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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

MOTION OFFENSE, LLC * May 19, 2023
 *
VS. * CIVIL ACTION NO.
 *
DROPBOX, INC. * 6:20-CV-251

BEFORE THE HONORABLE ALAN D ALBRIGHT
JURY TRIAL PROCEEDINGS
Volume 5 of 5

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08:49

08:55 1 (Hearing begins.)

08:55 2 THE BAILIFF: All rise.

08:56 3 THE COURT: Good morning, everyone. You
08:56 4 may be seated.

08:56 5 I understand we have a couple of issues
08:56 6 to take up before we bring the jury in.

08:56 7 MR. DAHLGREN: Yes, Your Honor. We have
08:56 8 some agreed-upon exhibits to read in.

08:56 9 We'd like to enter the following
08:56 10 exhibits: PTX-774A, 774B, 774C, 774D, 774E, 774F,
08:56 11 774G, 774H, 774I, 774J, 774K, 774L, 774M, 774N, 774O,
08:57 12 774P, 774Q, 774R, 774S, 774T, 774U, 774V, 774W, 774X,
08:57 13 774Y, 774Z, 774AA, 774BB, 774CC, 774DD, 774EE, 774FF,
08:57 14 774GG, 774HH, 774II, 774JJ, 774KK, 774LL, 774MM, 774NN,
08:58 15 774OO, 774PP, 774QQ, PTX-103, 116, 220, 810, 844, 850,
08:58 16 1228, 190.

08:58 17 And then: PTX-316A, 316AA, 316B, 316BB,
08:58 18 316C, 316D, 316E, 316F, 316G, 316H, 316I, 316J, 316K,
08:59 19 316L, 316M, 316N, 316O, 316P, 316Q, 316R, 316S, 316T,
08:59 20 316U, 316V, 316W, 316X, 316Y and 316Z.

08:59 21 And that's it.

08:59 22 THE COURT: Thank you, sir.

08:59 23 MS. MAJOR: Good morning, Your Honor.
08:59 24 Amanda Major for Dropbox.

08:59 25 Dropbox moves into evidence: DTX-43,

08:59 1 DTX-36, DTX-115, DTX-86, DTX-105, DTX-742, DTX-42,
09:00 2 DTX-851, DTX-797, DTX-799, DTX-800, DTX-877, DTX-878,
09:00 3 DTX-879, DTX-880, DTX-881, DTX-882, DTX-883, DTX-884,
09:00 4 DTX-885, DTX-886, DTX-888, DTX-889, DTX-890, DTX-891,
09:00 5 DTX-893, DTX-894, DTX-907, DTX-909, DTX-911, DTX-912,
09:00 6 DTX-913, DTX-914, DTX-915, DTX-916, DTX-917, DTX-918
09:01 7 and DTX-1056.

09:01 8 Then very briefly, Your Honor, just two
09:01 9 further housekeeping issues.

09:01 10 Your Honor, last evening we submitted to
09:01 11 Mr. McQueen a proposed order reflecting Your Honor's
09:01 12 ruling on Dropbox's 101 argument. The parties jointly
09:01 13 agree that this represents Your Honor's ruling, and
09:01 14 we'd just request that Your Honor enter that at your
09:01 15 convenience.

09:01 16 And then the final item is just --

09:01 17 THE COURT: That will be granted.

09:01 18 MS. MAJOR: Thank you, Your Honor.

09:01 19 Then the final item, Your Honor, is just
09:01 20 for the record, we lodged one objection to the verdict
09:01 21 form this morning. That's Docket 369.

09:01 22 We understand you've overruled that but
09:01 23 just wanted to note it for the record.

09:01 24 Thank you.

09:01 25 THE COURT: Is that it?

09:01 1 MR. LANTIER: Yes, Your Honor.

09:01 2 MR. DEVLIN: Nothing further from
09:01 3 plaintiff.

09:01 4 THE COURT: Are they all here?

09:01 5 (Off-the-record discussion.)

09:02 6 THE COURT: Have we been given a copy of
09:02 7 the verdict form to give to the jury?

09:02 8 MR. DEVLIN: No, Your Honor. We'll have
09:02 9 it on the screen for the jurors.

09:02 10 THE COURT: Are we going to be given a
09:02 11 copy of the verdict form?

09:02 12 MR. DEVLIN: Would you like a copy of the
09:02 13 verdict form for the jurors here now?

09:02 14 THE COURT: I mean, they don't need it
09:02 15 now. We're going to need to give it to them when you
09:02 16 finish the closing argument.

09:02 17 MR. DEVLIN: Oh, yeah. We have that to
09:02 18 give to the jurors, if it's not already submitted.

09:02 19 (Off-the-record discussion.)

09:05 20 (Recess taken.)

09:06 21 THE BAILIFF: All rise.

09:06 22 THE COURT: Please remain standing for
09:06 23 the jury.

09:06 24 (Jury entered the courtroom.)

09:06 25 THE COURT: Thank you. You may be

09:06 1 seated.

09:06 2 Counsel, are you prepared?

09:07 3 MR. DEVLIN: Prepared, Your Honor.

09:07 4 THE COURT: Would you like a warning of
09:07 5 any --

09:07 6 MR. DEVLIN: I think we're good. We've
09:07 7 got a little internal system.

09:07 8 THE COURT: All good. It's on you then.

09:07 9 Ladies and gentlemen, we're about to hear
09:07 10 the closing arguments. Please remember that the
09:07 11 evidence is all in. As I instructed you yesterday, you
09:07 12 may only consider the evidence; however, you are
09:07 13 certainly welcome to listen to the arguments made by
09:07 14 counsel. And to the extent they are supported by the
09:07 15 evidence, hopefully they'll guide you to the correct
09:07 16 verdict.

09:07 17 So, Mr. Devlin?

09:07 18 OPENING ARGUMENT ON BEHALF OF THE PLAINTIFF

09:07 19 MR. DEVLIN: May it please the Court.

09:07 20 THE COURT: Yes, sir.

09:07 21 MR. DEVLIN: Ladies and gentlemen, thank
09:07 22 you again for your time and your attention this week.
09:07 23 We all thank you for your service.

09:07 24 At the beginning of the week, I said we
09:08 25 would bring you the evidence of Dropbox's infringement.

09:08 1 I said we'd bring you the evidence of a reasonable
09:08 2 royalty, fair compensation for that infringement. I
09:08 3 said you'd hear excuse after excuse from Dropbox, and
09:08 4 we would answer every one of them.

09:08 5 So what did we see this week?

09:08 6 Let's talk about the evidence first.

09:08 7 You heard four witnesses from us. The
09:08 8 first was Mr. Morris, the inventor. Humble man, quiet,
09:08 9 but he's a genius. 400 different patent applications
09:08 10 to his name, 100 to 200 U.S. patents issued to his
09:08 11 name.

09:08 12 What did he tell you?

09:08 13 You heard his story, how he wanted to be
09:08 14 an individual inventor. Even when he was working for
09:08 15 those big companies, you could tell he wanted to strike
09:08 16 out on his own, and he did. He struck out on his own,
09:08 17 and he took that risk.

09:08 18 And he did that because he wanted to be
09:08 19 the architect. He wanted to make ideas. And there's
09:08 20 something unique about our patent system. You don't
09:08 21 need to build a product. He wanted to build ideas, and
09:08 22 that's exactly what he did.

09:08 23 And he went right into his own
09:09 24 wheelhouse, the area of technology he'd been working in
09:09 25 for years, and he came up with inventions, and he got

09:09 1 patents on them. And they're the patents at issue in
09:09 2 this case.

09:09 3 Now, he walked -- I won't walk through
09:09 4 this all with you, but he walked through his inventions
09:09 5 with this animation, how in the folder share, a user
09:09 6 has a folder, they want to share it, they can then
09:09 7 share it with someone else, and it looks the exact same
09:09 8 as on their screen in the normal file interface, but
09:09 9 there's just those representations.

09:09 10 And everyone agreed that those
09:09 11 representations, you don't -- you see it, but it's not
09:09 12 actually there until you interact with it. And he
09:09 13 explained that.

09:09 14 He explained about his file request
09:09 15 ideas, both with the representation and with the
09:09 16 deadlines on the request and how that operates. So you
09:09 17 heard all that from Mr. Morris about his inventions.

09:09 18 You heard from Mr. Andrew Gordon, who was
09:09 19 our second witness. He also worked for big companies
09:09 20 and with big companies, but he wanted to work with
09:09 21 individual inventors.

09:09 22 He's worked with dozens of them. And you
09:09 23 heard, he forms companies with each of them to help
09:09 24 them license their own patents.

09:10 25 How many? Dozens.

09:10 1 Have they benefitted? Definitely.

09:10 2 And he said, for better or worse, we have
09:10 3 to work with lawyers because that's who helps with the
09:10 4 patent applications. That's who helps with licensing.

09:10 5 And you heard the response from Dropbox
09:10 6 this week. You saw it in the questions. They're
09:10 7 almost mystified about an individual inventor? Someone
09:10 8 who don't (sic) works for a big company, who doesn't
09:10 9 make a product?

09:10 10 Even if they have an idea, even if they
09:10 11 have an invention and they get a patent on it, to come
09:10 12 and ask us for a reasonable royalty?

09:10 13 It was almost like it didn't compute for
09:10 14 them, because they don't care. We saw it in the
09:10 15 testimony.

09:10 16 Now, there's no doubt that Dropbox built
09:10 17 its system. They market it. They sell it. They
09:10 18 deserve credit for that. But that doesn't matter for
09:10 19 infringement.

09:10 20 But I asked Mr. Terk that: Just so we're
09:10 21 all clear, that doesn't matter for infringement?

09:10 22 He said: I don't know.

09:10 23 I said: Well, you guys do these updates
09:11 24 and improvements all the time?

09:11 25 He said: Yeah.

09:11 1 Well, you must be constantly working with
09:11 2 lawyers to make sure you're not stepping on other
09:11 3 people's inventions?

09:11 4 No.

09:11 5 Well, maybe you do it yourself. You guys
09:11 6 search, make sure you're not going to infringe someone
09:11 7 else's patents. Do you ever do that?

09:11 8 No. I don't.

09:11 9 And that's not Mr. Terk's fault. I want
09:11 10 to be clear. He was never trained to care about other
09:11 11 people's patents and other people's inventions, so it
09:11 12 doesn't happen. They don't care. It's no surprise
09:11 13 that they ended up infringing Mr. Morris' patents.

