

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NEARMAP US, INC., :
Petitioner, :
vs. : Case IPR2022-00734
EAGLEVIEW TECHNOLOGIES, INC., : Patent 9,135,737
Patent Owner. :
-----X

C O N F I D E N T I A L

DEPOSITION OF ZAC LONG

Tuesday, May 2, 2023

Conducted Remotely

12:05 P.M. EST

REPORTED BY:

Christina Diaz, CRC, CRR, RMR, CSR, CLR

DIGITAL EVIDENCE GROUP

1730 M Street, NW, Suite 812

Washington, D.C. 20036

(202) 232-0646

Page 2

1 May 2, 2023

2 12:05 P.M. EST

3

4 Deposition of ZAC LONG, pursuant to
5 notice dated April 25, 2023, conducted
6 remotely, before Christina Diaz, a Certified
7 Realtime Captioner, Certified Realtime and
8 Registered Merit Reporter and Notary Public
9 within and for the State of New York.

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Page 3

1 A P P E A R A N C E S

2

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13 BY: DAN SMITH, ESQ.

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15 PATRICK DARNO, ESQ.

16 THOMAS ROZYLOWICZ, ESQ.

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Page 4

1 A P P E A R A N C E S (Cont'd.)

2

3 HAYNES AND BOONE, LLP

4 Attorneys for Patent Owner

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11 BY: JONATHAN BOWSER, ESQ.

12 GREGORY WEBB, ESQ.

13

14 ALSO PRESENT:

15 REBECCA UNRUH

16 EagleView Technologies, Inc.

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Page 5

1 I N D E X

2 WITNESS

3 Zac Long

4 EXAMINATION BY PAGE

5 Mr. Smith 7

6

7 R E F E R E N C E D E X H I B I T S

8 EXHIBIT PAGE

9 2041 11

10 2010 11

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1 Z. Long - Confidential

2 (The following statement was read
3 by the reporter)

4

5 "All parties to this deposition
6 are appearing remotely and have agreed
7 to the witness being sworn in remotely.

8

9 "Due to the nature of remote
10 reporting, please pause briefly before
11 speaking to ensure all parties are
12 heard completely.

13

14 "Counsel, please state your
15 agreement on the record."

16

17 MR. SMITH: This is Dan Smith for
18 Petitioner Nearmap. Also on the line
19 is Craig Deutsch for Petitioner
20 Nearmap.

21

22 MR. BOWSER: This is Jonathan

Page 7

1 Bowser for Patent Owner and also on the
2 line is Gregory Webb and Becky Unruh.

3

4 Z. Long - Confidential

5

6 Z A C L O N G,

7 having been remotely sworn as stipulated

8 by the parties, was examined

9 and testified as follows:

10

11 EXAMINATION

12 BY MR. SMITH:

13

14 Q. Good morning, Mr. Long.

15 A. Good morning.

16 Q. Can you state your full name for
17 the record.

18 A. Zachary Justin Long.

19 Q. You are aware that you are being
20 deposed today in an inter partes review
21 proceeding on the -- you are aware that you
22 are being deposed in an inter partes review

1 proceeding today, correct?

2 A. Yes.

3 Q. Have you ever been deposed
4 before?

5 A. No, I have not.

6 Q. During this deposition, you

7 Z. Long - Confidential

8 understand that I'm going to be asking you
9 questions, and you're going to be answering
10 them under oath.

11 Correct?

12 A. Yes, that's correct.

13 Q. And you understand that willful
14 false statements made during this
15 deposition are punishable by fine or
16 imprisonment or both, correct?

17 A. Yes, I do.

18 Q. The court reporter will be
19 attempting to transcribe everything we say,
20 so it's important that we wait for each
21 other to finish asking or answering the
22 question before the other begins talking.

1 Do you understand that?

2 A. Yes, I do.

3 Q. You understand that every answer
4 needs to be verbal, correct?

5 A. Yes, that's correct.

6 Q. Is there any reason, such as
7 being under unusual stress, physical or
8 mental condition, or being under the
9 influence of any substances that would

10 Z. Long - Confidential
11 prevent or limit you from giving truthful
12 answers to my questions today?

13 A. No.

14 Q. And you are using a computer to
15 access the deposition today, correct?

16 A. Yes, that's correct.

17 Q. Do you have any messaging
18 programs running that would enable you to
19 communicate with others during the course
20 of this deposition such as an e-mail or
21 instant messaging client?

