

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC., GOOGLE INC.,  
and MOTOROLA MOBILITY LLC

Petitioners,

v.

ARENDI S.A.R.L.

Patent Owner.

Cases:

IPR2014-00206 (Patent No. 7,496,854)

IPR2014-00207 (Patent No. 7,496,854)

IPR2014-00208 (Patent No. 7,917,843)

Thursday, August 7, 2014

9:03 a.m.

DEPOSITION OF DANIEL A. MENASCÉ, Ph.D.

Henderson Legal Services, Inc.

2	4
<p>1 2 3 Deposition of DANIEL A. MENASCÉ, Ph.D, 4 taken by Patent Owner at the Offices of Morrison &amp; 5 Foerster LLP, 2000 Pennsylvania Avenue, Northwest, 6 Washington, D.C. before Randi J. Garcia, Registered 7 Professional Reporter, and Notary Public in and for 8 the District of Columbia, beginning at approximately 9 9:03 a.m., when were present on behalf of the 10 respective parties: 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 2 3 I N D E X 4 DANIEL A. MENASCÉ, Ph.D 5 DIRECT EXAMINATION PAGE 6 By Mr. Asher 4 7 8 ***No exhibits were marked. 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>
3	5
<p>1 APPEARANCES: 2 COUNSEL FOR 3 PETITIONER APPLE, INC. 4 ALEX S. YAP, ESQUIRE 5 MEHRAN ARJOMAND, ESQUIRE 6 MORRISON &amp; FOERSTER LLP 7 707 Wilshire Blvd., Suite 6000 8 Los Angeles, CA 90017-3543 9 (213) 892-5200 10 marjomand@mofo.com 11 ayap@mofo.com 12 13 COUNSEL FOR 14 PETITIONERS MOTOROLA 15 MOBILITY, LLC AND GOOGLE, 16 INC. 17 JULIE TURNER, ESQUIRE 18 TURNER BOYD LLP 19 2570 W. El Camino Real, Suite 380 20 Mountain View, CA 94040 21 (650) 265-6109 22 turner@turnerboyd.com  23 COUNSEL FOR PATENT OWNER, ARENDI S.A.R.L. 24 ROBERT M. ASHER, ESQUIRE 25 JOHN J. STICKEVERS, ESQUIRE 26 SUNSTEIN, KANN, MURPHY &amp; TIMBERS LLP 27 125 Summer Street, 11th Floor 28 Boston, MA 02110-1618 29 (617) 443-9292 30 rasher@sunsteinlaw.com 31 32</p>	<p>1 Thereupon, 2 DANIEL A. MENASCÉ, Ph.D 3 after having been first duly sworn, was 4 examined and testified as follows: 5 EXAMINATION 6 BY MR. ASHER: 7 Q Please state your full name for the 8 record. 9 A Daniel Alberto Menascé. 10 Q I am going to show you a Notice of 11 Deposition of Daniel A. Menascé, Ph.D. 12 Are you the Daniel Menascé identified in 13 this notice, which is paper number 11 in 14 IPR2014206? It's paper number 11 in IPR2014207. 15 It's paper number 13 in IPR2014208. 16 A Yes, I am. 17 MR. YAP: Counsel, are you going to label 18 this at all as an exhibit? No? 19 MR. ASHER: I just identified it by its 20 paper number, to keep it clear. 21 Q May I refer to IPR2014206 and 207 and 22 208 as the 206IPR, the 207IPR and 208IPR?</p>

