

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3

4
5 WHATSAPP, INC. and FACEBOOK, INC.,)
)
6 Petitioner,)
)
7 vs.) IPR2015-00740
)
8 TRIPLAY, INC.,)
)
9 Patent Owner.)
)
_____)
_____)

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11
12 DEPOSITION OF DAVID KLAUSNER
13 Palo Alto, CA
14

15 Wednesday, November 4, 2015
16 Volume I
17

18
19 Reported by: SUSAN F. MAGEE, RPR, CCRR, CLR
20 CSR No. 11661
21

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23 Pages 1-87
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 11
 12 DEPOSITION OF DAVID KLAUSNER taken on behalf of
 13 Patent Owner at COOLEY LLP, 3175 Hanover
 14 Street, Palo Alto, CA 94304-1130, beginning at
 15 9:09 a.m. and ending at 1:01 p.m. on Wednesday,
 16 November 4, 2015, before Susan F. Magee, RPR,
 17 CCRR, CLR, Certified Shorthand Reporter
 18 No. 11661.
 19
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 21
 22
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 24
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1	EXHIBITS	
2	NUMBER DESCRIPTION	PAGE
3	Exhibit 1 US Patent No. 8,332,475, WhatsApp	9
4	Inc.'s Exhibit 1001 (29 pages)	
5	Exhibit 2 Declaration of David Klausner,	9
6	WhatsApp Inc.'s Exhibit 1002 (102	
7	pages)	
8	Exhibit 3 Supplemental Declaration of David	9
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10	Exhibit 4 US Patent No. 2003/0236892, WhatsApp	9
11	Inc.'s Exhibit 1003 (12 pages)	
12	Exhibit 5 US Patent No. 6,167,441, WhatsApp	10
13	Inc.'s Exhibit 1007 (12 pages)	
14	Exhibit 6 US Patent No. 6,928, 612, WhatsApp	10
15	Inc.'s Exhibit 1004 (15 pages)	
16	Exhibit 7 "More HTML" for Dummies, 2nd Edition	11
17	Excerpt, WhatsApp, Inc.'s Corrected	
18	Exhibit 1005 (35 pages)	
19	--o0o--	
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1 A. Yes.

2 Q. Okay. So you're pretty familiar with the

3 deposition procedure?

4 A. I guess so.

5 Q. Okay. First thing in a deposition procedure,

6 as you know, the way this will work is I will first ask

7 a question. Wait for me to finish so the court reporter

8 can get it down, and then you can answer.

9 Do I have an agreement with that?

10 A. Yes.

11 Q. Second is if you don't understand a question, I

12 expect you to ask me; otherwise, if you answer, I can

13 assume you understood my question.

14 Can I have that agreement?

15 A. Yes.

16 Q. Third, any time you want a break, please ask

17 me. This is not, as I said, a session to torture you.

18 This is a session to try to get to the truth.

19 Do you understand that?

20 A. Yes.

21 Q. And finally is are you on any medication, or is

22 there any reason why you cannot answer my questions

23 truthfully today?

24 A. No.

25 MR. SCHINDLER: Okay. Thank you.

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1 Palo Alto, CA, Wednesday November 4, 2015

2 9:09 a.m.

3

4 DAVID KLAUSNER,

5 having been administered an oath, was examined and

6 testified as follows:

7

8 EXAMINATION BY MR. SCHINDLER

9

10 Q. Good morning, Mr. Klausner.

11 A. Good morning.

12 Q. Mr. Klausner, my name is Barry Schindler. I'm

13 from the firm of Greenberg Traurig, and I represent

14 TriPlay Communications, the patentee in this IPR.

15 With me is Doug Weider, and he's also a member

16 of the firm. And with me also is Raj --

17 Your last name, please.

18 MR. SURATI: Surati.

19 MR. SCHINDLER: Yes.

20 BY MR. SCHINDLER: Q. So Mr. Klausner, let me

21 ask you, have you had your deposition taken before?

22 A. Yes.

23 Q. More than once?

24 A. Yes.

25 Q. More than ten times?

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1 So I have marked, to make our life easy, a

2 series of exhibits that I will be using today, and I'm

3 going to tell the court reporter what these are first,

4 and then I'm going to hand the stack to you.

5 (Exhibit 1 was marked for identification by the

6 court reporter and is attached hereto.)

7 MR. SCHINDLER: So the first exhibit is

8 Exhibit 1, and we've marked it D. Klausner Exhibit 1,

9 and it's Patent U.S. 8,332,475 and -- which I will refer

10 to today as the '475 patent.