22 A. No, I do not.

1 Q. During today's deposition, we
2 will be discussing various exhibits from
3 the case records. I understand you have
4 electronic copies of a couple of the
5 exhibits.

6 Is that correct?

7 A. Yes, I believe so.

8 Q. Are there any notes or markings
9 on those electronic copies of the exhibits?

10 A. No, there is not.

11 Q. What did you do to prepare for
12 this deposition?

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14 A. I have reviewed the documents and
15 talked to EagleView's legal team. That's
16 pretty much it.

17 Q. Which documents did you review?

18 A. The declaration that I had signed
19 as well as an e-mail from 2009.

20 Q. About how long did you spend
21 preparing?

22 A. No more than 30 minutes.

1 Q. And other than counsel, did you
2 speak to anyone else to prepare for this
3 deposition?

4 A. I did not.

5 MR. SMITH: Let's take a look at
6 -- I believe it's Exhibit 2041. It
7 should be one of the two you have.

8 (Exhibit 2041 was referenced for
9 identification)

10 THE WITNESS: Yes.

11 BY MR. SMITH:

12 Q. And what is that document?

13 A. That is a declaration that I
14 signed.

15 Q. When was that declaration signed?

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17 A. It would have been signed March
18 2nd of this year.

19 MR. SMITH: And could you look at
20 Exhibit 2010 also, please.

21 (Exhibit 2010 was referenced for
22 identification)

1 THE WITNESS: Yes.

2 BY MR. SMITH:

3 Q. What is that document?

4 A. This is an e-mail from November
5 3rd, 2009, [REDACTED], titled

6 [REDACTED]

7 Q. You are one of the recipients on
8 that e-mail.

9 Is that correct?

10 A. Yes, that's correct.

11 Q. Let's go back to Exhibit 2041. I
12 am just going to call that your
13 declaration.

14 Is that okay?

15 A. Yes. That works.

16 Q. Let's take a look at paragraph 2.
17 Just let me know when you get it up.

18 A. Yes. Got it.

19 Z. Long - Confidential

20 Q. Okay. In that paragraph, second
21 sentence, you said, "I am currently manager
22 of drone pilot success at EagleView."

1 Is that -- so that's your current
2 title as of today?

3 A. Yes. That's correct.

4 Q. Have you had other titles in the
5 past?

6 A. I have had several different
7 titles at EagleView over the 15 years I
8 have been here.

9 Q. What was your title, if you
10 recall, on November 3rd, 2009?

11 A. I believe I was a U.S. operations
12 supervisor.

13 Q. What are your responsibilities --
14 what were your responsibilities as U.S.
15 operations supervisor, I believe, you said?
16 Sorry.

17 A. Yes. That's correct. I managed
18 a team of 15 to 20, if I remember
19 correctly, of people who used a proprietary
20 program to measure roofs with aerial images
21 as well as the people who assembled the

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1 reports and sent them out to customers.

2 That was the main part of it -- was people
3 management.

4 Q. What are your current
5 responsibilities in your current position?

6 A. I manage a small team of people
7 who onboard drone pilots, both customers
8 and a 1099 network that we work with
9 through other vendors and manage those
10 vendor relationships as well as work on
11 program management of tools and stuff
12 within EagleView for facilitating the use
13 of drones for home inspections.

14 Q. Are those drones used to take
15 images?

16 A. Yes, that's correct.

17 Q. Let's go to Exhibit 2010. I am
18 just going to call that the e-mail since we
19 are dealing with so few exhibits today.
20 That all right?

21 A. Yes. I have it up now.

22 Q. Okay. Who is [REDACTED]?

1 A. [REDACTED] was a trainer, and
2 I know he had the title at the time of
3 Z. Long - Confidential
4 morale officer, which is kind of a -- he
5 was part of our operations team. He was
6 one of the early employees of EagleView,
7 did a lot of training and team building
8 events and stuff like that. Kind of a jack
9 of all trades.

10 Q. Was he generally in charge of
11 customer surveys?

12 A. It was one thing he was tasked
13 with, for a bit, if I remember correctly.

14 Q. It looks like there are several
15 recipients on this e-mail. I am not going
16 to walk through each one unless that's
17 necessary. Is there a -- how can I say
18 this -- was this e-mail sent to the
19 leadership team at EagleView?

20 A. Yes. [REDACTED]

21 [REDACTED]

22 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 Q. And it looks like the e-mail
4 indicates there were two attachments. It

5 [REDACTED]
6 Z. Long - Confidential

7 [REDACTED]
8 Do you see that?

