

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

WSOU INVESTMENTS, LLC *
* February 10, 2025
VS. *
* CIVIL ACTION NO. 6:21-CV-128
CISCO SYSTEMS, INC. *

BEFORE THE HONORABLE ALAN D ALBRIGHT
JURY TRIAL PROCEEDINGS
Volume 1 of 3

APPEARANCES:

For the Plaintiff: Joseph M. Abraham, Esq.
Timothy Franklin Dewberry, Esq.
Folio Law Group PLLC
13492 Research Blvd.
Suite 120, No. 177
Austin, TX 78750

Alden K. Lee, Esq.
Alexandra Fellowes, Esq.
Katherine Bentfield, Esq.
Folio Law Group PLLC
1200 Westlake Ave. N., Suite 809
Seattle, WA 98109

Gregory Phillip Love, Esq.
Steckler Wayne Cherry & Love PLLC
PO Box 948
Henderson, TX 75653

For the Defendant: Michael E. Jones, Esq.
Shaun William Hasset, Esq.
Potter Minton PC
102 N. College, Suite 900
Tyler, TX 75702

Brian Rosenthal, Esq.
Katherine Dominguez, Esq.
Allen Kathir, Esq.
Ryan Jin, Esq.
Claire Santiago, Esq.
Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10016

KRISTIE M. DAVIS, OFFICIAL COURT REPORTER
U.S. DISTRICT COURT, WESTERN DISTRICT OF TEXAS (WACO)

1 Emily M. Whitcher, Esq.
2 Gibson, Dunn & Crutcher LLP
3 3161 Michelson Drive
4 Irvine, CA 92612

5 Court Reporter: Kristie M. Davis, CRR, RMR
6 PO Box 20994
7 Waco, Texas 76702
8 (254) 666-0904

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09:53 1 to get to this moment, to tell its side of the story.

09:53 2 And we get -- we only get to go second.

09:53 3 We have to wait for them to put on their evidence. And

09:53 4 I ask that you wait until all the evidence is put in.

09:53 5 I don't know if you've ever been accused of doing

09:53 6 something that you didn't do. It's kind of rough to

09:53 7 sit there and watch the other side tell their side of

09:53 8 the story.

09:53 9 Please wait till all the evidence is in,

09:53 10 and I know you will. And we thank you for your

09:53 11 attention. And I'll have a chance to talk to you at

09:53 12 the end of the case again.

09:53 13 Thank you very much.

09:53 14 THE COURT: Yes, sir.

09:53 15 MR. LOVE: Your Honor, Brazos calls our

09:53 16 first witness, Sheyanna Pietras, and she will be

09:53 17 examined by Katherine Bentfield -- I'm sorry --

09:53 18 Alexandra Fellowes. Sorry about that.

09:53 19 (The witness was sworn.)

09:54 20 MS. FELLOWES: Good morning, ladies and

09:54 21 gentlemen.

09:53 22 DIRECT EXAMINATION

09:53 23 BY MS. FELLOWES:

09:54 24 Q. Good morning, Ms. Pietras. Thank you for

09:54 25 being here this morning.

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09:54 1 So can I first ask you to introduce yourself
09:54 2 to the jury?

09:54 3 A. Sure. My name is Sheyanna Pietras.

09:55 4 Q. And where are you employed?

09:55 5 A. I'm employed at WSOU Investments, but we do
09:55 6 business as Brazos Licensing and Development.

09:55 7 Q. And how long have you been employed by Brazos?

09:55 8 A. Since November of 2020.

09:55 9 Q. And just so the jury can get to know you, are
09:55 10 you married?

09:55 11 A. Yes. I am. I've been married to my husband
09:55 12 for about four and a half years now.

09:55 13 Q. And do you have kids?

09:55 14 A. We do. We're a blended. We have a
09:55 15 19-year-old daughter, I have a 12-year-old daughter.
09:55 16 We have a two-, almost three-year-old son, and then
09:55 17 we're expecting our next one in May.

09:55 18 Q. Congratulations.

09:55 19 A. Thank you.

09:55 20 Q. So can you tell me, where did you go to
09:55 21 university?

09:55 22 A. I am originally from Florida, and so I did my
09:55 23 undergrad at Nova Southeastern University in Fort
09:55 24 Lauderdale in Florida, where I got my bachelor of
09:55 25 science in paralegal studies with a minor in business.

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09:55 1 And then I moved here to Texas in 2015, where I went to
09:56 2 Baylor Law School, graduated in July of 2019, and I
09:56 3 just actually finished my MBA at Grand Canyon
09:56 4 University.

09:56 5 Q. Where did you work before law school?

09:56 6 A. I worked at a couple places. I worked
09:56 7 in -- when I -- before I moved here, I worked in South
09:56 8 Florida with the Seminole Tribe of Florida,
09:56 9 Incorporated, their headquarters, as a legal intern.

