

Q&A: Counsel on leading Paltalk's \$65.7m win against Cisco



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Marisa Woutersen sits down with lead trial lawyers from Susman Godfrey to discuss the importance of good, solid evidence and the critical moments that led to Cisco's \$65.7 million payout.

Last week, [Cisco Systems](#) was [ordered](#) to pay \$65.7 million to the maker of video group-chat apps, [Paltalk](#), for infringing a patent related to audio conferencing technology.

The [US District Court for the Western District of Texas](#) found that Cisco's WebEx products contravened Paltalk's patent covering hybrid audio server technology, which enhances audio conferencing systems.

The verdict came after a four-day trial where Cisco's attempts to invalidate Paltalk's claims—arguing the patent was obvious and lacked sufficient written description—were rejected.

Paltalk's winning team was led by [Susman Godfrey](#) partners [Max Tribble](#) and [Kalpana Srinivasan](#).

The victory follows a longstanding relationship between Paltalk and the firm, which first represented the video app company two decades ago in a case against Microsoft.

The case also marked a milestone for Tribble and Srinivasan as they tried their first case together on that same case two decades ago, making this victory particularly special for the duo.

Tribble and Srinivasan sat down with **WIPR** to discuss their winning strategy and key moments in the trial.

WIPR: How do you think your strategy led to success in this case?

Srinivasan: I think that really focusing on the evidence and avoiding side shows and similar that can distract from the merits of the case and understanding how important it is to present the jury with solid record evidence.

That was a very critical part of our strategy: to show them that we were really championing the evidence, the key technical documents, the source code, and that this what they could rely upon in making their decision.

Were there any key challenges that you faced during the litigation, and if so, how did you overcome them?

Tribble: The biggest challenge for me was dealing with Cisco's engineer witnesses, who testified about how the Cisco WebEx system worked.

There were a number of factual and credibility issues, and the jury had to resolve these disputed facts while weighing the credibility of the witnesses.

Cisco's witnesses were very well-prepared, and their opposing counsel was awesome, making it a difficult trial.

But at the end of the day, maybe their witnesses came off as "too prepared" by the lawyers on their direct examination, which did not hold up well on cross examination. So for me, that was the hardest thing about the case.

What arguments did Cisco present in their attempt to invalidate Paltalk's pattern, and how did you counter them?

Srinivasan: On invalidity itself, Cisco narrowed their prior art just days before the trial began, choosing to focus on a single patent reference.

They argued that this reference made Paltalk's patent obvious, rather than anticipating it.

We felt the jury could see pretty clearly that somebody skilled in the art would not find our patent obvious—based on this prior patent—and that there were clear differences.

But it was an interesting, strategic move to focus on this particular art for their invalidity case.

While narrowing arguments is common as a trial approaches, it can be risky.

In any trial you have to make some tactical decisions about what to present and how much to present—whether to present a lot of evidence or focus on a few strong points.

Cisco's decision to narrow down had its risks, as did the option of presenting too much information.

It's a common tactical move to figure out what is the best evidence.

Tribble: On the merits, there wasn't a good validity challenge against the patent.

As trial approaches, parties usually drop weaker arguments and focus on their strongest points. But it's very difficult for a defendant to drop validity as a defence.

But in this case, there was no compelling evidence to support it. They needed to provide clear and convincing proof, which just wasn't there.

We had an expert ready to counter their validity claims but decided not to present a rebuttal, as we felt it wasn't necessary, despite there being plenty of time for both sides.

Were there any key moments that helped you sort of solidify your position? Was there a moment where you knew that you'd probably won the case?

Tribble: There's never a moment you know you've won it until the jury says "yes, \$65.7 million". So you're always on pins and needles.

One of the key moments to me was after we did well on our cross-examination of all their witnesses.

Srinivasan had found a killer reference doing research at three in the morning, which turned out to be critical.

There was a moment during the cross-examination of Cisco's damages expert: Cisco had criticised Paltalk's experts for being paid professionals, and Srinivasan asked Cisco's expert if she was being paid for her work.

The expert responded that she wasn't being paid by Cisco, which led to a confusing explanation.