09:11 14 So you heard about that from Dr. Akl. He
09:11 15 gave you the evidence on infringement. He talked a
09:11 16 little bit about validity just yesterday. He talked
09:11 17 about the importance of these inventions to Dropbox and
09:11 18 its customers.

09:11 19 What did he say?

09:11 20 I won't go through all of his evidence,
09:11 21 but you heard he worked hundreds of hours looking at
09:11 22 all the evidence, sorting through it, sifting it,
09:11 23 comparing it, analyzing it, seeing how it lined up
09:12 24 exactly with the patent claims. And he walked through
09:12 25 that, and it took some time.

09:12 1 I cannot imagine any of you remember all
09:12 2 the details from that two or two and a half hours of
09:12 3 walking through all that evidence, but you might
09:12 4 remember how detailed it was, how thorough it was. And
09:12 5 that's what he did.

09:12 6 And just quickly to summarize, he showed
09:12 7 you how, in Dropbox, you can create that shared folder.
09:12 8 That's what's on the screen. You can share that with
09:12 9 someone's e-mail address in the interface, then that
09:12 10 person will receive a message that they can go to that
09:12 11 folder. And when they do that, they're going to get
09:12 12 that representation of the folder just like it looks on
09:12 13 their screen.

09:12 14 But everyone agreed, it doesn't
09:12 15 actually -- it's not actually there until you interact
09:12 16 with it.

09:12 17 And how does that happen?

09:12 18 It happens with Smart Sync and through
09:12 19 its integration with the actual operating system of Mac
09:12 20 operating system and Windows operating systems, so you
09:12 21 can see all that right in your normal client
09:13 22 application where you see all of your files throughout
09:13 23 your whole computer.

09:13 24 Same thing with file request. It has
09:13 25 deadlines. We walked through the evidence quickly.

09:13 1 Mr. Terk agreed. If the deadline expires, you can't
09:13 2 upload anything at all.

09:13 3 You saw the evidence from Mr. Akl --
09:13 4 Dr. Akl. This is a screenshot. The deadline has
09:13 5 passed, you can't upload. It's the deadline on the
09:13 6 request. Dr. Akl went through that with you in detail.

09:13 7 And after all that time, hundreds of
09:13 8 hours, all the time with you, going through that
09:13 9 evidence, he gave you his conclusion: Every single one
09:13 10 of these claims is infringed by Dropbox.

09:13 11 We also brought you evidence on damages.
09:13 12 That was Mr. Dell, the damages expert.

09:13 13 He walked through the statute. It's a
09:13 14 reasonable royalty, the minimum. It's all we're asking
09:13 15 for here. And it's for the use made of the invention
09:13 16 by the infringer.

09:13 17 How does he do that?

09:13 18 He uses his running royalty formula
09:14 19 because that's what matches up with the actual use.
09:14 20 You pay how much you use. So you look at the royalty
09:14 21 base -- in this case, that's those subscriber months,
09:14 22 number of subscribers, number of months -- and then you
09:14 23 apply a rate to that, and you come up with your
09:14 24 damages.

09:14 25 What did the evidence show?

09:14 1 The royalty base. He looked at Dropbox's
09:14 2 own records to see how many subscribers had used these
09:14 3 accused plans, and he gave you those numbers. And no
09:14 4 one ever disputed that.

09:14 5 How did he come up with his rate?

09:14 6 He looked at Dropbox internal documents,
09:14 7 surveys they took of customers for features they were
09:14 8 thinking about implementing, how important they were.
09:14 9 Share folders, one of the major features that customers
09:14 10 wanted and liked to use; Smart Sync, one of the major
09:14 11 features that people actually use.

09:14 12 And then he looked at the financials. He
09:14 13 started with the total price, 12 to \$25 a month, and he
09:14 14 didn't stop there. He worked and worked and worked to
09:14 15 isolate the exact benefit and advantage of these
09:15 16 patented inventions in the context of these products
09:15 17 and Dropbox as a whole.

09:15 18 And so from that 12 to \$25, he ends up --
09:15 19 through all that analysis and that hypothetical
09:15 20 negotiation and all those factors, nine cents to 11
09:15 21 cents, and he ends up at his ten cents per month per
09:15 22 user.

09:15 23 There's a lot of subscriber months, 357
09:15 24 million. And so that leads to our damages ask,
09:15 25 \$35,711,653.

09:15 1 You'll see that once more on the screen.

09:15 2 That is the reasonable royalty, fair
09:15 3 compensation for the actual use, massive use, made by
09:15 4 Dropbox of Mr. Morris' patented invention.

09:15 5 So that's the evidence you saw.

09:15 6 What were the excuses?

09:15 7 In my opening, I think I went through
09:15 8 five excuses that I expected. And it sounded like a
09:15 9 lot. It turns out it wasn't enough. There were more
09:15 10 that we heard.

09:16 11 What did he hear?

09:16 12 First, on infringement, we heard two
09:16 13 different excuses. And the first related to this
09:16 14 HTML-equipped code claim element. You remember that.
09:16 15 And we talked about that in detail.

09:16 16 Dr. Akl sat there for two and a half
09:16 17 hours going through the evidence. And they came back
09:16 18 with one argument to contest it, HTML-equipped code.
09:16 19 They got it wrong.

09:16 20 What's going on in the claim is that a
09:16 21 system causes something to happen utilizing
09:16 22 HTML-equipped code, hypertext markup language-equipped
09:16 23 code, HTML-equipped code.

09:16 24 And the discussion was, well, what does
09:16 25 that mean?

09:16 1 Dropbox's contention is, well, that means
09:16 2 HTML code, not something that's equipped to work with
09:16 3 it, like JavaScript, but HTML itself.

09:16 4 But that didn't make any sense. We
09:16 5 looked at the patent claims, and we saw when the
09:16 6 patentee wanted to just say HTML -- it's a different
09:16 7 claim of the patent, but same patent. When the
09:16 8 patentee wanted to say, you need HTML, they just said
09:17 9 it. They just wrote "HTML."

09:17 10 Remember, words are requirements. So
09:17 11 when they wanted to require HTML itself, they just
09:17 12 wrote it.

09:17 13 Eventually Dr. Gibbons agreed: Yes.
09:17 14 They did.

09:17 15 And Dr. Akl explained what the claim
09:17 16 requires is HTML-equipped code, code that's equipped to
09:17 17 work with HTML, like JavaScript, like every one of
09:17 18 their witnesses said that they used.

09:17 19 And you know what?

09:17 20 It actually doesn't even matter. Because
09:17 21 as you saw, their system utilizes HTML code also to get
09:17 22 the JavaScript there and to help it work.

09:17 23 It starts with Max Belanger: Explain how
09:17 24 HTML plays a role.

09:17 25 Well, you load it down, and it works with

09:17 1 the browser for your web browser to bring those
09:17 2 JavaScript files and line them all up.

09:17 3 Jason Terk agreed. Mr. Terk said,
09:17 4 without that little bit of HTML, you can't do it. The
09:17 5 HTML is necessary. It's part of what's required to
09:18 6 make this system work, including these interfaces,
09:18 7 because that's what brings it all down.

09:18 8 And that's all the claims required. You
09:18 9 cause the interfaces to appear utilizing HTML-equipped
09:18 10 code.

09:18 11 It's not tied to -- they're not directly
09:18 12 tied together. Remember, it's a comprising claim. Of
09:18 13 course, yes. There's JavaScript involved as well, but
09:18 14 that's an extra element. That doesn't negate
09:18 15 infringement. As long as you have what's required,
09:18 16 that's infringement. And that's what we showed.

09:18 17 Mr. Terk agreed. I won't go down this
09:18 18 all in detail, but he said: You have the HTML shell.
09:18 19 That's the top.

09:18 20 Yes.

09:18 21 Next one. That's what's on the web page
09:18 22 the user gets for Dropbox?

09:18 23 Yes.

09:18 24 And a button might be one of those
09:18 25 buttons that's a shared folder button, which is the

09:18 1 exact button we're talking about here, to bring up the
09:18 2 exact interface?

09:18 3 Yes.

09:18 4 That's JavaScript?

09:18 5 Yes.

09:18 6 And then he said: You can utilize that
09:18 7 button, and the interface will come up.

09:18 8 They're utilizing the code JavaScript
09:19 9 right in there with the HTML causing the first
09:19 10 interface to appear utilizing HTML.

09:19 11 Are they utilizing other things too?

09:19 12 Yes. But it's a comprising claim.

09:19 13 Doesn't matter.

09:19 14 Okay. The other thing you heard from
09:19 15 them is, well, the user's doing some stuff. There's
09:19 16 work going on on the user's computer. Because when we
09:19 17 sign up a user, they get that Dropbox app on their
09:19 18 desktop, the software that's actually running on your
09:19 19 own personal computer.

09:19 20 And they said: We're not responsible for
09:19 21 that. That's someone else.

09:19 22 And where it's going to come up, it's
09:19 23 going to be this issue of divided infringement. You're
09:19 24 going to hear that from them I think. That's the
09:19 25 words. I don't think you heard those until the

09:19 1 instructions yesterday, but this is the legal
09:19 2 framework.

09:19 3 And they're going to say two different
09:19 4 people, two different actors are responsible for parts
09:19 5 of the claim; that's divided infringement. Why is that
09:19 6 wrong? It's wrong. Why?

09:19 7 First, here's the actual standard:
09:19 8 Direct infringement -- what we're talking about --
09:19 9 means that all the components, claims, are performed or
09:20 10 provided or attributable to a single party.

09:20 11 And that's what happens here. Dropbox
09:20 12 provides that to the user. And just as important,
09:20 13 Dropbox owns it.

09:20 14 Of course, the claims don't require that
09:20 15 at all, as Mr. Akl explained, as I said on opening.
09:20 16 The claims all are recited featuring activity that
09:20 17 occurs on the server side, causing things to happen,
09:20 18 send e-mails.

09:20 19 Are they referencing things on the user?

09:20 20 Yes.

09:20 21 But the language of the claims is talking
09:20 22 about what goes on at the server.

09:20 23 But it doesn't matter because if you are
09:20 24 interested in what's happening at the user, Dropbox
09:20 25 owns it. You only have a license to the software that

09:20 1 they put on your computer.

09:20 2 Happens all the time with what we do.