09:56 10 And then I worked for Seminole Gaming, which
09:56 11 works within Hard Rock International, under their
09:56 12 general counsel there as a legal intern as well.

09:56 13 And then I went and helped out my sister in
09:56 14 Alabama for a few months, where I worked as a part-time
09:56 15 paralegal for a family law firm there, and then moved
09:56 16 here to Texas for law school.

09:56 17 Q. And where did you go to law school?

09:56 18 A. Baylor.

09:56 19 Q. Right. And where did you work after law
09:56 20 school?

09:56 21 A. I had originally had a document review job
09:56 22 that -- with a local firm. I believe they're located
09:56 23 in McGregor.

09:56 24 Q. So let's talk about your role at Brazos. And
09:57 25 remind me, when did you start working for Brazos?

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09:57 1 A. It was November of 2020.

09:57 2 Q. And what's your role at Brazos?

09:57 3 A. My current role is general counsel.

09:57 4 Q. Can you tell me a bit about your day-to-day as
09:57 5 general counsel?

09:57 6 A. Sure. My day-to-day is really just assisting
09:57 7 and helping out our outside counsel with any matters
09:57 8 with the documents, but I also manage the day-to-day
09:57 9 with the headquarters that are here in Waco.

09:57 10 And so I, you know, intake with the mail, I
09:57 11 upkeep our office, as well as anything to do with any
09:57 12 administrative things that may come up as far as our
09:57 13 formations and keeping up to date with the Secretary of
09:57 14 the State of Texas.

09:57 15 Q. Ms. Pietras, can I ask you to turn to the
09:57 16 document labeled DTX-347 in your binder, please?

09:57 17 A. Okay.

09:57 18 Q. Do you recognize this document?

09:57 19 A. I do.

09:57 20 Q. And what is this document?

09:58 21 A. It's our Certificate of Formation with the
09:58 22 State of Delaware. We were incorporated -- we were
09:58 23 incorporated in Delaware as many companies are.

09:58 24 MS. FELLOWES: Your Honor, I ask that we
09:58 25 move in DTX-347 into evidence.

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09:58 1 MR. JONES: No objection, Your Honor.

09:58 2 THE COURT: It'll be admitted.

09:58 3 MS. FELLOWES: And I realize now -- there
09:58 4 we go -- there was a button I was supposed to press.

09:58 5 (Off-the-record discussion.)

09:58 6 BY MS. FELLOWES:

09:58 7 Q. So when was Brazos formed?

09:58 8 A. It was formed in 2017.

09:58 9 Q. And where is Brazos located?

09:58 10 A. Our headquarters is located just on Austin
09:58 11 Ave. down the street.

09:58 12 Q. Okay. And how many employees does Brazos
09:58 13 have?

09:58 14 A. I am the only W-2 employee currently.

09:59 15 Q. What does Brazos do?

09:59 16 A. Brazos is in the business right now of, you
09:59 17 know, maintaining its portfolio of patents. I mean,
09:59 18 it's very similar to how you would maintain a portfolio
09:59 19 of real estates or, you know, other such things. I
09:59 20 just recently learned that you can maintain a portfolio
09:59 21 of cattle, which was interesting.

09:59 22 But it's kind of that same thing. It's more
09:59 23 of an investment. You use your property as -- for
09:59 24 other means. Whether you actually use it or not, you
09:59 25 utilize it in order to have an income.

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09:59 1 Q. Does Brazos make any products?

09:59 2 A. No. We do not.

09:59 3 Q. And is that a requirement for bringing a
09:59 4 lawsuit to enforce your intellectual property?

09:59 5 A. No. It's not. And again, it's kind of like
09:59 6 having a portfolio of real estate. You don't actually
09:59 7 have to utilize or use or live in that real estate
09:59 8 property. You can lease it out. You can use it for
09:59 9 agricultural. You can mine on it. Like, there are so
10:00 10 many other things you can do with it.

10:00 11 But you don't actually have to use it, and so
10:00 12 in our case, our '216 patent, we -- or any of our
10:00 13 patents, we don't make products, but that's not a
10:00 14 requirement for us to still have it and be our
10:00 15 property.

10:00 16 Q. So can I ask you to expand on that real estate
10:00 17 analogy? What makes a patent like a piece of property?

10:00 18 A. Well, each patent is unique in its own aspect
10:00 19 just like property is. I mean, you can have -- a condo
10:00 20 in Austin is going to be very different value than, you
10:00 21 know, a couple acres, even where I live down here in
10:00 22 Troy, Texas. They're going to be valued very
10:00 23 differently. But it doesn't mean that, you know,
10:00 24 they're worthless or, you know, they don't do anything.

