

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
3

4 _____
5 PROMPTU SYSTEMS CORPORATION,)
6 Plaintiff,)
7 v.) Civil Action No.
8 COMCAST CORPORATION and COMCAST) 2:16-cv-06516-JRS
9 CABLE COMMUNICATIONS, LLC,)
10 Defendants.)
11 _____)
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14

15 Deposition of
16 PAUL MAXWELL COOK
17 Volume III, Pages 271-458
18 Thursday, November 1, 2018
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24 REPORTED BY: JOHN WISSENBACH, RDR, CRR, CRC,
25 CSR 6862

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD
4

5
6 COMCAST CABLE COMMUNICATIONS, LLC,
7 Petitioner,

8 v.

9 PROMPTU SYSTEMS CORPORATION,
10 Patent Owner.

11
12 Case IPR2018-00340 (Patent 7,260,538)
13 Case IPR2018-00341 (Patent 7,260,538)
14 Case IPR2018-00342 (Patent RE44,326)
15 Case IPR2018-00343 (Patent RE44,326)
16 Case IPR2018-00344 (Patent 7,047,196)
17 Case IPR2018-00345 (Patent 7,047,196)
18

19 Deposition of

20 PAUL MAXWELL COOK

21 Volume III, Pages 271-458

22 Thursday, November 1, 2018
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25 CSR 6862

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MARKED SECTION

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1 BE IT REMEMBERED that, pursuant to the laws
2 governing the taking and use of depositions, on
3 Thursday, November 1, 2018, commencing at 9:20 a.m.
4 thereof, at the law offices of Finnegan, Henderson,
5 Farabow, Garrett & Dunner, LLP, Stanford Research
6 Park, 3300 Hillview Avenue, Palo Alto, California,
7 before me, JOHN WISSENBACH, CSR 6862, of San
8 Francisco, California, personally appeared PAUL
9 MAXWELL COOK, called as a witness by the Plaintiff,
10 Defendants, and Petitioner, who, being by me first
11 duly sworn, was thereupon examined as a witness in
12 said action.

13

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15 ALSO PRESENT: TAIS DESCHAMPS, Videographer

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1 correct?

2 A. That's correct.

3 Q. And then you were presented with a binder
4 of those highlighted documents to review, correct?

5 A. Yes.

6 Q. After you were presented with those
7 highlighted documents, you took a blue highlighter
8 and did whatever blue highlighting you wanted to do;
9 isn't that correct?

10 A. Correct.

11 MR. MOSKO: Very good. I have no more
12 questions of the witness.

13 MR. LAM: I'm about to ask some other
14 questions. I don't know whether the court reporter
15 and counsel feel like they need to change media. I
16 don't think that's necessary. I can just go through
17 them right now. But -- and, in fact, I would prefer
18 to. So I'm not sure how to resolve this.

19 (Discussion off the record.)

20 MR. LAM: I propose that we agree that
21 excerpts can be used, subject to negotiations
22 between counsel, for either purpose. Nobody but the
23 lawyers in their right mind is going to read the
24 entire transcript.

25 (Discussion off the record.)

1 MR. LAM: Mr. Schroeder, can we just
2 proceed? If we can -- I think the court reporter is
3 suggesting that if we can stipulate to that, we
4 can -- we can proceed.

5 MR. SCHROEDER: Yeah, that's fair.

6 MR. LAM: Okay.

7 MR. CALLAWAY: No original transcript is
8 needed for the PTAB. We just file and stipulate
9 to it. It's not going to --

10 MR. LAM: You -- Mr. Callaway and
11 Mr. Schroeder will know better than I, but I think
12 it's sensible for us to just march through and let
13 you go, Mr. Cook.

14 THE WITNESS: Excuse me?

15 MR. LAM: I think it would be sensible for
16 us to proceed right now and --

17 THE WITNESS: Okay.

18 MR. LAM: -- let you go as soon as we --

19 THE WITNESS: That's --

20 MR. LAM: -- possibly can.

21 THE WITNESS: That's fine.

22 MR. LAM: Thank you.

23 EXAMINATION BY MR. LAM

24 Q. Mr. Cook, I will hand you what's already
25 been marked as an exhibit. It bears Number 1012.

1 It's a copy of a patent -- yeah, it's a -- marked as
2 an exhibit for -- well, it -- it -- you see at the
3 bottom it says "Exhibit 1012"?

4 A. Yes, I do.

5 Q. Have you ever seen this -- this exhibit
6 before today?

7 A. I don't believe so.

8 Q. I'll refer to it as the -- I'll refer to it
9 as the '063 patent. Is that all right with you, the
10 last three digits, numerical digits, on the top
11 right-hand corner?