6	<p>1 <b>A Right. I may not have a nice -- good</b></p> <p>2 <b>identification of those numbers. It will be</b></p> <p>3 <b>easier if you talk about the '843 patent and</b></p> <p>4 <b>'854, and I used to refer to the '854 inserting;</b></p> <p>5 <b>'854 performing. So it would make life easier</b></p> <p>6 <b>for me, you know, unless, you know, you allow me</b></p> <p>7 <b>to do some kind of small table here mapping</b></p> <p>8 <b>those numbers. So, otherwise, we are going to</b></p> <p>9 <b>get in trouble.</b></p> <p>10 Q Are you the Daniel Menascé who filed the</p> <p>11 declaration in the IPRs with respect to the '843</p> <p>12 patent and with respect to the '854 patent?</p> <p>13 <b>A Yes, I am.</b></p> <p>14 Q And there were two declarations for the</p> <p>15 '854 patent, one in each of the IPRs, is that</p> <p>16 correct?</p> <p>17 <b>A That is correct.</b></p> <p>18 Q Do you understand that today's testimony</p> <p>19 will be used as cross examination of your</p> <p>20 declarations for use in these three inter partes</p> <p>21 reviews?</p> <p>22 <b>A I do.</b></p>	8	<p>1 <b>litigation cases I have been deposed several</b></p> <p>2 <b>times.</b></p> <p>3 Q So I will quickly run through some</p> <p>4 reminders. I will be asking the questions and</p> <p>5 the court reporter needs to take down everything</p> <p>6 that both of us say.</p> <p>7 We should not speak over one another,</p> <p>8 because it makes it difficult for her to write</p> <p>9 everything down.</p> <p>10 Do you understand?</p> <p>11 <b>A I do.</b></p> <p>12 Q When I am asking a question, please wait</p> <p>13 for me to finish before responding. I will do</p> <p>14 the same. If I pause, please wait for me to</p> <p>15 finish asking the question.</p> <p>16 <b>A Sure.</b></p> <p>17 Q Please answer the questions aloud and do</p> <p>18 not nod or shake your head, as the court</p> <p>19 reporter cannot write that down.</p> <p>20 <b>A I will do it.</b></p> <p>21 Q If you do not -- if you don't understand</p> <p>22 the question, please make me aware of it. I</p>
7	<p>1 Q Have you ever been deposed before?</p> <p>2 <b>A Yes.</b></p> <p>3 Q About how many times?</p> <p>4 <b>A Maybe eight or nine times.</b></p> <p>5 Q What sort of cases have you been deposed</p> <p>6 in?</p> <p>7 <b>A The majority -- most of them were patent</b></p> <p>8 <b>infringement cases. There was only one trade</b></p> <p>9 <b>secret, misappropriation case.</b></p> <p>10 Q When was the most recent time you have</p> <p>11 been deposed?</p> <p>12 <b>A It was this year. I don't remember the</b></p> <p>13 <b>exact date. It was the first semester of this</b></p> <p>14 <b>year.</b></p> <p>15 Q Who was your -- who were you hired by</p> <p>16 for that deposition?</p> <p>17 <b>A I was hired by Oracle. The law firm was</b></p> <p>18 <b>Wilmer Hale.</b></p> <p>19 Q So are you generally familiar with the</p> <p>20 procedure for conducting depositions?</p> <p>21 <b>A Yes, I am. I should say that this is</b></p> <p>22 <b>the first deposition for an IPR case, but for</b></p>	9	<p>1 will rephrase the question.</p> <p>2 <b>A I will do that.</b></p> <p>3 Q Your attorney may want to object to</p> <p>4 certain questions. The way that will work is I</p> <p>5 will ask a question; your attorney might object.</p> <p>6 Then there will be an answer. Under the federal</p> <p>7 rules and the Patent Trial and Appeal Board</p> <p>8 rules you will need to answer the question</p> <p>9 unless your attorney instructs you not to</p> <p>10 answer.</p> <p>11 <b>A I understand that.</b></p> <p>12 Q We will take periodic breaks during the</p> <p>13 day for convenience and comfort. There will be</p> <p>14 a lunch break as well. It is my practice that</p> <p>15 there are no breaks while there is a question</p> <p>16 pending. Only following an answer. If you need</p> <p>17 a break, please bring that to my attention.</p> <p>18 <b>A I will do that.</b></p> <p>19 Q According to the -- now, this is with</p> <p>20 respect to the inter partes review -- according</p> <p>21 to the Patent Trial and Appeal Board practice</p> <p>22 from here on out you may not discuss the</p>