10:00 25 And at the same time, I mean, you could have

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10:00 1 100 acres out in West Texas. You know, a few acres may
10:00 2 be good for, you know, for agriculture, for hay.
10:00 3 Another few acres may be good for cattle. Another few
10:00 4 acres, you may, you know, put some more money and
10:00 5 investigation into it and, you know, lo and behold,
10:01 6 there's oil underneath.

10:01 7 But, I mean, so it just goes to show that, you
10:01 8 know, each property's going to be different. Each
10:01 9 one's going to be valued different.

10:01 10 Q. And in your understanding, what contributes to
10:01 11 the value of a patent?

10:01 12 A. With a patent it kind of depends. It depends
10:01 13 on, you know, who -- who your lessee may be, just as in
10:01 14 real estate who your seller could be. It may be more
10:01 15 valuable to one than the other. I may not want to buy,
10:01 16 you know, a plot of land, you know, in the random place
10:01 17 in Houston, but it may be valuable to a developer.

10:01 18 I mean, so patents are kind of that same way.
10:01 19 And also, you know, how it can be used, how much it's
10:01 20 used, and how much research you put into it. I mean,
10:01 21 if you put in more digging and research and drilling
10:01 22 into it, then, you know, it's going to be worth more to
10:01 23 you than it would be in any other aspect.

10:01 24 Q. What's your understanding of the term "patent
10:01 25 licensing"?

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10:01 1 A. Patent licensing is essentially like renting.
10:02 2 I'm leasing or licensing someone to utilize the patent.
10:02 3 And so the same thing, again, with real estate. You
10:02 4 lease something over to someone for their use, but it's
10:02 5 still yours. It is still your piece of property.

10:02 6 And luckily with patents, most of the time
10:02 7 depending on, you know, what you negotiate in the
10:02 8 contract, you can lease the patent out to -- or license
10:02 9 the patent out to multiple users. And whereas real
10:02 10 estate, usually it's only your lessee. But, I mean, if
10:02 11 you have a building, you may be leasing out to multiple
10:02 12 tenants.

10:02 13 Q. What happens when you find out that someone is
10:02 14 using your technology and they don't want to take a
10:02 15 license voluntarily?

10:02 16 A. In that case, unfortunately, there's not much
10:02 17 you can do except to litigate. You know, when you have
10:02 18 a piece of property and you want somebody off of it
10:02 19 because they're using it and you don't want them to,
10:02 20 you can call the police and have them escorted off.
10:02 21 But, unfortunately for our case, that doesn't happen.
10:03 22 You can't just call the police and tell them to stop
10:03 23 using it. You have to, unfortunately, file a lawsuit
10:03 24 and litigate.

10:03 25

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10:03	1	[REDACTED]	[REDACTED]
10:03	2	[REDACTED]	[REDACTED]
10:03	3	[REDACTED]	[REDACTED]
10:03	4	[REDACTED]	[REDACTED]
10:03	5	[REDACTED]	[REDACTED]
10:03	6	[REDACTED]	[REDACTED]
10:03	7	[REDACTED]	[REDACTED]
10:03	8	[REDACTED]	[REDACTED]
10:03	9	[REDACTED]	[REDACTED]
10:03	10	[REDACTED]	[REDACTED]
10:03	11	[REDACTED]	[REDACTED]
10:03	12	[REDACTED]	[REDACTED]
10:03	13	[REDACTED]	[REDACTED]
10:03	14	[REDACTED]	[REDACTED]
10:03	15	[REDACTED]	[REDACTED]
10:03	16	[REDACTED]	[REDACTED]
10:03	17	[REDACTED]	[REDACTED]
10:04	18	[REDACTED]	[REDACTED]
10:04	19	[REDACTED]	[REDACTED]
10:04	20	[REDACTED]	[REDACTED]
10:04	21	[REDACTED]	[REDACTED]
10:04	22	[REDACTED]	[REDACTED]
10:04	23	[REDACTED]	[REDACTED]
10:04	24	[REDACTED]	[REDACTED]
10:04	25	[REDACTED]	[REDACTED]

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10:04 1 [REDACTED]
10:04 2 [REDACTED]
10:04 3 [REDACTED]
10:04 4 Q. Ms. Pietras, can I ask you to turn in your
10:04 5 binder to the document labeled JTX-001?
10:04 6 A. Okay.
10:04 7 Q. And do you recognize this document?
10:04 8 A. I do. It's our patent, '216 patent, from the
10:04 9 Patent and Trademark Office.
10:04 10 MS. FELLOWES: Your Honor, we move in
10:04 11 JTX-001.
10:04 12 MR. JONES: No objection, Your Honor.
10:04 13 THE COURT: Admitted.
10:04 14 BY MS. FELLOWES:
10:04 15 Q. How did Brazos come to own the '216 patent?
10:04 16 A. Well, the '216 patent was part of a portfolio
10:05 17 of patents that we did purchase from Nokia, its
10:05 18 affiliates and its entities back in 2017. Nokia is,
10:05 19 you know, just a great technological innovator at the
10:05 20 time, and this opportunity presented itself. And so
10:05 21 Brazos decided to take the investment.
10:05 22 Q. Do you know how many agreements were used in
10:05 23 order to transfer the patents between Alcatel-Lucent
10:05 24 and Brazos?
10:05 25 A. Between Nokia and the entities?

