

EXHIBIT B

Status Conference

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

PERSONAL AUDIO, LLC

DOCKET 9:09CV111

VS.

MAY 10, 2010

1:32 P.M.

APPLE, INC., ET AL

BEAUMONT, TEXAS

VOLUME 1 OF 1, PAGES 1 THROUGH 36
REPORTER'S TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE RON CLARK
UNITED STATES DISTRICT JUDGE

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

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1 arguments prepared and they know exactly what worked and
2 didn't work, then they go after this other XM. It seems
3 to me that's kind of a waste of your resources and
4 judicial resources in that I wind up -- either I or some
5 other judge winds up having to try that case separately.
6 That doesn't seem to make a lot of sense. I mean, tell
7 me why either I should have two trials myself or I
8 should -- and this is all assuming, of course, that the
9 Court of Appeals lets the present case stay here.

10 MR. CAPLAN: Okay. Your Honor, it's Jonathan
11 Caplan. So, like I said, our view is that a subsequent
12 lawsuit against XM on these patents, on the products that
13 they identified in the Apple suit, should not be allowed
14 to go forward; and we make that argument in our
15 opposition brief. We'll follow it up in a sur-reply.

16 But it's no different than if there were
17 invalidity contentions that were not timely with
18 dispositive art and that couldn't come into the case.
19 You can't -- it's just -- that should be the result.
20 That's our view.

21 We cited a case, the Orion case, where we
22 think the reasoning there applies with equal force here,
23 that because XM was made an issue and it was identified
24 to Personal Audio, they should not be allowed to go
25 forward whether it's a suit in this district or in

1 Washington or in any other district court. That's our
2 position, and that's what we're briefing.

3 But if you're asking me the question if that
4 weren't an issue here, why have separate trials for
5 Sirius and XM, I would say Sirius is going to have a
6 separate trial from Apple in any event. And I would
7 agree that if there is going to be a separate trial for
8 Sirius and XM, ultimately we're in the case; they should
9 be together. So, we're not advocating for that. If that
10 were going to happen, I would suggest that the court
11 maybe perhaps stay the action against Sirius and XM
12 pending the outcome against Apple; and then we can take
13 up Sirius and XM when and if that it's even necessary if
14 these patents -- you know, if they ultimately prevail or
15 if the patents are invalidated, whether in your court or
16 in the reexamination.

17 So, I think judicial economy -- that that
18 argument makes sense that Sirius and XM, if they are both
19 in the case, should go together. That's not our
20 position. Our view is that XM should not be allowed to
21 have a suit go forward against it, given the facts of how
22 it arose here.

23 THE COURT: All right. Well, I'll be looking
24 at that when I get the various documents on that.

25 Okay. Any other issue that needs to be taken

1 up or would be helpful to be taken up from plaintiff's
2 point of view since we're here together?

3 MR. MORTON: No, your Honor.

4 THE COURT: What about from --

5 MR. CAPLAN: Nothing for Sirius XM, your
6 Honor.

7 THE COURT: Okay. Very good.

8 Well, then, I appreciate your participation.
9 You're excused, and the court is in recess.

10 (Proceedings concluded, 2:02 p.m.)

11 COURT REPORTER'S CERTIFICATION

12 I HEREBY CERTIFY THAT ON THIS DATE, MAY 17,
13 2010, THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE
14 RECORD OF PROCEEDINGS.

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