EXHIBIT S

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

ANASCAPE, LTD. * DOCKET 9:06CV158
*
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V. *
* AUGUST 22, 2007
*
MICROSOFT CORP., ET AL * BEAUMONT, TEXAS

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REPORTER'S TRANSCRIPT OF CLAIM CONSTRUCTION HEARING
BEFORE THE HONORABLE RON CLARK
UNITED STATES DISTRICT JUDGE

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PROCEEDINGS REPORTED USING COMPUTERIZED STENOTYPE;
TRANSCRIPT PRODUCED VIA COMPUTER-AIDED TRANSCRIPTION.

change, "changes in conductivity."

MR. STEVENSON: I think that's what the second half of the sentence says, where it says "allowing a greater flow of electric current through it." And when you're instructing the jury --

THE COURT: Well, if it's repetitive -- although that may not be the most elegant way of doing it -- what, I guess, on the merits or scientific objection do you have for me saying it twice?

MR. STEVENSON: I don't have a scientific objection. I really have more of an objection of, I don't want to embed an argument into the definition where Microsoft can come back later and argue to the jury that this envisions that we're only encompassing the volume effect. And given that we're putting essentially a redundant term in with the rest of it, my sort of red flags are going off as to why we would do that.

THE COURT: All right.

All right. Let's take a look at the "pressure-sensitive variable-conductance analog sensor." Now we're getting into the sensor devices.

And let me ask Betty to go ahead and put up on the screen some language from the '084 patent which is column 6, lines 53 to 55.

Oh, and let me back up just on that last -- I keep

forgetting this for the record.

The change that defendant would have made to that previous definition would have been: "Pressure-sensitive variable-conductance material" means "a substance that changes in conductivity to allow a greater flow of electric current through it as pressure is applied to it."

And I understood from defendant that that would be acceptable to you. Is that correct?

MR. JONCUS: Yes, your Honor.

THE COURT: And from plaintiff, you thought it was redundant and may allow some confusion and arguments in an attempt by defendant to limit your embodiments.

MR. STEVENSON: Right.

THE COURT: Okay.

All right. Go ahead and put that up there from the '084 patent.

And looking at lines 53 to 55, column 6 -- and this is cited. It talks about: "At this point in the disclosure it should be quite clear that the pressure-sensitive variable-conductance material is a very important aspect." I think the same language is included in the '802 patent at column 6, lines 49 to 50.

And then we get into the '802 patent --

And go ahead and put this up if you would, Betty, the '802 patent, column 2, lines 55 and 59. Oh, okay. You've

got them up there. All right, good.

In other words, in several places it talks about the present invention or it being -- in the '084 patent at column 6, lines 53 to 55; the '802 patent, column 6, lines 49 to 50, both of those talking about how important the pressure-sensitive variable-conductance material is to the sensor. The '802 patent, column 2, lines 55 to 59 talks about the present invention. And the '084 patent, column 8, lines 10 to 13 again talking about: "With the present sensor in all embodiments shown and described herein."

Now, in light of the Honeywell vs. I.T.T. case, 452 F.3d 1312 and the Andersen Corporation vs. Fiber Composites, 474 F.3d 1361 -- and both of those are Fed Circuit cases -- how do I -- and I'm asking plaintiff this. How do I define the "P.S.V.C. sensor" without saying it must utilize P.S.V.C. material somehow? In other words, your definition just talks about "an electricity manipulating device for varying electrical output proportional to varying physical force." But all of these patents say how important this material is; and, in fact, some of them even say "the present invention." I've got a 2006 case and a 2007 case from the Fed Circuit with five different Fed Circuit judges plus one visiting judge. How am I supposed to write this without utilizing -- or saying it utilizes P.S.V.C. material?

MR. STEVENSON: The answer there is that there are

two embodiments, as we've discussed at length so far today, the surface area embodiment and the changing volume embodiment; and either embodiment can accomplish the invention.

Addressing Andersen and Honeywell, both of those cases only involved one embodiment; and in those cases the patent owner was trying to read much more broadly than the only embodiment he disclosed.

For instance, in Honeywell, that was a fuel filter case. The invention there was a composite material that prevented fuel filters from wearing out because of static electricity created in little microscopic holes. And the only disclosure in the patent was using that for a fuel filter; however, the patentee had, I think, "fuel system component" in his claims and then at infringement time tried to read it much more broadly away from the "fuel filter" and the Federal circuit said: No, that's not appropriate. You had one embodiment; you only taught how to do it for one embodiment.