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10:05 1 Q. Yes.

10:05 2 A. Yeah. It was -- there was a patent purchase
10:05 3 agreement as well as following amendments. I believe
10:05 4 there was about seven documents in total.

10:05 5 Q. All right. I promise we won't go through them
10:05 6 all.

10:05 7 Now, I just said Alcatel-Lucent. You said
10:05 8 Nokia.

10:05 9 What is the relationship between
10:05 10 Alcatel-Lucent and Nokia?

10:05 11 A. Essentially one and the same. Nokia did
10:05 12 acquire Alcatel-Lucent. So -- and it kind of just
10:06 13 equates them to equal in my mind of, you know, Nokia
10:06 14 acquired Alcatel-Lucent. So it's one of its entities
10:06 15 and affiliates.

10:06 16 Q. I see.

10:06 17 Can I ask you to turn in your binder to the
10:06 18 document labeled PTX-247?

10:06 19 A. Okay.

10:06 20 Q. Do you recognize this document?

10:06 21 A. I do.

10:06 22 Q. What is this document?

10:06 23 A. It's the patent assignment cover sheet showing
10:06 24 the conveyance from Alcatel-Lucent to WSOU.

10:06 25 MS. FELLOWES: Your Honor, we ask to move

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10:06 1 in PTX-247.

10:06 2 MR. JONES: No objection, Your Honor.

10:06 3 THE COURT: Admitted.

10:06 4 MS. FELLOWES: Thank you.

10:06 5 BY MS. FELLOWES:

10:06 6 Q. So, Ms. Pietras, can I direct your attention
10:06 7 to where you see it says conveying party data? And it
10:06 8 says Alcatel-Lucent.

10:06 9 Do you see that?

10:06 10 A. I do.

10:06 11 Q. And is that what we were talking about, that
10:06 12 Alcatel-Lucent is the party that had the patent and
10:06 13 then transferred it to Brazos?

10:06 14 A. Yes. It did.

10:06 15 Q. Okay. And similarly, underneath, do you see
10:06 16 where it says receiving party data?

10:06 17 A. Yes.

10:06 18 Q. And who is the receiving party in this case?

10:07 19 A. Receiving party is WSOU Investments.

10:07 20 Q. Now, we heard Brazos referred to as WSOU and
10:07 21 as Brazos.

10:07 22 What's the distinction?

10:07 23 A. I mean, the -- really no distinction. They're
10:07 24 one and the same. We just do business here as Brazos
10:07 25 Licensing and Development.

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10:07 1 Q. Why is that? Why did you take the name
10:07 2 Brazos?

10:07 3 A. Because we are located just out here in
10:07 4 downtown Waco, right along the Brazos River.

10:07 5 Q. Can I ask you to turn to Page 3 of the
10:07 6 document you have in front of you?

10:07 7 A. Uh-huh.

10:07 8 Q. And do you see in that enormous column of
10:07 9 numbers, but do you see that one of them is 8,989,216?

10:07 10 A. I do.

10:07 11 Q. And what is that?

10:07 12 A. That's the '216 patent we've been discussing.

10:07 13 Q. Okay. And later on in the document, Page 8,
10:07 14 can I ask you to turn to where it says Patent
10:07 15 Assignment?

10:07 16 A. Yes.

10:07 17 Q. Right. And do you see where it says:
10:07 18 Assignor hereby assigns, transfers, and conveys unto
10:08 19 Assignee all of Assignor's right, title, and interest
10:08 20 in and to each of the Assigned Patents?

10:08 21 A. Yes. I see that.

10:08 22 Q. What does that mean to you?

10:08 23 A. That essentially means to me that
10:08 24 Alcatel-Lucent, the assignor in this case, had given
10:08 25 over and conveyed to WSOU or Brazos all of its

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10:08 1 interests and titles and anything else it may hold in
10:08 2 those listed patents, including the '216 patent.

10:08 3 Q. All right. So speaking of that transfer, can
10:08 4 I ask you to turn to document JTX-039 in your binder?

10:08 5 A. Okay.

10:08 6 Q. Do you recognize this document?

10:08 7 A. I do.

10:08 8 Q. And what is this document?

10:08 9 A. It's one of the amendments to the PPA, or the
10:08 10 patent purchase agreement. It's the fourth amendment.

