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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION  
12

13 UNITED STATES OF AMERICA, )  
14 Plaintiff, )  
15 v. )  
16 AMR MOHSEN and )  
ALY MOHSEN, )  
17 Defendants. )  
18

CR 03-0095 WBS

**UNITED STATES' PROPOSED  
VOIR DIRE**

19 Pursuant to this Court's order, the United States respectfully submits the following  
20 proposed questions for use in the voir dire examination of prospective jurors in the above-  
21 captioned case.

22 1. This cases involves allegations that the defendants Amr Mohsen and Aly  
23 Mohsen conspired together to commit perjury and obstruct justice in connection with a  
24 federal civil patent lawsuit. The case also involves allegations that defendant Amr  
25 Mohsen committed mail fraud in connection with that patent lawsuit. In addition, the  
26 case involves allegations that Amr Mohsen later committed the crime of contempt of  
27 court by applying for a passport when he had been ordered by the Court not to. You may  
28 also hear evidence suggesting that Amr Mohsen solicited certain acts of violence,

1 including arson and vandalism, and that he attempted to tamper with witnesses.

2 a. Do you know either of the defendants?

3 b. Do you know anything about this case?

4 c. If you know anything about the case, and if selected to serve as a  
5 juror, will you be able to set aside this prior information and decide the case solely  
6 on the evidence presented in the courtroom?

7 d. Is there anything about the prior information that you possess that  
8 would prevent you from being a fair and impartial juror for both sides?

9 2. Have any of you worked for, had any dealings with, and/or own stock in  
10 Aptix Corporation; Meta Systems, Inc.; Mentor Graphics Corporation; QuickTurn Design  
11 Systems, Inc.; or Cadence? ? If so, is there anything about that experience that would  
12 prevent you from being a fair and impartial juror?

13 Have any of you worked for, had any dealings with, the law firms of Lyon & Lyon;  
14 Orrick, Harrington & Sutcliffe; Howery & Simon; Latham & Watkins, or the Skjerven  
15 Law firm? If so, is there anything about that experience that would prevent you from  
16 being a fair and impartial juror?

17 3. Have any of you had any involvement with the patent process? If so, is  
18 there anything about that experience that would prevent you from being a fair and  
19 impartial juror?

20 4. If you are chosen to serve as a juror in this case you must determine the  
21 believability or credibility of each witness. I will instruct you as to the factors you should  
22 consider in assessing a witness's credibility.

23 a. One or more law enforcement officers may testify in this case. Will  
24 you give more credit to the testimony of a law enforcement officer  
25 than to any other witness? Will you give less credit to the testimony  
26 of a law enforcement officer than to any other witness?

27 b. One or more prison inmates may testify in this case with respect to  
28 the charges pending against the defendant Amr Mohsen. Do any of

1 you have strong feelings for or against people who have been  
2 charged with, or convicted of, crimes that would prevent you from  
3 sitting as a fair and impartial juror?

- 4 c. A federal judge may also testify in this case. Will you give more  
5 credit to the testimony of a federal judge than to any other witness?  
6 Will you give less credit to the testimony of a federal judge than to  
7 any other witness?

8 5. Have you or any member of your family ever been involved in any  
9 controversy or lawsuit with another person or business either as a plaintiff or defendant?

10 *[If there are any affirmative responses:]*

- 11 a. What was the nature of the problem or the legal action?  
12 b. Is there anything about the experience that would cause you not to  
13 credit the testimony of an employee from such an agency?  
14 c. Is there anything about the experience that would make you unable  
15 to be fair and impartial to both sides of this case?

16 6. Have you ever served on a trial jury? *[If there are any affirmative*  
17 *responses:]*

- 18 a. What kind of case?  
19 b. Did the jury reach a verdict?  
20 c. Is there anything about your prior jury service that would make you  
21 unable to be fair and impartial to both sides of this case?

22 7. Have you, any family member, or close friend been arrested, charged, or  
23 convicted of a criminal offense? *[If there are any affirmative responses:]*

- 24 a. What was the crime?  
25 b. Is there anything about the experience that would make you unable  
26 to be fair and impartial to both sides of this case?

