

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TWILIO, INC.,) C-16-06925 LHK
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) OCTOBER 5, 2017
)
TELESIGN CORPORATION,) PAGES 1-93
)
DEFENDANT.)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LUCY H. KOH
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S :

FOR THE PLAINTIFF: BAKER BOTTS
BY: WAYNE O. STACY
101 CALIFORNIA STREET, SUITE 3070
SAN FRANCISCO, CALIFORNIA 94111

BY: JAY B. SCHILLER
1001 PAGE MILL ROAD, BLDG 1, SUITE 200
PALO ALTO, CALIFORNIA 94304

FOR THE DEFENDANT: SHOOK, HARDY & BACON
BY: JESSE J. CAMACHO
RYAN D. DYKAL
DANIEL M. STAREN
2555 GRAND BOULEVARD
KANSAS CITY, MISSOURI 64108

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

UNITED STATES COURT REPORTERS

01:43:12 1 MR. CAMACHO: THAT SHOULD BE SIX MONTHS AFTER FILING,
01:43:14 2 AND I BELIEVE WE FILED IN LATE AUGUST.
01:43:18 3 THE COURT: UM-HUM.
01:43:18 4 MR. CAMACHO: SO I WOULD THINK IN FEBRUARY.
01:43:20 5 THE COURT: SO FEBRUARY, OKAY. AND DID YOU -- DID
01:43:24 6 YOU FILE AS TO ALL PATENTS?
01:43:25 7 MR. CAMACHO: ALL PATENTS, ALL ASSERTED CLAIMS.
01:43:27 8 THE COURT: I'M SORRY. SAY THAT ONE MORE TIME.
01:43:29 9 MR. CAMACHO: ALL PATENTS AND ALL ASSERTED CLAIMS.
01:43:32 10 THE COURT: OH, OKAY. ALL PATENTS, ALL ASSERTED
01:43:34 11 CLAIMS. YOU EXPECT TO GET AN ANSWER IN FEBRUARY OF 2018. AND
01:43:38 12 THEN IF THERE'S INSTITUTION, DO YOU INTEND TO MOVE FOR STAY?
01:43:41 13 MR. CAMACHO: I WOULD THINK -- WE WOULD ALWAYS
01:43:44 14 RE-EVALUATE IN CASE SOMETHING CAME UP.
01:43:46 15 THE COURT: YEAH.
01:43:47 16 MR. CAMACHO: BUT I THINK THE GENERAL THOUGHT WOULD
01:43:49 17 BE MOST LIKELY.
01:43:49 18 THE COURT: OKAY.
01:43:51 19 AND LET ME ASK TWILIO, IF AN IPR WERE INSTITUTED, WOULD
01:43:57 20 YOU OPPOSE A STAY, OR --
01:43:59 21 MR. STACY: AT THIS TIME, NO IDEA. STILL EVALUATING
01:44:03 22 WHAT IN RE: AQUA MEANS ON CLAIM AMENDMENTS AND HOW THAT'S GOING
01:44:06 23 TO CHANGE THE ENTIRE IPR PRACTICE.
01:44:08 24 THE COURT: OKAY. SO YOU DON'T KNOW AT THIS POINT.
01:44:11 25 ALL RIGHT.

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1 SAN JOSE, CALIFORNIA OCTOBER 5, 2017
2 P R O C E E D I N G S
01:27:42 3 (COURT CONVENED AT 1:42 P.M.)
01:42:05 4 THE COURT: GOOD AFTERNOON AND WELCOME.
01:42:06 5 THE CLERK: PLEASE BE SEATED.
01:42:09 6 YOUR HONOR, CALLING CASE 16-CV-06925, TWILIO, INC., VERSUS
01:42:14 7 TELESIGN CORPORATION.
01:42:15 8 COUNSEL, PLEASE STATE YOUR APPEARANCES.
01:42:18 9 MR. CAMACHO: YOUR HONOR, FOR TELESIGN IS
01:42:20 10 JESSE CAMACHO, AND I'D LIKE TO INTRODUCE DAN STAREN AND
01:42:25 11 RYAN DYKAL.
01:42:28 12 THE COURT: OKAY.
01:42:31 13 AND FOR TWILIO?
01:42:31 14 MR. STACY: FOR TWILIO, WAYNE STACY AND JAY SCHILLER.
01:42:36 15 THE COURT: OKAY. GOOD AFTERNOON AND WELCOME.
01:42:39 16 ALL RIGHT. SO I HAVE QUESTIONS ON THE DIFFERENT CLAIM
01:42:44 17 TERMS, AND I'D LIKE TO GO IN THE ORDER OF THE OPENING BRIEF IN
01:42:47 18 TERMS OF WHICH TERMS WE'LL DO.
01:42:49 19 LET'S FIRST JUST START OFF WITH AND JUST TAKE OF, SO I
01:42:55 20 DON'T FORGET, THE CMC PORTION OF YOUR CASE.
01:43:02 21 WHEN ARE YOU GOING TO GET DECISIONS FROM THE PTO ABOUT
01:43:05 22 WHETHER THEY'RE GOING TO INSTITUTE IPR'S?
01:43:08 23 MR. CAMACHO: YOUR HONOR, THIS IS JESSE CAMACHO FOR
01:43:10 24 TELESIGN.

