

Transcription Detail Record

ABC NEWS

GOOD MORNING AMERICA

Wednesday - February 18, 2004

GOOD MORNING AMERICA, NEWS HEADLINES, WEATHER, WISCONSIN PRIMARY RESULTS, INTERVIEW WITH JOHN EDWARDS, KATIE HNIDA, FEM KICKER ACCUSES TEAMMATES OF SEXUAL ASSAULT, ARIZONA PRISON ST OFF, AUDIO TAPES RELEASED, INTRODUCTION INTO THE 7:30 HALF-HOUR CHILD ABUSE CAUGHT ON TAPE, CROSSED VIDEO SIGNALS LEAD TO ARRE WEATHER, MARTHA STEWART TRIAL, INK EVIDENCE EXAMINED, AROUND WATERCOOLER, AMERICAN IDOL CONTESTANT WILLIAM HUNG, INTRODUC INTO THE 8:00 HALF-HOUR, NEWS HEADLINES, WEATHER, YOUNG FAN MISSING IN MISSISSIPPI, FBI JOINS SEARCH FOR THE HARGONS, REWIND FIRST JOBS, ROBIN'S FIRST JOB, INTRODUCTION INTO THE 8:30 HALF-HO WEATHER, MONEYSCOPE, HIDDEN FEES AND CHARGES WITH DEBIT CAR KENNY CHESNEY, NEW ALBUM, "WHEN THE SUN GOES DOWN"

DISPATCHER (FEMALE), NEGOTIATOR (FEMALE), OFFICER (FEMALE), SOCIAL WORKER (FEMALE), CHILDREN (GROUP), OFFICER AUCH (HOSTAGE), RICK WASSENAAR (INMATE), CHILD (MALE), DETECTIVE (MALE), REPORTER (MA SPORTS ANNOUNCER (MALE), SENATOR JOHN KERRY (MA, DEMOCRATIC PRESIDENTIAL CANDIDATE), SENATOR JOHN KERRY (MASSACHUSETTS, DEMOCRATIC PRESIDENTIAL CANDIDATE), SERGEANT KENNETH HARRIS (MILWAUKEE, WI POLICE DEPARTMENT), SENATOR JOHN EDWARDS (NC, DEMOCRATIC PRESIDENTIAL CANDIDATE), BETSY HOFFMAN (PRESIDENT, UNIVERSITY OF COLORADO), KENNY CHESNEY (SINGER), ERICH SPECKIN (FORENSICS DOCUMENT ANALYST), JAMES COMEY (UNITED STATES ATTOR VICTOR WILLIAMS (JAYSON WILLIAMS BROTHER), HOWARD DEAN (DEMOCR PRESIDENTIAL CANDIDATE), GARY BARNETT (FOOTBALL COACH, UNIVERS COLORADO), SHERIFF JAMES WILLIAMS (YAZOO COUNTY, MS SHERIFF'S OFFICE), KATIE HNIDA (FIRST WOMAN IN DIVISION ONE COLLEGE FOOTBA MARTHA STEWART (CHARGED WITH STOCK FRAUD), CHERYL ANTOINE JON (ROBIN'S CHILDHOOD FRIEND), GLORIA HARSHBURGER (ROBIN'S SCHOOL DRIVER INSTRUCTOR), JENNIFER (AUDIENCE MEMBER), LINDA HIRTZ (DAUGHTER AND FAMILY MISSING), WILLIAM BROOKINS (SAW CHILD ABU SECURITY MONITOR), LUCIMARIAN ROBERTS (ROBIN'S MOTHER), BARBAR PINTO (ABC NEWS), BRIAN ROONEY (ABC NEWS), CHARLES GIBSON (ABC NEWS), CHRIS CUOMO (ABC NEWS), DIANE SAWYER (ABC NEWS), GEORG STEPHANOPOULOS (ABC NEWS), JESSICA YELLIN (ABC NEWS), KATE SNOV NEWS), MELLODY HOBSON (ABC NEWS), ROBIN ROBERTS (ABC NEWS), TA HERNANDEZ (ABC NEWS), TONY PERKINS (ABC NEWS), WILLIAM HUNG (ASPIRING SINGER), RICK REILLY (SENIOR WRITER, SPORTS ILLUSTRATED

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Is plea in patent fraud case

By Jason Hoppin
RECORDER STAFF WRITER



RECORDER FILE (E598)

A trial over fabricated evidence in a high-stakes patent dispute appears more likely after a defendant reneged on a plea deal at the last minute Monday.

Amr Mohsen and his brother, Aly Mohsen, were expected to enter a plea to a 19-count indictment for fabricating parts of a notebook, allegedly to bolster Aptix Corp.'s position in a dispute with Quickturn Design Systems over hardware-emulation technology.