27 8. Have you, any family member, or close friend ever been the victim of a  
28 crime? *[If there are any affirmative responses:]*

- 1 a. What was the crime?
- 2 b. Is there anything about the experience that would make you unable
- 3 to be fair and impartial to both sides of this case?
- 4 9. Have you, any family member, or close friend ever had a problem with the
- 5 Federal Bureau of Investigation or United States Secret Service or have you ever been a
- 6 party to a legal action involving one of those agencies or involving the U.S. government?
- 7 *[If there are any affirmative responses:]*
- 8 a. What was the nature of the problem or the legal action?
- 9 b. Is there anything about the experience that would cause you not to
- 10 credit the testimony of an employee from such an agency?
- 11 c. Is there anything about the experience that would make you unable
- 12 to be fair and impartial to both sides of this case?
- 13 10. Have you, any family member, or close friend ever had a problem
- 14 concerning the registration or prosecution of a patent? *[If there are any affirmative*
- 15 *responses:]*
- 16 a. What was the nature of the problem or dispute?
- 17 b. Is there anything about the experience that would make you unable
- 18 to be fair and impartial to both sides of this case?
- 19 11. Have you, or any member of your household, ever made any claim against
- 20 the federal government or, has the federal government ever made any claim against you
- 21 or any member of your household? *[If there are any affirmative responses:]*
- 22 a. What was the nature of the claim?
- 23 b. Was the matter resolved satisfactorily, in your opinion?
- 24 c. Do you feel that representatives of the federal government acted
- 25 fairly and courteously in resolving the matter?
- 26 d. As a result of that matter, do you feel any resentment toward the
- 27 federal government in this case?
- 28 13. Have you, any family member, or close friend ever been a witness in a

1 court proceeding? *[If there are any affirmative responses:]*

2 a. What was the nature of the court proceeding?

3 b. Was the experience a satisfactory one?

4 c. Is there anything about the experience that would make you unable  
5 to be fair and impartial to both sides of this case?

6 14. Have you, any family member, or close friend ever received any legal  
7 training or been employed in a law office? *[If there are any affirmative responses:]*

8 a. What was the nature of the training or employment?

9 b. Is there anything about the experience that would make you unable  
10 to be fair and impartial to both sides of this case?

11 15. Do you know any of the other members of the panel from which the jury  
12 will be chosen?

13 16. Do you or any family member have any special training in forensic science  
14 or hardware emulation technology?

15 17. In a federal criminal trial, jurors are required to take a solemn oath that they  
16 will try the case and render a verdict based solely on the evidence and according to the  
17 legal instructions of the Court. Is there anyone who could not or would not take such an  
18 oath?

19 18. In a federal criminal trial, jurors are required to render a judgment on the  
20 conduct of the defendant. Is there anyone who, for moral, philosophical, religious or  
21 faith-based reasons, cannot or will not pass judgment on another person?

22 19. Do any of you have any moral, philosophical, or religious principles that  
23 make you reluctant to serve on a criminal jury?

24 20. In a federal criminal trial, the jury is responsible for determining the facts of  
25 the case and must accept the law as I explain it through instructions to the jury. A juror  
26 is bound by the legal instructions I provide and cannot substitute his or her own notions of  
27 what they think the law is or should be. Is there anyone who could not or would not  
28 accept the duty to follow the law based on the instructions I give the jury?

1           21. In a federal criminal trial the jury has no part in determining what sentence  
2 is imposed in the event a defendant is found guilty. Is there anyone who does not  
3 understand that or would be unable to accept the fact that punishment is for the court and  
4 not the jury to decide?

5           22. The law does not permit jurors to be governed by sympathy, prejudice, or  
6 public opinion. Both the accused and the public expect that juror will carefully and  
7 impartially consider all the evidence in this case, follow the law as stated by the Court,  
8 and reach a just verdict regardless of the consequences. Is there anyone who could not or  
9 would not do that?

