

Hall Declaration Exhibit F

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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

ORIGINAL

VIDEO DEPOSITION OF GERRY PRUSS
Taken in behalf of the Plaintiff

September 14, 2009

Portland, Oregon

1 model trains?

2 A. Yes. We call them cabs. DCC controllers and --
3 the handheld part is usually called a cab.

4 Q. Okay. If you were going to program or punch in
5 53.70.12, what would you have to do on a cab?

6 A. Most of them don't support this indexing scheme,
7 so you have to do it in a very painful way, which is -- we
8 recommend you first program CV50, which is a secondary
9 index. Hit the enter key and make it do it. Then go to
10 program CV49. Hit the enter key. And then finally
11 program the CV number.

12 Q. Okay. And that would be just for that one
13 particular sound. What was it? A horn?

14 A. Okay. For a sound it's only -- you don't have
15 to program the secondary index.

16 Q. I'm sorry. That was a light actually --

17 A. A light.

18 Q. -- that you were talking about?

19 A. Yes.

20 Q. So that would be just for one light then on a
21 train?

22 A. For one value of that light, yes.

23 Q. Okay. On a train?

24 A. That's right.

25 Q. And how many -- how many things -- how many

1 features can you set on a train?

2 A. Oh, let me guess here. Probably into the --
3 definitely into the hundreds. I would say maybe 100 to
4 150 right now is my off-the-wall guess.

5 Q. So it could be a really painful thing to do if
6 you had to do it with a handheld?

7 A. Oh, yes. We recommend you don't do it with a
8 handheld.

9 Q. Okay. Would doing it with a computer interface
10 properly programmed --

11 A. Yes.

12 Q. -- be much better?

13 A. The indices scheme was designed to be used with
14 a computer interface.

15 Q. Okay.

16 A. You can use it with a handheld, but it's not
17 fun.

18 Q. Okay. All right. Do you know Bob Jacobsen?

19 A. I've never met him.

20 Q. Do you know of him?

21 A. I saw him once at a -- from a distance at an
22 NMRA meeting in Seattle, Washington. I think that was
23 2004 or something like that.

24 Q. Have you had any conversations with him?

25 A. No.

1 please take a look at that and let me know when you're
2 ready.

3 A. (Reviewing document.) Okay. I've read it.

4 Q. And do you recognize this e-mail?

5 A. Vaguely.

6 Q. And what is Mr. Penny doing in response to your
7 e-mail? Or let me ask you this. Is this a response to
8 your earlier e-mail?

9 A. It looks like it, yes.

10 Q. And what is Mr. Penny doing?

11 A. He's pointing out typographical errors and --
12 mainly typographical errors. I don't know if there's
13 anything more substantive than that. It's formatting
14 issues and typographical errors essentially.

15 Q. Uh-huh. Uh-huh. Is this something that -- is
16 this information something that QSI would like to have?

17 A. Oh, yes. Yes. We get criticism and questions
18 from customers all the time. And we appreciate that
19 because that's the way we go and correct mistakes.

20 Q. Okay. So inviting comments from customers to
21 improve the manual, that's something that's useful to QSI?

22 A. Oh, yes. Standard practice.

23 Q. Okay. All right. Okay. Let's move to Penny
24 Deposition Exhibit 17. That's RGJ_HP.00000033 and that's
25 through 35.

1 Q. Okay. And what is this attachment?

2 A. That's pages 52 through 65.

3 Q. Yes.

4 A. And what this is, is a computer-generated report
5 for each model as to what features is supported, the ID
6 numbers for them and the default value for -- excuse me.
7 I'm sorry. This is sound volumes. I'm sorry. I misread
8 this. This is not the feature support. This is the sound
9 volumes. So for each model it lists what sound volumes
10 you can control individually, the ID number for the
11 primary index, which you enter in CV52 to control that
12 volume, and the default value in each case.

13 Q. Okay. And were you authorized by Mr. Severson
14 to send this information to JMRI developers?

15 A. To all customers, yes.

16 Q. Okay. All right. And you knew that they were
17 using this to create decoder definition files for --

18 A. That was our intent, for them to use it that
19 way, yes.

20 Q. Okay. All right. Let's go ahead and move to
21 Penny Deposition Exhibit 28. That's RGJ_HP.00000060 (sic)
22 through 68.

23 A. Okay.

24 Q. And when you're done, let me know.

25 A. (Reviewing document.) Okay. Okay. I've read

1 feature or sound so that a model railroader can associate
2 52.0 with a horn?

3 A. I don't understand.

4 Q. Is there -- it's listed as a horn here. Is
5 there any other way for a model railroader to understand
6 that 52.0 is a horn sound, other than calling it a horn?

7 A. You mean calling it a different name than a
8 horn?

9 Q. Right.

10 A. Well, some may use the word whistle for steam
11 engines.

12 Q. Okay.

13 A. But horn and whistle are the only ones I know
14 of.

15 Q. Okay. All right. Let's see here. I don't --
16 when you sent this to -- Mr. Severson has already
17 testified to this, but your understanding also is that
18 when you sent this information to JMRI developers, you did
19 it with Mr. Severson's authorization and for JMRI
20 developers to create decoder definition files to support
21 QSI decoders?