10:08 11 MS. FELLOWES: Your Honor, we ask to move
10:08 12 in JTX-039.

10:08 13 MR. JONES: No objection, Your Honor.

10:08 14 THE COURT: Admitted.

10:08 15 BY MS. FELLOWES:

10:08 16 Q. And skipping right along to the next exhibit,
10:09 17 which is JTX-042, do you recognize this document?

10:09 18 A. Yes. I do. This is the fifth amendment to
10:09 19 the patent purchase agreement between Nokia's entities,
10:09 20 affiliates, and WSOU.

10:09 21 MS. FELLOWES: Your Honor, we ask to move
10:09 22 in JTX-042.

10:09 23 MR. JONES: No objection, Your Honor.

10:09 24 THE COURT: Admitted.

10:09 25 BY MS. FELLOWES:

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10:09 1 Q. At the time of the purchase, how many patents
10:09 2 did Brazos buy from Nokia?

10:09 3 A. I believe it was around 8,500 or so.

10:09 4 [REDACTED]
10:09 5 [REDACTED]

10:09 6 [REDACTED]
10:09 7 [REDACTED]

10:09 8 Q. Okay. What is Brazos' current relationship
10:09 9 with Nokia that it purchased the patents from?

10:09 10 A. It's a good one. We wanted somebody to
10:09 11 partner with, [REDACTED]

10:09 12 [REDACTED]

10:09 13 [REDACTED]

10:10 14 [REDACTED]

10:10 15 [REDACTED].

10:10 16 But we wanted someone to work with as Nokia
10:10 17 was a great innovator. And we kind of modeled
10:10 18 ourselves after them with our patent portfolio to, you
10:10 19 know, hold a portfolio and license it out to the
10:10 20 others. And, I mean, they were great to work with
10:10 21 throughout the whole process.

10:10 22 Q. So is that why you were interested in buying
10:10 23 this portfolio from Nokia in particular?

10:10 24 A. Yes. Nokia, I mean, has been around since --
10:10 25 gosh. I remember them from when I was young. I mean,

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10:10 1 they -- huge innovator. They acquired Alcatel-Lucent,
10:10 2 which I think was -- as discussed, that they had a
10:10 3 group called Bell Labs Group.

10:10 4 And Bell Labs is -- was, you know, a key
10:10 5 thing. I mean, a contributing factor in us purchasing
10:10 6 it because Bell Labs had many notable awards. I think
10:10 7 they won a few Nobel Prizes as well as some other
10:10 8 prestigious computer science awards.

10:11 9 Q. You mentioned that Brazos modeled itself in
10:11 10 part off of Nokia. Does that mean that Nokia also
10:11 11 engaged in patent licensing?

10:11 12 A. Yes. It does.

10:11 13 Q. Okay. And so Brazos is not the only company
10:11 14 that does this?

10:11 15 A. No. It by no means is -- I know there are
10:11 16 other companies out there that also do it. I may be
10:11 17 wrong, but I believe Intel also does. But there are
10:11 18 many companies that use a portfolio as an investment
10:11 19 process.

10:11 20 Q. Are you familiar with the technology of the
10:11 21 '216 patent?

10:11 22 A. Very, very high level. I'm by no means a
10:11 23 computer science expert at all.

10:11 24 Q. And at that very, very high level, how would
10:11 25 you describe the '216 patent?

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10:11 1 A. In my very general layman's terms in
10:11 2 understanding, it's a communication between different
10:11 3 cellular devices over different networks.

10:11 4 Q. So if I understand you correctly, Brazos
10:11 5 originally bought over 8,500 patents for [REDACTED]
10:11 6 (sic) -- excuse me -- [REDACTED]. I apologize. And so
10:12 7 that rounds out, if you trust my mathematics, to [REDACTED]
10:12 8 a patent.

10:12 9 Does that seem fair to you?

10:12 10 A. I trust your math on that. But I would
10:12 11 actually have to disagree with that. I mean, each --
10:12 12 we bought the portfolio as a whole, not picking which
10:12 13 patents we wanted or did any evaluation or looked at
10:12 14 any of the patents to see what they were when we
10:12 15 purchased the portfolio. We bought the portfolios as a
10:12 16 whole.

10:12 17 And so it's kind of the same thing. Like with
10:12 18 real estate, each one can be valued as different sites.
10:12 19 You know, you buy a portfolio of some real estate, and
10:12 20 you may have, you know, a business building in Austin
10:12 21 and, you know, acres in West Texas and, you know, a
10:12 22 plot of land in an up-and-coming area that you want to
10:12 23 parcel out and give to developers.

10:12 24 That's kind of the same thing. We bought the
10:12 25 portfolio as a whole, not picking and choosing which

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10:12 1 patent we wanted.