9 A. Yes.

10 Q. Are those included in the
11 exhibit?

12 A. I believe it would be the [REDACTED]
13 [REDACTED].

14 Q. I have to ask this. So the
15 e-mail states that, [REDACTED]

16 [REDACTED]
17 [REDACTED]

18 What does that mean?

19 A. [REDACTED] was well known for cracking
20 jokes in all of his e-mails, so I believe
21 -- yes. It's just some joke about him
22 trying to do it on his own. I don't recall

1 anything else relevant to that.

2 Q. So customer surveys were not
3 actually [REDACTED] is
4 what you were telling me?

5 A. Correct.

6 Q. Let's go back to the declaration.

7 A. Okay.

8 Q. So, in paragraph four, you say,
9 Z. Long - Confidential

10 "I am personally aware that EagleView
11 regularly solicits feedback from its
12 customers through surveys to assist
13 EagleView in assessing how customers
14 perceive EagleView's products and services
15 including roof reports."

16 Do you see that?

17 A. Yes.

18 Q. How often does EagleView solicit
19 that type of feedback?

20 A. As of today or relevant to 2009?

21 Q. Yes. Just over the -- let's say
22 over the period from 2009 to 2015.

1 A. [REDACTED] I

2 don't know that -- [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. And how are those surveys
8 conducted? Are they sent over e-mail, or
9 is it an in-person question/answer session?
10 How are they performed?

11 MR. BOWSER: Objection. Form.

12 Z. Long - Confidential

13 MR. SMITH: Mr. Bowser, do you
14 want to let Mr. Long know that he can
15 continue with his answer?

16 MR. BOWSER: Yes. Mr. Long, you
17 can answer the question unless I
18 instruct you not to answer it. I just
19 need to lodge objections from time to
20 time. So even after I lodge the
21 objections, you can answer.

22 THE WITNESS: Okay. Thank you.

1 MR. SMITH: I didn't want to
2 instruct the witness.

3 A. I wasn't and I've never really
4 been involved in the actual collection of
5 survey results, so I'm not sure how exactly
6 they are collected.

7 BY MR. SMITH:

8 Q. Do you know how often they are
9 collected?

10 A. [REDACTED] You know, I
11 really -- I don't know the frequency with
12 which they were done.

13 Q. Do you know what specifically is
14 asked of customers in these surveys?

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16 A. Not directly. I think it
17 probably falls in line with what's in the
18 charts as far as [REDACTED]
19 [REDACTED], but I don't know the specifics.

20 Q. Is it accurate to say this was a
21 survey of [REDACTED]?

22 A. [REDACTED]

1 Q. Was it sent to all EagleView
2 customers?

3 A. I don't know the specifics of how
4 it was sent out.

5 Q. Do you know how many customers
6 EagleView would have had when this e-mail
7 was sent November 3, 2009?

8 A. No idea on a specific number. It
9 would be [REDACTED] at that point,
10 though.

11 Q. Okay. How many of those [REDACTED]
12 [REDACTED] customers ordered reports from
13 Render House or Twister?

14 MR. BOWSER: Objection. Scope.

15 A. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Z. Long - Confidential

19 BY MR. SMITH:

20 Q. So just to be clear, EagleView
21 had [REDACTED] customers that were
22 ordering reports at the time of this

1 e-mail?

2 A. I do believe.

3 Q. Let's take a look at -- back to
4 the e-mail, Exhibit 2010.

5 A. Okay. I have that up.

6 Q. And I am looking at the --
7 specifically at the [REDACTED]

8 [REDACTED]. It looks like there is [REDACTED]

9 [REDACTED]. Is that correct?

10 A. That's correct.

11 Q. And [REDACTED]

12 [REDACTED] [REDACTED]

13 [REDACTED]

14 [REDACTED].

15 Do you see that?

16 A. Yes, I do.

17 Q. What does the text [REDACTED]

18 [REDACTED]?

19 A. [REDACTED]

20 [REDACTED].

21 Z. Long - Confidential

22 Q. So do you know what those

1 [REDACTED] mean?

2 A. Yes.

3 Q. Okay. So what does the [REDACTED]

4 [REDACTED] -- what does that

5 entail?

6 A. [REDACTED]

7 [REDACTED].

8 Q. And the [REDACTED]

9 [REDACTED] -- what does that entail?

10 A. [REDACTED]

11 [REDACTED]

12 [REDACTED].

