Page 1

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 1          UNITED STATES PATENT AND TRADEMARK OFFICE
               _____
 2
               BEFORE THE PATENT TRIAL AND APPEAL BOARD
 3
 4   WHATSAPP, INC. and FACEBOOK, INC.,
 5             Petitioner(s)
 6        v.
 7   TRIPLAY COMMUNICATIONS, LTD.,
 8             Patent Owner
        _____
 9
     Case No. IPR2015-00740
10
     U.S. Patent No. 8,332,475
11   _____
12
13
14      VIDEO DEPOSITION UNDER ORAL EXAMINATION OF
15               RAJEEV SURATI, PH.D.
16            DATE:  MARCH 22, 2016
17   REPORTED BY:  CHARLENE FRIEDMAN, CCR, RPR, CRR
18
19
20
21
22
              ESQUIRE DEPOSITION SOLUTIONS, LLC
23           1384 Broadway - 19th Floor
             New York, New York  10018
24                (212) 687-2010
25   JOB  # J0324580
```

Page 2

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 1          TRANSCRIPT of the video deposition of the
 2   witness, called for Oral Examination in the
 3   above-captioned matter, by and before CHARLENE FRIEDMAN,
 4   a Notary Public and Certified Court Reporter of the
 5   State of New Jersey, a Registered Professional Reporter,
 6   and a Certified Realtime Reporter, at GREENBERG TRAURIG,
 7   LLP, 500 Campus Drive, Suite 400, Florham Park, New
 8   Jersey, on March 22, 2016, commencing at approximately
 9   10:04 the morning.
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19
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21
22
23
24
25
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Page 3

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 1   A P P E A R A N C E S:
 2
 3   COOLEY, LLP
     3175 Hanover Street
 4   Palo Alto, California  94304
     (650) 843-5007
 5   BY:   MARK WEINSTEIN, ESQ.
     Attorneys for Petitioner
 6
 7
 8
     GREENBERG TRAURIG, LLP
 9   500 Campus Drive
     Suite 400
10   Florham Park, New Jersey  07932
     (973) 360-7900
11   BY:   DOUG WEIDER, ESQ.
     Attorneys for Patent Owner
12
13
14   ALSO PRESENT:   YUAN LAING
15               PHIL MAZO, Video Operator
16
17
18
19
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21
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25
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Page 4

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 1               I N D E X
 2   WITNESS NAME                          PAGE
 3   RAJEEV SURATI
 4        By Mr. Weinstein
 5        By Mr. Weider
 6
 7            E X H I B I T S
 8   EXHIBIT NO.    DESCRIPTION            PAGE
 9   (None marked.)
10
11
12
13
14
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21
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Page 5

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 1                   - - -
 2            Deposition Support Index
 3                   - - -
 4
 5   Direction to witness not to answer
 6   Page              Line
 7   None
 8
 9   Request for production of documents
10   Page              Line
11   None
12
13   Questions marked
14   Page              Line
15   None
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19
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21
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23
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25
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Page 7

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 1   Greenberg Traurig on behalf of TriPlay, Inc.,
 2   the patent owner.
 3
 4
 5
 6
 7   R A J E E V  S U R A T I, Ph. D.,
 8        called as a witness, having been first duly
 9   sworn according to law, testifies as follows:
10
11   EXAMINATION BY MR. WEINSTEIN:
12      Q   Good morning, sir.
13      A   Good morning.
14      Q   Could you state your name, for the
15   record?
16      A   Rajeev Surati.
17      Q   And for purposes of addressing you,
18   do you prefer Dr. Surati or Mr. Surati?
19      A   Dr. Surati is fine.
20      Q   Dr. Surati it will be then, okay.
21        Sir, have you ever had your
22   deposition taken before?