12 A. Okay. '063.

13 Q. '063. Now, if you pull out -- and I'll
14 help you, Mr. Cook -- Exhibit 115 from your
15 deposition.

16 A. 115?

17 Q. Yes.

18 A. There's 113.

19 Q. 115 is right here.

20 A. Good.

21 Q. Turn to the back page of 1 -- Exhibit 115.

22 One page before the back page is Exhibit E.

23 Do you see that?

24 You just -- you just passed it.

25 A. Exhibit D?

1 Q. The second -- Exhibit E.

2 A. Exhibit E.

3 Q. Second-to-the-last page.

4 A. E. Okay.

5 Q. All right. It's a list of patent numbers.

6 Do you see that? There are four patent numbers.

7 A. Okay.

8 Q. Do you see the four patent numbers?

9 A. Yep.

10 Q. Now, the '063 patent, which you have on
11 your right, I will represent to you that the numbers
12 match one of the four that are listed in Exhibit E
13 to the License and Development Agreement.

14 A. Okay.

15 Q. And let's just confirm that. Mr. Cook, do
16 you see on --

17 A. That's D.

18 Q. E.

19 A. E.

20 Q. On E, there are four numbers listed. Do
21 you see the four numbers?

22 A. Yep.

23 Q. The second of the four numbers --

24 A. Yep.

25 Q. -- is 6,513,063.

1 A. Yep.

2 Q. Do you see that? That's also the number of
3 the '063 patent, that you have on your right.
4 The -- the separate document, Mr. Cook.

5 A. Okay.

6 Q. Below the page you're looking at.

7 MR. SCHROEDER: And, Counsel, I'm going to
8 object to this being beyond the scope of Mr. Cook's
9 testimony in the PTAB matters. This is not relevant
10 to the scope of his declaration.

11 BY MR. LAM:

12 Q. Mr. Cook, will you -- will you -- will you
13 take a look at the copy of the patent itself.
14 That's right.

15 Do you see the first name listed, Luc
16 Julia; L-U-C, Julia?

17 A. Luc Julia?

18 Q. Yes. Do you know who Luc Julia is?

19 A. I think I remember him.

20 Q. How do you remember him?

21 MR. SCHROEDER: Objection; beyond the
22 scope.

23 THE WITNESS: I don't know. I just
24 remember the name.

25 BY MR. LAM:

1 Q. Do you remember him from SRI?

2 A. I don't know where I remember him from.

3 Q. Do you remember Dimitris Voutsas, spelled
4 V-O-U-T-S-A-S?

5 A. No, I don't.

6 Q. Do you remember Adam Cheyer, C-H-E-Y-E-R?

7 MR. SCHROEDER: And I'm going to object
8 and -- and I lodge a running objection to all of this
9 being beyond the scope of Mr. Cook's testimony in
10 the PTAB matters.

11 BY MR. LAM:

12 Q. Mr. Cook, do you remember Adam Cheyer,
13 subject to counsel's objection?

14 A. I may have reminded -- remembered him, but
15 not Voutsas.

16 (Discussion off the record.)

17 THE WITNESS: But I also think I remember
18 Luc Julia.

19 BY MR. LAM:

20 Q. You do remember the company name that
21 appears after those individuals, named SRI
22 International --

23 A. Of course.

24 Q. -- correct?

25 Okay. Now, turning back to Exhibit E in

1 the License and Development Agreement, that listing
2 of four patent numbers -- all the way in the back.

3 A. Way in the back?

4 Q. Yes, all the way in the back,
5 second-to-the-last page.

6 That's it. You have it right there.

7 A. There it is. Okay.

8 Q. That's a listing of four SRI patents that
9 were licensed to AgileTV; is that correct?

10 A. Okay.

11 MR. SCHROEDER: Objection; lacks
12 foundation, beyond the scope.

13 BY MR. LAM:

14 Q. Is that correct?

15 A. Yeah. I don't remember it by heart, but
16 that's reasonable.

17 Q. Do you remember reviewing any of these four
18 patents before AgileTV took a license to them?

19 A. I can't --

20 MR. SCHROEDER: Objection; beyond the
21 scope.

22 THE WITNESS: -- remember the number of
23 patents that I've reviewed. That's crazy.

24 BY MR. LAM:

25 Q. Do you know whether there was a written

1 agreement between AgileTV and SRI to license these?

2 A. Yes, I do remember that.

3 Q. Were -- did you sign such an agreement?

4 A. I'm almost sure that I did.

5 Q. Why did AgileTV license these four patents
6 from SRI?

7 MR. SCHROEDER: Objection; beyond the
8 scope.

9 Counsel, this is far beyond the scope of
10 Mr. Cook's testimony in his PTAB declaration, and
11 I'd like to request that you limit your questions to
12 that scope.