10:12 2 Q. Has Brazos -- excuse me -- has Brazos licensed
10:13 3 the portfolio that contains the '216 patent?

10:13 4 A. Yes. We have.

10:13 5 Q. Could you name some of the companies that
10:13 6 Brazos has licensed its portfolio to?

10:13 7 A. [REDACTED]

10:13 8 [REDACTED]

10:13 9 [REDACTED]

10:13 10 Q. Why is Brazos here today?

10:13 11 A. We're here today because we believe that Cisco
10:13 12 is infringing upon our '216 patent and, therefore,
10:13 13 utilizing our property. And not having any other
10:13 14 recourse, we had to come here to litigate.

10:13 15 Q. So does Brazos want to be in court?

10:13 16 A. No. If we had worked out a license prior, we
10:13 17 wouldn't be here.

10:13 18 MS. FELLOWES: Thank you, Ms. Pietras.

10:13 19 Your Honor, I pass the witness.

10:13 20 CROSS-EXAMINATION

10:13 21 BY MR. JONES:

10:14 22 Q. Good morning, Ms. Pietras. How are you today?

10:14 23 A. I'm doing well. How are you?

10:14 24 Q. I'm doing very well.

10:14 25 My name is Mike Jones, and the first thing I

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10:42 1 seated.

10:42 2 Is there anything we need to take up?

10:42 3 MR. ABRAHAM: Nothing from plaintiff,

10:43 4 Your Honor.

10:43 5 MR. ROSENTHAL: Nothing for Cisco,

10:43 6 Your Honor.

10:43 7 THE COURT: Okay.

10:43 8 (Recess taken.)

10:59 9 THE BAILIFF: All rise.

10:59 10 THE COURT: Please remain standing for

10:59 11 the jury.

10:59 12 (Jury entered the courtroom.)

10:59 13 Thank you. You may be seated.

10:59 14 Next witness, please?

11:00 15 MS. BENTFIELD: Your Honor, we call Ozer

11:00 16 Teitelbaum.

11:00 17 (The witness was sworn.)

11:01 18 MS. BENTFIELD: All right. Good morning,

11:01 19 everyone.

11:00 20 DIRECT EXAMINATION

11:00 21 BY MS. BENTFIELD:

11:01 22 Q. Will you please introduce yourself to the

11:01 23 jury?

11:01 24 A. Yes. My name is Ozer Teitelbaum.

11:01 25 Q. And where are you currently employed?

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11:01 1 A. I work for Ocean Tomo, a part of J.S. Held.

11:01 2 Q. What is your title?

11:01 3 A. Managing director of the advisory group.

11:01 4 Q. Can you please tell the jury at a high level

11:01 5 what Ocean Tomo does?

11:01 6 A. Ocean Tomo's involved in intellectual property

11:01 7 consulting work. I work in the advisory group that's

11:01 8 part of Ocean Tomo.

11:01 9 Q. And what are your job responsibilities?

11:01 10 A. I'm involved in helping people buy and sell

11:01 11 patents, helping clients solve intellectual property

11:01 12 disputes.

11:01 13 Q. What are you here to provide testimony on

11:01 14 today?

11:01 15 A. I'm here to talk about my time at Lucent and

11:02 16 Alcatel-Lucent and servicing Bell Labs also known as

11:02 17 Bell Laboratories.

11:02 18 Q. And have you ever testified at trial before?

11:02 19 A. No. This is my first time.

11:02 20 Q. Are you taking off work to be here today?

11:02 21 A. I'm working today. This is a job.

11:02 22 Q. And are you being compensated for your time?

11:02 23 A. Not me. I work for Ocean Tomo. I'm just an

11:02 24 employee. They are being compensated for my time.

11:02 25 Q. And what does Ocean Tomo charge as your hourly

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11:02 1 rate?

11:02 2 A. Well, they set my rates. I believe they set
11:02 3 my rate in this case for 1150 an hour.

11:02 4 Q. And is that the same rate as when you were
11:02 5 originally hired in this case?

11:02 6 A. I don't believe so. I think I was hired in
11:02 7 2022, inflation and such. But I don't set my rates.
11:02 8 My employer sets my rates, and I just do the work.

11:02 9 Q. Going back to your time at Alcatel-Lucent, how
11:03 10 long did you work there?

11:03 11 A. Well, I joined Lucent to work with Bell Labs
11:03 12 in June of 1999. I left when the company merged with
11:03 13 Alcatel and became Alcatel-Lucent in February of 2015,
11:03 14 about ten years ago today exactly.

11:03 15 Q. You mentioned Bell Labs. Can you please
11:03 16 explain exactly what Bell Labs is or was?

