on use of slides. Court responded.
	John Desmarais for Defendant addressed the Court regarding Plaintiff's objection to Defendant's use of video deposition excerpt of Dr. Short. Mr. Curry responded. Mr. Desmarais responded. Court advised Mr. Desmarais regarding use of testimony. Mr. Curry responded. Court and Mr. Curry discussed.
	Danny Williams for Defendant discussed objection to Plaintiff's use of source code demonstrative. Mr. Caldwell responded. Court advised the parties on procedure for use of demonstrative.
	Mr. Williams discussed Exhibit PX295 and requested it be moved to under seal. Mr. Curry did not object. Court advised exhibit will be admitted under seal.
	Mr. Williams discussed Exhibit PX493 and requested that Defendant be able to view and inspect exhibit before it is finally admitted. Mr. Curry did not object and will make exhibit available to Defendant.

TIME:	MINUTES:
	Mr. Williams discussed objection to Plaintiff's use of Defendant's admissions response and offered alternative procedure to which Defendant will agree. Mr. Curry responded. Court approved alternative procedure.
	Mr. Rodgers addressed the Court regarding Munger testimony. Mr. Cassidy advised agreement has reached.
	Mr. Curry discussed further objection matters. Court inquired as to number of remaining matters. Mr. Curry responded. Court advised it will proceed with trial and requested the Jury be brought into the Courtroom.
9:10 AM	Jury seated in Courtroom.
	Court addressed Jury and inquired if they had any questions thus far. Jury responded.
	Brad Caldwell continued direct examination of Dr. Mark Jones .
	Mr. Jones reviewed demonstrative source code with Jury. Court explained confidentiality regarding source code to Jury.
	Mr. Caldwell continued direct examination of Dr. Jones.
	Court advised Mr. Caldwell that a break will be taken at 10:30 AM.
	Mr. Caldwell continued direct examination of Dr. Jones.
	Mr. Caldwell asked to complete examination on last claim of '151 patent prior to break. Court allowed Mr. Caldwell to continue.
	Mr. Caldwell continued direct examination of Dr. Jones.
10:27 AM	Court advised will be in recess for break until 10:40. Court in recess.
10:40 AM	Jury seated in courtroom. Trial resumed.
	Mr. Caldwell continued direct examination of Dr. Mark Jones.
	Mr. Caldwell requested to admit Exhibits PX137 and PX138. Exhibits admitted.
	Mr. Williams requested to approach the bench (Bench Conference held).
	Court advised exhibits PX137 and 138 are admitted under seal. Court explained sealing of exhibits to Jury.
	Mr. Caldwell continued direct examination of Dr. Mark Jones.
	Objection by Mr. Williams; requested to approach the bench. (Bench Conference held).
	Mr. Caldwell continued direct examination of Dr. Mark Jones.
	Mr. Caldwell passed the witness. Court advised will recess for lunch and gave instructions to the Jury.
11:51 PM	Court in recess.
12:32 PM	Trial resumed. Jury seated in Courtroom.

TIME:	MINUTES:
	Cross examination of Dr. Mark Jones by Danny Williams.
	Objection by Mr. Caldwell. Requested to approach bench. (Bench Conference held). Court instructed Jury to disregard last question and answer and explained procedure to the Jury.
	Mr. Williams continued cross examination of Dr. Jones.
	Mr. Williams passed the witness.
	Redirect examination of Dr. Jones by Mr. Caldwell.
	Objection by Mr. Williams. Court instructed Mr. Caldwell to rephrase the question.
	Mr. Caldwell continued redirect examination of Dr. Jones.
	Mr. Caldwell passed witness.
	Recross examination of Dr. Jones by Mr. Williams.
	Mr. Williams passed the witness.
	Redirect examination of Dr. Jones by Mr. Caldwell.
	Mr. Caldwell passed the witness. Nothing further from Mr. Williams.
	Jason Cassady called Roy Weinstein to the stand.
	Eric Albritton requested to approach the bench. (Bench Conference held).
	Court addressed the jury and requested they turn in their question forms and instructed them to take a 10 minute break while the Court reviews the questions and takes up other matters.
2:02 PM	Jury excused from the Courtroom.
	(Bench Conference held).
2:05 PM	Court in recess.
2:14 PM	Jury seated in Courtroom. Trial resumed.
	Direct examination of Roy Weinstein by Jason Cassady. (Witness previously sworn).
	Mr. Cassady passed the witness.
	Court addressed the Jury and advised will take a short recess.
3:32 PM	Court in recess.
3:45 PM	Jury seated in Courtroom. Trial resumed.
	Cross examination of Roy Weinstein by Eric Albritton.

TIME:	MINUTES:
	Objection by Mr. Cassady. Mr. Albritton explained which slide will be used. Objection withdrawn.
	Mr. Albritton passed the witness.
	Redirect examination of Mr. Weinstein by Jason Cassady.
	Mr. Cassady passed the witness.
	Mr. Albritton has nothing further.
	Court addressed the jury and requested they reconvene at 8:30 am tomorrow.
5:18 PM	Jury excused from the Courtroom.
	Court addressed the parties and gave them their times. Plaintiff has used 7 hours and 10 minutes. Defendant has used 4 hours and 18 minutes.
	Doug Cawley for Plaintiff has nothing further. Mr. Albritton for Defendant moved to strike Mr. Weinstein's testimony. Court denied motion.
5:20 PM	There being nothing further, Court adjourned.