

Hall Declaration Exhibit B

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ROBERT JACOBSEN, an individual,)
)
Plaintiff,)
)
vs.)
)
MATTHEW KATZER, an individual,)
and KAMIND ASSOCIATES, INC., an)
Oregon corporation dba KAM)
Industries,)
)
Defendants.)

No. C-06-1905-JSW

COPY

DEPOSITION OF ROBERT JACOBSEN
Taken in behalf of the Defendants

September 17, 2009

Portland, Oregon

1 A. I'm sorry. I didn't realize that was addressed
2 to me.

3 Q. My question has never been what was copied. My
4 question is: What are you asserting against my client?
5 What information are you claiming a copyright to? I think
6 your answer --

7 A. Approximately 100 decoder definition files as
8 part -- in many cases as part of a larger copyright that
9 contain the entire collection of JMRI programmers'
10 experience and how they've chosen to write it down.

11 You used the example of *War and Peace*.

12 Q. Right.

13 A. I don't claim that word "war" was copied. I
14 claim that he copied all of that.

15 Q. And that's what makes it -- that is what you're
16 claiming copyright to, the --

17 A. The hundred decoder definition files and other
18 information that was in the copyright is what was
19 copyrighted.

20 Q. Okay.

21 MS. HALL: For the record, my client is
22 continuing to highlight items. He's on page 7 of 37 now.

23 THE WITNESS: Unfortunately, I don't task
24 switch very quickly.

25 MS. HALL: Would you like a break while he's

1 Exhibit 1. But what I'm asking is: What of that
2 information are you claiming a copyright to, do you
3 have -- that you are asserting a copyright claim against
4 my client?

5 A. I claim that the content of his file is copied
6 from things that we have a copyright from. In its
7 entirety that is what he copied and did not have the right
8 to. And if you're trying to get me to show each
9 individual word or character or even phrase, what I have
10 is a copyright of the entire thing.

11 Q. Well, let's talk about just looking on page 16
12 where you're at right now on Exhibit 2. We're using the
13 numbers at the top of the page; right? I see -- so you've
14 highlighted the dynamics brakes, long air let-off, short
15 air let-off; is that correct? Does that reflect your
16 highlighting?

17 A. Down through pumps --

18 Q. Down through pumps?

19 A. -- multiple lines later.

20 Q. Okay. Down through pumps. So let's talk about
21 this bit from dynamic brakes down to pumps. Just so we're
22 all on the same page, let's come up with a name to refer
23 to those terms. Dynamic brakes, what is that? I think
24 Howard Penny called it a feature ID.

25 MS. HALL: Objection. 602.

1 THE WITNESS: I don't know what Penny said.

2 BY MR. JERGER:

3 Q. I just want to agree so we're on the same page.
4 Let's come up with a term. What do you refer to that as?

5 MS. HALL: Objection. Lack of personal
6 knowledge.

7 THE WITNESS: Can I answer about over here?

8 BY MR. JERGER:

9 Q. Yeah. In your life what do you call this?

10 A. Settings.

11 Q. Settings. Okay. All right. So settings. So I
12 think we both agree that these settings, from dynamic
13 brakes down to pumps, come from -- that exist in Exhibit 2
14 come from Exhibit 1; right?

15 A. (Nods head.)

16 Q. Yes?

17 A. Yes. I'm sorry. Yes.

18 Q. Do you claim a copyright to these individual
19 settings?

20 MS. HALL: Objection. Calls for a legal
21 opinion.

22 THE WITNESS: I claim a copyright in the
23 thousands of settings that constitute the entire set --

24 MR. JERGER: Right.

25 THE WITNESS: -- of decoder definitions.