10	<p>1 substance of the inter partes review proceedings</p> <p>2 and the patents at any time with your counsel</p> <p>3 until after the deposition has been completed.</p> <p>4 Is that understood?</p> <p>5 MS. TURNER: I don't think that is an</p> <p>6 accurate statement of the rule. I think it's</p> <p>7 while cross examination is continuing.</p> <p>8 We could obviously talk about that</p> <p>9 later, since I don't anticipate you will</p> <p>10 finish cross examination within the next</p> <p>11 hour.</p> <p>12 MR. ASHER: What I was going to point out</p> <p>13 next is exactly from the appendix of the Patent</p> <p>14 Office Trial Practice Guide it reads as</p> <p>15 follows, so we can all understand: "Once the</p> <p>16 cross examination of a witness has commenced,</p> <p>17 and until cross examination of the witness has</p> <p>18 concluded, counsel offering the witness on</p> <p>19 direct examination shall not consult or confer</p> <p>20 with the witness regarding the substance of the</p> <p>21 witness' testimony already given or anticipated</p> <p>22 to be given except for the purposes of</p>	12	<p>1 <b>A Four times.</b></p> <p>2 Q Which cases were those?</p> <p>3 <b>A One case was the case I referred to, the</b></p> <p>4 <b>trade secret, misappropriation case. The other</b></p> <p>5 <b>three cases were cases related to patent</b></p> <p>6 <b>infringement.</b></p> <p>7 Q What was the technical subject matter</p> <p>8 involved in those three patent infringement</p> <p>9 cases?</p> <p>10 <b>A Okay. Let me try to remember, because I</b></p> <p>11 <b>-- the first one, I believe, was a case</b></p> <p>12 <b>involving CollegeNet. And the technology was</b></p> <p>13 <b>technology for applying to college online or</b></p> <p>14 <b>online applications.</b></p> <p>15 Q To call what?</p> <p>16 <b>A When you apply for college, they have an</b></p> <p>17 <b>online system for doing that. So that was the</b></p> <p>18 <b>technology.</b></p> <p>19 <b>The second time was the ePlus case, was</b></p> <p>20 <b>a electronic sourcing technology. The other one</b></p> <p>21 <b>-- the other case was a case of the multivariate</b></p> <p>22 <b>negotiation system.</b></p>
11	<p>1 conferring on whether to assert the privilege</p> <p>2 against testifying or on how to comply with the</p> <p>3 court order, or suggest to the witness the</p> <p>4 manner in which any questions should be</p> <p>5 answered."</p> <p>6 So do you understand that guideline?</p> <p>7 THE WITNESS: I do. I mean, I will leave</p> <p>8 that to the attorneys to figure out what is the</p> <p>9 -- whatever you tell me, you know, it's the</p> <p>10 right way to do it, I will.</p> <p>11 Q I guess you're right, until cross</p> <p>12 examination is concluded.</p> <p>13 What is your address?</p> <p>14 <b>A 6477 Wishbone Terrace, Cabin John,</b></p> <p>15 <b>Maryland 20818.</b></p> <p>16 Q Have you ever been involved in a</p> <p>17 litigation as a plaintiff or defendant?</p> <p>18 <b>A As a plaintiff, no, no. Just as an</b></p> <p>19 <b>expert witness.</b></p> <p>20 Q Have you testified at trial in the past?</p> <p>21 <b>A Yes.</b></p> <p>22 Q How many times?</p>	13	<p>1 Q So have you been engaged as an expert</p> <p>2 witness in this case?</p> <p>3 <b>A In this case?</b></p> <p>4 Q In this case.</p> <p>5 <b>A Well, in this IPR?</b></p> <p>6 Q Yes.</p> <p>7 <b>A Well, yes. I believe that's -- I really</b></p> <p>8 <b>want to make sure that I am giving you the right</b></p> <p>9 <b>answer, because typically expert witness are for</b></p> <p>10 <b>the litigations. I don't know if I am also</b></p> <p>11 <b>called an expert witness. I guess I am.</b></p> <p>12 Q Who contacted you to work on these</p> <p>13 cases?</p> <p>14 <b>A Well, I was contacted by a expert</b></p> <p>15 <b>witness placement firm. They put me in touch</b></p> <p>16 <b>with the attorneys for the case.</b></p> <p>17 Q Which attorneys were they -- were you</p> <p>18 put in touch with?</p> <p>19 <b>A Mr. Alex Yap was the first one I talked</b></p> <p>20 <b>to.</b></p> <p>21 Q And what was your assignment in this</p> <p>22 case?</p>