22 A. Yeah. I mean, there was no explicit one on this
23 document.

24 Q. Uh-huh.

25 A. It was just a general --

1 Q. Okay.

2 A. -- you know, support whenever possible.

3 Q. Okay. So they could -- they could use the
4 information that's on these sheets?

5 A. Yes.

6 Q. Okay. All information on these sheets?

7 A. Yes. That was the intent, for them to use this
8 in developing their Decoder Pro, and any other customers
9 that wanted to use it --

10 Q. Okay.

11 A. -- for similar purposes.

12 Q. Okay. That sounds good. Were there other
13 customers who were using this?

14 A. Oh, yes.

15 Q. Who are they?

16 A. I don't know of any organizations, but lots of
17 end users use the same information.

18 Q. Such as?

19 A. Well, anybody, for instance, that's on the -- a
20 member of the QS Industries Yahoo group --

21 Q. Okay.

22 A. -- where this whole thing started with Howard
23 Penny, has access to the same information.

24 Q. Okay. Do you know if any of them have license
25 agreements with QSI to use that information?

1 A. As members of the QS Industries Yahoo group?

2 Q. Yes.

3 A. No.

4 Q. Okay.

5 A. I'm sure they don't.

6 Q. How are you -- how are you sure about that?

7 A. Well, there's thousands of them there, and
8 there's no way to even, you know, control who gets access
9 to it. If you sign up for the group, you have access to
10 that information.

11 Q. Okay. All right.

12 A. I don't know of anybody that was, you know,
13 denied access to the group.

14 Q. Okay. All right. And you know of no one who
15 has used this information who has been denied access to
16 it?

17 A. No. I do not.

18 Q. Okay. All right. Let's go take a look at Penny
19 Deposition Exhibit 30. That's RGJ_HP.00000088. This will
20 be through --

21 A. Another one.

22 Q. This is a longer one. This will be through 144.
23 And, Mr. Pruss, if you could please review this e-mail and
24 let me know when you're ready.

25 A. (Reviewing document.) Okay. I've read it.

1 CV53.X.1?

2 A. Ah, .X.0 and 1. We allow the function key to
3 have a different feature when the locomotive is moving --

4 Q. Okay.

5 A. -- than when it's stationary.

6 Q. Okay.

7 A. Because certain features only make sense when
8 the engine is sitting still, and certain features only
9 make sense when the engine is moving. So the .0,
10 secondary index 0, refers to the forward and reverse
11 state. The .1 refers to the neutral state.

12 Q. Okay. And the -- I'm sorry. The .1 is the --

13 A. The neutral.

14 Q. Ah, yes. Okay. That explains that.

15 Now, when you -- this information you have -- it
16 says at the top CV53.txt at the top?

17 A. Yes.

18 Q. Okay. The information that you have listed
19 here, it was your understanding that Mr. Severson had
20 authorized you to send this to --

21 A. Yes.

22 Q. -- JMRI developers?

23 A. Yes.

24 Q. And knowing that JMRI developers were creating
25 decoder definitions to support QSI decoders?

1 definitions for QSI decoders?

2 A. Yes. It was part of the general directive to
3 help customers out. Yes.

4 Q. And did you also understand that you could
5 use -- that you were -- that JMRI developers could use any
6 information on this in order to create --

7 A. Yes. There was no restriction as to the use of
8 this.

9 Q. No restriction whatsoever?

10 A. Well, in terms of they could use whatever is
11 here, yes.

12 Q. Okay. And were there any licensing agreements
13 that were required to be able to use this information?

14 A. No.

15 Q. Okay. And no one, as far as you know, is
16 required to sign any license agreement to use this?

17 A. Not for this information. No.

18 Q. Okay. All right.

19 A. I figure this -- this is what we call general
20 information.

21 Q. Okay. All right.

22 A. Public information.

23 Q. Okay. And are you aware of any changes in that
24 since 2006?

25 A. This?

1 version of QSI Exhibit No. 4?

2 A. That big file, yes, it was.

3 Q. Yes. Okay. And when you provided this
4 information, was it your understanding that Mr. Severson
5 authorized you to provide this information to JMRI
6 developers so that they could create decoder definitions
7 for QSI decoders?

8 A. That's one of the purposes, yes.

9 Q. Okay. Were there other purposes?

10 A. Well, to other customers.

11 Q. Okay. And was it still your understanding that
12 you could provide this information to JMRI developers so
13 that they could use any information in this file?

14 A. That's right. There was no restrictions on the
15 use of it.

16 Q. So that they could use the model number, the
17 features, the CVs numbers, the defaults?

18 A. That's right.

19 Q. All that information?

20 A. They could use whatever they wanted there, yes.

21 Q. Have you ever been told that you are not
22 authorized to provide this information to JMRI developers?

23 A. This information that we've covered?

24 Q. The information in QSI Deposition Exhibit No. 4.

25 A. None of the information that we've discussed