13 BY MR. LAM:

14 Q. Why did AgileTV license these four patents
15 from SRI?

16 MR. SCHROEDER: Objection; beyond the
17 scope.

18 THE WITNESS: Because we wanted to use the
19 technology in its deployment.

20 BY MR. LAM:

21 Q. So the technology described in these four
22 SRI patents was relevant to your work at AgileTV?

23 A. Yes.

24 MR. SCHROEDER: Objection.

25 BY MR. LAM:

1 Q. Did AgileTV pay for a license to these four
2 patents?

3 A. They had --

4 MR. SCHROEDER: Objection; form.

5 THE WITNESS: -- an agreement of -- of
6 compensation for it, not necessarily paid for it,
7 but they had a deal where, if Agile was successful,
8 then some -- some revenue would come to SRI,
9 handsome revenue.

10 (Discussion off the record.)

11 MR. LAM: "Handsome."

12 Q. "Handsome revenue." Is that what you said?

13 A. Handsome revenue. Yes.

14 MR. YORIO: Excuse me. Mr. Reporter, could
15 you read the answer back so we can hear it clearly.

16 (The record was read by the reporter.)

17 BY MR. LAM:

18 Q. Do you know whether in fact AgileTV paid
19 any such revenue to SRI for its license to these
20 four patents?

21 MR. SCHROEDER: Objection. Counsel, you've
22 already closed your deposition in the district court
23 litigation, and this is far beyond the scope of
24 Mr. Cook's declaration in the PTAB matters.

25 BY MR. LAM:

1 Q. Will you answer, Mr. Cook.

2 A. Yeah. I -- I don't have a recollection of
3 whether they paid anything or not.

4 Q. Do you remember considering whether to cite
5 any of the four patents listed in front of you to
6 the U.S. patent office for purposes of your own
7 patent applications?

8 MR. SCHROEDER: Objection. This -- this is
9 far beyond. We're going to have to stop this
10 deposition if you don't pull this within the scope
11 of his declaration in the PTAB matters. And you can
12 call the board to ask for permission to continue,
13 because this is well beyond the scope of his
14 testimony in the PTAB cases.

15 BY MR. LAM:

16 Q. Mr. Cook, you may answer if you know.

17 Did you ever consider citing any of these
18 patents to the U.S. patent office for purposes of
19 your own applications?

20 A. Not as far as I know.

21 MR. LAM: Thank you very much.

22 I have no further questions.

23 MR. SCHROEDER: I have nothing further.

24 THE VIDEOGRAPHER: The time on the video
25 monitor is 3:40 p.m. This concludes the deposition

1 of Mr. Paul Cook, and we are off the record. This
2 is the end of media number 3, volume III.

3 (Whereupon, the deposition session ended at
4 3:40 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JOHN WISSENBACH, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell
5 the truth, the whole truth, and nothing but the
6 truth in the within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time
9 and place therein stated, and that the testimony was
10 thereafter reduced to typewriting by computer under
11 my direction and supervision and is a true record of
12 the testimony given by the witness;

13 That before completion of the deposition,
14 review of the transcript [] was [X] was not
15 requested. If requested, any changes made by the
16 deponent (and provided to the reporter) during the
17 period allowed are appended hereto.

18 I further certify that I am not of counsel
19 or attorney for either or any of the parties to the
20 said deposition, nor in any way interested in the
21 event of this cause, and that I am not related to
22 any of the parties thereto.

23 DATED: NOVEMBER 01, 2018

24 
25 JOHN WISSENBACH, CSR No. 6862

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I declare under penalty of perjury that the
foregoing is true and correct. Subscribed at
_____, California, this ____ day of
_____, 2018.

Signature of the witness

1 CERTIFICATE OF REPORTER

2 I, JOHN WISSENBACH, hereby certify that the
3 witness was duly sworn by me, before commencement of
4 testimony by the witness, to testify the truth, the
5 whole truth, and nothing but the truth in the
6 within-entitled cause; that said deposition was
7 taken at the time and place therein stated, in the
8 presence of the above-noted people; that the
9 testimony of said witness was reported by me, a
10 Certified Shorthand Reporter and disinterested
11 person, and was thereafter transcribed into
12 typewriting and is a true record of the testimony
13 given by the witness, and that the pertinent
14 provisions of the applicable code or rules of civil
15 procedure relating to the notification of the
16 witness and counsel for the parties hereto of the
17 availability of the transcript of the deposition for
18 reading and signing have been met.

19 And I further certify that I am not a
20 relative or employee of a party or of an employee of
21 an attorney or agent of a party, or interested,
22 directly or indirectly, in the proceeding either as
23 counsel, attorney, agent, or otherwise.

24 DATED: NOVEMBER 01, 2018

25 
JOHN WISSENBACH, CSR No. 6862