01:44:19 1 LET'S HANDLE THE PRIVATE MEDIATION ISSUE. SO WHAT IS THE
01:44:30 2 EFFECT OF THE ACQUISITION ON THIS CASE?
01:44:33 3 MR. CAMACHO: JESSE CAMACHO AGAIN.
01:44:34 4 THE COURT: UM-HUM.
01:44:35 5 MR. CAMACHO: SO, YOUR HONOR, TELESIGN IS IN THE
01:44:38 6 PROCESS OF BEING ACQUIRED BY AN INTERNATIONAL CORPORATION NAMED
01:44:47 7 BICS, B-I-C-S. THE PROBLEM IS WE DO NOT KNOW WHEN THIS
01:44:52 8 TRANSACTION IS SUPPOSED TO CLOSE. IT'S PENDING REGULATORY
01:44:55 9 APPROVAL. MY UNDERSTANDING IS IT COULD HAPPEN SOON OR IT COULD
01:44:58 10 BE DELAYED, MAYBE UNTIL AS LATE AS THE END OF THE YEAR. WE
01:45:01 11 JUST DON'T KNOW.
01:45:01 12 THE COURT: AND OF WHICH YEAR?
01:45:03 13 MR. CAMACHO: THIS YEAR, END OF 2017.
01:45:05 14 THE COURT: DOESN'T IT HAVE TO GET REGULATORY
01:45:07 15 APPROVALS, I WOULD ASSUME BOTH IN EUROPE AND THE UNITED STATES?
01:45:10 16 I -- IS IT DONE THAT QUICKLY?
01:45:12 17 MR. CAMACHO: IT'S NOT -- IT'S NOT NECESSARILY -- I
01:45:14 18 DON'T -- SO I DON'T KNOW. I'M NOT AS FAMILIAR WITH THE ENTIRE
01:45:17 19 REGULATORY PROCESS.
01:45:18 20 AS I INTERACT WITH MY CLIENT, MY UNDERSTANDING IS HE WAS
01:45:22 21 EXPECTING CLOSING -- HE THINKS IT SHOULD BE BY THIS YEAR.
01:45:27 22 I DON'T KNOW IF IT'S NECESSARILY FAST BECAUSE THIS
01:45:29 23 TRANSACTION HAS BEEN PENDING WITH THE GOVERNMENT FOR A WHILE.
01:45:32 24 THE COURT: OKAY. AND I WAS WONDERING WHY YOU DIDN'T

01:45:38 **1** ALL AGREED TO BE ACQUIRED IN APRIL.

01:45:41 **2** MR. CAMACHO: I DO NOT -- I THINK IT WAS APRIL 25TH,

01:45:48 **3** AND AS FAR AS BEING ACQUIRED, I -- TO BE TRANSPARENT, I

01:45:51 **4** PROBABLY WAS THINKING THAT MEDIATION WAS SO FAR OFF AND THAT IT

01:45:56 **5** WOULDN'T APPLY IN THE CASE, IT WOULDN'T MATTER UNTIL MEDIATION

01:45:59 **6** MAINLY, WHICH WAS IN NOVEMBER. SO IT JUST DIDN'T OCCUR TO ME

01:46:03 **7** BRING IT UP. BUT THAT IS WHY WE BROUGHT IT UP NOW.

01:46:06 **8** THE COURT: I SEE. WELL, I AM HOPING TO GET YOU A

01:46:08 **9** CLAIM CONSTRUCTION RULING, LIKE, THIS WEEK. SO IF YOU GOT ONE

01:46:14 **10** THIS WEEK, I DON'T SEE ANY NEED TO DELAY. I'D LIKE YOU TO MOVE

01:46:19 **11** FORWARD, EVEN IF YOU DON'T RESOLVE IT. IT COULD BE BENEFICIAL

01:46:22 **12** TO NARROWING THE ISSUES, STREAMLINING THE CASE, AND THEN YOU

01:46:28 **13** CAN DO ANOTHER ONE AFTER THE ACQUISITION GETS APPROVED BY

01:46:31 **14** WHATEVER REGULATORY BODIES ARE REVIEWING IT.

01:46:34 **15** MR. CAMACHO: ABSOLUTELY.

01:46:35 **16** THE COURT: WOULD YOU BE OPEN TO THAT?

01:46:37 **17** MR. CAMACHO: ABSOLUTELY OPEN. TOTALLY OPEN.

01:46:39 **18** THE COURT: OKAY.

01:46:40 **19** MR. CAMACHO: WHAT I DIDN'T WANT TO HAPPEN WAS US TO

01:46:43 **20** GO TO MEDIATION WITHOUT THE COURT KNOWING THIS, COME BACK AND

01:46:46 **21** SAY, "HOW DID MEDIATION GO?" AND WE SAY THERE WAS SOME

01:46:50 **22** UNCERTAINTY BECAUSE OF A POTENTIAL CHANGE IN OWNERSHIP, AND

01:46:53 **23** THEN YOU SAY, "GOSH, DARN, WHY DIDN'T YOU LET ME KNOW?" SO

01:46:53 **24** WE'RE JUST LETTING YOU KNOW.

01:46:57 **25** AS LONG AS YOUR HONOR IS AWARE THAT THERE'S GOING TO BE
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01:46:59 **1** SOME UNCERTAINTY IN CONNECTION WITH THE PRE-CLOSING MEDIATION,

01:47:02 **2** THAT'S FINE. WE'RE HAPPY TO GO THROUGH WITH IT, AND THAT'S

01:47:05 **3** WHAT WE PUT IN OUR STATEMENT, SURE.

01:47:05 **4** THE COURT: ALL RIGHT. SO YOU CURRENTLY HAVE A

01:47:07 **5** DEADLINE OF NOVEMBER 20TH FROM THE INITIAL CMC, WHICH WAS SOME

01:47:10 **6** TIME AGO. DO YOU HAVE A PRIVATE MEDIATOR IN MIND?

01:47:14 **7** MR. STACY: WE WERE CONTRACTED BEFORE WITH

01:47:16 **8** JUDGE INFANTE.

01:47:17 **9** THE COURT: OH, OKAY. BUT YOU'RE NOT ON HIS

01:47:20 **10** CALENDAR, OR YOU ARE?

01:47:21 **11** MR. STACY: NOT ANYMORE. SO WE WILL MAKE A CALL THIS

01:47:23 **12** AFTERNOON AND SEE WHAT DATES ARE OPEN.