23      A   Yes, sir.
24      Q   How many times?
25      A   Once before.
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 1        VIDEO OPERATOR:  This is Tape
 2   Number 1 to the videotaped deposition of
 3   Rajeev Surati, Ph.D., in the matter of
 4   Whatsapp, Inc. and Facebook, Inc. versus
 5   Triplay Communications, LTD, being heard
 6   before the United States Patent and Trademark
 7   Office, before the Patent Trial and Appeal
 8   Board, Case No. IPR2015-00740, U.S. Patent
 9   No. 8,332,475.
10        This deposition is being held at
11   Greenberg Traurig, 500 Campus Drive, Suite
12   400, Florham Park, New Jersey 07932, on
13   March 22nd, 2016 at 10:04 a.m.
14        My name is Phil Mazo, and I am the
15   videographer.  The court reporter is Charlene
16   Friedman.
17        Counsel, will you please introduce
18   yourselves and affiliations, and the witness
19   will be sworn.
20        MR. WEINSTEIN:  My name is Mark
21   Weinstein from the law firm of Cooley, LLP,
22   representing the petitioner.  With me is Yuan
23   Liang also from Cooley, representing the
24   petitioner.
25        MR. WEIDER:  Doug Weider from
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 1      Q   When was that?
 2      A   It was with regard to this related
 3   matter, to this, at the law firm of --
 4   somewhere in Palo Alto, and I can't remember
 5   the name but it was a guy named Rick.
 6      Q   Rick Franco?
 7      A   Yeah, Rick Franco.
 8      Q   Okay.  So we're actually
 9   representing a different -- withdrawn.
10        I'm actually from a different law
11   firm --
12      A   Yeah.
13      Q   -- but it sounds like that's the
14   only other deposition you've been in?
15      A   That's correct.
16      Q   Okay.  So I will put on the record
17   just a couple of the ground rules of a
18   deposition, even though I think you're
19   already aware of them.
20        Obviously, everything you say here
21   is under oath.  So what you say here has the
22   same force and effect as if it was stated in
23   court.
24        You understand that, correct?
25      A   Yes, sir.
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 1     Q   If at any point during the
 2  deposition you don't understand a question
 3  I'm asking, please feel free to ask me for a
 4  clearer question.  I can try to accommodate
 5  that.
 6         Is that understood?
 7     A   Yes, sir.
 8     Q   If at any point during the
 9  deposition -- we're not going to be here that
10  long, but if at any point during the
11  deposition you feel you need to take a break,
12  let me know and we can accommodate that,
13  okay?
14     A   Thank you.
15     Q   The only restriction on that,
16  typically, is that we wouldn't take a break
17  during the pendency of a question.
18         That sounds fair to you, right?
19     A   What does that mean?
20     Q   Well, during the question, we
21  normally wouldn't ask for a break, while a
22  question is still pending.
23     A   Oh.
24     Q   You would answer the question
25  before we take a break.
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Page 10

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 1     A   Okay.  Sure.
 2     Q   Okay.  And then is there any reason
 3  you can give today that you can't give your
 4  best testimony today?
 5     A   No.
 6     Q   Any medication you're aware of that
 7  could affect your testimony?
 8     A   No.
 9     Q   Okay.  Thank you, sir.
10         I'm going to get right into it.
11  I'm going to hand you a document that's been
12  marked as TriPlay Exhibit 2002 --
13     A   Umm-hmm.
14     Q   -- in the IPR.
15     A   Okay.
16     Q   Because these are already of record
17  in the IPR, I don't -- I don't need to mark
18  it as an exhibit to the deposition.
19         I just handed you Exhibit 2002.
20         Is this a copy of your declaration
21  submitted in this case?
22     A   Let me just take a look and --
23     Q   Absolutely.
24         (Witness reviewing.)
25     A   Yes, it appears to be.
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Page 11

```
 1     Q   Thank you.
 2         If at any point during the
 3  deposition you need to refer to paragraphs of
 4  your declaration --
 5     A   Umm-hmm.
 6     Q   -- I handed it to you so you can
 7  rely on it.  It's not a memory test.
 8         I'm going to go through certain
 9  paragraphs of your declaration and ask some
10  clarification on certain points.
11     A   Umm-hmm.
12     Q   If we could start with paragraph 7
13  of your declaration.