13 Q. How do you know what these

14 [REDACTED] entail?

15 A. Based on how we spoke about
16 reports at that point in time, as well as
17 -- part of my job as supervisor at the time
18 would have been, if needed, to take action
19 on negative results from these.

20 Q. Okay. Do you know if

21 explanations [REDACTED] were

22 communicated to customers in the survey?

1 A. No. I didn't have visibility

2 Z. Long - Confidential

3 into that.

4 Q. Is it fair to say that this --

5 that completion of these surveys was

6 optional for the customers?

7 A. Yes, that's correct.

8 Q. So looking at -- still in the

9 [REDACTED] Exhibit 2010, do you see in

10 [REDACTED], there's -- it looks like one

11 -- actually, let's back up just a second.

12 So the -- in [REDACTED],

13 [REDACTED] [REDACTED],

14 [REDACTED].

15 Do you see those?

16 A. Yes, I do.

17 Q. And what do [REDACTED]

18 represent?

19 A. The [REDACTED] -- what's the word

20 I am looking for here -- [REDACTED]

21 [REDACTED]

22 [REDACTED]

1 Q. With [REDACTED] [REDACTED] [REDACTED]
2 [REDACTED] [REDACTED]?

3 A. Correct.

4 Q. And I notice that the [REDACTED]

5 Z. Long - Confidential

6 [REDACTED]. It looks like -- I
7 mean, this is a black and white exhibit,
8 but it looks like the [REDACTED] [REDACTED]
9 going all the way down [REDACTED]
10 [REDACTED].

11 Is that right?

12 A. It does appear that way, yes.

13 Q. Would a response other than --
14 strike that.

15 What would a response of [REDACTED]
16 from a customer indicate in the survey?

17 A. That they were [REDACTED] with
18 whatever part of our service was listed [REDACTED]
19 [REDACTED].

20 Q. And what would a response of
21 [REDACTED] mean?

22 A. That it was, you know, [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 Q. And what would a response of

4 [REDACTED] indicate?

5 A. [REDACTED].

6 Q. Fair. What would a response of

7 [REDACTED] indicate?

8 Z. Long - Confidential

9 A. [REDACTED]

10 [REDACTED].

11 Q. And so I notice in the [REDACTED]

12 [REDACTED] row, the -- there is one -- it

13 looks like there was one response that

14 stated that was [REDACTED].

15 Is that correct?

16 A. It does appear that way, yes.

17 Q. What would it mean for a customer

18 to assign an [REDACTED] [REDACTED] to the [REDACTED]

19 [REDACTED]?

20 A. It could be the [REDACTED]

21 [REDACTED]

22 [REDACTED]

1 [REDACTED] You would only be able
2 to know if they provided comments to give
3 additional context, though.

4 Q. Do you know if the customer that
5 marked the [REDACTED] as [REDACTED]
6 provided any comments with their survey
7 response?

8 A. I don't recall outside of what's
9 [REDACTED], which there doesn't appear
10 to be any responses specifically about

11 Z. Long - Confidential

12 [REDACTED] or [REDACTED].

13 Q. Could poor quality aerial images
14 cause a customer to mark the report as
15 [REDACTED]?

16 A. Potentially, if the imagery was
17 not up to snuff, but they generally were
18 focused on [REDACTED]

19 [REDACTED]
20 [REDACTED]

21 Q. So if the resolution of the
22 aerial imagery were decreased, would that

1 affect the accuracy of the measurements in
2 the report?

3 MR. BOWSER: Objection. Scope.

4 A. It potentially could.

5 BY MR. SMITH:

6 Q. Would that affect the [REDACTED]

7 [REDACTED]?

8 MR. BOWSER: Objection. Scope.

9 A. Potentially, yes.

10 BY MR. SMITH:

11 Q. Do you see [REDACTED] that says --

12 that has the text [REDACTED]

13 [REDACTED]?

14 Z. Long - Confidential

15 A. Yes.

16 Q. What is -- what does [REDACTED]

17 [REDACTED] pertain to?

18 A. It would be [REDACTED]

19 [REDACTED]
20 [REDACTED].

21 Q. And that -- and [REDACTED]
22 was important to customers at this time.

1 Is that correct?

2 A. I don't know specifically if it
3 was.

4 Q. But this survey elicited feedback
5 from the customers on [REDACTED]
6 [REDACTED].

7 Is that correct?

8 A. Based on what's in this e-mail,
9 yes.

10 Q. So is it likely that [REDACTED]
11 [REDACTED] was something that -- or at least
12 that EagleView thought was important to
13 customers?