01:47:25 **13** THE COURT: OKAY. AND HIS, HIS CALENDAR BOOKS UP, SO

01:47:28 **14** IF YOU NEED AN EXTENSION BEYOND NOVEMBER 20TH, BECAUSE NOW I

01:47:36 **15** DON'T KNOW IF YOU CAN GET ON HIS CALENDAR IN THE NEXT SEVEN

01:47:39 **16** WEEKS --

01:47:40 **17** MR. STACY: HE IS POPULAR.

01:47:41 **18** THE COURT: -- SO I COULD EXTEND YOUR DEADLINE TO

01:47:43 **19** DECEMBER 14 AND THAT MIGHT GIVE A LITTLE MORE TIME TO GET ON

01:47:47 **20** HIS CALENDAR. AND IF YOU CANNOT GET ON HIS CALENDAR BY THAT

01:47:52 **21** DATE, I GUESS FILE A STIPULATION.

01:47:54 **22** I MEAN, I COULD SAY THROUGH, YOU KNOW, DECEMBER 19TH, BUT

01:47:57 **23** I DON'T KNOW IF YOU WANT IT INTO THE SECOND HALF OF DECEMBER.

01:48:00 **24** MR. STACY: I'LL CALL JAMS AS SOON AS WE'RE DONE

01:48:03 **1** THE COURT: OKAY.

01:48:03 **2** MR. STACY: AND ASK FOR THE LIST OF FIRST AVAILABLE.

01:48:06 **3** THE COURT: ALL RIGHT.

01:48:07 **4** SO I WILL EXTEND YOUR PRIVATE MEDIATION DEADLINE TO, LET'S

01:48:19 **5** SAY DECEMBER THE 18TH, 2017.

01:48:26 **6** THIS CASE HAS BEEN SO CONTENTIOUS, I THINK IT'S WORTHWHILE

01:48:29 **7** TO JUST SIT DOWN AND TALK AND SEE WHERE YOU ARE. OKAY?

01:48:32 **8** MR. CAMACHO: SURE.

01:48:33 **9** THE COURT: AS AN INITIAL SESSION IF THAT'S ALL IT

01:48:35 **10** IS.

01:48:35 **11** OKAY. I THINK THAT WAS IT FOR THE CMC PORTION. DO YOU

01:48:38 **12** AGREE WITH THAT, OR NOT?

01:48:39 **13** MR. CAMACHO: TELESIGN DOES.

01:48:40 **14** MR. STACY: YES, WE DO.

01:48:41 **15** THE COURT: OKAY. ALL RIGHT.

01:48:43 **16** OH, I SHOULD SET A FURTHER CMC. SO LET'S SEE WHAT DATES

01:48:46 **17** YOU'VE GOT COMING UP. YOU'VE GOT THE CASE NARROWING, RIGHT?

01:48:52 **18** PLAINTIFF IS GOING TO LIMIT YOUR CLAIMS DOWN TO 20 14 DAYS

01:48:58 **19** AFTER THE MARKMAN ORDER; YOU'VE GOT CLOSE OF FACT DISCOVERY

01:49:02 **20** MAY 7TH; AND THEN FURTHER NARROWING OF THE CLAIMS MAY 14; AND

01:49:07 **21** THEN EXPERT DISCOVERY.

01:49:09 **22** SO I THINK IT WOULD BE FINE IF YOU ALL CAME IN THEN AT THE

01:49:16 **23** END OF JANUARY, OR EVEN FEBRUARY, UNLESS YOU THINK YOU NEED TO

01:49:19 **24** COME IN SOONER.

01:49:22 **25** MR. STACY: MY QUESTION, YOUR HONOR -- I'M WORKING
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01:49:24 **1** THROUGH YOUR INITIAL REQUEST ON THE IPR'S.

01:49:27 **2** THE COURT: YEAH.

01:49:27 **3** MR. STACY: DOES IT MAKE SENSE TO COME IN SHORTLY

01:49:30 **4** AFTER THE IPR'S DECISIONS COME DOWN?

01:49:34 **5** SO INEVITABLY YOU'RE GOING TO WANT TO KNOW ABOUT THE IPR

01:49:37 **6** DECISION.

01:49:38 **7** THE COURT: RIGHT.

01:49:38 **8** MR. STACY: IT'S --

01:49:39 **9** THE COURT: YOU FILED ON AUGUST 23RD, SO -- DO YOU

01:49:43 **10** THINK IT'LL BE AROUND FEBRUARY 23RD? FEBRUARY 22ND?

01:49:47 **11** MR. CAMACHO: TECHNICALLY, I THINK, IF I HAVE IT

01:49:49 **12** RIGHT, I THINK THEY GIVE YOU -- THEY ACCORD -- THEY TAKE THE

01:49:53 **13** TIME TO MAKE SURE THE APPLICATIONS ARE IN ORDER, THEY ACCORD A

01:49:56 **14** FILING DATE, I THINK THAT FILING DATE TECHNICALLY WAS

01:49:59 **15** MID-SEPTEMBER, AND I THINK THEY WILL HAVE SIX MONTHS -- I THINK

01:50:02 **16** THE SIX MONTH DATE WILL QUEUE FROM THAT DEADLINE, I THINK, SO

01:50:05 **17** SEPTEMBER, OCTOBER, NOVEMBER, DECEMBER, JANUARY, FEBRUARY, SO

01:50:08 **18** ACTUALLY IT WOULD BE RIGHT AROUND MID-MARCH.

01:50:10 **19** THE COURT: OH. WELL, I THINK THAT'S TOO FAR. I

01:50:13 **20** WILL WANT TO -- YOU KNOW, YOU ALL HAVE BEEN CONTENTIOUS ENOUGH

01:50:16 **21** THAT I WILL WANT AT LEAST A JOINT CASE MANAGEMENT STATEMENT.

01:50:19 **22** IF THERE ARE NO ISSUES, I'LL JUST CONTINUE THE CMC. BUT I

01:50:21 **23** WOULD LIKE JUST A CHECK-IN BEFORE THEN.