Likewise, in Andersen, that was a fiber -- excuse me -- a resin case for making resin boards and rails. In that one the patent said clearly that you require, after extruding this resin, to put it in extrudated pellet form and then basically remelt it; and the patent, in fact, distinguished prior art using that advantage, using that methodology.

So, when you compare those two cases, Honeywell and Andersen, which involved one and only one embodiment and some

use of that embodiment to overcome prior art, to this case, which involves two embodiments -- increasing surface area effect and variable conductivity due to volume changes -- it's apples and oranges. And what we're saying in this case is, don't read out one of the two independent mechanisms for accomplishing a sensor that is pressure dependent.

THE COURT: But can you show me a single figure in any of these patents or a single paragraph in any of the specification where the surface area effect is discussed by itself? Now, in each of those -- each of the ones that I saw and each of the diagrams that I saw, you've got the pressure-sensitive variable-conductance material; and it is quite clear that it is a material that has these little particles embedded into it that will change its internal conductivity as pressure is applied to it. And then they say: And in addition, you may get more effect from the fact that it spreads out. And that's true. I mean, that's a fact. And he could also say that it will also be more squished or, you know, all kinds of things might happen to it. I don't see a single place where you talk about -- or these patents talk about -- at least I haven't found them -- where it just talks about surface effect as though you took a sheet of copper or steel, which I don't think anyone skilled in the art is going to consider as a P.S.V.C. material, and just laid it on a contact grid.

MR. STEVENSON: Your Honor, could we go back to our

slide, slide 5 --

THE COURT: Sure.

MR. STEVENSON: -- with the figure from the patent?

THE COURT: But keep in mind -- and you did this in your brief. But that bottom area there that you're trying to tell me -- I mean, it's numbered 36 in most of the figures; and 36, in every single place in the specification, says "the P.S.V.C. material 36." It's not just some sheet of copper or steel. Now, you can take the numbers away and you can take away the description and then say, "Oh, I could read this to be something else"; but that's not what the patents say.

MR. STEVENSON: Well, you're right. In every figure -- I agree with the court -- it shows that convex apex as being 36 P.V.C. [SIC] material.

THE COURT: P.S.V.C. material, right.

MR. STEVENSON: P.S.V.C., sorry.

But what is important is that it is a separate and different electromechanical effect. In other words, it doesn't matter that --

THE COURT: But it always says it also has -- it also has that additional surface effect. And the real problem I'm having -- because when I was first looking at it, I was thinking, okay, they've got this. But if that was just a sheet of copper that someone is pushing down there to get greater contact -- and, actually, copper is probably not the best

example --

MR. STEVENSON: Right.

THE COURT: -- because once you've got --

MR. STEVENSON: It's too conductive.

THE COURT: It's so conductive. But you could have, I don't know, a semiconductor. I'm not sure. I'm not an engineer.

But the idea of just being able to increase surface contact without it being what is known as a P.S.V.C. material, I don't see that embodiment in there; and that's what I'm asking you for is, give me your best shot at where do I look to that to put that in the opinion.

MR. STEVENSON: Well, the court has already highlighted columns 8 and 9, remember; and that's where it is. It's also in this figure. And the reason that it is a separate embodiment is, in this figure it doesn't matter for the increasing surface area whether or not this flexible conductor is variable according to how much you squish it or not variable because the surface area effect with the circuit traces below and the increasing contact patch is a different electromechanical phenomenon that causes pressure-sensitive sensor to be built.

THE COURT: But isn't that -- all right. Here's what I'm saying -- is, that's a device. You put pressure on the device, and the device changes. And the other one is the

material. As you put pressure on the material, the material changes. I don't see, unless you've got what I'll call the P.S.V.C. material that will change conductivity internally as you put pressure on it in there somewhere in the device, how you can have one of these sensors because, otherwise, all you've got is a sensor that is using a mechanical surface effect and not a pressure-sensitive material. I guess that's the differentiation I'm making, and that's what you've got to help me on because that's where I am right now in looking at this.

MR. STEVENSON: Okay. I have a couple responses to that. The first is, I think it's sort of common sense understanding that the fact that this is a flexible conductive material causes the surface area effect regardless of whether it is a variable conductor. So, you can say: Which is the icing on the cake? Is one the cake and one the icing, or do you flip it over? Just kind of depends on if you view the glass half-empty or half-full.