14 MR. BOWSER: Objection. Form.

15 A. I can't really speak to that. I
16 don't know how that part is relevant to the

17 Z. Long - Confidential
18 declaration.

19 BY MR. SMITH:

20 Q. Did EagleView elicit feedback
21 from its customers on attributes of the
22 software that were not important?

1 A. I don't believe so.

2 MR. BOWSER: Objection. Scope.

3 MR. SMITH: Okay. That might be
4 it. Could I have five minutes to go
5 look over notes and then come back?

6 MR. BOWSER: Sure. So we will be
7 back at 12:50 Eastern or 11:50 Central?

8 MR. SMITH: Yes.

9 MR. BOWSER: Thanks.

10 (Recess: 12:45 p.m. to 12:55 p.m.)

11 BY MR. SMITH:

12 Q. Did you speak to anyone during
13 the break, Mr. Long?

14 A. I did not.

15 Q. Looking at the e-mail, which we
16 are all very fond of, let's take a look
17 again at [REDACTED].

18 Do you see that?

19 A. Yes.

20 Z. Long - Confidential

21 Q. And as we discussed before this

22 [REDACTED]

1 [REDACTED]

2 Is that correct?

3 A. That's correct.

4 Q. Is there [REDACTED] that captures
5 the type of information that are included
6 in the report?

7 A. I don't -- I mean, technically
8 the [REDACTED] would fall in line
9 with that, but nothing specific.

10 MR. SMITH: Okay. We have no
11 further questions. We will pass the
12 witness.

13 MR. BOWSER: I have no further --
14 I have no questions for Mr. Long on
15 redirect.

16 (Proceedings concluded at 12:56
17 P.M. EST)

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1 C E R T I F I C A T E

2 STATE OF NEW YORK)

3) ss.:

4 COUNTY OF NEW YORK)

5 I, Christina Diaz, a Certified Realtime
6 Captioner, Registered Merit Reporter and
7 Certified Realtime Reporter and Notary Public
within and for the State of New York, do hereby
8 certify:

9 That ZAC LONG, the witness whose
10 deposition is hereinbefore set forth, was duly
11 remotely sworn by me and that such deposition is
12 a true record of the testimony given by such
13 witness on May 2, 2023.

14 I further certify that I am not related
15 to any of the parties to this action by blood or
16 marriage and that I am in no way interested in
17 the outcome of this matter.

18 Dated: May 8, 2023

19

20

21

22 _____
CHRISTINA DIAZ, CRC, CRR, RMR, CSR, CLR

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Page 32

1 Zac Long, c/o
HAYNES AND BOONE, LLP

2 2323 Victory Avenue, Suite 700
Dallas, TX 75219

3
Case: Nearmap US, Inc., v. Eagle View Technologies, Inc.

4 Date of deposition: May 2, 2023

Deponent: Zac Long

5

6 Please be advised that the transcript in the above
referenced matter is now complete and ready for signature.

7 The deponent may come to this office to sign the transcript,
8 a copy may be purchased for the witness to review and sign,
9 or the deponent and/or counsel may waive the option of
10 signing. Please advise us of the option selected.

11 Please forward the errata sheet and the original signed
12 signature page to counsel noticing the deposition, noting the
13 applicable time period allowed for such by the governing
14 Rules of Procedure. If you have any questions, please do
15 not hesitate to call our office at (202)-232-0646.

16

17

18 Sincerely,

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3
4 SIGNATURE PAGE
Case: Nearmap US, Inc., v. Eagle View Technologies, Inc.
5 Witness Name: Zac Long
Deposition Date: May 2, 2023

6
I do hereby acknowledge that I have read
7 and examined the foregoing pages
of the transcript of my deposition and that:

8
9 (Check appropriate box):
() The same is a true, correct and
10 complete transcription of the answers given by
me to the questions therein recorded.
11 () Except for the changes noted in the
attached Errata Sheet, the same is a true,
12 correct and complete transcription of the
13 answers given by me to the questions therein
14 recorded.

15
16 _____
17 DATE WITNESS SIGNATURE
18
19
20
21 _____
22 DATE NOTARY

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5

6 ERRATA SHEET

7

8 Case: Nearmap US, Inc., v. Eagle View Technologies, Inc.

9 Witness Name: Zac Long

10 Deposition Date: May 2, 2023

11 Page No. Line No. Change

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Signature_____
Date