It turned out she worked for a consulting firm that bills Cisco, and she is paid by the firm separately.

This complicated response felt weird and could have been handled in a more straightforward way, which I thought was a critical moment in the trial.

Srinivasan: One of the [key] things we did was to show what evidence Cisco had put on in closing.

During the trial, two witnesses had drawn diagrams on a whiteboard, and a third had shown a promotional video for WebEx.

Tribble suggested we take pictures of the drawings, and the team combined these visuals with the video, as that was what the jury saw.

Interestingly, Cisco did not submit its own internal technical documents as evidence, which was unexpected. They didn't testify about or move into evidence source code from Cisco.

Again, we made the point that they have unlimited access to their own technical materials, but they chose not to put that on for the jury, and instead to sort of draw these higher level diagrams and show this promotional video.

I think evidence is very important for juries at the end of the day—good, solid documentary evidence.

Our experts spent a lot of time walking through actual code, showing the code on the Elmo and showing all the code he had looked at, moving that into evidence. And I think the comparison between that and the absence of [their evidence] was notable.

Tribble: In the closing argument, we used a slide showing the scales of justice, illustrating the balance of evidence.

On our side, we displayed thumbnails of source code, Cisco WebEx technical documentation, and testimony admissions.

On Cisco's side, there were just two hand-drawn whiteboard diagrams and a promotional video that seemed more like a distraction.

The contrast in the quality and amount of evidence was overwhelming, and the visual of the scales really highlighted this.

It was a team effort to identify the key themes of the case, which we all did together in advance of the closing arguments.

The main focus was the contrast between solid, substantial evidence and the lack of it on the opposing side, which was a big deal.

Is there anything you would have done differently?

Srinivasan: No, I think this trial unfolded in a true Susman Godfrey way.

We spent a lot of time together before trial as a group, thinking about the hardest issues in the case, thinking about how to prepare our witnesses, and working on that jointly.

I think it's one of our strengths as trial lawyers at this firm.

We think collectively and it really helps us to ensure our themes are unified, our presentations are cohesive, and we're hitting all of the key points we need to.

It really makes a big difference, and I felt we had a very lean, well-oiled machine for this case that really served us well.

Were you surprised by any aspect of the judgment or was anything unexpected?

Srinivasan: I don't think so. The jury really was super attentive. The judge managed the case very carefully.

Everybody worked extremely hard, and so we appreciate and can tell that the jury put a lot of thought into arriving at their decision.

They were very attentive throughout the trial, focusing closely on the evidence.

So when the verdict came, it wasn't anything surprising.

Tribble: The jury elected a highly educated PhD holder as their foreperson, someone who had taken a lot of notes during the trial.

The whole jury had been very attentive, with several members taking notes, but the selection of the PhD foreperson was a good thing, as we anticipated that they be likely to follow the court's instructions carefully.

It's rare to have a PhD as the foreperson in a jury trial.

I do think the jury liked both sides. Some of Cisco's witnesses and lawyers were top notch, but in the end, the decision came down to whether Paltalk's patent was valid and infringed.

What are the key takeaways from this case and judgement?

Tribble: I think the big takeaway is that big companies need to start respecting IP in the US, even if it's property owned by a small company, an individual, or an individual inventor.

Instead of ignoring valid claims of infringement, they should take these claims seriously and negotiate a reasonable royalty.

Big companies have the option to get a licence on patents at lower rates before litigation, which is much more cost-effective than waiting until the end of a trial.

Regardless of the patent holder's size or whether they are a competitor, large companies need to take the rights of US patent owners seriously and licence those patents before litigation or early in the litigation.

Srinivasan: Evidence matters.

Large companies, as defendants, have unlimited access to information, resources for their experts, and data for their rebuttals.

However, if a plaintiff can really focus on developing the evidence and figuring out how to show that you really have the weight of the evidence, then those things are not going to matter. You can overcome it.

In fact, it can sometimes backfire on the defendant—if they have access to all of the evidence but fail to present anything substantial, it says a lot about the strength of their defence.

<https://www.worldipreview.com/patent/qanda-counsel-on-leading-paltalks-dollar657m-win-against-cisco>