Secondly, though, we think the law is pretty clear that you shouldn't read out an embodiment of the patent, an alternative embodiment, without very good cause, i.e., clear disavowal of subject matter. Nothing in the prosecution history, nothing in the spec that disavows that.

Third, though, the trump card here that I think -- especially for the word "sensor" as opposed to "material," the

trump card is claim differentiation. And I've got a couple slides on that which I think illustrate the point pretty dramatically.

Slide 20, please.

First, a quick slide on case law; and I know the court is already familiar with it. But basically when you've got a dependent claim that adds a limitation to an independent claim, the strong presumption is that that limitation isn't present in the independent claim. That's Modine Manufacturing. There's a host of other cases, and we cited several in our brief.

Although you can overcome the presumption, it has got to be clear and persuasive evidence. Now let's see how that applies to patents in this case.

Slide 21, please.

THE COURT: All right. Which --

MR. STEVENSON: This is the '991 patent, your Honor.

THE COURT: All right, the '991 patent.

MR. STEVENSON: And it's claim 23.

THE COURT: Okay.

MR. STEVENSON: And claim 23 is an independent claim so, therefore, by law, must be broader than the dependent claim. And it says it is "a game control comprising a housing, a plurality of depressible electricity manipulating devices";

and then it says1: "At least one of said electricity manipulating devices is a pressure-sensitive variable-conductance sensor." That's the independent claim. Now, our contention is that that covers either a sensor that uses the surface area effect, could cover a sensor that does the volume effect or a sensor that does both simultaneously.

If you look to the dependent claim, though, that gives a lot of input as to what the sensor means. The dependent claim 31 says -- and, remember, the dependent claim has got to be narrower -- that the "sensor includes pressure-sensitive variable-conductance material."

The fact that the patent owner said that the "sensor includes pressure-sensitive variable-conductance material" means, by definition, that the independent claim when it says "sensor" is not limited to having pressure-sensitive variable-conductance material.

THE COURT: Now, say that again. You're saying that because there are a number of different claims, that when the patentee says that "the invention is" or "every embodiment of the invention has," that then you can have claims that don't include that?

MR. STEVENSON: I'm actually saying it more strongly than that. The flavor of claim differentiation you've articulated is there is just two different words. What I'm saying is, by operation of presumption because it's dependent

versus independent claims -- let me explain.

An independent claim is always broader, always, than the dependent claim that depends upon it because the dependent claim, under the rules of patents and the canons of patents, must add limitations to the independent claim and, therefore, must make it narrower. So, anything in a dependent claim is necessarily, if you look to the Venn diagram, a subset of the independent claim.

In claim 23 of the '991 patent, we have a "pressure-sensitive variable-conductance sensor." That's the term, and it's called that. But then in the narrower dependent claim 31, it says the pressure-sensitive variable-conductance -- that "sensor includes pressure-sensitive variable-conductance material." Well, therefore, the strong presumption is that the sensor does not necessarily incorporate a limitation or requirement in and of itself in the independent claim that you've got to have pressure-sensitive variable-conductance material; it's optional.

And then when we get to the dependent claim, number 31, we further narrow the scope of 23 to say, oh, those sensors in 23, let's narrow them down to where you've got to have the pressure-sensitive variable-conductance material in them.

And as Modine tells us, this is a strong

presumption in the patent law that can only be overcome by very clear and very persuasive evidence; and we don't have that evidence in this case. There is no prosecution history on this point. There is no statement in the specification that restricts the invention down. There is no disavowal of subject matter. And, therefore, it is clear that "sensor" is a broader term than "material."

THE COURT: All right. Let me hear defendant's response. And be sure you're either at one microphone or the other. You can either pull that one over or step to -- I mean, it's there for your use; and I think if you'll raise it, it will pick up your voice pretty well.

MR. JONCUS: Okay. Well, I'm here now; so, I'm going to just use this one.

If you could switch to my slides.

I have two responses. There is a legal response and also a factual response as specific to this example that counsel pointed out. The first is that claim differentiation is trumped by a clear statement as to what the invention is. Andersen Corp explains that powerful evidence in "the written description...overcome any presumption arising from the doctrine of claim differentiation."

An old case, O.I. Corp., says present invention language -- when you say "my present invention is X," that trumps any argument of claim differentiation.