09:20 3 That's the business model. And that's okay. But

09:20 4 they've got to take responsibility for it.

09:20 5 They own that software that's sitting on

09:21 6 the user's computer. It's part of the distributed

09:21 7 system of software on all of their servers in the cloud

09:21 8 and on the user's computers. That all cooperates and

09:21 9 works together. They own it all.

09:21 10 There's no divided infringement here.

09:21 11 Okay. So that's infringement.

09:21 12 Let's move on to validity. There were

09:21 13 five different excuses there.

09:21 14 Before we get into them, for validity,

09:21 15 the standard is: Clear and convincing evidence. They

09:21 16 have to show you and leave you with a clear conviction

09:21 17 that these claims are invalid.

09:21 18 Have they done that?

09:21 19 Well, let's look at the evidence.

09:21 20 First, we saw with respect to Dropbox

09:21 21 2011, that was the first big prior art system that

09:21 22 they're talking to you about. Dropbox 2011.

09:21 23 Well, just so happens that the procedural

09:21 24 history allowed Motion Offense to put in all the

09:21 25 information they provided in their first invalidity

09:21 1 contentions, those claim charts comparing the patent
09:21 2 claims to Dropbox 2011 and other things that were out
09:22 3 there.

09:22 4 And Motion Offense submitted those to the
09:22 5 Patent Office, and the Patent Office granted the '215
09:22 6 patent knowing all that information. And you saw it.
09:22 7 We went through some of it. Dropbox is everywhere in
09:22 8 that huge list of information that the prior -- that
09:22 9 the patent examiner looked at.

09:22 10 And, lest there ever be a complaint that
09:22 11 someone was trying to overload the examiner, Motion
09:22 12 Offense provided the exact roadmap, the actual claim
09:22 13 charts, element-by-element analysis that Dropbox
09:22 14 provided, their opinion, their contention as to why the
09:22 15 claims were invalid. The patent examiner had that, had
09:22 16 the roadmap.

09:22 17 And what happened? The claims were
09:22 18 issued. Patents issued at the U.S. Patent Office. And
09:22 19 these are the four patents in this case that were
09:22 20 granted by the Patent Office after that complete
09:22 21 examination.

09:22 22 Dr. Shamos knew that.

09:23 23 The Patent Office had all this
09:23 24 information, and they allowed -- they granted that '215
09:23 25 patent over the same stuff that you're saying makes it

09:23 1 invalid?

09:23 2 Yes.

09:23 3 He admitted that.

09:23 4 Why? We only had a little time, but we
09:23 5 talked about just one of the technical reasons why
09:23 6 that's true. This file explorer interface and the
09:23 7 client-based file explorer application, everyone
09:23 8 agreed, those are two different features.

09:23 9 Dr. Shamos himself agreed. They have the
09:23 10 "the" in front of them.

09:23 11 And for him, the interface on the mobile
09:23 12 app back in 2011, that satisfies both those things.

09:23 13 But every witness agreed, the mobile app
09:23 14 can't show you the files on your computer and put
09:23 15 Dropbox in that context. It only shows you the files
09:23 16 that are in your Dropbox account, just like any other
09:23 17 kind of app.

09:23 18 Like Dr. Akl said, iTunes, you can see
09:24 19 all your music. That's not a client-based file
09:24 20 explorer application. That's what the claims require.

09:24 21 Smart Sync does that. It integrates with
09:24 22 the operating system, and you can see it all there.
09:24 23 The mobile app in 2011 never did that.

09:24 24 So then they brought you AirDropper.
09:24 25 This is Excuse No. 4, I think, No. 2 for validity.

09:24 1 AirDropper. Now, here was an interesting
09:24 2 story. Dr. Shamos put this up. This is the source
09:24 3 code for AirDropper. This is this deadline issue. And
09:24 4 he put up -- you can see it way at the bottom right,
09:24 5 not the blue thing but underneath it. This is Slide 59
09:24 6 that he was talking about.

09:24 7 And he sat there on that stand, under
09:24 8 oath, and he was asked about Slide 59, that same code.

09:24 9 And he said: Could you explain?

09:24 10 This is direct. This is his own lawyer
09:24 11 asking him: What are we seeing here?

09:24 12 And he explains the whole thing. You
09:24 13 might remember, he was talking about the lines on the
09:24 14 side and all those highlights that he had.

09:24 15 And he says: Line 47, expiration
09:25 16 choices, this is a choice of a time when your file
09:25 17 request is going to expire.

09:25 18 And he says it again at the end: The
09:25 19 user had a choice when the file request was going to
09:25 20 expire.

09:25 21 Was that true?

09:25 22 No. It was not true.

09:25 23 And when we highlighted what he skipped
09:25 24 that says clearly that what expires is the link where
09:25 25 someone has uploaded a bunch of files, and they don't

09:25 1 want that link out there forever.

09:25 2 He didn't show you that. He skipped
09:25 3 right over it. And he told you that it was different.

09:25 4 And on cross-examination, he gave a 180.
09:25 5 Completely changes testimony.

09:25 6 You know this is about when the files are
09:25 7 uploaded and that link expiring?

09:25 8 Yes.

09:25 9 And the claim has to do with the request?

09:25 10 Yes.

09:25 11 You get to decide what all that means
09:25 12 when you go back and deliberate.

09:25 13 Now, you're also going to hear about
09:25 14 "obviousness," I think. You might have heard that word
09:25 15 in the testimony kind of breeze on by, came up just now
09:25 16 and then, and that's when something's actually missing.

09:26 17 They admit that the prior art that
09:26 18 they're using doesn't have one or two of the features
09:26 19 sometimes in like a dependent claim, for example.

09:26 20 And he would say, "that's obvious."

09:26 21 And now they've got bigger problems.
09:26 22 They've got massive holes where they thought things
09:26 23 were there in their prior art in AirDropper and Dropbox
09:26 24 2011, and they're not there.

09:26 25 So you might hear, well, they're obvious

1 too. But that's not how it works.

09:26 2 You heard the instruction from the Judge.
09:26 3 It's long on obviousness. It's a complicated standard.
09:26 4 You have to go through a whole bunch of steps.

09:26 5 And just the first one I'll mention now
09:26 6 is you have to understand the scope and the content of
09:26 7 the prior art so you can compare it to the claims.

09:26 8 Well, Dr. Shamos isn't looking at the
09:26 9 actual scope of the prior art. He's looking at an
09:26 10 imaginary scope that includes requests -- a deadline
09:26 11 for a request, for example.

09:26 12 So you may hear more about obviousness,
09:26 13 and I'll address it on my rebuttal when I get a chance.

09:27 14 But they never had the right
09:27 15 understanding of the art. Or if they did, they didn't
09:27 16 tell you about it. And they can't just wave their hand
09:27 17 on obvious.

09:27 18 And remember, of course, the Patent
09:27 19 Office had all this stuff anyway. The Patent Office
09:27 20 had all of the Dropbox 2011 stuff that they had
09:27 21 provided, that got submitted, including the roadmap.
09:27 22 The Patent Office looks at obviousness too. They
09:27 23 granted the '215 patent claims.

09:27 24 So next excuse, because I think they
09:27 25 recognize they have problems with all that stuff from

09:27 1 2011, Dropbox 2011 and AirDropper. So they say, hmm.
09:27 2 Here's an idea.

09:27 3 This is a continuation-in-part, and if we
09:27 4 can break the link between these claims now and that
09:27 5 original 2012 application, then we're going to trap
09:27 6 them. 2017 will render it invalid, the 2017 version of
09:27 7 Dropbox. So they have to then raise the issue of
09:28 8 priority date.

09:28 9 So what does that mean?

09:28 10 It's whether the patent claims now
09:28 11 deserve the benefit of that 2012 application when it
09:28 12 was originally filed. And the key is here. This is
09:28 13 your instructions from the Judge.

09:28 14 The written description of that earlier
09:28 15 application does not have to have the exact words of
09:28 16 the claims. It can be satisfied, a combination of
09:28 17 things that are described in that earlier application.
09:28 18 Words, structures, et cetera, in the patent
09:28 19 specification.

09:28 20 The patent specification that's there is
09:28 21 the early 2012 applications.

09:28 22 And you can have these continuations,
09:28 23 continuation-in-part, and they can get that earlier
09:28 24 date. And the Judge told you what you're going to have
09:28 25 to look at. It's right here, coming up now.

09:28 1 It's the disclosure of that earlier-filed
09:28 2 application compared to the claims now. You look at
09:28 3 the claims now and the 2012 application.

09:28 4 What did they do?

09:28 5 They spent a lot of time looking at the
09:28 6 claims now and the summary of the invention of the
09:28 7 applications now. It's not relevant. It's irrelevant.
09:29 8 It's a total distraction.

09:29 9 You got to look at 2012.

09:29 10 Now, Dr. Shamos did a little bit of that.
09:29 11 He pulled up some figures. He looked at some text.
09:29 12 But he ignored literally the most important snippets of
09:29 13 text in that 2012 application.

09:29 14 He ignored that you can have a server in
09:29 15 a cloud that's actually doing things as this third
09:29 16 node. And it's right there. It says it.

09:29 17 This is Paragraph 73, and it's PTX-1333.
09:29 18 And you can look at this when you get back there.
09:29 19 PTX-1333 at Paragraph 73.

09:29 20 Another execution environment
09:29 21 interoperating via a network, right there in the cloud.
09:29 22 It talks about a browser here and another server
09:29 23 operating over a network. That's Dropbox.

09:29 24 It also says in that application, you can
09:29 25 use HTML. You can use ECMAScript, which you heard is

09:29 1 JavaScript. These are the languages of the Internet.

09:29 2 Back in 2012, Dr. Shamos -- sorry,

09:30 3 Mr. Morris is saying this can all be done.

09:30 4 And he agreed.

09:30 5 Then he told you the implications.

09:30 6 If, if, if, if. If these patent claims
09:30 7 are entitled to the present -- sorry, the 2012
09:30 8 application, all that validity stuff on 2017 is totally
09:30 9 irrelevant.

09:30 10 He agrees with that.

09:30 11 But he also agreed with something else,
09:30 12 really important. The way they had to do this
09:30 13 analysis, he actually has to show that the 2017 Dropbox
09:30 14 system meets the claim elements. And he did that line
09:30 15 by line by line using Dr. Akl's own infringement
09:30 16 analysis.