14     A   Umm-hmm.  Yes, sir.
15     Q   Thank you.
16         In the last sentence of paragraph
17  7, it refers to HTML and WML.
18         Do you see that?
19     A   Yes, sir.
20     Q   Just so I have a clear record,
21  so -- so what does "WML" refer to?
22     A   Wireless market language, I
23  believe.
24     Q   Okay.  And what is wireless market
25  language used for?
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 1     A   So I believe it's a protocol that's
 2  used in the context of wireless access
 3  protocol or it's a format that typically is
 4  used with that to provide rendering on mobile
 5  devices that, at the time, 2000 people were
 6  using to transmit and receive messages over
 7  WAP using WML.
 8     Q   Is it also a technique used to
 9  encode websites for use on a mobile device?
10     A   At the time, I was using that as a
11  way to encode Photo.net when it detected that
12  a WAP browser was being -- doing the
13  requesting.
14     Q   Okay.  So your Photo.net program
15  would detect the type of browser that was
16  attempting to access the site, correct?
17     A   Yes.
18     Q   Did it use the user-agent string to
19  do that?
20     A   I believe so.  I think that's
21  correct.
22     Q   Okay.  And one of the user agent
23  strings you would recognize as full -- as
24  belonging to a mobile browser, correct?
25     A   I think that's correct, yes.
```

Page 13

1   Q   And if you saw that kind of a
2   browser, you would render the page in WML,
3   correct?
4   A   Yeah.
5   Q   Okay. And Photo.net, was that --
6   was that a website?
7   A   Yes, it was.
8   Q   Okay.
9   A   And still is.
10   Q   And still is.
11   A   Yes.
12   Q   Okay.
13   (Whereupon, a discussion was held
14   off the record.)
15   Q   And let's go to paragraph 12 real
16   quickly.
17   I'll also ask you briefly, is 350
18   an hour still your currently hourly rate?
19   A   I've started to charge a little bit
20   more.
21   Q   Okay. But for purposes of this
22   proceeding, are you still charging 350 an
23   hour?
24   A   Yes, sir.
25   Q   Okay. Talking about this matter,

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1   not the District Court matter that you had a
2   deposition with Mr. Franco, how many hours do
3   you estimate that you have billed in
4   connection with the IPR matter?
5   A   Oh. Can I have a piece of paper?
6   Q   If you need one, sure.
7   A   Yeah.
8   Q   If it would help you answer
9   questions, sure.
10   A   I just need to...
11   Q   No problem.
12   A   Somewhere on the order of 350
13   hours, I guess.
14   Q   Okay.
15   VIDEO OPERATOR: Dr. Surati, could
16   you just put your mic on your jacket?
17   Thank you.
18   THE WITNESS: Right here?
19   VIDEO OPERATOR: Yes.
20   THE WITNESS: It was too close?
21   VIDEO OPERATOR: It was just
22   brushing against -- against your shirt.
23   THE WITNESS: Oh, okay.
24   (Whereupon, a discussion was held
25   off the record.)

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1   Q   So let -- let's jump right to
2   paragraph 20, which is the level of ordinary
3   skill in the art. Looks like page 7 of your
4   deposition.
5   A   Is that paragraph 20, did you say?
6   Q   Paragraph 20.
7   A   Umm-hmm.
8   Q   I'm also going to hand you a copy
9   of Exhibit 1001, which is the --
10   A   Original patent.
11   Q   Correct, the '475 patent.
12   So looking at paragraph 20 of your
13   declaration --
14   A   Umm-hmm.
15   Q   -- you identify a person of
16   ordinary skill in the art as a person with a
17   Bachelor's degree, either electrical
18   engineering or computer science, at least two
19   years of experience designing, implementing
20   messaging systems between user devices and at
21   least one year of experience working with
22   format and coding and layout of images or
23   video.
24   Do you see that?
25   A   Umm-hmm.

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1   Q   Now, looking -- if you can look at
2   claims 1 and 6 of the '475 patent, do the
3   messages in claims 1 or 6 require images or
4   video?
5   A   The specification discusses
6   messages and messages can mean -- can have
7   video or -- what was the question again?
