

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

IRIS CONNEX, LLC,

*Plaintiff,*

v.

DELL, INC.,

*Defendant.*

Case No. 2:15-cv-1915-JRG

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**MEMORANDUM OPINION AND FINAL JUDGMENT**

## I. INTRODUCTION

Plaintiff Iris Connex filed suit against eighteen manufacturers of smartphones and tablets, claiming each infringed the Plaintiff's only asset, U.S. Patent No. 6,177,950, which is entitled "Multifunctional portable telephone." This type of litigation often ends before it begins. Early disposition typically results from a settlement between the parties before there is any appearance by counsel in open court. Often the first *and* last filing requiring the Court's attention is the submission of an agreed order of dismissal. This reality affords the Court limited opportunities to provide oversight as to this part of its docket. However, this case took an unexpected turn of events which made it stand out.

Early in this case, Dell filed a motion to dismiss arguing that Plaintiff Iris Connex's infringement allegations were completely implausible. As is the Court's typical practice (and unrelated to Dell's motion), this case was consolidated with the other cases serially filed by Iris Connex.<sup>1</sup> After consolidation, most of the other defendants echoed Dell's argument for dismissal. Specifically, the parties argued that the *fixed* cameras in the accused smartphones and tablets could not be considered a single "*multi-position . . . reading head*," as required by the Plaintiff's patent claims.

Through the process of conducting an early review of these motions to dismiss, the Court concluded that the entire dispute would turn on the Court's construction of a single disputed term: "multi-position . . . reading head." The Court also concluded that resolving that dispute would efficiently resolve the entire series of eighteen cases. Accordingly, the Court ordered expedited

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<sup>1</sup> The Smith-Leahy America Invents Act requires separate suits to be filed. Multiple suits by a common plaintiff are often filed in sequence and are spoken of as being "serially filed." This Court and many of its sister courts routinely consolidate such cases for more efficient case management knowing that each case will ultimately be set for a separate trial on its own merits.

claim construction on this targeted term.<sup>2</sup> After appropriate claim construction briefing and oral argument, the Court applied established claim construction principles and determined that a “multi-position” reading head must be “physically moveable” in accordance with the patent specification. The Court then, *sua sponte*, converted the pending motions to dismiss into motions for summary judgment and allowed additional briefing. Next the Court entered summary judgment of non-infringement in favor of all Defendants and against Iris Connex. This was based on the conclusion that no reasonable juror could conclude that a fixed camera was “physically moveable” or equivalent to a physically moveable camera.

Two weeks later, Dell filed a motion for attorney fees under 35 U.S.C. § 285. Section 285 provides that the Court may, in “exceptional” cases, award attorney fees to the prevailing party. Dell argued that Iris Connex’s claim construction position was unsupportable, that its infringement position was not plausible, and that its litigation was primarily settlement driven. Moreover, Dell presented evidence that strongly implied that Iris Connex was an intentionally empty shell company and, as a consequence, had no capacity to pay such fees even if the case were ultimately declared to be exceptional. (Dkt. No. 25.)

The Court, having been presented with a *prima facie* showing of entitlement to attorney fees and objective indicia of Plaintiff’s shell corporation status, ordered further discovery into the extended identity of Iris Connex. Ordinarily, the Court does not scrutinize litigants’ business decisions or their chosen structures. Courts and litigants often have limited resources, and such scrutiny often fails to further the interests of judicial economy. However, the Court is mindful of

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<sup>2</sup> This is typically referred to as a “mini-*Markman*” and can be a valuable case management tool in the right circumstances.

its continuing duty to insure that statutes are carried out for their intended purpose and that ultimately justice is served. As the Court stated at a status conference held shortly after Dell filed its fees motion, “the entire thrust of Section 285 is to deter, and [the Court has] real concerns that this entity is so structured that it would effectively avoid any deterrence by the simple granting of the motion, without more.” (Dkt. No. 40 at 12:22–25.)

Given these circumstances, the Court found such post-judgment discovery to be appropriate. As the post-judgment discovery progressed, it became obvious that Iris Connex was not simply a non-practicing entity seeking to vindicate its patent rights—albeit with an exceptionally bad infringement case. Rather, as explained hereinafter, Iris Connex is the first level of two shell corporations which were intended to shield the real actor, Mr. Brian Yates, from personal liability. The Court is persuaded that Mr. Yates and those in active concert with him exploited the corporate form to operate largely in secret and to insulate the true party in interest from the risk associated with dubious infringement suits—that risk being fee shifting under Section 285.

Turning a blind eye to this type of conduct would run counter to the Court’s larger duty to “do justice” and countenance an accelerating misuse of our judicial system, which occurs when the resolution of dubious or nonsensical claims stands in the way of resolving bona fide disputes between ordinary litigants.

## **II. BACKGROUND**

The Court believes an overview of the various parties, their relationships, and the facts of the case is helpful at this juncture. Unless otherwise stated, the following section constitutes specific findings of fact by the Court:

**A. The Parties**

**a. Iris Connex, LLC**

Iris Connex, LLC (“Iris Connex”) is a Texas limited liability company with its stated principal office at 211 East Tyler Street, Suite 600-A, Longview, Texas. (Dkt. No. 1 at ¶ 3) (“Suite 600-A”). Iris Connex purports to own by assignment United States Patent No. 6,177,950 (“the ’950 patent”) entitled “Multifunctional portable telephone,” (Dkt. No. 1 at ¶ 9), and it holds the ’950 patent as its only asset. Iris Connex is wholly owned by Q Patents, Inc. (Dkt. No. 33.)

**b. Mr. Nicolas Labbit**

Mr. Labbit is a 31-year-old Texas lawyer residing in Longview, Texas. He became licensed to practice law in 2012. He is the designated Manager of Iris Connex as shown by the Texas Secretary of State’s Office.

**c. Q Patents, Inc.**

Q Patents, Inc. (“Q Patents”) is a California corporation located at 35 Hugus Alley, Suite 210, Pasadena, California 91103. (Yates at 48:13–22.)<sup>3</sup> Q Patents is the sole member, 100 percent owner, and corporate parent of Iris Connex. Q Patents is a holding company for other patent assertion entities. (Yates at 24:12–15.) The President and sole shareholder of Q Patents is Mr. Brian L. Yates.

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<sup>3</sup> Citations to the November 1, 2016 deposition of Mr. Brian Yates (Dkt. No. 97-1) are cited as “Yates,” and citations to the November 2, 2016 depositions of Mr. Nicolas Labbit (Dkt. No. 97-2) and Mr. Charles Tadlock (Dkt. No. 97-8) are cited similarly. Citations to the declarations of Mr. Brian Yates (Dkt. No. 128) are cited as “Yates Decl.” and citations to the declarations of Mr. Nicolas Labbit (Dkt. No. 129) and Mr. Charles Tadlock (Dkt. No. 122) are cited similarly. Citations to the January 12, 2017 hearing transcript (Dkt. No. 141) are cited as “Hearing.”

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