14	<p>1 MR. YAP: Objection to the extent it calls</p> <p>2 for work product information.</p> <p>3 You may answer.</p> <p>4 THE WITNESS: Okay. Well, my assignment,</p> <p>5 what I was told they were filing these</p> <p>6 petitions, and there was a need for a</p> <p>7 declaration from my part. And from that point</p> <p>8 on, you know, I started doing the work and</p> <p>9 interacting with them, reading the patents,</p> <p>10 studying them, studying the prior art, the</p> <p>11 usual thing.</p> <p>12 Q Who prepared your declaration?</p> <p>13 <b>A I did.</b></p> <p>14 Q What role did the attorneys play?</p> <p>15 <b>A Well, they gave me feedback. They had</b></p> <p>16 <b>interactions, but it was my declaration.</b></p> <p>17 Q This is a portion of Exhibit 1002 in</p> <p>18 both IPRs, the 206 and 207. Do you recognize</p> <p>19 the document?</p> <p>20 <b>A It seems to be my CV.</b></p> <p>21 Q And was the same CV submitted in all</p> <p>22 three IPRs?</p>	16	<p>1 science at the same place. And then I got a</p> <p>2 <b>Ph.D in computer science at UCLA.</b></p> <p>3 Q What was your field of specialty at</p> <p>4 UCLA?</p> <p>5 <b>A My dissertation dealt with the issue of</b></p> <p>6 <b>distributed databases. At that time networking,</b></p> <p>7 <b>computer networking was really starting to</b></p> <p>8 <b>become ubiquitous. So there was an issue</b></p> <p>9 <b>whereby databases that were replicated over many</b></p> <p>10 <b>different nodes of a computer network had to be</b></p> <p>11 <b>synchronized. When you updated one node you had</b></p> <p>12 <b>to make sure that the replicas of the data were</b></p> <p>13 <b>synchronized with the other nodes in light of</b></p> <p>14 <b>network of failures, node crashes and so on. So</b></p> <p>15 <b>these distributed algorithms were really</b></p> <p>16 <b>challenging, and my dissertation solved those</b></p> <p>17 <b>problems.</b></p> <p>18 Q I hand you what is marked as Exhibit</p> <p>19 1002. It comes from IPR2014-00207.</p> <p>20 Is this your declaration?</p> <p>21 <b>A Yes. It seems to be.</b></p> <p>22 Q Do you have an understanding of the</p>
15	<p>1 <b>A The same CV, yes.</b></p> <p>2 Q Are there any corrections you believe</p> <p>3 should be made to the CV?</p> <p>4 <b>A No. There were some additions. Since</b></p> <p>5 <b>December of last year to now, you know, there</b></p> <p>6 <b>were things that were added to my CV.</b></p> <p>7 Q Is the CV a true and accurate account of</p> <p>8 your work experience and accomplishments?</p> <p>9 <b>A This is a true account up to December of</b></p> <p>10 <b>2013, yes.</b></p> <p>11 Q Where did you go to college for your</p> <p>12 undergraduate degree?</p> <p>13 <b>A The Catholic University in Rio de</b></p> <p>14 <b>Janeiro, Brazil.</b></p> <p>15 Q What was your field of study?</p> <p>16 <b>A Electrical engineering.</b></p> <p>17 Q What degree did you obtain?</p> <p>18 <b>A Bachelor's, BS in electrical</b></p> <p>19 <b>engineering.</b></p> <p>20 Q Did you go on to get any further college</p> <p>21 degrees?</p> <p>22 <b>A Yes. I also got a Master's in computer</b></p>	17	<p>1 meaning of a person of ordinary skill in the</p> <p>2 art?</p> <p>3 <b>A I do.</b></p> <p>4 Q Is your understanding set forth in</p> <p>5 paragraph 28 of this declaration?</p> <p>6 <b>A Yes. It is set forth in this paragraph.</b></p> <p>7 Q Do you have experience working with</p> <p>8 people of ordinary skill in the art?</p> <p>9 <b>A I do.</b></p> <p>10 Q What is your experience in that respect?</p> <p>11 <b>A I have been in academia as a professor</b></p> <p>12 <b>in computer science since 1978. I have been</b></p> <p>13 <b>teaching at all levels, Bachelor's, Master's,</b></p> <p>14 <b>Ph.D. I was the advisor of 23 Ph.D students, 52</b></p> <p>15 <b>Master students. I taught close to 100 courses</b></p> <p>16 <b>over my career. So I deal with people of</b></p> <p>17 <b>ordinary skill all the time.</b></p> <p>18 Q Can we agree that when I refer to a</p> <p>19 person of ordinary skill in the art or one of</p> <p>20 ordinary skill in the art I am referring to a</p> <p>21 person having experience described in your</p> <p>22 paragraph 28 of your declaration at the time of</p>

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