

1 where no one was accountable.

2 And security, because there was no effective method for
3 securing those files onto CDs, which made it very, very
4 simple for that to take place.

5 Q. Mr. Racz, what was the problem with payment that you
6 saw?

7 A. Well, the problem with payment was there was no easy way
8 for paying for content at that time. No good way for paying
9 for content over the Internet at that time in a secure way,
10 and the record companies weren't getting paid.

11 So if the record companies weren't getting paid, the
12 artists, the publishers, and the songwriters weren't getting
13 paid. And that was going to affect the people that I knew
14 and good friends in the industry, and that's when I started
15 coming up with the idea.

16 Q. For time context, when was it that you had this
17 realization of a problem?

18 A. It was the spring of 1999.

19 Q. Did you ever tell anyone around that time about the
20 problems that you were foreseeing?

21 A. No. I -- well, I told -- I told the music industry
22 executives I knew, about the problem they were facing, yes,
23 sir.

24 Q. Now, Mr. Racz, what was their reaction?

25 A. I would say it was -- it was mixed. There was three

1 different types of reactions.

2 The first one was that some of them didn't even know
3 what an MP3 was at the time, surprisingly enough.

4 Others thought it was just a fad. It wouldn't catch on. And
5 if it did, they would end up controlling it.

6 And a third group were adamant that they would have
7 nothing to do with the Internet. The senior A&R people
8 executives couldn't even talk to Internet companies. They
9 wanted to ban the use of music on the Internet.

10 Q. Despite the reactions from those executives, did you
11 continue thinking about this problem?

12 A. I did, sir, yes.

13 Q. Did the music industry ever make its own attempts at
14 dealing with the problem?

15 A. Yes, they did. There was a couple of noted attempts
16 with Press Play and Music.net, but they were abject failures.
17 They didn't work.

18 Q. Is there a particular moment you can remember when you
19 saw a solution?

20 A. Yes. I would describe that and have described that as
21 my eureka moment.

22 Q. Please tell us about your eureka moment.

23 A. Well, I was sitting down at the table I was working
24 from. I had my StarTAC cell phone in front of me, and that
25 was one of the very early flip phones. And I realized that

1 that had identification data on it that linked you to the
2 service provider.

3 I also had one of the first credit cards in Europe that
4 had a chip on it, and I realized that that had authentication
5 data for payment functionality.

6 I had my Rio PMP300 player at the time also, and I
7 recognized that that had more memory than the phone, but it
8 was really dumb memory. It didn't do anything. There was no
9 security, and it was the root of the problem.

10 And I just figured out that, well, if I took that device
11 or a device like it, I increased the memory and made it
12 smart, and I added the functionality that I had identified on
13 the cell phone of authenticating you to a network and also
14 combined that with payment functionality, then I would have
15 the solution for the music industry.

16 Q. If you combined all that, what would it give you?

17 A. That would give you your -- effectively, the
18 downloading, the ability to download content, store content,
19 rules, use data -- use data status, payment functionality,
20 everything in one place on one portable device you can carry
21 with you.

22 Q. Did you feel like you were on to something with that
23 idea, Mr. Racz?

24 A. I very much did, sir, yes.

25 Q. We've talked a lot about music, but would it work for

1 other types of content?

2 A. Absolutely. Digital content could be in the form of
3 music, movies, games, apps, that sort of -- would also apply
4 in exactly the same way.

5 Q. Can you show us what one of these devices might look
6 like?

7 A. Yes, sir, I can.

8 Q. What do we -- I'm sorry, sir.

9 What are we --

10 A. No.

11 Q. What are we seeing here that's on Slide 3?

12 A. Well, this is -- Figure 1A is from -- based on a drawing
13 from my 1999 GP application of a reader player device.

14 Q. And is this Figure 1 of the patent, the '720 patent
15 that's at issue in this lawsuit?

16 A. That's correct.

17 Q. And what were you just explaining about the 1999
18 application?

19 A. I was explaining that that drawing was based from the
20 original drawing from my 1999 application.

21 Q. Was that drawn before or after Apple had the very first
22 iPod?

23 A. It was long before, sir. It was about two years before.

24 Q. Was it before or after Apple had the iTunes Store where
25 you could buy content?

1 A. That came out in 2003, sir. It was four years before
2 that.

3 Q. Was it before or after when the iPhone came out?

4 A. The iPhone was 2007, sir. It was eight years before
5 that.

6 Q. Mr. Racz, in this particular drawing, where is the
7 memory that might store content?

8 A. Well, in this particular embodiment, the memory is
9 actually stored on a smart card where the card is the data
10 carrier. And you can see that depicted here on this diagram
11 on Figure 2.

12 Q. Will you explain to us what we're looking at here as
13 Figure 2?

14 A. Yes. Figure 2 is a smart card, which has increased
15 memory, has payment functionality, use rules, and status
16 data. And that would be inserted into a device such as the
17 one you saw in Figure 1A.

18 MR. CALDWELL: And for the record, this '720 patent
19 is Plaintiffs' Exhibit 1.

20 Q. (By Mr. Caldwell) Now, Mr. Racz, how would you download
21 content onto the card in this particular embodiment?

22 A. Well, in this particular embodiment, you would take the
23 card, and if you look at the bottom of Figure 3, under Figure
24 3 where you have A, so Figure 3A, you'll see there that
25 there's actually a card reader that's connected to the

1 terminal via USB interface.

2 What you would do is you would take that card; you would
3 slide it into the reader; you would use the terminal to
4 access the content data that you wanted to download; that
5 would be downloaded onto the card; and the card could then be
6 taken out and used in other devices.

7 Q. Can you play content from the data terminal?

8 A. In some cases, but not always. You could have used a
9 reader player device as the card reader and the access to the
10 terminal, but in other cases, it would just be a
11 Smartflash-enabled reader device.

12 Q. Would it be all integrated into one?

13 A. Yes, it could be.

14 Q. So does your invention have to use removable cards, Mr.
15 Racz?

16 A. Absolutely not, sir.

17 Q. Now, because that came up, what does your patent say
18 about integrating memory into the device?

19 A. Well, my '720 patent states -- oh, you want to -- sorry.
20 I can run through this one.

21 Q. And that's my fault. Let me -- I think I skipped over
22 something, so let's just ask about this. Will you explain to
23 us how the card embodiment would work?

24 A. Yes. In this particular embodiment, what you would do
25 is you would slide the card into the device, and you would go

1 into the menu, select your content that you wanted to play.

2 Q. And it was my fault for not doing that.

3 A. That's okay.

4 THE COURT: Let's don't talk about -- let's don't
5 talk about fault. Let's just ask questions.

6 MR. CALDWELL: Yes, Your Honor. Thank you.

7 Q. (By Mr. Caldwell) Mr. Racz, will you show us what your
8 patent tells us about whether memory can be integrated all
9 into one device?

10 A. If you go into the '720 patent, and you'll see there in
11 the '720 patent, Column 4, Lines 42 to 43, the data carrier
12 may also be integrated into other apparatus, such as a mobile
13 communications device.

14 And, again, in the '720 patent, Column 16, Lines 9 to
15 10, in some embodiments, the data carrier may be integral
16 with the terminal.

17 Q. Now, how would an integrated device look any different
18 than a device that used a removable card?

19 A. It could look exactly the same as that device from the
20 outside, except you wouldn't have the slot for the smart
21 card.

22 Q. So where would the memory be in that instance?

23 A. The memory would be integrated, hard wired into the
24 device itself.

25 Q. Mr. Racz, from a user perspective, what does it look