09:30 17 And I said: Wait a second. If you
09:30 18 actually have the priority date in 2012, not only is
09:30 19 the patent claim not invalid, you just showed that it
09:30 20 was infringed?

09:30 21 And he said: Yeah. I did that. I did
09:30 22 that.

09:30 23 And I said earlier: You were showing
09:30 24 correspondence between the 2017 application and
09:30 25 Dr. Akl's analysis of the system now?

09:31 1 Yes.

09:31 2 And you had all those boxes checked at
09:31 3 the end?

09:31 4 Yes.

09:31 5 And that's infringement?

09:31 6 Yes, he said.

09:31 7 He proved it right there.

09:31 8 So last excuse was damages. All right.

09:31 9 And what did they bring you?

09:31 10 They brought you all those old agreements
09:31 11 that Mr. Morris signed with his partners, with his
09:31 12 business partners, where they were trying to get these
09:31 13 applications to the Patent Office and then get them
09:31 14 licensed.

09:31 15 And they tried to suggest that somehow
09:31 16 these patents here are worth \$10,000 or nothing.

09:31 17 Does that make sense? Are those
09:31 18 agreements comparable to the situation here licensing a
09:31 19 massive infringer of this technology?

09:31 20 There's your instructions. They have to
09:31 21 be comparable. These agreements that Mr. Morris signed
09:31 22 years ago with his partners in business have nothing to
09:31 23 do with this case. It's ridiculous.

09:31 24 Dropbox also failed to give you a damages
09:31 25 expert entirely. No one sat there and contested what

09:31 1 Mr. Dell explained to you about the royalty base and
09:32 2 the value and the rate and the reasonable royalty, a
09:32 3 fair compensation.

09:32 4 Okay. Last little bit. I talked to you
09:32 5 about credibility. You're the judges of credibility.
09:32 6 It's in your Court's instructions. You don't have to
09:32 7 read it. He said it to you. You're the judges of
09:32 8 credibility. You get to do that detective work.

09:32 9 Why did people say something back then
09:32 10 when there was no lawsuit, and why are they saying what
09:32 11 they're saying now?

09:32 12 Let's look.

09:32 13 You saw it in the evidence.

09:32 14 What did they say back then when they
09:32 15 were launching these products?

09:32 16 Back in 2017 with Smart Sync, we're
09:32 17 introducing Dropbox Smart Sync. New collaboration
09:32 18 tools. New Dropbox Business plus Smart Sync.
09:32 19 Explaining it all to their customers.

09:32 20 Now you can preview all your files
09:32 21 without taking up space until you need them.

09:32 22 Same thing with the file requests.

09:32 23 File requests, now available, 2015, a
09:32 24 couple months later. We're introducing the file
09:32 25 requests with deadlines. Starting today, you can do

09:33 1 this.

09:33 2 They were excited about this stuff. They
09:33 3 were telling their customers about these new features.

09:33 4 I mentioned you might hear some wiggle
09:33 5 words this week. And just as two examples, I asked
09:33 6 Mr. Belanger, are you saying it's the same or what?

09:33 7 He said, well, the relevant
09:33 8 functionality, that's the same.

09:33 9 Whatever that means.

09:33 10 I struggled with Mr. Terk. Can we just
09:33 11 agree that Dropbox now is different from Dropbox then?

09:33 12 He said: No. It's not completely
09:33 13 different.

09:33 14 You heard all those witnesses with those
09:33 15 sorts of answers.

09:33 16 Now, in the end, they gave it up. They
09:33 17 agreed that Dropbox now is different than the Dropbox
09:33 18 then. The main differences, or a couple of them, are
09:33 19 Smart Sync and file request with deadline. They gave
09:33 20 it up.

09:33 21 And you have seen from all the evidence
09:33 22 the value of those inventions, all the evidence of
09:33 23 infringement and the reasonable royalty, the fair
09:33 24 compensation. So when you go back into the jury room,
09:34 25 there's going to be a verdict form. And we're going to

09:34 1 ask you, you have to, fill out that verdict form.

09:34 2 So the first question will be on
09:34 3 infringement. And if you find that there's
09:34 4 infringement, we, Motion Offense, will ask that you put
09:34 5 "yes" in each of those lines for each of those claims.

09:34 6 Next question will be about this priority
09:34 7 date, have we proven that the claims now deserve that
09:34 8 2012 priority date just like the Patent Office found?
09:34 9 Remember that?

09:34 10 Patent Office examined the very same
09:34 11 issue with their experts. You heard it from
09:34 12 Dr. Shamos.

09:34 13 So if you agree with the Patent Office
09:34 14 and all the other evidence that shows that that stuff
09:34 15 was there in that 2012 application, "yes" is what
09:34 16 you'll say for Motion Offense.

09:34 17 Then you'll hit validity. Have they
09:34 18 proven validity -- sorry -- invalidity by clear and
09:34 19 convincing evidence?

09:34 20 We submit no. If you agree, you would
09:34 21 write "no" in this third item.

09:34 22 And then, lastly, the amount of
09:34 23 reasonable royalty damages. Here -- you may write this
09:35 24 down. You won't be able to see it again. I'm not
09:35 25 asking you to adopt it. It's going to be your choice.

09:35 1 But if you haven't written this number down, this is
09:35 2 it, 35,711,653, a reasonable royalty for the massive
09:35 3 extent of use of Dropbox, fair compensation for these
09:35 4 inventions.

09:35 5 I'll have a few more minutes with you
09:35 6 after their closing. Thank you again for your time and
09:35 7 attention.

8 MR. LANTIER: Your Honor, could we have
9 just a minute to set up the board?

10 THE COURT: Do you care for any warning?

11 MR. LANTIER: No, Your Honor. I think
09:35 12 that'll be okay.

09:35 13 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

09:35 14 MR. LANTIER: Ladies and gentlemen, thank
09:36 15 you again for your service and your careful attention
09:36 16 this week.

09:36 17 You've now heard all the evidence.
09:36 18 You've observed the credibility of the witnesses, and
09:36 19 it's time to decide this case.

09:36 20 So how did we get here?

09:36 21 At this point in the trial, you know that
09:36 22 Dropbox engineers did the work to invent and build
09:36 23 Dropbox. It's on the timeline here.

09:36 24 You know that as a matter of historical
09:36 25 fact, the work in no way involved Motion Offense or any

09:36 1 of these patents.

09:36 2 And we know that Dropbox's users were
09:36 3 already using folder sharing, using representations in
09:37 4 the mobile device and using the file request
09:37 5 functionality before 2012.

09:37 6 Now, in September of 2012, Mr. Morris
09:37 7 filed the two original patent applications that you've
09:37 8 heard about this week. And when he did so, he wrote in
09:37 9 the background section of those applications that what
09:37 10 he was describing was different from Dropbox.

09:37 11 He said that the invention was different
09:37 12 than sharing files and folders using a cloud-based
09:37 13 system.

09:37 14 And when he was asked at this trial,
09:37 15 you'll remember that Mr. Morris said he couldn't
09:37 16 remember writing those patent applications or what he
09:37 17 was creating at that time.

09:37 18 Now, what happens after the
09:37 19 September 2012 patent applications are filed is a
09:38 20 little bit murky. We have transfers of the
09:38 21 applications amongst a number of different entities for
09:38 22 no or little money. We have Deep River Ventures, Cedar
09:38 23 Point Partners, Sitting Man and eventually to Motion
09:38 24 Offense.

09:38 25 But while all this is going on, we know

09:38 1 that the men and women who work at Dropbox are going
09:38 2 into work every day, they're doing their best and
09:38 3 they're trying to continue to improve the Dropbox
09:38 4 platform for Dropbox's customers.

09:38 5 And at the same time that this is all
09:38 6 going on, we know that the four people who are involved
09:38 7 in Motion Offense -- that's Mr. Gordon, it's
09:38 8 Mr. Morris, it's Mr. Kevin Zilka and Mr. Patrick
09:38 9 Caldwell -- they're all using Dropbox, and they're all
09:38 10 watching Dropbox launch new features.

09:39 11 So on October 3rd, 2017 two
09:39 12 continuation-in-part patent applications are filed,
09:39 13 along with a request that they be backdated to
09:39 14 September of 2012.

09:39 15 Now, remember this: No Motion Offense
09:39 16 witness came into this courtroom and explained why
09:39 17 those continuation-in-part patent applications were
09:39 18 filed, how they were different from the original
09:39 19 continuation -- or excuse me -- the original
09:39 20 applications that were filed in September of 2012 or
09:39 21 who actually wrote them.

09:39 22 Mr. Morris didn't say that he wrote those
09:39 23 patent applications. Mr. Gordon didn't agree that he
09:39 24 wrote the patent applications. And the guy who signed
09:39 25 the patent applications in October of 2017 when they

09:40 1 were submitted to the Patent Office -- you saw his
09:40 2 video testimony, that was Mr. Caldwell -- he said he
09:40 3 couldn't remember if he was involved with it at all.

09:40 4 Now, what we do know based on what we've
09:40 5 seen is that whoever wrote those patent applications
09:40 6 was looking at Dropbox, and they were trying to write
09:40 7 new patent applications to set up a lawsuit.

09:40 8 The writer of these new patent
09:40 9 applications in October of 2017 was trying to get into
09:40 10 court with patents and assert them against Dropbox's
09:40 11 customers to find a way to claim a piece of the work
09:40 12 that Dropbox and its engineers had done.

09:40 13 Now, Mr. Devlin -- and of course, they've
09:40 14 done it without seeing these patents or knowing
09:40 15 anything about Motion Offense, Mr. Morris or the
09:41 16 patents.

09:41 17 Now, Mr. Devlin has told you, and he'll
09:41 18 continue to tell you, that that doesn't matter, that
09:41 19 you don't have to know about a patent in order to
09:41 20 infringe it. But it does matter because you're not
09:41 21 supposed to get a patent for something that you didn't
09:41 22 invent, and that's why it matters.

09:41 23 And now, the one thing that both
09:41 24 Mr. Morris and Mr. Gordon said was that we're here
09:41 25 today because they were forced to sue to get Dropbox's

09:41 1 attention.

09:41 2 What are they talking about?

09:41 3 Dropbox didn't know about any of these
09:41 4 patents, didn't know about Motion Offense. Motion
09:41 5 Offense didn't reach out to anyone.