01:50:23 **24** LET ME, AT A MINIMUM, ASK THAT YOU FILE A MEDIATION STATUS

01:50:32 **1** HOLIDAYS, SO LET'S SAY THAT YOU DO THAT BY, WHAT ABOUT
 01:50:41 **2** JANUARY 5? I'D LIKE THAT TO BE A JOINT DOCUMENT, PLEASE. JUST
 01:50:47 **3** LET ME KNOW YOU MET, YOU DIDN'T MEET, YOU HOPE -- WELL, I'LL BE
 01:50:51 **4** VERY UNHAPPY IF YOU DIDN'T MEET.
 01:50:52 **5** BUT AT LEAST THAT YOU MET AND EITHER YOU DIDN'T SETTLE OR
 01:50:55 **6** YOU HAVE ANOTHER SESSION SCHEDULED OR YOU DON'T HAVE A SESSION
 01:50:58 **7** SCHEDULED BUT YOU'RE STILL TALKING OR WHATEVER. DON'T GO INTO
 01:51:01 **8** ANY OF THE SUBSTANCE, BUT JUST GIVE ME A MEDIATION STATUS
 01:51:05 **9** REPORT ON JANUARY 5, 2018, PLEASE.
 01:51:07 **10** AND WE'LL HAVE A FURTHER CMC -- YOU'RE NOT GOING TO GET AN
 01:51:10 **11** ANSWER UNTIL, YOU SAID, MID-MARCH YOU EXPECT?
 01:51:14 **12** MR. CAMACHO: I THINK SO, UNLESS THEY GO FASTER.
 01:51:16 **13** THE COURT: ALL RIGHT. THEN LET ME ASK MS. MASON FOR
 01:51:21 **14** A DATE -- THIS IS OCTOBER.
 01:51:26 **15** THE CLERK: THE END OF JANUARY, JANUARY 31ST, YOUR
 01:51:29 **16** HONOR, IS AVAILABLE. WE ALSO HAVE FEBRUARY 7TH.
 01:51:31 **17** THE COURT: WHAT WOULD YOU LIKE, JUST TO CHECK IN?
 01:51:33 **18** IF THERE'S NOTHING TO TALK ABOUT, I WON'T MAKE YOU COME IN.
 01:51:36 **19** BUT JUST TO MAKE SURE EVERYTHING IS STILL HUMMING ALONG.
 01:51:41 **20** MR. CAMACHO: EITHER.
 01:51:42 **21** MR. STACY: EITHER WORKS FOR ME, SO WHATEVER WORKS
 01:51:45 **22** FOR THE COURT.
 01:51:45 **23** THE COURT: OKAY. I GUESS -- IS ONE DAY LESS
 01:51:48 **24** IMPACTED THAN THE OTHER AT THIS POINT?
 01:51:50 **25** MR. CAMACHO: TECHNICALLY FEBRUARY 7TH WOULD BE LESS

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01:51:52 **1** IMPACTED marginally.
 01:51:54 **2** THE COURT: OH, FOR YOU?
 01:51:56 **3** MR. CAMACHO: FOR TELESIGN, YEAH, SO IT WOULD BE
 01:51:58 **4** BETTER.
 01:51:58 **5** THE CLERK: YOUR HONOR, YOUR CALENDAR HAS THE SAME
 01:52:01 **6** AMOUNT OF CMC'S ON BOTH DAYS.
 01:52:02 **7** THE COURT: OKAY. THAT'S FINE. WHY DON'T WE SAY
 01:52:04 **8** FEBRUARY 7, 2018? YOU'RE ALWAYS FREE TO SETTLE BEFORE THAT
 01:52:10 **9** DATE AND JUST FILE A STIPMISSAL BEFORE THAT AND I'LL VACATE THE
 01:52:16 **10** CMC.
 01:52:16 **11** OKAY. ALL RIGHT.
 01:52:17 **12** SO THANK YOU. WE'LL CONCLUDE THE CMC PORTION OF TODAY'S
 01:52:23 **13** PROCEEDINGS.
 01:52:24 **14** LET'S GO NOW TO THE CLAIM CONSTRUCTION. SO IF WE CAN
 01:52:28 **15** START, LET'S START WITH URI. I CAN'T RECALL WHO IS ARGUING
 01:52:35 **16** URI, BUT THEY CAN COME FORWARD. WHO IS THAT?
 01:52:39 **17** MR. STACY: THAT'LL BE ME, YOUR HONOR.
 01:52:42 **18** THE COURT: OKAY.
 01:52:43 **19** MR. CAMACHO: MR. CAMACHO FOR TELESIGN.
 01:52:46 **20** THE COURT: ALL RIGHT. SO I ACTUALLY HAVE MORE
 01:52:47 **21** QUESTIONS FOR TELESIGN, AND THEN I'M -- I DON'T HAVE ANY
 01:52:50 **22** QUESTIONS FOR TWILIO, SO I'M JUST GOING TO LET YOU RESPOND TO
 01:52:53 **23** TELESIGN'S ARGUMENTS, OKAY?
 01:52:55 **24** MR. STACY: YES.