11 (Exhibit 2 was marked for identification by the

12 court reporter and is attached hereto.)

13 MR. SCHINDLER: Exhibit 2 is a declaration of

14 David Klausner, and that is dated February 14, 2015.

15 (Exhibit 3 was marked for identification by the

16 court reporter and is attached hereto.)

17 MR. SCHINDLER: The third exhibit that's been

18 marked is supplemental declaration of David Klausner,

19 and that is dated September 21st, 2015.

20 (Exhibit 4 was marked for identification by the

21 court reporter and is attached hereto.)

22 MR. SCHINDLER: The fourth exhibit is U.S.

23 2003/0236892 which I will be referring as Coulombe,

24 patent application of Coulombe. Coulombe is

25 C-o-u-l-o-m-b-e.

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1 (Exhibit 5 was marked for identification by the
2 court reporter and is attached hereto.)
3 MR. SCHINDLER: The fifth exhibit is U.S.
4 Patent 6,167,441, and I will also -- and that's
5 Exhibit 5. And I will be referring to it as the Himmel
6 patent.
7 MR. CHEN: Counsel, I don't think I have a copy
8 of Exhibit 5.
9 MR. SCHINDLER: You don't have Himmel?
10 MR. CHEN: Yes. Or beyond.
11 MR. SCHINDLER: Oh. Now you will have the
12 patent. Sorry.
13 MR. CHEN: Okay.
14 MR. SCHINDLER: And also you don't have a copy
15 of this here.
16 MR. CHEN: Okay.
17 (Exhibit 6 was marked for identification by the
18 court reporter and is attached hereto.)
19 MR. SCHINDLER: The next exhibit is Exhibit 6,
20 and that's U.S. Patent 6,928,617, and I'll be referring
21 to that as the Druyan or "Druyan" patent. "Druyan" is
22 D-r-u-y-a-n.
23 MR. CHEN: Counsel, I think I don't have that
24 one as well.
25 MR. SCHINDLER: You don't have Druyan?

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1 MR. CHEN: Yeah.
2 MR. SCHINDLER: Oh. I'm holding out on you.
3 (Exhibit 7 was marked for identification by the
4 court reporter and is attached hereto.)
5 MR. SCHINDLER: And the last exhibit is
6 Exhibit 7, and that's -- title is "More HTML for
7 Dummies," second edition, and I will be referring to
8 that as the Tittel document or the Tittel exhibit.
9 Tittel is T-i-t-e-l [sic].
10 And Counsel, this is, I believe, the exhibit
11 with the additional pages.
12 MR. CHEN: Correct. Additional page.
13 MR. SCHINDLER: Yes.
14 BY MR. SCHINDLER: Q. And Mr. Klausner, I'm
15 going to hand you the exhibit, and I want you to confirm
16 that.
17 So I'll hand you actually this doc. Is that
18 right?
19 MR. CHEN: That's correct, yes. It has the
20 additional page 262.
21 BY MR. SCHINDLER: Q. I apologize. I have to
22 walk over to you. I don't mean -- if you sit down, I'll
23 ask you some questions about that. There is an exhibit
24 missing in your thing, so we'll get there.
25 So Mr. Klausner, I would like you to take a

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1 look at each of the exhibits I marked, and the question
2 for each exhibit will be, are you familiar with that
3 exhibit?
4 So Exhibit 1 which is what we referred to as
5 the '475 patent -- are you okay with me referring to it
6 as the '475 patent?
7 A. Yes.
8 Q. You've seen '475 patent before?
9 A. Yes.
10 Q. And have reviewed '475 patent before?
11 A. I have.
12 Q. Okay. The next exhibit is -- I will refer to
13 as the Klausner declaration.
14 Is that a document that you wrote?
15 A. Yes.
16 Q. And I gather you're familiar and have reviewed
17 that document?
18 A. Yes.
19 Q. I will show you what's been marked as Exhibit 3
20 which is a Klausner supplemental declaration.
21 Did you write that declaration?
22 A. Yes.
23 Q. So again, I assume that you're familiar and
24 have reviewed that document?
25 A. Yes.