But Amr Mohsen, founder of Aptix, had a last-minute change of heart that may force not only

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COLD FEET: U.S. District Judge William Alsup pushed back a trial date after one defendant reneged on a plea deal.

PATENT DISPUTE

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his case to trial, but that of his brother as well. Prosecutors told U.S. District Judge William Alsup on Monday that if one defendant stands trial, both will.

"It was a package deal," Assistant U.S. Attorney Robin Harris told Alsup.

Defense attorney John Williams told a somewhat surprised Alsup that his client no longer wished to go forward with the deal. He then asked Alsup for time to allow his client to consult another lawyer about the wisdom of his decision.

A trial had been set for Jan. 26, but Alsup rescheduled it for Feb. 17 after clearing the courtroom to consult with the attorneys.

Afterward, Williams was circumspect about whether he would still be defending Mohsen in February. "I have no idea," said the Manchester, Williams & Seibert lawyer.

Harris expressed concern that a change of attorney could lead to a lengthy delay, possibly six months or more.

Meanwhile, a lawyer for Aly Mohsen said his client is still willing to accept a plea and wants to proceed.

"We are fully prepared to uphold this agreement," Berliner Cohen lawyer Frank Ubbas told Alsup.

The government apparently expected as much early Monday. Harris told Alsup that Amr Mohsen had actually signed the agreement.

It was Alsup himself who triggered the prosecution. During discovery in the patent dispute, defense lawyers for Quickturn received two versions of the engineering notebook at the heart of the case — one from Aptix and another from a third party. The lawyers pointed out discrepancies to Alsup.

But the day before the notebook was to have been turned over for forensic examination, Amr Mohsen claimed it had been stolen and that portions were later mailed back to him. But the U.S. attorney's office alleges that the theft never took place.

In 2001, Alsup declared in a written order that a fraud had been perpetrated on the court, leading to a two-year investigation by federal authorities.

Reporter Jason Hoppin's e-mail address is jhoppin@therecorder.com.

Falsified Notebooks Sink Patent Claim

■ Judge William Alsup's ruling on Aptix's CEO's doctored evidence will cost the Los Gatos company millions.

By Pamela A. MacLean
Daily Journal Staff Writer

Saying the CEO and founder of Aptix Corp. was "caught red-handed" fabricating entries in his inventor's notebooks, a federal judge on Wednesday declared the firm's patent for programmable circuit boards to be unenforceable and threw out its infringement case against Quickturn Design Systems.

"As a result of Aptix's attempt to defraud the court and to strengthen its patent through a premeditated and sustained cam-

Continued From Page 1

paign of lies and forgery, the court holds that the ... patent is unenforceable," Judge William Alsup wrote.

The ruling was a complete victory for Quickturn, a San Jose-based maker of diagnostic tools that test semiconductor designs. The company is owned by Cadence Design Systems.

The decision will cost Aptix not only the use of its patent and what it speculated could have been hundreds of millions of dollars in potential damages, but the order also requires the Los Gatos-based firm to pay Quickturn's legal fees and costs in the litigation.

Those costs are expected to run well into seven figures, according to Quickturn attorney James Brooks, of Lyon & Lyon, in Los Angeles. "This was not cheap litigation. We were sorely pressured in litigation to spend a lot of money. We are going to get it back."

an unmanagement action consciously suppresses or falsifies evidence in an attempt to obtain or strengthen a patent, the Supreme Court has long held that an order of unenforceability and a dismissal of the action is a proper remedy.

At issue was the authenticity of Mohsen's engineering notebooks dated 1988 and 1989, which suggested an early invention date by Aptix. But discrepancies in the notebooks, discovered by Quickturn lawyers in 1998, suggested Mohsen had created the 1988 version ten years later, in the midst of the patent fight. He then claimed both books were stolen from the back of his Mercedes while he was at work. This occurred within days of

book was fabricated and some entries in the 1989 book were doctored.

Alsup said that the 1988 notebook emerged only in 1998, when Aptix was overdue in disclosing the date of conception of the invention. But the court found the timing of his authorship dubious because Mohsen had never shown the 1988 book to his original patent lawyers although he had provided them with the 1989 book. He also never showed the 1988 book to a founding member of the Aptix team or to the original witness who signed his 1989 book, the judge said.

Forensic testimony showed he repeatedly overwrote the first "8" in 1988, mistakenly writing "1998," the year the judge believed it was really created. Mohsen's brother in Missouri also signed as the only witness to the 1988 notebook and used identical ink pens despite signing dates a month apart and signing as a witness on pages that were blank, the judge found.

"Taken together with other evidence, this is a strong indication that these entries were made in 1998, not 1988," Alsup wrote.

Quickturn lawyer James Geriak of Lyon & Lyon, called the decision a "substantial victory for Quickturn."