10          23. Is there anyone who knows of any reason whatever why he or she could not  
11 sit as a juror in this case with absolute impartiality to both sides?

12          24. Do you have any strong feelings, one way or the other, about the fairness or  
13 equality of the American court system?

14          25. The government has the burden to prove the defendant guilty beyond a  
15 reasonable doubt. The law does not require the government prove its case beyond all  
16 doubt. The law recognizes that the human mind always can conceive of some doubt as to  
17 any proposition:

18           a. Would any of you require the government to prove its case beyond  
19 *all* doubt before you would vote for a verdict of guilty?

20           b. Is there anyone who thinks the burden beyond a reasonable doubt is  
21 too heavy or that it is asking too much for the government to meet  
22 this burden?

23          26. In this case, the government must prove that the defendants acted  
24 with the intent to defraud or deceive or with the intent that certain acts be taken. Since  
25 jurors cannot read a defendant's mind to see his intent, you can rely, in part, on  
26 circumstantial evidence. Therefore, the government will ask you to find the intent of the  
27 defendants from all of the surrounding facts and circumstances presented at trial. Do you  
28 have any hesitancy in basing your verdict, whether guilty or not guilty, upon

1 circumstantial evidence?

2 27. You have been told that you may hear evidence suggesting that the  
3 defendant Amr Mohsen attempted to tamper with witnesses and to have solicited violent  
4 acts, including arson. Do those allegations make any of you form a judgment about the  
5 defendant Amr Mohsen before you hear any testimony in this case?

6 28. Have you or anyone close to you had any experiences as a victim of any  
7 crime that might interfere with your ability to impartially view the evidence and decide a  
8 case that may include evidence that the defendant Amr Mohsen attempted to tamper with  
9 witnesses and to solicit violent acts?

10 29. In this case, a Special Agent from the Federal Bureau of Investigation  
11 agreed to go “under cover” and pretend that he was someone that he was not and that he  
12 had done certain acts that he had not actually done. Would the fact that an FBI agent  
13 acted as an undercover agent affect your ability to be a fair and impartial juror in this  
14 case?

15 30. Evidence may be presented from recordings of telephone conversations and  
16 meetings made by the government during portions of the investigation of this case. These  
17 recordings were made with the permission of a party to the conversation, who was either  
18 a federal agent or a person cooperating with the government. Does anyone feel that  
19 surreptitious electronic recording should not be used by the government to investigate  
20 crime? Does anyone have any personal feelings or beliefs that would make it difficult to  
21 give evidence of surreptitious recordings the same weight as any other evidence in this  
22 case?

23 31. In this case, an individual—an informant who was also an inmate—agreed to  
24 to pretend that he had a contact who could arrange to commit certain illegal acts. In  
25 exchange for his cooperation, the inmate expected consideration in his sentencing on  
26 charges in another pending criminal case.

27 a. Does anyone feel that the government should not use the testimony  
28 of participants or informers to prosecute criminal activity? Why?

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- b. Would the fact that the informant may have received benefits in exchange for his cooperation affect your ability to be a fair and impartial juror in this case?
- c. Would anyone be unable to consider such testimony within the instructions given to you by the Court?

32. The defendants Amr Mohsen and Aly Mohsen are originally from Egypt.

- a. Do any of you have strong feelings for or against Egypt or any other country in that region of the world that would prevent you from sitting as a fair and impartial juror?
- b. Do any of you have strong feelings for or against people of Egyptian descent that would prevent you from sitting as a fair and impartial juror?
- c. Some evidence will be presented in translated form. Is there anything about the use of translations of the defendants' conversations or writings that would lead you to give translations less weight?
- d. Do you have the ability to speak or read Arabic? Would you accept as binding the translations offered in evidence rather than your own understanding, if so ordered by the Court?

33. Do you know of any reason, whether previously discussed or not, which might prevent you from serving as a fair and impartial juror in this case?

Dated:

Respectfully submitted,  
KEVIN V. RYAN  
United States Attorney  
  
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/S/  
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KYLE F. WALDINGER  
Assistant United States Attorneys

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