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1 Q. Exhibit 4 I'm going to refer to as the
2 Coulombe, period.
3 Are you comfortable with me referring to it as
4 Coulombe?
5 A. Yes.
6 Q. Okay. Have you seen Coulombe before?
7 A. Yes.
8 Q. Have you reviewed Coulombe?
9 A. Yes.
10 Q. Exhibit 5 I will refer to as the Himmel
11 exhibit.
12 Are you okay with me referring to that as the
13 Himmel document?
14 A. Yes.
15 Q. And again, have you seen this document and
16 reviewed it?
17 A. I have.
18 Q. Exhibit 6 is what I refer to as Druyan.
19 I may destroy the name, but are you comfortable
20 with me referring to that exhibit which is Exhibit 6 as
21 Druyan?
22 A. Yes.
23 Q. Have you seen and reviewed that document?
24 A. Yes.
25 Q. The last exhibit is referred to -- I'm going to

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1 refer to because if you go to the second page is
2 referred to as the Tittel document.
3 Are you okay with me referring to that as the
4 Tittel document?
5 A. I am.
6 Q. And have you seen and reviewed that document?
7 A. Yes.
8 Q. Thank you. What I'd like you to do is go to
9 what I call the Klausner declaration which is Exhibit 2.
10 A. I have it.
11 Q. And what I'd like you to do is go to paragraph
12 64. It's page 40 of your declaration.
13 A. I have it.
14 Q. Okay. And when I say 65, actually I'm
15 referring to the section called "c" and below that.
16 Do you have that section "c" that says -- that
17 quotes a claim limitation?
18 A. Yes.
19 Q. And what I would like to do is talk to you a
20 little bit about this section from 65 essentially
21 through what I would refer to as 70. So before I ask
22 you some questions, I'd like you to just make sure you
23 are familiar with 65 through 70.
24 A. Please proceed.
25 Q. Okay. And one last thing. Can you take a look

Page 15

1 at paragraph 64 which is on page 38, please. Also
2 familiarize yourself with that.
3 A. Yes.
4 Q. Okay. Those sections refer to -- in the
5 Coulombe from Exhibits 86 through 90.
6 Would you agree with that at least? And
7 specifically if I refer you to page 40, you cite
8 paragraphs 86, 87, 89.
9 And then if you go through the paragraphs I had
10 you do, you're referring to paragraphs 90. You refer to
11 various other paragraphs in Coulombe in that area;
12 correct?
13 A. I don't think so.
14 Q. You refer to 86; correct? Page 40, you refer
15 to paragraph 86?
16 A. When you say these sections, you mean --
17 Q. I'm going to go -- so on page 40, do you in
18 your declaration refer to paragraph 86?
19 A. Correct.
20 Q. Do you refer to paragraph 87?
21 A. Correct.
22 Q. Do you refer to paragraph 89?
23 A. Yes.
24 Q. Do you refer to paragraph 90?
25 A. In my paragraph 66, yes.

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1 Q. Okay. So you refer to those.
2 So you have given an opinion as to those
3 sections in Coulombe?
4 A. Yes.
5 Q. So let's go to Coulombe. Coulombe is
6 Exhibit 4.
7 A. I have Coulombe.
8 Q. Okay. Go to paragraph 86. It should be page 5
9 of Coulombe.
10 A. I have it.
11 Q. You have paragraph 86 in front of you? Could
12 you read paragraph 86 to yourself first, and then I'll
13 have some questions.
14 A. I've read it.
15 Q. Okay. So you see the sentence that says --
16 it's the last sentence on 86 that says, "Adaptation
17 operations performed are usually limited to the message
18 body and include the following."
19 Do you see that?
20 A. Yes.
21 Q. So my question is, when it says "include the
22 following," is this -- and it then lists five different
23 what it calls "message body include the following," is
24 there -- could there be other capabilities other than
25 these five that are listed?

Page 17

1 MR. CHEN: Objection. Form.
2 THE WITNESS: The language used is the word
3 "include" which implies that there may be others.
4 BY MR. SCHINDLER: Q. Okay. So let me --
5 let's stay in that paragraph and -- in 86. And it talks
6 about in the second sentence where it's talking about
7 this message adaptation engine.
8 And are you familiar with the message
9 adaptation engine?
10 A. Yes.
11 Q. And in your declaration if you turn to -- turn
12 to paragraph 60, page 35.
13 A. I have it.
14 Q. You state that, "The 'media block' to Coulombe
15 corresponds to the 'Message Adaptation Engine' 20, also
16 shown in Figure 1 above as being in communication with
17 the SIP Proxy/Registrar 12 ('access block')"
18 Do you see that?
19 A. Yes.
20 Q. So is it your testimony that the media block
21 corresponds to Message Adaptation Engine?
22 A. Yes.
23 Q. Okay. So go back to paragraph 86.
24 A. I have it.
25 Q. In the paragraph that -- the sentence that

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