8   Q   Do the messages in claims 1 or 6,
9   must they include images or video?
10   A   So like I said, so messages could
11   include them, but I don't, at the moment, see
12   why they necessarily have to.
13   However, the specification of the
14   patent discusses a lot of that. So within
15   the context of the specification, I think
16   that the reason that I made those
17   requirements was the specification that
18   discussed that.
19   Q   Okay. And we can turn to that, if
20   you'd like.
21   A   Umm-hmm.
22   Q   If you turn to column 10 of the
23   specification.
24   A   Yes, sir.
25   Q   I'm going to direct you to line 51.

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1   A   Umm-hmm.
2   MR. WEIDER: Try and make your
3   answers verbal.
4   A   Yes.
5   Q   Oh, uh-huh and umm-hmm don't come
6   up on the --
7   A   Okay. Fifty-one.
8   Q   Yes, line 51 -- all three in the
9   record, column 10, line 51 --
10   A   Umm-hmm.
11   Q   -- "The message content may
12   include" --
13   MR. WEIDER: Your answers have to
14   be verbal, sorry.
15   A   Oh, yes.
16   Q   Column 10, line 51, "The message
17   content may include a text and/or one or more
18   video" -- I'm sorry, "items to be transmitted
19   to the other party wherein the media items
20   may include text files, image files, moving
21   picture files, sound files, hyperlinks,
22   electronic signatures, et cetera, and any
23   available formats."
24   Do you see that?
25   A   Umm-hmm.

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1   Q   Is that the statement for the
2   specification to which you're referring?
3   A   Yes, this is one of them.
4   Q   Okay. Would you agree that the
5   definition of a message in the patent could
6   include a -- a text only message?
7   A   I think that's reasonable.
8   Q   Okay. That's not a clear answer.
9   Do you disagree with my statement
10   or not?
11   A   Which statement?
12   Q   That a message as defined in the
13   patent could include a text only message.
14   You said it was reasonable. I
15   wasn't sure if you were saying --
16   A   Yeah, I think it's reasonable to
17   say the messages as discussed in the patent
18   may only be a text message.
19   Q   Okay. Would include a message that
20   has only text, correct?
21   A   As the body, yes.
22   Q   Okay. Let's go to paragraph 22 of
23   your declaration.
24   A   I'm sorry.
25   Q   No problem.

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1   The first sentence in paragraph 22
2   says, "Coulombe proposed framework does not
3   place any meaningful restrictions on the,
4   quote, 'characteristics of the incoming
5   messages,' quote" --
6   A   Umm-hmm.
7   Q   -- "that are to be, quote, 'made
8   suitable for,' quote, 'the capabilities of
9   the recipients terminal or the recipients
10   user preference.'"
11   (Whereupon, a discussion was held
12   off the record.)
13   Q   What would be an example of a
14   meaningful restriction on the characteristics
15   of an incoming message?
16   A   A meaningful restriction might be
17   that they all be in the XML format.
18   Q   Okay. Does the '475 patent that
19   you've reviewed in connection with this IPR
20   place any meaningful restrictions on the
21   characteristics of the incoming messages?
22   MR. WEIDER: Objection.
23   You can answer, if you understand.
24   THE WITNESS: Okay. Oh, you said
25   objection?

Page 20

1   Q   Unless he instructs you otherwise,
2   which I can't imagine --
3   A   Yeah.
4   Q   -- why he would, you can answer the
5   question.
6   A   Okay. So the question again was,
7   does the '475 patent place any meaningful
8   restrictions on messages?
9   Q   On the characteristics of incoming
10   messages.
11   A   Yeah. I'd have to think about
12   that.
13   Q   Okay. We can go back to that
14   passage that we just talked about on column
15   11.
16   A   Okay. That would be here. Okay.
17   Q   Which has the definition of a
18   message. I apologize, column 10.
19   A   Umm-hmm.
20   Q   Column 10, line 43.
21   And that passage begins, "The term
22   message" --
23   A   Umm-hmm.
24   Q   -- "used in the patent
25   specification should be expansively construed

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