And then the last case I have there is the Honeywell case which says: "The public is entitled to take the patentee at his word." When the patentee says, "My invention is X," claim differentiation cannot make it any broader.

And I would add to that list the Curtiss-Wright case that we cited in our brief, 438 F.3d 1374. It said claim differentiation "can not broaden claims beyond their correct scope."

So, the scope here is what the patentee said in the present invention statements that your Honor has referred to.

If we could go to slide --

THE COURT: Okay. And I think you said something about a factual distinction, also. What is that?

MR. JONCUS: A factual distinction is -- counsel pointed to claim 31 and claim 23. Well, claim 31 -- I don't have a slide on this, your Honor. But claim 31 does not depend solely on claim 33. Claim 31 depends on claim 30, which depends on claim 28; and all of those other intermediate claims add limitations. So, claim differentiation does not come into play when you have multiple limitations added by multiple claims. 31 depends on 30, which depends on 28, which depends on 23. So, 30 -- 31 is not just adding the element "pressure-sensitive variable-conductance material." It also has the other additional limitations in claims 30 and 28.

And also claim 31, in addition to the P.S.V.

material, it also says "includes an ASIC." So, it itself adds two limitations, whatever an ASIC is and the pressure-sensitive variable-conductance material.

So, claim differentiation doesn't apply in this context that counsel pointed out to you. Moreover, legally, claim differentiation as a doctrine cannot expand the scope of the patent beyond -- scope of the claim beyond what is described in the spec. Under Phillips that is very, very solid law.

THE COURT: Let me ask plaintiff. That looks like the strongest argument I've seen so far on that. Do you have any other examples of what you say is claim differentiation? And obviously this is -- in this field of law, there seems to be constantly dueling canons of construction where you have equal and opposite forces at each other and the court has to figure out which set of cases and which rule applies. But do you have any other --

MR. STEVENSON: I do.

THE COURT: -- examples?

And I guess the other question I'd have to look at was the -- well, the parties have agreed that like terms are defined the same throughout the patents, which I really appreciated. It makes things a lot easier and makes a lot of sense since it is the same inventor.

I take it that I don't have to get into the idea

that, well, in the '991 patent it is a different invention than the words that -- and now are used slightly differently, because he had greater experience, than they were in the '084 and the '802?

MR. STEVENSON: Correct. Correct. The same term --

THE COURT: Does defendant agree with that, also?

MR. JONCUS: Yes, your Honor.

THE COURT: Okay. That makes it easier. So, go ahead and give me some other examples.

MR. STEVENSON: Addressing your Honor's point, before I give the examples -- and I've got slides on them. Interestingly, Andersen versus Fiber Composite on claim differentiation mentions prosecution history. In there they had a terrible prosecution history problem. They used, in the prosecution history, basically the limitation to be read in about the pellets and extrudate to overcome prior art references. And, as a result, that was held in that case, combined with what was in the specification, to be enough to overcome the claim differentiation presumption. However, we don't have a prosecution history issue here; so, there is no presumptively -- evidence to overcome that presumption.

But now going on to your question, your Honor, if we could go to our slides, please, and specifically slide 30. This is the '991 patent again, claims 11 and 12. So, we'll

sidestep the issue of whether, if you have intermediate dependent claims, it matters. Candidly, your Honor, it doesn't matter. Whether the claims telescope down in two steps, three steps, four steps, or five steps, the net result is that the dependent claim is always narrower than the independent claim, regardless of whether there are any intermediate steps. However, just for an example for the court, to further rebut Microsoft's point, I look at -- I ask the court to turn to 11 and 12 of the '991 patent.

Claim 11 is a method claim, and the last step of it says "providing variable action intensity of the game imagery at least in part controlled by pressure-sensitive variable conductance of one of said buttons."

In the dependent claim 12 -- directly depends off of 11 -- it says, as a narrowing, "providing for said buttons to depress pressure-sensitive variable-conductance material." So, what that tells us is, if you were talking about a button or a sensor that is controlling a game through the pressure-sensitive variable-conductance phenomenon, that it is much broader than just using the pressure-sensitive variable-conductance material.

So, this is another example of claim differentiation that overcomes Microsoft's prophesation that you -- the other example I gave telescopes down too many times; although, I don't really think the number of times the

dependents telescope down matters anyway.