09:41 6 Instead, they sued a grocery store. And
09:41 7 without warning, they sued them just for being a
09:41 8 Dropbox customer. And they said that Motion Offense
09:42 9 was entitled to a cut of the money that that store was
09:42 10 making from selling groceries.

09:42 11 That's what happened here. There's no
09:42 12 credible way to say that Dropbox is the bad guy or that
09:42 13 Dropbox's obstinance is the reason that we're here. We
09:42 14 didn't know anything about these people.

09:42 15 The new matter in the patent applications
09:42 16 was based on what the writer of those applications saw
09:42 17 when they looked at Dropbox.

09:42 18 But, as you now know, there are certain
09:42 19 things that they didn't see, and that's the source
09:42 20 code.

09:42 21 But they wrote the patents on Dropbox,
09:42 22 and they tried to cover it.

09:42 23 Then, instead of coming to Dropbox and
09:42 24 asking us to look at the patents or suing us directly,
09:42 25 they sued a grocery store who was a Dropbox customer.

09:43 1 So what is the explanation for that type
09:43 2 of aggressive behavior?

09:43 3 You have the answer from the evidence
09:43 4 this week. Mr. Gordon himself told you that lawsuits
09:43 5 are expensive. And they're especially expensive if you
09:43 6 have a company with real employees who are working on a
09:43 7 real business because you have to take those employees
09:43 8 away from the innovation they're doing and the products
09:43 9 they're working on to focus their attention on the
09:43 10 lawsuit.

09:43 11 So when these types of entities like
09:43 12 Motion Offense want to make money, they sue. And they
09:43 13 expect that people or companies will just pay them in
09:43 14 order to avoid the cost and the distraction of the
09:43 15 litigation.

09:43 16 Motion Offense was probably hoping that
09:43 17 would happen when it sued Sprouts, but instead, we at
09:43 18 Dropbox came and we filed the lawsuit to protect
09:44 19 Sprouts and to protect all Dropbox users from this type
09:44 20 of aggression.

09:44 21 And if Motion Offense really believed
09:44 22 that Dropbox is infringing these patents, why did it
09:44 23 sue Sprouts instead of suing Dropbox? What's the
09:44 24 explanation for that?

09:44 25 Well, you know the explanation for that

09:44 1 from what you've heard this week as well. Sprouts
09:44 2 doesn't have Dropbox's source code. So Sprouts can't
09:44 3 defend itself. And that was the Motion Offense plan.

09:44 4 Now, let me take you to the evidence.
09:44 5 And I'm going to start with the evidence that there is
09:44 6 no infringement.

09:44 7 As His Honor has instructed you, it is
09:44 8 Motion Offense's burden to prove infringement of each
09:44 9 asserted claim. And for this, Motion Offense brought
09:45 10 you Dr. Akl. He was their only witness on the issue of
09:45 11 infringement.

09:45 12 And as you observed this week, there were
09:45 13 a lot of things that Dr. Akl failed to do. And there
09:45 14 were a lot of things that Dr. Akl just did not know.
09:45 15 His testimony of infringement is simply not credible.

09:45 16 Now, as you know, and as Mr. Devlin
09:45 17 mentioned, we didn't go through every element of every
09:45 18 claim during the course of this trial that Dropbox
09:45 19 doesn't meet because one of the very first claim
09:45 20 limitations of every asserted claim is not met.

09:45 21 And as His Honor has told you, that's
09:45 22 enough. One element's not met, you're done. There's
09:45 23 no infringement.

09:45 24 And every single asserted claim in this
09:45 25 case requires that certain interfaces be displayed

09:46 1 using hypertext markup language-equipped code or HTML
09:46 2 code.

09:46 3 We can see that here on the slide. The
09:46 4 limitation is: Cause, at a first node, display of at
09:46 5 least one first interface "... " utilizing first
09:46 6 hypertext markup language-equipped code.

09:46 7 And as you know from the testimony this
09:46 8 week, Dropbox does not do that.

09:46 9 Now, here are the five so-called first
09:46 10 user interfaces that Dr. Akl said meet this claim
09:46 11 limitation. This is everything he pointed to.

09:46 12 And the evidence at this trial was
09:46 13 unequivocal that Dropbox does not use any code
09:46 14 containing HTML to cause their display at all. A
09:46 15 different computer language which is called JavaScript
09:46 16 is what causes the display of each of these interfaces.
09:47 17 And for that reason, there is no infringement.

09:47 18 You heard from Jason Terk, the software
09:47 19 engineer at Dropbox. He oversees seven teams of
09:47 20 software engineers there, and he spends about
09:47 21 25 percent of his time reading or writing Dropbox
09:47 22 source code.

09:47 23 And he looked at the source code for each
09:47 24 of these dialogue boxes, and he told you that they are
09:47 25 displayed using JavaScript without any HTML at all.

09:47 1 That was credible testimony.

09:47 2 And the reason it's credible is Mr. Terk
09:47 3 actually showed you the relevant JavaScript source
09:47 4 code. He went through -- you'll remember I put it up
09:47 5 on the projector here, and he showed it to you, and we
09:47 6 talked about it.

09:47 7 Motion Offense's lawyers didn't ask him a
09:47 8 single question about that source code. His testimony
09:48 9 about JavaScript is completely unrebutted, and so is
09:48 10 his testimony that the display of those dialogue boxes
09:48 11 is not caused by any HTML.

09:48 12 And as importantly, he looked at the
09:48 13 source code that Dr. Akl identified. You'll remember
09:48 14 Dr. Akl identified exactly three source code paths or
09:48 15 files that he said illustrated that Dropbox meets this
09:48 16 limitation of using HTML code.

09:48 17 Mr. Terk went through each one of them.
09:48 18 He told you they're irrelevant to those dialogue boxes
09:48 19 that are being displayed. They have nothing to do
09:48 20 whatsoever with the display of those dialogue boxes.

09:48 21 Dr. Akl had pointed to the wrong files.
09:48 22 He hadn't pointed to the relevant source code files.
09:48 23 And the relevant source code files are the ones that
09:48 24 Mr. Terk walked you through and that don't have any
09:49 25 HTML in there at all.

09:49 1 The other thing that Mr. Terk explained,
09:49 2 as you'll remember, is that Dropbox purposely stopped
09:49 3 including HTML in the code that it used to display
09:49 4 folder share dialogue boxes starting in 2012.

09:49 5 That -- Dropbox reached the conclusion
09:49 6 that it would be preferable to have those dialogue
09:49 7 boxes displayed using only JavaScript and that Dropbox
09:49 8 completed that project of removing any HTML from the
09:49 9 code used to display those dialogue boxes before any of
09:49 10 these patents were filed or issued.

09:49 11 Then you heard from Dr. Gibbons. And he
09:49 12 explained that HTML-equipped code is code that contains
09:49 13 at least some HTML.

09:50 14 And that's entirely consistent with
09:50 15 everything you've seen in the patents, including those
09:50 16 claims that Mr. Devlin showed you yesterday and today.

09:50 17 They explain that the HTML code could be
09:50 18 entirely HTML, or they could be code with some HTML and
09:50 19 some other type of code in them.

09:50 20 That's exactly what they say. That's
09:50 21 exactly what Professor Gibbons said HTML-equipped code
09:50 22 means. And he explained that he reviewed all of the
09:50 23 evidence, and his conclusion was that Dropbox does not
09:50 24 infringe because it does not meet that claim element.

09:50 25 Now, again, the only witness Motion

09:50 1 Offense brought to you to talk about this was Dr. Akl.

09:50 2 Dr. Akl, who didn't get involved in this
09:50 3 case at all until more than two years after it had
09:50 4 started.

09:50 5 Dr. Akl, who didn't go to review the full
09:51 6 source code for Dropbox even though it was made
09:51 7 available to him.

09:51 8 And Dr. Akl, who just took the claims
09:51 9 that Motion Offense's lawyers had handed to him and
09:51 10 parroted back an opinion that every single one of them
09:51 11 is infringed.

09:51 12 And when it came to that HTML-equipped
09:51 13 code limitation, Dr. Akl presented no meaningful
09:51 14 evidence at all. All he said was that, quote, since
09:51 15 this is coming from a web page, it does meet the
09:51 16 utilizing HTML code.

09:51 17 That's not what the words of the claims
09:51 18 say. The words of the claims say: Cause to be
09:51 19 displayed using HTML-equipped code.

09:51 20 And he pointed to those three irrelevant
09:51 21 source code files that have nothing to do with the
09:51 22 dialogue boxes he said are the first interface in his
09:51 23 infringement analysis. He showed you nothing more.

09:52 24 So remember that you are the judges of
09:52 25 credibility. You're the judges of the witnesses'

09:52 1 credibility. And if you don't find Dr. Akl's testimony
09:52 2 on this point credible, then you must find that there
09:52 3 is no infringement, because that's the only evidence
09:52 4 that was put forward by Motion Offense. And it's
09:52 5 Motion Offense's burden.

09:52 6 He didn't show you that a single word of
09:52 7 HTML is used to display those interfaces. There is no
09:52 8 infringement.

09:52 9 Now, left with no credible evidence, you
09:52 10 saw what Mr. Devlin did during the trial and just now.
09:52 11 He interjected attorney argument to try to convince you
09:52 12 that the claims don't say what the claims say.

09:52 13 Remember when Mr. Devlin first asked
09:52 14 Dr. Akl what the term "HTML-equipped code" means?

09:53 15 Dr. Akl's response was -- or I shouldn't
09:53 16 say it's his response. This is what Mr. Devlin said:
09:53 17 So code equipped with HTML --

09:53 18 Yes.

09:53 19 -- right? Code that had -- that's either
09:53 20 all HTML or has some HTML in it. Code equipped with
09:53 21 HTML.

09:53 22 After the cross-examination, where it
09:53 23 became apparent that Dr. Akl hadn't identified any
09:53 24 source code files that are relevant to any of these
09:53 25 interfaces that use HTML, there was a big change in the

09:53 1 way that Mr. Devlin was presenting the meaning of those
09:53 2 terms.

09:53 3 He turned it around and he said: Okay.
09:53 4 If I use the phrase "a screwdriver equipped for a
09:53 5 Phillips-head screw," you with me?

09:53 6 Yeah.

09:53 7 And he said that would be -- that would
09:53 8 be something that would be -- have the ability to have
09:53 9 a Phillips-head screwdriver.