11:03 17 A. So Bell Laboratories is named after Alexander
11:03 18 Graham Bell, the inventor of the telephone. It's got a
11:03 19 long storied history of innovation, creating things
11:03 20 like the transistor, fiber optics, inventions that have
11:03 21 gone into NASA defense programs. It's a long and
11:03 22 storied history of big ideas and solutions.

11:03 23 Bell Laboratories has won 11 Nobel Prizes,
11:04 24 which is probably the most for any research
11:04 25 institution.

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11:04 1 Q. And what was Bell Labs' overall mission, let's
11:04 2 say?

11:04 3 A. To solve big problems. We were not -- as a
11:04 4 patent lawyer, we were protecting the ideas which were
11:04 5 big problems, solving big problems and coming up with
11:04 6 inventions to which we were protecting.

11:04 7 So not an incremental or small change to make
11:04 8 something a little better but big, large problems.
11:04 9 That's how we came up with the transistor. That's how
11:04 10 we came up with the fiber optic diode and things of
11:04 11 that sort.

11:04 12 Q. And you mentioned protecting those big ideas.
11:04 13 How did Bell Labs go about doing that?

11:04 14 A. Well, the big ideas came in the form of what's
11:04 15 called invention submissions. Every scientist would
11:04 16 reduce it to an invention submission, and the patent
11:04 17 lawyers like me would work with the scientists, would
11:05 18 write patent applications. And then the patent
11:05 19 applications would become patents which we call patent
11:05 20 assets.

11:05 21 Q. What was your role when you originally started
11:05 22 at Lucent?

11:05 23 A. So I started in June of 1999 working for --
11:05 24 with several Bell Labs groups just as a patent lawyer.
11:05 25 Not that that's a bad thing, but I was working at

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11:05 1 protecting the ideas of the scientific community I was
11:05 2 assigned to.

11:05 3 Q. And how did your career progress during your
11:05 4 16 years at Lucent and then as it became
11:05 5 Alcatel-Lucent?

11:05 6 A. I did well, and my supervisors promoted me.
11:05 7 But that's not so interesting. My responsibilities
11:05 8 included managing the entire portfolio of the merged
11:05 9 company of Alcatel-Lucent, which at one time was at
11:05 10 least 45,000 patent assets, may have been as high as
11:05 11 50,000 patent assets.

11:06 12 Managing it meant the cost structure and
11:06 13 controlling all the patents, making sure that they were
11:06 14 used and kept making money from the portfolio and
11:06 15 managing its cost structure.

11:06 16 Q. So would you say that Alcatel-Lucent monetized
11:06 17 patents in its general course of business?

11:06 18 A. Well, research costs money, paying people
11:06 19 costs money, real estate costs money, paying for
11:06 20 laboratories costs money, taxes cost money.

11:06 21 So the parent company for Bell Laboratories,
11:06 22 Lucent, then Alcatel-Lucent, was paying a lot of money
11:06 23 for this research. And my job is to recapture the
11:06 24 costs of that money spent and try to get back a return.

11:06 25 Q. Can you give us a few specific examples of how

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11:07 1 you recaptured value in your role?

11:07 2 A. Sure. I think it was mentioned earlier, we
11:07 3 did what's called licensing. We would look at the
11:07 4 portfolio very carefully and study each and every
11:07 5 patent both for use, as we talked about, I think the
11:07 6 counsel for the other side mentioned use. Other
11:07 7 parties are using patents.

11:07 8 We'd also look at the patents to see if they
11:07 9 were not used, and we would drop them. So patents that
11:07 10 are valuable, we kept, and patents that were not
11:07 11 valuable, we dropped.

11:07 12 Along the way, we licensed these portfolios
11:07 13 that we knew were used. We engaged in negotiations
11:07 14 with parties to pay for -- to get them to pay a
11:07 15 licensing fee, the royalties mentioned. We would also
11:07 16 sell patents, as I think may have come up here, and
11:07 17 sell patents like we sold to a company, Vringo. We
11:07 18 sold a number of patents.

11:07 19 We also were involved in supporting the sales
11:07 20 of some of the companies that Alcatel-Lucent owned.

11:08 21 Once we had a company named Genesys, and the
11:08 22 parent company, Alcatel-Lucent, decided to sell it. We
11:08 23 sold a portfolio with it, and we got some money for
11:08 24 that.

11:08 25 Q. Did Alcatel-Lucent enforce patents in its

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11:08 1 general course of business?

11:08 2 A. Well, Alcatel-Lucent or Lucent certainly was
11:08 3 involved in the business of trying to encourage people
11:08 4 to negotiate in good faith. We know you're using the
11:08 5 patent. We would show you you're using the patent.
11:08 6 And occasionally, some users would not pay, but many
11:08 7 would be fair negotiations, and we'd come up with a
11:08 8 reasonable number.