THE COURT: All right. Any other examples in either the claim language or specification? I mean, I'm telling you. Give me your best argument now because you can obviously tell from my questions, you know, the concern I have on this particular issue.

MR. STEVENSON: All right.

THE COURT: So, this is your opportunity to give me your best shot on it.

MR. STEVENSON: I will. I've got a couple more arguments, then.

THE COURT: Well, I want right now, I think, more example on this -- show me --

MR. STEVENSON: Okay. Another example I can give the court is, on the '991 patent, if you look at claim 29. I don't have a slide on this one --

THE COURT: Okay.

MR. STEVENSON: -- because I didn't think the telescoping argument would come up.

Claim 29 -- you recall we looked at claim 23; and claim 23, the independent claim that we looked at a little while ago, discusses pressure-sensitive variable-conductance sensors, one of the elements. Claim 29 depends directly from claim 23, again no telescoping problem. And it says, at the bottom: "and said sensors include pressure-sensitive

variable-conductance material." Of course, if the court requires the sensor to include pressure-sensitive variable-conductance material, that part is redundant; and, again, claim differentiation would apply there, as well.

Those are the examples I've been able to pick up. And I would say to the court that I think that not the quantity of the examples but at least the quality of the examples is paramount and dispositive because, again, we're trying to figure out what the inventor intended by the words and what a person of ordinary skill in the art would take away from the words. I think a person of ordinary skill in the art looking at this would come to the clear conclusion that "sensor" is a broader term than "material."

THE COURT: Does this come up in any of the other patents?

MR. STEVENSON: The concept is applicable across them. I don't have a claim differentiation example from the other patents; but, of course --

THE COURT: All right. What about --

MR. STEVENSON: -- because they are all a part of the family, they should be construed consistently.

THE COURT: All right. Aside from claim differentiation, are there any other embodiments or examples -- and, like I say, I think I've gone through the figures very carefully; and I've tried to go through the specification

carefully. Every place I've seen it described seems to talk about the surface effect as an additional add-on when you're using the material that for right now I'm calling the P.S.V.C. material but, just to be clear, the material that has the conductive particles embedded in it and, thus, changes internal conductivity under pressure. If you can point me to some diagram or some part of the specification where that's not correct, I'd like to see it.

MR. STEVENSON: The answer -- and to answer one more of your questions, claim 44, the independent claim, and claim 50 of the '991 --

THE COURT: '991.

MR. STEVENSON: -- similarly have the claim differentiation issue. Claim 50 says: "A game controller according to claim 49" -- which, in turn, depends on 47 which in turn, 46 and then goes all the way back to 44. But it says that the "conductive material is pressure-sensitive variable-conductance material."

So, we have a conductive material -- and if the court has this claim in front of it, I don't have a slide.

THE COURT: I have it.

MR. STEVENSON: I apologize.

If you look at claim 48 and sort of walk through it, 48 discusses: "A game control according to claim 47 wherein the conductive material is located to contact circuit

traces." Okay? That's the surface area effect embodiment.

49 further narrows 48 and -- excuse me -- further narrows 47 and says the circuit traces are interdigitated. That's the example we saw of the interlocking fingers.

And then 50 importantly we get to, where it says: "A game control according to claim 49 wherein said conductive material is pressure-sensitive variable-conductance material."

So, your Honor your question is, do the patents in the claims or in the specification or anywhere say that the conductive material used can optionally be nonpressure-sensitive variable-conductance material. Well, 50 says it. Because, again, under claim differentiation if the only change being made is 50 and 50 is saying for the conductive material -- saying it is pressure-sensitive variable-conductance material, that means when it talks about a conductive material, it's not necessarily pressure-sensitive variable.

THE COURT: Okay.

MR. STEVENSON: Further to your question, I think again looking at the specification as one of ordinary skill in the art would, one of ordinary skill is going to recognize that the surface area effect and the volume compressibility effect are basically different electromechanical effects.

THE COURT: Well, I understand that they are different; but, I mean, I'm just saying that in reading the way

it is written in the specification -- and you've got your argument here on the claim differentiation, and I'm going to have to look at that very closely. But every single place in the specification and every diagram that I've seen -- and I guess what I'm asking you is, point me to the one that I missed because I easily could have with this number of patents -- the surface effect is phrased in terms of "and an additional effect is thus-and-so."