01:53:01 **1** YOU THINK URI, AS UNDERSTOOD BY PERSONS OF SKILL IN THE ART AT
 01:53:05 **2** THE TIME OF THE INVENTION, IS READILY APPARENT TO A LAY JURY.
 01:53:08 **3** MR. CAMACHO: OH, I APOLOGIZE IF THAT CAME THROUGH.
 01:53:13 **4** I DON'T KNOW THAT WE THINK IT'S READILY APPARENT TO A LAY
 01:53:15 **5** JURY --
 01:53:15 **6** THE COURT: UM-HUM.
 01:53:16 **7** MR. CAMACHO: -- AS MUCH AS IT'S OBJECTIVELY
 01:53:18 **8** DETERMINABLE.
 01:53:19 **9** BUT I WILL SAY THIS, YOUR HONOR, IF IT HELPS SPEED THIS
 01:53:22 **10** PROCEEDING ALONG. OUR MAIN ISSUE, OUR MAIN CONCERN -- AND OF
 01:53:25 **11** COURSE WE'VE BEEN THINKING ABOUT THIS SINCE THE BRIEFING AND
 01:53:27 **12** WHAT HAVE YOU.
 01:53:28 **13** THE COURT: YEAH.
 01:53:28 **14** MR. CAMACHO: -- IS THE PRESENCE OF THE TERM "URI" IN
 01:53:32 **15** THE CONSTRUCTION.
 01:53:33 **16** THE COURT: BUT I THOUGHT THAT WAS YOUR ALTERNATIVE
 01:53:35 **17** CONSTRUCTION.
 01:53:36 **18** MR. CAMACHO: WELL, NO.
 01:53:37 **19** THE COURT: UNIFORM RESOURCE IDENTIFIER.
 01:53:39 **20** MR. CAMACHO: OUR ALTERNATIVE IS JUST URI MEANS URI
 01:53:44 **21** BECAUSE IT'S FIXED BY A STANDARD. IT'S FIXED BY AN RFC.
 01:53:48 **22** BUT WHEN WE LOOK AT -- BASICALLY WE'RE PREPARED TO REACH
 01:53:49 **23** AN AGREEMENT WITH TWILIO, EXCEPT I DON'T FULLY APPRECIATE --
 01:53:52 **24** I'VE NEVER SEEN A CLAIM CONSTRUCTION WHERE THE TERM ITSELF IS
 01:53:54 **25** IN THE CONSTRUCTION.

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01:53:58 **1** SO IF THE PROPOSED CONSTRUCTION ON BEHALF OF TWILIO IS
 01:54:01 **2** MERELY "A COMPACT SEQUENCE OF CHARACTERS THAT IDENTIFIES AN
 01:54:04 **3** ABSTRACT OR PHYSICAL RESOURCE," AND THAT'S SOMETHING TWILIO IS
 01:54:09 **4** PREPARED TO LIVE WITH IN CONNECTION WITH 101 OR WHATEVER OTHER
 01:54:15 **5** ISSUES MIGHT COME UP, THEN WE WILL AGREE TO THAT.
 01:54:17 **6** THE COURT: OKAY. THIS IS A TOTALLY NEW POSITION,
 01:54:19 **7** BECAUSE YOUR ORIGINAL POSITION WAS PLAIN AND ORDINARY MEANING;
 01:54:23 **8** IN THE ALTERNATIVE, UNIFORM RESOURCE IDENTIFIER.
 01:54:26 **9** AND NOW YOU'RE SAYING YOUR THIRD ONE IS JUST -- OKAY, IF
 01:54:30 **10** YOU DON'T WANT TO HAVE THE NOUN -- WE CAN'T JUST SAY "WHICH
 01:54:33 **11** IS" -- OH, YOU WANT TO JUST SAY "A COMPACT SEQUENCE OF
 01:54:36 **12** CHARACTERS THAT IDENTIFIES AN ABSTRACT OR PHYSICAL RESOURCE."
 01:54:39 **13** BUT IT SEEMED LIKE YOU WERE OPPOSED TO THAT IN YOUR
 01:54:42 **14** BRIEFING, AND I WAS GOING TO ASK YOU, IF THAT'S THE RFC, WHY
 01:54:46 **15** ARE YOU OPPOSED TO IT?
 01:54:48 **16** MR. CAMACHO: WELL, AT FIRST BLUSH IT'S BECAUSE THE
 01:54:51 **17** RFC IS A THICK DOCUMENT AND THE RFC SAYS LOTS OF THINGS, AND
 01:54:54 **18** THE CONSTRUCTION THAT SAYS "A COMPACT SEQUENCE OF CHARACTERS
 01:54:57 **19** THAT IDENTIFIES AN ABSTRACT OR PHYSICAL RESOURCE" IS, I'M
 01:55:00 **20** PRETTY SURE, THE FIRST SENTENCE OF THE RFC.
 01:55:03 **21** SO THERE'S A LOT OF THINGS THAT GO INTO --
 01:55:05 **22** THE COURT: BUT NOW YOU'RE SAYING YOU'RE OKAY WITH
 01:55:07 **23** THAT BEING THE CONSTRUCTION?
 01:55:08 **24** MR. CAMACHO: THAT -- WELL, THAT'S RIGHT. THAT'S

01:55:13 **1** BUT I DON'T KNOW -- I JUST DON'T UNDERSTAND HOW TO PROCESS
 01:55:16 **2** HAVING "URI" IN THE CONSTRUCTION.
 01:55:18 **3** IT SAYS -- HERE'S MY THING. IF IT SAYS "URI" AND THEN
 01:55:21 **4** WHAT IT SAYS AFTER THE COMMA, IS THE STANDARD STILL IN? ARE WE
 01:55:24 **5** GETTING RID OF THE STANDARD?
 01:55:26 **6** I DO NOT WANT TO WASTE THE COURT'S TIME WITH ARGUING
 01:55:29 **7** WHETHER THE STANDARD'S APPLICABLE. THE BRIEFING APPEARS TO
 01:55:33 **8** SAY -- I MEAN --
 01:55:34 **9** THE COURT: YOU MEAN THE INDUSTRY STANDARD, THE RFC?
 01:55:37 **10** MR. CAMACHO: THAT RFC.
 01:55:38 **11** THE COURT: IT SEEMED LIKE BOTH PARTIES AGREED THAT
 01:55:40 **12** THE RFC APPLIED.
 01:55:41 **13** MR. CAMACHO: THAT'S RIGHT.
 01:55:41 **14** THE COURT: OKAY.
 01:55:42 **15** MR. CAMACHO: BUT I DON'T -- BUT WE'RE ARGUING -- I
 01:55:44 **16** MEAN, OUR WHOLE LINE OF ARGUMENT WAS, WELL, IF THE RFC APPLIED,
 01:55:48 **17** IS IT GETTING REMOVED BY TWILIO'S CONSTRUCTION?
 01:55:50 **18** AND THAT'S WHERE WE WERE COMING OUT IS, GEE, ARE WE
 01:55:54 **19** COLLAPSING THE ENTIRE RFC INTO JUST THIS SENTENCE? AND IF WE
 01:55:58 **20** ARE, OKAY.
 01:56:00 **21** BUT I JUST WANT CLARITY BECAUSE I DON'T KNOW WHY IT WOULD
 01:56:04 **22** HAVE "URI AND WHICH IS A COMPACT SEQUENCE OF CHARACTERS." I'M
 01:56:09 **23** JUST THINKING DOWN TO EXPERT REPORTS.
 01:56:11 **24** THE COURT: OKAY. I'M UNCLEAR. I GUESS YOU'RE
 01:56:13 **25** SAYING THE PHRASE "WHICH IS A COMPACT SEQUENCE" IS DUPLICATIVE

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01:57:36 **1** MEAN, YOU'VE GOT EVERYTHING EXCEPT URI IN THE DEFINITION. SO
 01:57:40 **2** WHAT DO YOU THINK?
 01:57:41 **3** AND URI IS DEFINED IN THE CLAIM, SO IT SAYS, YOU KNOW,
 01:57:46 **4** UNIFORM RESOURCE IDENTIFIER, IN PARENTHESES, URI.
 01:57:49 **5** SO DO YOU NEED IT IN THE CONSTRUCTION, OR NOT?
 01:57:53 **6** MR. STACY: I -- NO. I MEAN, THE -- THE "WHICH IS A
 01:58:02 **7** COMPACT SEQUENCE," THAT'S JUST THE DEFINITION OF "URI."
 01:58:05 **8** THE COURT: UM-HUM.
 01:58:06 **9** MR. STACY: SO WE'RE NOT -- IT'S NOT READING URI OUT
 01:58:08 **10** OF THE CLAIMS, SO I THINK MR. CAMACHO'S GIVING US THE PROPOSAL
 01:58:15 **11** THAT WE PUT FORWARD.
 01:58:17 **12** THE COURT: OKAY. WELL, THEN THIS ONE WILL BE EASY.
 01:58:22 **13** I CAN JUST SAY THIS ONE, BY STIPULATION, THE PARTIES AGREED WAS
 01:58:27 **14** "A COMPACT SEQUENCE OF CHARACTERS THAT IDENTIFIES AN ABSTRACT
 01:58:30 **15** OR PHYSICAL RESOURCE."
 01:58:32 **16** AGREED, MR. CAMACHO?
 01:58:33 **17** MR. CAMACHO: YES.
 01:58:33 **18** THE COURT: OKAY.
 01:58:34 **19** AGREED?
 01:58:34 **20** MR. STACY: AGREED.
 01:58:35 **21** THE COURT: ALL RIGHT. WELL, LET'S MOVE ON THEN.
 01:58:39 **22** OKAY. ALL RIGHT. LET'S GO TO "REST API."
 01:59:00 **23** ALL RIGHT. SO WHO'S ARGUING THAT ONE?
 01:59:01 **24** MR. CAMACHO: MR. CAMACHO FOR TELESIGN.
 01:59:03 **25** THE COURT: OKAY.

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01:56:17 **1** OF URI?
 01:56:18 **2** MR. CAMACHO: I DON'T KNOW. I DON'T KNOW WHAT TWILIO
 01:56:21 **3** IS WANTING IN THEIR CONSTRUCTION. AND IT MAY BE THAT REALLY
 01:56:25 **4** WHAT THEY'RE AFTER IS JUST FROM THE "A," "A COMPACT SEQUENCE OF
 01:56:29 **5** CHARACTERS" TO THE END, AND IF THAT'S --
 01:56:32 **6** THE COURT: AND IN YOUR BRIEF, YOU WERE INSISTING ON
 01:56:34 **7** THE FACT THAT IT HAD TO FOLLOW A STANDARDIZED SYNTAX. I ASSUME
 01:56:38 **8** THAT YOU ARE NO LONGER ARGUING THAT POSITION. YOU'RE OKAY WITH
 01:56:42 **9** THAT NOT BEING IN THE CONSTRUCTION? IS THAT RIGHT?
 01:56:46 **10** MR. CAMACHO: YOU KNOW, TO THE EXTENT THAT THAT'S
 01:56:49 **11** WHAT TWILIO IS REQUESTING, YES. IT JUST DOESN'T SEEM LIKE
 01:56:54 **12** THAT'S THE TYPE OF THING TO ARGUE OVER.
 01:56:59 **13** ONE OF MY CONCERNS IS BRINGING BRIEFING INTO THE CLAIM
 01:57:02 **14** CONSTRUCTION. I'M USED TO, AT SOME POINT, THE BRIEFING IS
 01:57:05 **15** GONE, WE'RE JUST LEFT WITH THE CONSTRUCTION, SO WHAT REMAINS?
 01:57:08 **16** THE COURT: ALL RIGHT. WELL, MY UNDERSTANDING WAS
 01:57:10 **17** THAT TELESIGN WANTED THE STANDARDIZED SYNTAX. BUT IF YOU DON'T
 01:57:14 **18** WANT THAT, THAT MAKES THIS A MUCH MORE NARROW DISPUTE.
 01:57:17 **19** SO -- OKAY. SO MY UNDERSTANDING OF YOUR POSITION IS YOU
 01:57:20 **20** ARE FINE WITH "A COMPACT SEQUENCE OF CHARACTERS THAT IDENTIFIES
 01:57:24 **21** AN ABSTRACT OR PHYSICAL RESOURCE." THAT IS WHAT TELESIGN IS
 01:57:28 **22** OKAY WITH AS THE CONSTRUCTION OF "URI."
 01:57:30 **23** MR. CAMACHO: YES.
 01:57:31 **24** THE COURT: OKAY.

01:59:04 **1** MR. SCHILLER: THANK YOU, YOUR HONOR. J.B. SCHILLER
 01:59:06 **2** FOR TWILIO.
 01:59:07 **3** THE COURT: ALL RIGHT.
 01:59:10 **4** SO ONE QUESTION I HAVE HERE FOR, LET'S START WITH TWILIO
 01:59:15 **5** THIS TIME, IS THAT THERE SEEMS TO BE SOME DISAGREEMENT IN THE
 01:59:24 **6** WEB TEXTBOOKS OVER WHAT QUALIFIES AS RESTFUL. AND SO HOW DO WE
 01:59:34 **7** KNOW THAT THERE WAS A SUFFICIENTLY DEFINITE MEANING OF RESTFUL
 01:59:37 **8** IN THE ART?
 01:59:38 **9** MR. SCHILLER: DISAGREEMENT OVER WHAT TEXTBOOKS, YOUR
 01:59:41 **10** HONOR?
 01:59:41 **11** THE COURT: THE WEB DESIGN TEXTBOOKS.
 01:59:45 **12** MR. SCHILLER: SO WE KNOW THAT DR. FIELDING DEFINED
 01:59:50 **13** "REST" IN 2000 IN HIS DISSERTATION. I DON'T THINK THE PARTIES
 01:59:53 **14** DISAGREE TO THAT. HE DEFINED IT AS USING FOUR INTERFACE
 02:00:00 **15** CONSTRAINTS.
 02:00:01 **16** AND THE DEFINITION IN THESE TEXTBOOKS MATCHES THE
 02:00:05 **17** DEFINITION IN FIELDING'S DEFINITION. YOU CAN OPEN THESE
 02:00:09 **18** TEXTBOOKS, THEY ALMOST ALL START THE SAME WAY. DR. FIELDING
 02:00:13 **19** DEFINED IT, THESE ARE THE CONVENTIONS, THE CONVENTIONS STILL
 02:00:20 **20** APPLY TODAY, AND THE TEXTBOOKS EXPLAIN HOW TO IMPLEMENT THOSE
 02:00:23 **21** CONVENTIONS.
 02:00:25 **22** TELESIGN HAS POINTED TO SENTENCES IN THESE BOOKS THAT
 02:00:30 **23** STATE "YOU'RE NOT USING REST CORRECTLY, REST IS SEEDDED WITH
 02:00:41 **24** FOLKLORE."

02:00:45 **1** SOMEONE, "THAT'S NOT REST, THIS IS REST," WE INTERPRET THAT --

02:00:49 **2** WE INTERPRET THAT AS, WELL, THERE MUST BE A DEFINED REST

02:00:54 **3** DEFINITION. THIS AUTHOR IS TELLING SOMEONE, "THAT'S NOT REST,

02:00:59 **4** THIS IS REST."

02:01:00 **5** AND THE "THIS IS REST" IS WHAT IS DEFINED IN FIELDING'S

02:01:05 **6** DISSERTATION.

02:01:07 **7** THE COURT: BUT YOU DON'T DEFINE WHAT THE REST

02:01:09 **8** CONVENTIONS ARE YOU, DO YOU?

02:01:10 **9** MR. SCHILLER: THEY'RE NOT DEFINED IN THE

02:01:13 **10** CONSTRUCTION.

02:01:13 **11** THE COURT: OKAY. SO THEN AREN'T WE JUST GOING TO

02:01:16 **12** HAVE A PROBLEM AT TRIAL WHERE YOU ALL ARE GOING TO ARGUE WHAT

02:01:18 **13** THE REST CONVENTIONS ARE?

02:01:20 **14** MR. SCHILLER: WELL, WE CAN USE --

02:01:21 **15** THE COURT: AND I'M GOING TO BE FORCED TO DO A

02:01:23 **16** CONSTRUCTION LATER UNDER 02 MICRO.

02:01:28 **17** MR. SCHILLER: WE CAN USE FIELDING'S CONVENTIONS OR

02:01:32 **18** CONSTRAINTS IF YOU LIKE, YOUR HONOR. THERE ARE FOUR OF THEM.

02:01:34 **19** THEY'RE ON PAGE 82 OF HIS -- OF HIS DISSERTATION.

02:01:44 **20** THE COURT: CAN YOU GIVE ME THE EXHIBIT NUMBER?

02:01:46 **21** MR. SCHILLER: YES, YOUR HONOR. IT'S DOCKET NUMBER

02:01:51 **22** 105-7.

02:02:01 **23** THE COURT: OKAY. SO THAT'S EXHIBIT F. ALL RIGHT.

02:02:03 **24** WHY DON'T YOU POINT ME TO THE PAGE? WHAT'S THE RELEVANT PAGE?

02:02:15 **25** MR. SCHILLER: THE RELEVANT PAGE IS PAGE 82. REST IS

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02:03:55 **1** THE COURT: THAT CONSTRAINTS AND CONVENTIONS ARE NOT

02:03:57 **2** THE SAME?

02:03:57 **3** MR. CAMACHO: THAT THEY ARE NOT THE SAME.

02:03:58 **4** THE COURT: I WAS GOING TO ASK YOU THAT QUESTION.

02:04:00 **5** MR. CAMACHO: NO.

02:04:00 **6** THE COURT: WHAT'S YOUR RESPONSE TO THAT?

02:04:02 **7** MR. SCHILLER: MY RESPONSE IS THEY ARE THE SAME, YOUR

02:04:04 **8** HONOR. AND MR. DYKAL QUESTIONED HIM NUMEROUS TIMES ON THIS

02:04:17 **9** ON -- THAT'S A REAL BUMMER.

02:04:25 **10** THE COURT: I AM LOOKING AT PAGE 12 OF YOUR

02:04:29 **11** RESPONSIVE BRIEF.

02:04:30 **12** MR. SCHILLER: HAVE WE GIVEN YOU A COPY OF THE --

02:04:33 **13** THE COURT: I'M SORRY. I JUST WANT TO FOLLOW-UP.

02:04:36 **14** OH, I'M SORRY. I'M LOOKING AT THE -- OKAY. SO I'M

02:04:49 **15** LOOKING AT PAGE 11. DURING THE DEPOSITION OF DR. ALMEROOTH, "IS

02:04:57 **16** THE 'REST CONVENTION' THE SAME AS THE TERM REST CONSTRAINTS?"

02:05:02 **17** "ANSWER: NO."

02:05:02 **18** MR. SCHILLER: CORRECT, YOUR HONOR.

02:05:03 **19** AND THEN ALSO --

02:05:03 **20** THE COURT: DO YOU AGREE WITH THAT? BECAUSE WHAT YOU

02:05:06 **21** POINTED ME TO IN THE FIELDING DISSERTATION ARE CONSTRAINTS.

02:05:08 **22** MR. SCHILLER: CORRECT.

02:05:09 **23** THE COURT: SO THEN WHERE DO YOU EQUATE THOSE?

02:05:12 **24** MR. SCHILLER: YES. AND THEN HE WAS ALSO ASKED,

02:05:14 **25** "WHAT DO YOU MEAN BY, 'THE CONVENTIONS OF THE REST

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02:02:23 **1** DEFINED BY FOUR INTERFACE CONSTRAINTS: IDENTIFICATION OF

02:02:30 **2** RESOURCES; MANIPULATION OF THOSE RESOURCES; SELF-DESCRIPTIVE

02:02:38 **3** MESSAGES; AND HYPERMEDIA.

02:02:42 **4** AND AGAIN, YOUR HONOR, THESE TEXTBOOKS ALSO USE FIELDING'S

02:02:47 **5** DEFINITION. THESE TEXTBOOKS SPAN FROM 2000, 2010, 2012,

02:02:54 **6** 2014 -- I'M SORRY -- AND 2016.

02:02:58 **7** AND THEY ALL USE FIELDING'S DEFINITION. THEY ALL USE THE

02:03:01 **8** SAME CONVENTIONS. THEY'RE EXPLAINING HOW TO IMPLEMENT A REST

02:03:06 **9** API.

02:03:07 **10** AND A REST API, YOUR HONOR, IS JUST A SPECIFIC TYPE OF

02:03:11 **11** API. WE KNOW THERE ARE MULTIPLE TYPES OF APIS. I'M SURE

02:03:15 **12** YOU'RE AWARE OF THE SOAP/REST DISTINCTION NOW.

02:03:21 **13** THE COURT: LET ME HEAR FROM MR. CAMACHO.

02:03:23 **14** DO YOU AGREE WITH WHAT'S ON PAGE 82, THAT THOSE ARE THE

02:03:26 **15** CONVENTIONS?

02:03:27 **16** MR. CAMACHO: ABSOLUTELY NOT, NO. THOSE ARE NOT THE

02:03:29 **17** CONVENTIONS.

02:03:30 **18** AND I DON'T AGREE THAT THERE ARE A SET OF CONVENTIONS,

02:03:32 **19** ESPECIALLY NOT PREFACED BY THE DEFINITE ARTICLE "THE" AS THOUGH

02:03:38 **20** THEY REALLY ARE THE CONVENTIONS.

02:03:40 **21** AND IMPORTANTLY, THROUGHOUT DR. ALMEROOTH'S TESTIMONY

02:03:44 **22** FOR -- THE EXPERT FOR TWILIO, HE DISTINGUISHED CONVENTIONS FROM

02:03:48 **23** CONSTRAINTS. WE PUT THIS IN OUR BRIEF. IT'S ON PAGE 12 IN OUR

02:03:51 **24** BRIEF. WE ASKED HIM POINT BLANK, ARE THESE THE SAME? AND HIS

02:05:16 **1** ARCHITECTURE'?"

02:05:16 **2** "THE CONVENTIONS WOULD REALLY BE THE CONSTRAINTS."

02:05:19 **3** THE COURT: OKAY. WHERE IS THAT? I'M SORRY. WHERE

02:05:21 **4** IS THAT?

02:05:22 **5** MR. SCHILLER: THIS IS PAGE 49, LINE 19.

02:05:25 **6** THE COURT: OKAY.

02:05:26 **7** MR. SCHILLER: I DON'T KNOW IF YOU WERE PROVIDED

02:05:28 **8** ONE --

02:05:28 **9** THE COURT: CAN YOU GIVE ME AN EXHIBIT NUMBER? YOU

02:05:30 **10** DIDN'T GIVE ME THAT.

02:05:31 **11** MR. SCHILLER: WERE YOU PROVIDED ONE OF THESE

02:05:33 **12** (INDICATING)?

02:05:33 **13** THE COURT: IT'S NOT IN YOUR BRIEFING. IT WOULD HAVE

02:05:35 **14** BEEN BETTER IF IT WAS IN YOUR BRIEFING. LOOK AT HOW MANY

02:05:38 **15** EXHIBITS YOU'VE GOT (INDICATING). THIS IS NOT EVEN THE

02:05:40 **16** PATENTS. THIS IS NOT EVEN THE BRIEFS. THIS IS JUST THE

02:05:42 **17** EXHIBITS. IT WOULD HAVE BEEN NICE IF IT WERE IN HERE.

02:05:46 **18** OKAY. YOU'RE SAYING IT'S NOT IN WHAT WAS FILED; IS THAT

02:05:48 **19** CORRECT?

02:05:48 **20** MR. SCHILLER: WE DIDN'T ADDRESS THE

02:05:51 **21** CONVENTIONS/CONSTRAINTS IN THE BRIEFING. WE DIDN'T KNOW IT WAS

02:05:54 **22** GOING TO BE SUCH A BIG DEAL.

02:05:55 **23** THE COURT: WELL, IT'S IN THE RESPONSIVE BRIEF.

02:05:57 **24** MR. SCHILLER: IT IS IN THE RESPONSIVE BRIEF, AND WE

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