09:53 10 He changed the words. Instead of
09:54 11 "HTML-equipped code," he -- which means code equipped
09:54 12 with HTML, he tried to suggest that the claims only
09:54 13 require code that's equipped for use with HTML, which
09:54 14 is what he said again today. He said "equipped to work
09:54 15 with HTML."

09:54 16 That's not what the claim says. And you
09:54 17 understand the plain meaning of the claim language.

09:54 18 To the extent there's any confusion about
09:54 19 what these claims mean, you, of course, have them all
09:54 20 in your witness binders with the patents, and I
09:54 21 encourage you to take a look at what the words say.

09:54 22 Dropbox doesn't use that claim
09:54 23 limitation. There is no infringement. That's the end
09:54 24 of the story.

09:54 25 Now let me turn to invalidity.

09:54 1 Invalidity is our burden, and you've
09:54 2 heard many times, you will hear many times from
09:54 3 Mr. Devlin that that burden must be met by clear and
09:55 4 convincing evidence.

09:55 5 Professor Shamos did meet that clear and
09:55 6 convincing evidence standard in this case. The
09:55 7 evidence he presented was clear, and it was convincing.

09:55 8 And you'll remember that Professor
09:55 9 Shamos, who has expertise in patent law in addition to
09:55 10 being an expert on the technology, walked you carefully
09:55 11 through each and every element of each asserted claim.

09:55 12 And he showed you that they were all
09:55 13 present -- all the folder sharing claim elements were
09:55 14 present in Dropbox 2011, and that all the file sharing
09:55 15 patents claim limitations were present or obvious in
09:55 16 Dropbox 2011 AirDropper.

09:55 17 And the important thing is that he showed
09:55 18 you the evidence of that. For each limitation, he
09:55 19 showed you the specific evidence of how Dropbox worked
09:56 20 in 2011 or Dropbox AirDropper worked in 2011, and then
09:56 21 he mapped it right to the claim language to show you
09:56 22 each element of the claim was there.

09:56 23 And he concluded that Motion Offense's
09:56 24 patent claims are invalid.

09:56 25 There was a lot of evidence. It was

09:56 1 ours. We're not going to parade back through it in
09:56 2 detail right now.

09:56 3 But this is an example of the evidence
09:56 4 that Professor Shamos gave you with respect to one of
09:56 5 the claims to show that Dropbox 2011 anticipates.

09:56 6 And his testimony was backed up by the
09:56 7 people who did the actual work. Dropbox's software
09:56 8 engineers.

09:56 9 Remember that Mr. Belanger showed you the
09:56 10 Dropbox mobile app which displayed icons and file
09:56 11 names? That is the representations that we're talking
09:56 12 about here. And it did it without downloading the file
09:57 13 to the phone until the user clicked to open the file or
09:57 14 folder.

09:57 15 It's the same thing as what Smart Sync is
09:57 16 doing on the desktop, the mobile app was doing on the
09:57 17 mobile device in 2009.

09:57 18 Now, you also saw that with respect to
09:57 19 the Dropbox 2011 AirDropper system, that that very
09:57 20 clearly had file requests, a file-request feature, just
09:57 21 like the one that they're accusing of infringement in
09:57 22 this case, but it had it by October of 2010.

09:57 23 And Professor Shamos showed you the
09:57 24 source code -- and I'll get to it in a moment,
09:57 25 Mr. Devlin was animated about that -- that allowed a

09:57 1 user to select a deadline. That was right in the
09:58 2 source code for AirDropper.

09:58 3 Now, you'll recall it was yesterday when
09:58 4 Mr. Devlin cross-examined Professor Shamos. It was
09:58 5 aggressive to say the least. Mr. Devlin really tried
09:58 6 to go after Dr. Shamos.

09:58 7 I think if you think back, you'll
09:58 8 remember that the majority of what Mr. Devlin did in
09:58 9 that cross-examination was to try and make the point
09:58 10 that the patent examiner had issued these patents.

09:58 11 Now, of course, that's the case every
09:58 12 time there's a patent lawsuit. Necessarily, a patent
09:58 13 examiner has issued the patents.

09:58 14 And you know from what Professor Shamos
09:58 15 said yesterday that this was a particularly aggressive
09:58 16 swamping of the examiner with documents, tens and tens
09:59 17 and tens of thousands of pages of documents, more than
09:59 18 a single human being could ever reasonably get to in
09:59 19 the time that they have to review patent applications.

09:59 20 Why is it that Mr. Devlin went to such
09:59 21 great lengths, that he was so aggressive on this point
09:59 22 that the patent examiner had materials and that the
09:59 23 patents were still issued?

09:59 24 The Judge has given you the instructions.
09:59 25 You know that it's your job to look at the evidence in

09:59 1 this case and make a determination about whether that
09:59 2 evidence shows that the claims were invalid.

09:59 3 Why was Mr. Devlin so aggressive in
09:59 4 saying that you shouldn't do your job because the
09:59 5 patent examiner had issued the claims?

09:59 6 The only real point of substance that
09:59 7 Mr. Devlin included in his cross-examination was that
09:59 8 the AirDropper source code doesn't teach the use of a
10:00 9 date or time in exactly the same way in the claims.

10:00 10 But you'll remember that Professor Shamos
10:00 11 had already told you that he was relying on obviousness
10:00 12 for these claims, that the deadline was in AirDropper.
10:00 13 You've seen the source code. You saw it again this
10:00 14 morning.

10:00 15 He was relying on obviousness for certain
10:00 16 claim limitations because, as he told you, in that
10:00 17 second interface, the message that's going to go out
10:00 18 with the request, there's no deadline shown. He was
10:00 19 very upfront with you.

10:00 20 Mr. Devlin didn't make any points during
10:00 21 the cross-examination that Professor Shamos hadn't
10:00 22 already told you during his direct.

10:00 23 And when Dr. Akl took the stand to
10:00 24 respond to Professor Shamos yesterday, he had almost
10:00 25 nothing to say.

10:00 1 He spoke for about five minutes. And the
10:00 2 only thing he said was that Dropbox's mobile
10:01 3 application from 2009 doesn't invalidate the claims
10:01 4 because the invention doesn't cover mobile phones as
10:01 5 they worked back then. He said mobile phones didn't
10:01 6 have file explorer interfaces, which Professor Shamos
10:01 7 had explained exactly how they did.

10:01 8 You have the tool to evaluate the
10:01 9 credibility of that testimony with you right now. It's
10:01 10 in the patents. When you hear, and he argued it this
10:01 11 morning, Mr. Devlin say that these patents aren't about
10:01 12 the types of mobile phones that existed back then, look
10:01 13 at the patents themselves. Look, for example, at the
10:01 14 '215 patent, Column 7, Lines 24 to 33. They tell you
10:01 15 that the invention applies to mobile devices.

10:01 16 So the claims are all invalid based on
10:01 17 Dropbox 2011 and Dropbox 2011 AirDropper.

10:02 18 Now, let me move on to the priority date
10:02 19 issue just briefly.

10:02 20 As His Honor instructed you yesterday, if
10:02 21 Motion Offense wants to claim priority back to 2012, to
10:02 22 backdate those applications, it's Motion Offense's
10:02 23 burden.

10:02 24 Dr. Akl presented almost no testimony to
10:02 25 meet that burden. Mr. Devlin showed you the only

10:02 1 things that Dr. Akl pointed you to are those two
10:02 2 paragraphs in the -- in the one 2012 patent
10:02 3 applications, Paragraphs 73 and 51.

10:02 4 You ought to look at those when you go
10:02 5 back to the jury room. It's PTX-1333. See if you see
10:02 6 the inventions in the claims in those paragraphs.

10:02 7 Contrast that with what you heard
10:02 8 Professor Shamos explain. He pointed you to exactly
10:02 9 what was new, that in the 2017 applications, for the
10:02 10 first time, there were massive changes to the summary,
10:02 11 and the claims started to refer to the generation of an
10:03 12 e-mail by a node other than the first node or the
10:03 13 second node.

10:03 14 That was all new in 2017. You will not
10:03 15 see any evidence in those paragraphs to suggest
10:03 16 otherwise.

10:03 17 Now, let me turn briefly to -- oh, let me
10:03 18 make one point, because I think there might have been
10:03 19 some confusion.

10:03 20 If the priority date is September -- is
10:03 21 October 2017, then you must consider Dropbox 2017 to be
10:03 22 prior art, because it predates that priority date.

10:03 23 Professor Shamos explained to you that if
10:03 24 you apply Motion Offense's infringement theory to
10:03 25 Dropbox 2017, it would invalidate the patents.

10:03 1 So what he's saying is the claim either
10:03 2 has to be not infringed, or it must be invalid if the
10:03 3 priority date is 2017, because there's no difference
10:03 4 between what Dropbox was doing then and what it does
10:03 5 now.

10:03 6 And that makes sense, because they were
10:04 7 looking at Dropbox when they wrote the claims.

10:04 8 He's not saying that there's
10:04 9 infringement. He was assuming the Motion Offense
10:04 10 theory. That's why there was that big capital letter
10:04 11 MOT at the top of each his slides on this topic.

10:04 12 So hopefully no confusion was caused
10:04 13 there during Mr. Devlin's presentation.

10:04 14 Now, let me turn very briefly to the
10:04 15 question of damages, and I'm not going to spend much
10:04 16 time here. The damages in this case are zero.

10:04 17 Look at the jury instructions. You'll
10:04 18 remember Mr. Dell's testimony. He admitted it. If
10:04 19 there's no infringement, damages are zero. If the
10:04 20 claims are invalid, damages are zero.

10:04 21 And I'll say, Mr. Devlin -- Mr. Dell was
10:04 22 a polished witness. When we looked under the hood of
10:04 23 his analysis, we saw it was a clunker. It was based on
10:04 24 surveys that were done before any of these features
10:05 25 came out. It was based on surveys of people who aren't

10:05 1 even Dropbox users, and he didn't account for basic
10:05 2 expenses.

10:05 3 So let me say again that this case is
10:05 4 important to Dropbox and its customers. And we're very
10:05 5 grateful to you for your service.

10:05 6 Once I sit down, I won't have another
10:05 7 opportunity to speak to you before you render your
10:05 8 verdict. Mr. Devlin will. And that's just the way our
10:05 9 system works, because Motion Offense has the burden of
10:05 10 proving its case.

10:05 11 But because of that, when he stands back
10:05 12 up, I need you to step into my role. I need you to ask
10:05 13 yourself, if Dropbox did have the opportunity to
10:05 14 respond to what Mr. Devlin is saying, what would
10:05 15 Dropbox say?

10:05 16 And if you hear something new that you
10:05 17 haven't heard yet, ask yourself, why am I hearing about
10:05 18 this for the very first time in this trial at a point
10:05 19 in time when Motion Offense knows Dropbox can't respond
10:06 20 to it?

10:06 21 We've been here all week. It's not
10:06 22 because there wasn't time to raise that issue earlier.
10:06 23 It's because there's a very good response to that issue
10:06 24 that they don't want you to hear.

10:06 25 So now let's remember what's going on

10:06 1 here. Dropbox software engineers did the work. In
10:06 2 October of 2017, the Motion Offense people looked at
10:06 3 the patents, and they did what they did.

10:06 4 If that doesn't sound like the way the
10:06 5 patent system is supposed to work to you, it's because
10:06 6 it's not. And if you follow the law and apply it
10:06 7 faithfully to the evidence of this case, it won't work
10:06 8 here.

10:06 9 Thank you again. It's truly been a great
10:06 10 honor to present this case to you.

10:06 11 CLOSING ARGUMENT ON BEHALF OF THE PLAINTIFF

10:06 12 MR. DEVLIN: Heard a couple arguments I'm
10:07 13 going to need to address quickly.

10:07 14 The notion that Mr. Morris wanted to make
10:07 15 his invention different from Dropbox in 2012, true. Of
10:07 16 course, it's different than Dropbox back then.

10:07 17 The notion that it was different from the
10:07 18 cloud, false. You saw the evidence right from the
10:07 19 application. It talks about HTML. It talks about
10:07 20 JavaScript. That's the cloud. That's what Mr. Morris
10:07 21 was talking about back in 2012.

10:07 22 There was an accusation that somehow I
10:07 23 told you that it doesn't matter whether Dropbox knew of
10:07 24 these patents or not, that I made that up. The Judge
10:07 25 told you. It's right in your instructions, doesn't

10:07 1 matter if Dropbox knew of the patents.

10:07 2 I'm going to take this down because this
10:07 3 is wrong, that somehow the idea was abandoned. And
10:07 4 other things are wrong on there that we've talked
10:07 5 about.

10:07 6 We heard that Dr. Akl was our only
10:07 7 evidence on infringement. Turned out that was wrong.
10:07 8 Dr. Shamos gave us evidence on infringement. He didn't
10:08 9 say the claims weren't infringed. His analysis shows
10:08 10 that if the patent claims get that priority date in
10:08 11 2012, just like the Patent Office found, then using
10:08 12 Dr. Analysis -- Dr. Akl's analysis, there's
10:08 13 infringement.

10:08 14 Now, I got somehow accused of an
10:08 15 aggressive cross-examination. Of course. After juries
10:08 16 and judges, the next most important thing in our system
10:08 17 is cross-examination because cross-examination reveals
10:08 18 the truth.

10:08 19 You heard about this HTML-equipped code.
10:08 20 You don't throw logic out of the window. When we
10:08 21 looked at the claims as a whole, which Mr. Gibbons
10:08 22 apparently hadn't done, we saw that when the patentee
10:08 23 wanted to require HTML, the patentee didn't need to say
10:08 24 HTML-equipped. The patentee simply said, you need to
10:08 25 have HTML.

10:08 1 There were words for requiring HTML.

10:08 2 It's HTML. HTML-equipped is different. That's

10:09 3 JavaScript. It's the combinations. It's exactly what

10:09 4 they're doing.

10:09 5 We heard about obviousness. I thought we

10:09 6 would. And the notion that we just heard, that when

10:09 7 Dr. Shamos was telling you that that source code

10:09 8 related to a request when it didn't, that he was

10:09 9 talking about obviousness, to hear that right now after

10:09 10 we just looked at the testimony with him tying that

10:09 11 deadline to a request, that's shocking.

10:09 12 You get to decide what that means.

10:09 13 Patent experts -- Patent Office experts

10:09 14 looked at priority. I'm not going to deal with that

10:09 15 anymore.

10:09 16 Now, he talked about a bad guy. There's

10:09 17 no bad guy here. There doesn't need to be a bad guy.

10:09 18 Dropbox had some great ideas. They did a

10:09 19 bunch of work. They developed a system. They deserve

10:09 20 their success. They deserve fair compensation, but so

10:10 21 does Mr. Morris for his contribution.

10:10 22 And is it smaller than Dropbox's? Sure.

10:10 23 That's why he's getting less than

10:10 24 1 percent under that reasonable royalty. Dropbox keeps

10:10 25 more than 99 percent of the revenue. That's fair.

10:10 1 And we are glad to be here. We're
10:10 2 exactly where we want to be. We don't want to get
10:10 3 little settlements from grocery stores. We want to be
10:10 4 right here in front of a jury, finally able -- someone
10:10 5 finally able to tell Dropbox, please pay a fair
10:10 6 compensation for your use of patented inventions. You
10:10 7 have that power.

10:10 8 And that's why we are here for that
10:10 9 reasonable royalty, fair compensation for Dropbox's use
10:10 10 of Mr. Morris' patented invention.

10:10 11 Thank you very much again for your time
10:10 12 and attention this week. We know it's a sacrifice. I
10:10 13 know I speak on behalf of everyone in the courtroom.
10:10 14 Thank you for your time and your service.

10:11 15 THE COURT: Thank you, sir.

10:11 16 Ladies and gentlemen, it is now your duty
10:11 17 to deliberate and to consult with one another in an
10:11 18 effort to reach a verdict. Each of you must decide the
10:11 19 case for yourselves and only after an impartial
10:11 20 consideration of the evidence with your fellow jurors.

10:11 21 During your deliberations, do not
10:11 22 hesitate to reexamine your own opinions and change your
10:11 23 minds if you are convinced that you were wrong. But
10:11 24 don't give up honest beliefs because other jurors think
10:11 25 differently or just to finish the case.

10:11 1 Remember at all times, you are the judges
10:11 2 of the facts.

10:11 3 You have been allowed to take notes
10:11 4 during trial. Any notes that you took during this
10:11 5 trial are only aids to memory. If your memory differs
10:11 6 from your notes, you must rely on your memory and not
10:11 7 your notes. The notes are not evidence.

10:11 8 If you did not take notes, rely on your
10:11 9 own independent recollection of the evidence and do not
10:11 10 be unduly influenced by notes others might have taken.

10:11 11 Notes are not entitled to greater weight
10:12 12 than your independent recollection or impression that
10:12 13 each juror has about the testimony.

10:12 14 When you go to the jury room to
10:12 15 deliberate, you may take a copy of the charge with you.
10:12 16 I will have the exhibits back there for you
10:12 17 electronically, and you will have your notes.

10:12 18 Select a jury foreperson to guide in your
10:12 19 deliberations and to speak for you here in the
10:12 20 courtroom.

10:12 21 Your verdict must be unanimous.

10:12 22 After you have reached a unanimous
10:12 23 verdict, your jury foreperson will fill out the answers
10:12 24 to the written questions on the verdict form. He or
10:12 25 she will sign and date it.

10:12 1 After you've concluded your service and
10:12 2 I've discharged you, you are not required to talk to
10:12 3 anyone about the case. And I'll have a couple of
10:12 4 additional thoughts on that when you come back, and I
10:12 5 read the verdict.

10:12 6 If you need to communicate with me during
10:12 7 your deliberations, the jury foreperson should write
10:12 8 the inquiry and give it to the court security officer.

10:12 9 After consulting with the attorneys, I
10:12 10 will respond, either in writing or by meeting with you
10:12 11 in the courtroom. Very unlikely we will meet in the
10:13 12 courtroom.

10:13 13 Keep in mind, however, that you must
10:13 14 never disclose to anyone, not even me, your numerical
10:13 15 division at any point.

10:13 16 Ladies and gentlemen, you may be excused
10:13 17 to the jury room. If you would favor us with figuring
10:13 18 out who the foreperson is and -- as quickly as possible
10:13 19 and getting a note to William or whoever the security
10:13 20 officer is that's out there. And after that, you may
10:13 21 begin your deliberations.

10:13 22 THE BAILIFF: All rise.

10:13 23 (Jury exited the courtroom.)

10:13 24 THE COURT: You may be seated.

10:13 25 So what I would ask you all to do,

10:13 1 please, is stay in the courtroom. This is the counsel.
10:14 2 I don't care about the folks behind the bar. But stay
10:14 3 in the courtroom until we get back the first note
10:14 4 telling us who the foreperson is. And I will let you
10:14 5 know who that is.

10:14 6 After that, I would like to have someone
10:14 7 available on the floor. You all may stay -- you're
10:14 8 welcome to stay in the courtroom. You're welcome not
10:14 9 to stay in the courtroom, but if you don't, please stay
10:14 10 in one of the rooms that's adjacent so my clerk can get
10:14 11 you if we have a note.

10:14 12 Generally speaking, what I do is I will
10:14 13 read the note to you, and then I will tell you what the
10:14 14 response is that I'm going to give. I handwrite it,
10:14 15 and then I ask if there are any objections.

10:14 16 Occasionally, if I think I need
10:14 17 assistance, I'll ask y'all for it on the record.

10:14 18 But most likely I won't ask you because
10:14 19 most likely the answer will be, ladies and gentlemen,
10:14 20 you have all the evidence. Please continue your
10:15 21 deliberations. And I don't usually say anything beyond
10:15 22 that.

10:15 23 So if you all will stay in here, as soon
10:15 24 as we have the note with the jury foreperson, I'll come
10:15 25 back and let you know who that is, and we will go from

10:15 1 there.

10:15 2 If we get to the point it's around lunch,
10:15 3 then I may let the jury know I'm going to excuse you
10:15 4 all and take a quick lunch break at around noon, and
10:15 5 they can continue to deliberate. We're providing them
10:15 6 lunch. And as soon as we have a verdict, obviously we
10:15 7 will let you know.

10:15 8 I thought the closings were quite good.
10:15 9 I enjoyed them very much. So I appreciate you all.

10:15 10 I'll be back in a few minutes.

10:15 11 THE BAILIFF: All rise.

10:15 12 (Recess taken.)

10:32 13 THE COURT: We had a note. The jury
10:32 14 foreman is Cesar Calderon, the gentleman who's on the
10:32 15 far left.

