

Hall Reply 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

ORIGINAL

VIDEO DEPOSITION OF FRED SEVERSON
Taken in behalf of the Plaintiff

September 14, 2009
Portland, Oregon

1 Q. Okay. Has having JMRI decoder support in
2 Decoder Pro helped or hurt QSI?

3 A. I do not know the answer to that.

4 Q. Would you like Bob Jacobsen to remove support
5 for QSI decoders?

6 A. I don't think I care.

7 Q. You said that you have information about what
8 was incorporated from the manuals in JMRI decoder
9 definitions; is that correct?

10 MR. RUSSELL: I'm going to have to object,
11 because you are mischaracterizing his testimony.

12 BY MS. HALL:

13 Q. Is that a mischaracterization?

14 A. I don't know. Perhaps. I just -- I'll repeat
15 what I said, is that I was shown information by Matt in my
16 conference room regarding what was happening in that
17 lawsuit, and then it was removed. Does that answer your
18 question? I'm not sure I understand.

19 Q. So it's not in your possession then right now?

20 A. No. It's not in my possession. I do not have
21 that.

22 Q. So you don't know what information, if any, was
23 incorporated in JMRI decoder definition files?

24 A. All I remember, there was a couple of phrases in
25 there. Something with a plus sign, and I think there was,

1 becomes our application specific integrated circuit, which
2 we own, and the firmware that we send to them to include
3 with the product when they assemble it.

4 Q. Okay. Does JMRI's QSI decoder definitions hurt
5 the market for your product?

6 A. Not that I am aware of.

7 Q. Okay.

8 A. But like I said, it could if the information is
9 actually wrong.

10 MS. HALL: Move to strike the last part as
11 speculation.

12 MR. RUSSELL: I object. He answered your
13 question as stated. You're stuck with his answer.

14 BY MS. HALL:

15 Q. Does JMRI's inclusion of decoder definitions
16 encourage model railroaders to buy and use QSI decoder
17 chips or your product?

18 A. I don't know.

19 Q. Okay. Let's see here. We're going to go
20 through just a few more things. Then we'll get to the
21 stack of e-mails.

22 A. Okay. I'm going to take a quick break. I'll be
23 right back.

24 Q. That sounds good.

25 THE VIDEOGRAPHER: We are off the record at

1 Q. Help me understand that.

2 A. I was presented with information that indicated
3 that Matt was being sued on copyrighted material that I
4 wrote. I can't have that, because I cannot deal with my
5 OEMs and I cannot deal with Microsoft until I establish
6 ownership. If Matt -- if JMRI is claiming ownership of
7 this material, then that is completely unacceptable to me.

8 Q. If I told you that they were not -- they were
9 not claiming ownership of data, and in fact their
10 registration says it excludes preexisting manufacturer
11 data, would that change your opinion?

12 A. Say that again. Excludes what?

13 Q. If I told you that the copyright registrations
14 that Bob Jacobsen filed specifically stated that he has no
15 rights to preexisting manufacturer data --

16 A. Preexisting manufacturer --

17 Q. Data.

18 A. Data. What does that mean?

19 Q. Such as these little phrases that you're talking
20 about. Would that change your opinion?

21 MR. RUSSELL: I think you're calling for
22 speculation on Fred's part on facts that aren't in
23 evidence, and what he might or might not do in the
24 future --

25 THE WITNESS: Right.

1 were doing anything beyond what you've just said?

2 A. Not until I was informed by Matt that, you know,
3 he was being sued on stuff that I had written. Before
4 that, no, I didn't have any reason to believe that.

5 Q. Okay.

6 A. I had not seen his product. As I mentioned, I
7 never downloaded it or ran it.

8 Q. Okay. And would it be fair to say that from
9 what you heard from Matt that you believed Bob was
10 claiming rights in the QSI manual?

11 A. Claiming rights to copyrighted material from the
12 manual, yeah.

13 Q. And what copyrighted material was that?

14 A. Like I mentioned before, I was shown those
15 instances at a conference. Those papers were taken away.
16 I didn't -- I don't remember. I've just got a vague idea.
17 At the time I was convinced that that was true.

18 Q. And was it on that basis that you granted the
19 assignment -- the November 3, 2006 assignment and the May
20 5, 2008 assignment to Matthew Katzer?

21 A. Yes.

22 Q. About -- getting back to the QSI manual, have
23 you ever licensed that manual to anyone else other than
24 Matthew Katzer?

25 A. No. The way it works with, like, say our OEMs

1 Pruss have your authorization to send this information to
2 JMRI developers so that they could create decoder
3 definitions to support the QSI decoders?

4 A. You know, in my personal opinion it looks like
5 Gerry did these guys a favor by con-catenating the
6 information that was already available, in a format that
7 made it easy for them to incorporate it into their
8 product. That's my guess. And then Gerry could certainly
9 be able to answer that. But that's exactly what it looks
10 like. But, yeah, I mean, he had my authorization to send
11 this kind of information out. This is just straight
12 information that's available --

13 Q. Yeah.

14 A. -- in the reference manual and in CV Manager.
15 (Reviewing document.) It looks like it was done for each
16 of the models in the same way. It's just -- why he did it
17 differently, I have no idea.

18 Gerry's a tool writer. He's always writing
19 software tools to make things easier, particularly the
20 presentation of data, and I suspect that's what happened
21 here. But so far I don't see anything that is not in the
22 public domain in our manuals, but I'm not going through
23 this line by line, you know.

24 Q. No. No. No.

25 A. I'm just giving this an overview.