11:08 9 In the instance where somebody wouldn't pay,
11:08 10 would bully us, we would then get involved in
11:08 11 enforcement. That wasn't my job. There was a
11:08 12 litigation team that was involved with that. But we
11:08 13 would enforce patents when needed. Can't be owning a
11:09 14 patent portfolio and have people just bully you around.

11:09 15 Q. When Alcatel merged with Lucent, they became
11:09 16 the owners of Bell Labs' patent assets; is that
11:09 17 correct?

11:09 18 A. Yes. The merger between Lucent and
11:09 19 Alcatel-Lucent, Bell Labs and the portfolio all got
11:09 20 folded into this big company with a longer name.
11:09 21 Alcatel-Lucent.

11:09 22 Q. And did Alcatel-Lucent think of those patent
11:09 23 assets as an investment?

11:09 24 A. Lucent and Alcatel-Lucent looked at every
11:09 25 patent as an investment, much like they looked at

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11:09 1 paying the salaries of the researchers, the real
11:09 2 estate, and all the costs to generate the big ideas
11:09 3 that came out in the patents that we're talking about
11:09 4 in the portfolio.

11:09 5 Q. And did Alcatel-Lucent sell patent portfolios
11:09 6 as part of its course of business?

11:09 7 A. Yes. I think I might have mentioned we sold
11:09 8 patents to companies like Vringo. We did many things
11:10 9 to generate income to pay for the research.

11:10 10 Q. When Alcatel-Lucent priced a portfolio for
11:10 11 sale, did the sales price reflect the future value of
11:10 12 the portfolio?

11:10 13 A. Well, you know, patents are an asset just like
11:10 14 real estate, just like anything. You buy a property.
11:10 15 You rent a property out. Real estate starts
11:10 16 increasing. And if you're renting the property, the
11:10 17 rental price might go up. The opposite might happen
11:10 18 too.

11:10 19 So nothing is fixed. It's all floats, weigh,
11:10 20 supply, and demand. I think that gives you a sense of
11:10 21 just how things are.

11:10 22 But when you do a deal, when you sell patents,
11:10 23 you sell patents, firstly, either for all cash.
11:10 24 Sometimes you sell patents for some down payment, like
11:11 25 you do a mortgage. And then there'll be payments over

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11:11 1 time when there would be success with a partner.

11:11 2 So if you sold with a partner, there'd be a
11:11 3 down payment and then success fees along the way. So
11:11 4 that's called a front-end payment and a back-end
11:11 5 payment. Down payment and a future payment.

11:11 6 Q. So that process, the payment process you just
11:11 7 described with the front end and the back end, does
11:11 8 that mirror how Alcatel-Lucent would typically
11:11 9 structure its portfolio sales?

11:11 10 A. We would structure deals in many ways
11:11 11 including that. Yes.

11:11 12 Q. Have you ever worked with any other companies
11:11 13 that monetize patents?

11:11 14 A. After I left Alcatel-Lucent in February 2015,
11:11 15 I started my own firm, TnT IP, headquartered in Flower
11:11 16 Mound, Texas. We enforced patents that were acquired
11:11 17 by an investor. The patents were owned by a company
11:11 18 named BlackBerry, which you may or may not remember
11:12 19 used to make smartphones.

11:12 20 Q. And I think you mentioned this number
11:12 21 previously, but how big was Alcatel-Lucent's patent
11:12 22 portfolio?

11:12 23 A. At its peak, it was certainly 45,000, maybe up
11:12 24 to 50,000 patent assets. So it was pretty large.
11:12 25 Pretty large.

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11:12 1 Q. And was it cheap to manage that patent
11:12 2 portfolio?

11:12 3 A. No. It was very, very expensive. If you
11:12 4 think of the cost structure, it was lots of payments.
11:12 5 You have to pay lawyers fees, you have to pay taxes,
11:12 6 you have to pay professionals to study where and what
11:12 7 to pay. So it was a lot of money. Many, many millions
11:12 8 of dollars.

11:12 9 Q. And that's the -- you said many, many millions
11:12 10 of dollars. Would that be an annual number, a total
11:12 11 number?

11:12 12 A. That would be an annual number.

11:12 13 Q. Did Alcatel-Lucent have a process for managing
11:13 14 and maintaining its patent portfolio?

11:13 15 A. Yes. That was one of my responsibilities.
11:13 16 Managing 50,000 patents is a large task, just like
11:13 17 managing 50,000 properties in real estate or something.
11:13 18 So my job was to work with Bell Lab scientists to
11:13 19 understand which patents had value -- I think I might
11:13 20 have mentioned this before -- and which patents didn't
11:13 21 have value.

11:13 22 And the patents that had value or may have had
11:13 23 value, we kept. The patents that didn't have value, we
11:13 24 dropped, trying to keep ourselves within a budget just
11:13 25 so we can pay for everybody.

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