10:40 16 (Recess taken.)

01:03 17 THE COURT: I have Jury Note No. 2.

01:03 18 Can Dropbox's file share patents be
01:03 19 shared with the jury?

01:03 20 And so I'm going to tell them -- I'm
01:03 21 going to write down and tell you formally, but I
01:03 22 essentially am going to tell them they have all the
01:03 23 evidence in the case, and they -- you know, and
01:03 24 continue to deliberate.

01:03 25 It's going to be a little more formal

01:03 1 than that, but...

01:03 2 MR. DEVLIN: All right. Thank you, Your
3 Honor.

01:04 4 THE COURT: I have written down: Ladies
01:04 5 and gentlemen, you have all of the evidence that was
01:04 6 admitted in the case. Please continue your
01:04 7 deliberations.

01:04 8 Any objections to that?

01:04 9 MR. DEVLIN: No objection. No, Your
01:04 10 Honor.

01:04 11 MR. LANTIER: No objection, Your Honor.

01:04 12 THE COURT: Okay.

01:04 13 (Recess taken.)

01:42 14 THE BAILIFF: All rise.

01:42 15 THE COURT: We have a verdict. He's
01:42 16 going to bring the jury in.

01:43 17 (Jury entered the courtroom.)

01:44 18 THE COURT: Thank you. You may be
01:44 19 seated.

01:44 20 Ladies and gentlemen, it's my
01:44 21 understanding that you have a verdict?

01:44 22 FOREPERSON: Yes, Your Honor.

01:44 23 THE COURT: It's also my understanding,
01:44 24 Mr. Calderon, that you are the foreperson?

01:44 25 FOREPERSON: Yes, sir.

01:44 1 THE COURT: Would you hand the verdict to
01:44 2 the CSO?

01:44 3 I would ask the jury, as I read the
01:44 4 verdict, to listen carefully because when I finish, I'm
01:44 5 going to ask everyone on the jury who agrees with it to
01:44 6 stand up to signify that it is a unanimous verdict.

01:44 7 So on Question No. 1: For each asserted
01:44 8 patent claim, has Motion Offense proven by a
01:44 9 preponderance of the evidence that Dropbox has
01:44 10 infringed?

01:44 11 The '215 patent, Claim 3: No.

01:44 12 '158 patent, Claim 6: No.

01:44 13 '158 patent, Claim 14: No.

01:44 14 The '052 patent, Claim 12: No.

01:45 15 The '052 patent, Claim 20: No.

01:45 16 The '052 patent, Claim 27: No.

01:45 17 The '548 patent, Claim 46: No.

01:45 18 The '215 patent, Claim 18: No.

01:45 19 With regard to Question No. 2:

01:45 20 With respect to the '158 patent, Claim 3,
01:45 21 the answer is no.

01:45 22 The '158 patent, Claim 6, the answer is
01:45 23 no.

01:45 24 The '158 patent, Claim 14, the answer is
01:45 25 no.

01:45 1 The '052 patent, Claim 12, the answer is
01:45 2 no.

01:45 3 With regard to the '052 patent, Claim 20,
01:45 4 the answer is no.

01:45 5 The '052 patent, Claim 27, the answer is
01:45 6 no.

01:45 7 With regard to the next question: For
01:45 8 each asserted patent claim, has Motion Offense proven
01:45 9 by a preponderance of the evidence that the claim is
01:45 10 entitled to a priority date of September 25th, 2012?

01:45 11 With respect to the '548 patent, Claim
01:45 12 46, the answer is no.

01:45 13 With regard to the '215 patent, Claim 18,
01:46 14 the answer is no.

01:46 15 With regard to the next question: For
01:46 16 each asserted claim, has Dropbox proven by clear and
01:46 17 convincing evidence the claim is invalid and
01:46 18 anticipated -- I'm sorry -- as anticipated or obvious
01:46 19 in light of the prior art?

01:46 20 With respect to the '158 patent, Claim 3,
01:46 21 the answer is yes.

01:46 22 With regard to the '158 patent, Claim 6,
01:46 23 the answer is yes.

01:46 24 '158 patent, Claim 14: Yes.

01:46 25 The '052 patent, Claim 12: Yes.

01:46 1 The '052 patent, Claim 20, the answer is
01:46 2 yes.

01:46 3 The '052 patent Claim 27, the answer is
01:46 4 yes.

01:46 5 The next question: For each asserted
01:46 6 patent claim, has Dropbox proven by clear and
01:46 7 convincing evidence that the claim is invalid as
01:46 8 anticipated or obvious in light of the prior art?

01:46 9 With regard to the '548 patent, Claim 46,
01:46 10 the answer is yes.

01:46 11 With regard to the '215 patent, Claim 18,
01:46 12 the answer is yes.

01:46 13 There is no answer on the page with
01:46 14 respect to damages.

01:46 15 It is signed, dated by Mr. Calderon.

01:47 16 Would everyone on the jury who heard the
01:47 17 verdict and who agrees with it please stand?

01:47 18 Thank you. You may be seated.

01:47 19 Ladies and gentlemen, first, let me thank
01:47 20 you so very much for your time here this week. You had
01:47 21 the great benefit of having exceptional lawyers who
01:47 22 made, I thought, the case and trial understandable. I
01:47 23 won't go so far as to say enjoyable, but for a patent
01:47 24 trial, I thought it was outstanding.

01:47 25 I think we have the greatest country in

01:47 1 the world because we're the only country in the world
01:47 2 where, if there are folks who have a dispute, they
01:47 3 believe their patents have been infringed and you have
01:47 4 another company who says, no, we didn't, they don't
01:47 5 have me to decide it. They have seven citizens who
01:47 6 have no interest in their case come in and hear the
01:47 7 evidence. And I think that's why we have such a
01:48 8 phenomenal system.

01:48 9 Couple things. I've told you in the past
01:48 10 that you could not speak about the case. That is
01:48 11 lifted with a couple of exceptions.

01:48 12 One, with respect to whatever you all
01:48 13 discussed during your deliberations, in -- I think
01:48 14 there's a sanctity of the jury room, and I would ask
01:48 15 that you not reveal to anyone what it was you all
01:48 16 discussed while you were deliberating. I think that
01:48 17 should remain private.

01:48 18 Number two, we had some source code shown
01:48 19 during the course of the trial. We sealed the
01:48 20 courtroom. If you would be so kind as to not discuss
01:48 21 what you may have seen that was -- we considered to be
01:48 22 confidential, that would be a great thing.

01:48 23 Other than that, you are -- it's America.
01:48 24 You're free to talk to anyone you want. Not talk to
01:48 25 anyone you want. With two exceptions.

01:48 1 And that's the lawyers who are for the
01:48 2 plaintiff and the lawyers for the defendant. They
01:48 3 don't get to talk to you. That's my rule. And it's
01:49 4 one I enforce every time.

01:49 5 Now, if you want to say anything about
01:49 6 this on the Internet, if you want -- whatever media, I
01:49 7 don't know -- even know what they are, but my sons tell
01:49 8 me there are social media. If you want to discuss what
01:49 9 you did, it's America. Do whatever you want. Again,
01:49 10 please don't discuss what you said during
01:49 11 deliberations.

01:49 12 If you want to do research about any of
01:49 13 us or the case, you're free to do that now as well.

01:49 14 One final thing before I let you go is I
01:49 15 would very much like to thank you in person afterwards.
01:49 16 So I would ask you to stay a couple of extra minutes.

01:49 17 But if you all have had all of us that
01:49 18 you want and want to, you know, head for the barn,
01:49 19 you're welcome to do that as well.

01:49 20 But if you would do me the favor, I would
01:49 21 like to just come back there and thank you in person
01:49 22 for your service this week.

01:49 23 Having said all that, you are -- oh, one
01:49 24 more thing, and you may have been told. With respect
01:50 25 to your jury service, you all have fulfilled it. You

01:50 1 will not be coming back -- you will not be asked to
01:50 2 come back and serve again.

01:50 3 Now, five years from now, you might get
01:50 4 asked. But with respect to this jury term, you all
01:50 5 don't need to check in. Your names will be taken off
01:50 6 of the wheel or cigar box or whatever it is we use to
01:50 7 pick names. You all have done your duty for America,
01:50 8 and you don't need to -- you won't be asked to serve
01:50 9 again.

01:50 10 So having said that, you all are excused
01:50 11 to the jury room.

01:50 12 THE BAILIFF: All rise.

01:50 13 (Jury exited the courtroom.)

01:50 14 THE COURT: You may be seated.

01:50 15 Ladies and gentlemen, let me express my
01:51 16 gratitude for the trial. I thought the lawyers were
01:51 17 outstanding. I thought both sides did a phenomenal
01:51 18 job.

01:51 19 I usually have been pretty accurate in
01:51 20 predicting who I thought would win this case. And I
01:51 21 will tell you, when I looked to see what the verdict
01:51 22 was, I had absolutely no idea what it was going to be.

01:51 23 I thought both sides did a phenomenal
01:51 24 job, and I really -- I can't express enough -- if every
01:51 25 trial were like this, I would -- I should do this for

01:51 1 free. I shouldn't be paid because you all made it that
01:51 2 easy.

01:51 3 I know there's -- I've been sitting on
01:51 4 both sides of this verdict, so I am empathetic to and
01:51 5 sympathetic to both sides.

01:51 6 And so I'm sure, at least for one side,
01:51 7 there's not much I can say that will make you feel
01:51 8 better at the moment. All I can say is that I thought
01:51 9 everyone did a terrific job.

01:52 10 I hope I get to have all the lawyers who
01:52 11 appeared in this trial often back in the courtroom.
01:52 12 You all made it very easy.

01:52 13 So I hope you have a good weekend and
01:52 14 take care.

01:52 15 (Hearing adjourned.)

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1 UNITED STATES DISTRICT COURT)
2 WESTERN DISTRICT OF TEXAS)
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5 I, Kristie M. Davis, Official Court
6 Reporter for the United States District Court, Western
7 District of Texas, do certify that the foregoing is a
8 correct transcript from the record of proceedings in
9 the above-entitled matter.

10 I certify that the transcript fees and
11 format comply with those prescribed by the Court and
12 Judicial Conference of the United States.

13 Certified to by me this 29th day of May
14 2023.

15
16 /s/ Kristie M. Davis
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