He said Quickturn lawyers realized the notebooks were bogus in 1998 when they opened cases of documents from Mohsen's original patent lawyers, Sigerven, Morrill, MacPherson, Franklin & Friel, only to discover the original 1989 notebook Mohsen had deposited with the firm. It did not match the 1989 notebook, presented 10 years later in the patent suit.

Mohsen then "admitted what had become undeniable — that he had added material to his 1989 notebook after the dates written thereon," Alsup wrote. The court noted Mohsen clearly didn't expect that his prior lawyers would have kept the documents a decade.

He justified the additions by saying they were not inventive material but only clarifications.

Geriak said Quickturn was founded in 1987, began testing its product in 1987 and began selling its product in 1989. That made it critical for Mohsen to arrive at the earliest possible date for his invention.

Geriak said co-counsel Don McCarthy, Jeff Miller and Brooks are entitled to "ana-

'This was not cheap litigation. We were sorely pressured in litigation to spend a lot of money. We are going to get it back.'

James Brooks, Quickturn attorney

a court ruling requiring forensic testing of the books.

The bizarre history of the notebooks ended with Mohsen claiming that torn fragments of pages from the 1988 book were mailed anonymously to his home shortly before the court was expected to rule on the admissibility of copies.

"The circumstances of the 'theft' strongly suggest that Amr Mohsen staged the incident," Alsup wrote. Although Mohsen knew the notebooks were central to the case and his lawyers insisted that the books remain in the law offices for safekeeping, Mohsen refused to relinquish them.

"Having insisted on retaining the crown jewels for safety and having removed them from his safe specifically to take them to his office for review, it is very hard to believe that Amr Mohsen would have simply left them unattended in his car rather than take them into office," Alsup wrote.

A remarkable two-day hearing using forensic experts to analyze the note-

books to bolster the patent claim, "he sought to destroy the evidence of his tampering by claiming theft of the original notebooks."

Alsup found that not only had Mohsen fabricated the notebooks to bolster the patent claim, "he sought to destroy the evidence of his tampering by claiming theft of the original notebooks."

Alsup wrote that Mohsen "fabricated the entire 1988 note-

book was fabricated and some entries in the 1989 book were doctored.

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**Zaffirini and Castillo named to
50 Winningest Law Firms in the U.S.**

The Laredo law firm of Zaffirini and Castillo is pleased to announce it was named to the "50 Winningest" law firms in the United States, according to a survey conducted by the National Law Journal and released on Monday, July 22.

The law firm of Zaffirini and Castillo ranked 22nd amongst the top 50 firms who won the highest verdicts in 2001. On May 17, 2001, Zaffirini and Castillo obtained a unanimous jury verdict of \$108,240,000 in the 341st District Court for their client, Cristina Brittingham Sada de Ayala, and against the defendant, Ana Maria de la Fuente de Brittingham. The verdict is the largest ever awarded in Webb County.

The law firm is composed of Carlos M. Zaffirini Sr. and Guadalupe Castillo. Zaffirini also has the distinction of having obtained the first million dollar judgment in the history of Webb County in 1975 when he obtained a judgment for \$8 million dollars for his client, Riverdrive Mall.

This year Zaffirini and Castillo won the dismissal in the Fourth Court of Appeals in San Antonio of a claim in excess of \$60,000,000 against their client in a probate matter.

Amongst its numerous other accomplishments, Zaffirini and Castillo, in an En Banc proceeding in the Fourth Court of Appeals in San Antonio in 1996, also were successful in setting aside a \$20 million jury verdict against TransAmerican Natural Gas Corporation in a lawsuit filed against TransAmerican by H.S. Finkelstein in the 49th District Court of Zapata County.

**Aptix directed to pay Quickturn
\$4.2 million**

**By Richard Goering
EE Times
(09/14/00, 2:51 p.m. EST)**

SAN JOSE, Calif. — A U.S. District Court has ordered Aptix Corp. to pay Cadence Design Systems' Quickturn division \$4.2 million in legal fees as a result of the patent lawsuit that was dismissed in June.

At that time of the ruling, Judge William Alsup also ruled Aptix's patent invalid after charging that Amr Mohsen, the company's president and chief executive officer, committed fraud in connection with the case.

The June ruling also directed Aptix to pay Quickturn's court costs but did not spell out the amount. Smith McKeithen, Cadence vice president and general counsel, said that Aptix and Quickturn disputed which costs were recoverable but that Quickturn was ultimately awarded everything it asked for.

An Aptix spokesperson said the \$4.2 million ruling contains no new information and will be included in the Aptix appeal to the U.S. Court of Appeals for the Federal Circuit. In that appeal, which is currently in progress, Aptix is denying the fraud charges. Mentor Graphics' Meta subsidiary was also a plaintiff in the original case.