36, what's numbered 36 in all those diagrams, item 36, is always the material that is the flexible material with the embedded conductive elements in it such as carbon. And then, yes, obviously as it presses over more of the area, there is going to be a surface effect. But are there any places in the specification or diagrams that illustrate what you're showing here in claim 50 or -- I'm sorry, not in 50, in the independent claims that you're saying that don't have that material? I mean --

MR. STEVENSON: My answer to your question -- which I've given before and I'll reiterate but I think you understand my position -- is that if you look at the figure and you look at the description about it, even though the material affixed to the bottom of that dome-cap is pressure-sensitive variable, everybody understands that for the surface area embodiment, it doesn't have to be. It is just any flexible conductive material.

And, therefore, that combined with what's said in the claims leads you to the conclusion that these are two distinct embodiments. And once you are into two distinct embodiments, the law is extremely clear that you've got to have a Markman construction that recognizes that either embodiment is within the scope of the claims and you don't have to have both or a mandatory one or it is just limited to one. Over and over again, that's what the case law says.

And I think when you combine claim differentiation with a basic -- you know, our own understanding and common sense about how these things work in the diagrams and how they are described in the patent, it doesn't matter that the patentee didn't say, "And, oh, by the way, let me tell everybody what they already know. For the surface area embodiment, you don't really need to have a variable-conductance material; you just need to have a flexible conducting material."

THE COURT: Well, I mean, the flip to that are the cases that talk about you're supposed to state what you've got and, when it is very clearly stated, that's what you have. I mean --

MR. STEVENSON: That's right.

THE COURT: -- again, we're back into the canons going each way.

All right. Let me hear from defendant. Plaintiff

THE COURT: Okay. All right. I think what we're going to do is take a recess for lunch. I'll ask you to be back at -- let's take about an hour and a half. It's -- well, 1:30. I'll ask you to be back at 1:30, and we'll start in with the remaining claims. We'll be in recess until then.

[RECESS, 11:53 A.M. TO 1:30 P.M.]

[DISCUSSION OFF THE RECORD.]

THE COURT: Okay. I think the next one we're on to is "flexible material." And I guess defendant wants it to be the --

Yes?

MR. JONCUS: I think we agreed that there was no construction necessary for that, your Honor, in --

THE COURT: Oh, okay.

MR. JONCUS: -- the Second Revised Joint Claim Construction Statement that was filed on July 31st, that and also -- so, that would be group 5.

Group 6, group 7, and group 11, we don't need to argue about anymore.

THE COURT: All those hours I spent on that. Okay.

MR. JONCUS: I'm sorry.

THE COURT: No. That's no problem. That actually makes it much easier. I'm getting pretty tired today, too.

So, just to be very clear on this, then, no construction is needed on the claim term "flexible material."

Is that right from plaintiff?

MR. McLEROY: That's right.

THE COURT: And defendant?

MR. JONCUS: Correct.

THE COURT: And then, six, you said the one where it says: "said surface with an apex is flexible, deforming with additional physical pressure to flatten and cause additional surface area of contact to provide changes in electrical conductivity in said sensor," no construction necessary on that one?

MR. JONCUS: Correct.

THE COURT: All right. You're handling all of my questions really quick because that's one of the questions I was going to ask, is why we were --

All right. Seven?

MR. JONCUS: "Sheet," no issue with that.

THE COURT: No issue on "sheet."

And then what's the next one that was agreed?

MR. JONCUS: Eleven, which was "snap-through."

THE COURT: Okay, "snap-through."

So, then we're down to group 8, which is the means-plus-function?

MR. JONCUS: Correct.

THE COURT: Okay. Well, good. Well, you got to just about where I was thinking we ought to be anyway on those

and as I had mentioned before -- and I still don't have any good idea or word on my trial schedule other than it is -- for some reason, everyone has suddenly decided that September and October is a good time to go to trial. I'll probably be in contact with you if we're going to need to move that date or shift it around a little bit on that second one. I'm just trying to give you a "heads up." I will try not to do that, but I'm not getting any -- Judge Parker might know how to force these people to settle, but it looks like I'm going to get a lot of people going to trial in the next two months.

But with that, I again appreciate very much your being here and you are excused and we are in recess.

[PROCEEDINGS CONCLUDED, 2:29 P.M.]

COURT REPORTER'S CERTIFICATION

I HEREBY CERTIFY THAT ON THIS DATE, AUGUST 31, 2007, THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS.