

Page 1

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3
4
5 PALO ALTO NETWORKS, INC.,)
6)
7 Petitioner,) Case No.
8)
9 vs.) IPR2015-01979
10)
11 FINJAN, INC.,) Patent
12) 8,141,154
13)
14 Patent Owner.)
15)
16
17 DEPOSITION OF MEL DeSART
18 June 21, 2016
19 Seattle, Washington
20
21
22
23
24 Reported by:
25 Kim Scheuerman
CCR No. 2517
Job No. J0379151

Page 2

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2
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3 EXAMINATION BY: PAGE NO.
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6 MR. ARMON 31
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9 EXHIBIT INDEX
10 EXHIBIT NO. DESCRIPTION PAGE NO.
11 1 Declaration of Mel DeSart 12
12
13
14
15 WITNESS INSTRUCTED NOT TO ANSWER
16 (None)
17 INFORMATION REQUESTED
18 (None)
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24
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1 BE IT REMEMBERED that on Tuesday, June
2 21, 2016, at 3914 East Stevens Way, Seattle, Washington, at
3 9:30 a.m., before Kim Scheuerman, Notary Public in and for
4 the State of Washington, appeared MEL DeSART, the witness
5 herein;
6 WHEREUPON, the following proceedings were
7 had, to wit:
8
9 <<<<<< >>>>>>
10
11 MEL DeSART, having been first duly sworn
12 by the Notary, deposed and
13 testified as follows:
14
15 EXAMINATION
16 BY MS. NGUYEN:
17 Q. Please state and spell your name for the record.
18 A. Full version?
19 Q. Yes.
20 A. Melvin Glenn DeSart, D-e-S-a-r-t. And if you want to know,
21 Glenn has two Ns, instead of one.
22 Q. Please state your address.
23 A. Home address?
24 Q. Yes.
25 A. 7024 16th Avenue Northeast, Seattle.

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1 Q. Do you understand --
2 A. 98115.
3 Q. Do you understand why you're here today?
4 A. Yes.
5 Q. And why is that?
6 A. To give a deposition over -- in particular, when a particular
7 item was received and made available to users within the
8 engineering library.
9 Q. Have you ever been deposed before?
10 A. Yes.
11 Q. How many?
12 A. Once like this. Many times for a written deposition, like
13 what I submitted earlier.
14 Q. Like "this," do you mean in person or?
15 A. Once in person. Once before in person.
16 Q. So I'm going to ask you some questions today, and if you
17 don't understand my question, please let me know, and I'll do
18 my best to rephrase it. Otherwise, I'm going to assume that
19 you understand it. Okay?
20 A. Yeah.
21 Q. And your attorney will object from time to time for the
22 record, but please provide me with a response, unless he
23 gives you some instruction not to. Okay?
24 A. Okay.
25 Q. And is there any reason why you cannot provide your best and

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1 most accurate testimony today?
2 A. None that I know of.
3 Q. And who asked you to work on this matter?
4 A. Who asked me to work on it?
5 Q. Yes.
6 A. Orion.
7 Q. And when was that?
8 A. Oh, Lord, I honestly don't know. I don't remember how long
9 it was. It was months ago at this point.
10 Q. And are you represented by counsel today?
11 A. No.
12 Q. What did they ask you to do when they contacted you?
13 A. They asked me if I could look at a copy of the document that
14 was -- that came from our collection and verify what certain
15 date information that was on the cover of that document
16 meant.
17 Q. Did they provide you with a document or did they ask you to
18 look it up in the library?
19 A. They provided a copy, an electronic copy of the document, but
20 I always -- and I've done these, like I said, not an
21 in-person deposition like this, but I've done written
22 depositions a number of times, probably close to 20 times in
23 the past over the years. And I always go and get the
24 original and look it up anyway.
25 Q. Was the context of those to determine whether something was

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1 available in your library?
2 A. To determine what I -- I knew that it was visible. I knew it
3 was in our library based on nothing more than the electronic
4 copy that I received because it has the University of
5 Washington Library's date stamp on it. So I knew that was
6 from our collection, but, like I said, I went and pulled off
7 the original anyway. I always like to look at the print
8 myself.
9 Q. And was this for litigation or was this for Inter Partes
10 Review, do you know?
11 A. I think it's that Inter Partes Review thing. All I do is
12 verify. I have no idea about the legalese involved.
13 Q. And what's your educational background?
14 A. I have Bachelor of Arts degree from University of Illinois
15 from 1982, and a Master of Science degree in library and
16 information science also from the University of Illinois from
17 1987.
18 Q. Where do you currently work?
19 A. In the engineering library at the University of Washington.
20 Q. What's your position there?
21 A. I'm the head of the engineering library.
22 Q. How long have you been working there?
23 A. How long have I been working here?
24 Q. Yes.
25 A. A little over 16 years. Since March of 2000?

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1 Q. When in March of 2000?
2 A. When in March of -- March 20th, I believe.
3 Q. And what was your position in March 20th of 2000?
4 A. Head of the engineering library.
5 Q. And so what are your responsibilities today as the head of
6 engineering library?
7 A. I -- basically, I have overall responsibility for the
8 library, its contents and its staff. That's short version.
9 All of the librarians here report to me. There's an
10 assistant head of the library that the support staff report
11 to, but ultimately everybody reports up through me, at the
12 very least. Again, responsibility for the collections,
13 responsibility to some extent for the facility. That's -- I
14 mean, I could -- there's lots and lots more, but that's kind
15 of the nuts and bolts version.
16 Q. How have the -- are the responsibilities different than they
17 were in 2000 when you first started?
18 A. Not really. Not a lot. I mean, little things, but the
19 basics in terms of who reports to me, the responsibility for
20 the facility, for the collection, that's all the same now
21 that it was before. I actually have an additional
22 responsibility outside of this unit that I didn't have back
23 in 2000, but --
24 Q. For the collections, how are those cataloged?
25 A. How are they cataloged?

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1 Q. And shelved?
2 MR. ARMON: Object to the form of that
3 question.
4 A. I'm sorry?
5 MR. ARMON: I'm just making an
6 evidentiary record. Go ahead and answer.
7 A. I didn't hear what you said.
8 MR. ARMON: I said I object to the form
9 of that question.
10 A. Cataloging is a word that's specific to the library world,
11 and I don't know necessarily what you mean by that phrase.
12 Cataloging is actually done for something like a serial,
13 which this is or a journal. It's done once when the serial
14 is first received, a record is created and added to the
15 library's catalog. And then that's it in terms of
16 cataloging.
17 From there on, it's just a matter of adding each issue
18 to that existing record as additional issues of that journal
19 come in. In terms of how it's shelved in here at the time in
20 2000, this would have -- all of our journals were shelved in
21 alphabetical order. A couple years ago, something I had been
22 wanting to do actually since I got here, we moved them all
23 into call number order.
24 Q. I'm sorry, into what order?
25 A. Call number order. Order by that.

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1 Q. Okay.
2 A. And what it does is in particular for undergraduates for
3 students it collocates material in a common subject area
4 together, which like this book, this journal Operating
5 Systems Review, if this journal had changed title to the ACM
6 Journal or the ACM Operating Systems Review, when we had
7 these shelved by -- had them shelved alphabetically, the A
8 title would have been way back at the beginning of the floor.
9 The O title would have been two thirds of the way around the
10 collection. By shelving by call number, it puts both -- all
11 of the titles that have to do with operating systems in the
12 same place.
13 Q. So to be clear, in 2000, these were organized by alphabetical
14 order?
15 A. Yes. Alphabetic by title, by title of journal.
16 Q. How else would someone be able to locate the journal that
17 they're looking for?
18 A. Looking in the library's catalog would be the easiest way.
19 They could also come up and browse the shelves, if they
20 wanted to, but that's a lot of real estate to cover.
21 Q. And was the library's catalog also in alphabetical order or
22 how was that arranged?
23 A. The library's catalog is electronic. And you basically sit
24 down and type in whatever title you're interested in
25 searching for, like the title of the journal like this,

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1 Operating Systems Review, and it would pop up a record
2 saying, yes, we had that journal, where it was shelved, and
3 then the person could go up and pull it off the shelf from
4 there.
5 Q. And to be --
6 A. Or at least browse the volumes that were on the shelves.
7 Q. And to be clear, it was electronic in 2000?
8 A. The catalog was electronic in 2000, yes.
9 Q. Would you need the entire title of the journal?
10 A. No. You could find it -- you could find it from words in the
11 title. It would be more difficult, but you wouldn't have to
12 have the entire title.
13 Q. How would it be more difficult?
14 A. You would find more hits. You know, our collection now
15 numbers -- mind you, I don't know how many items we had in
16 the collection in 2000, because I don't remember back -- but
17 we have over eight million items in the collection now.
18 Those are almost all represented within the library's
19 electronic catalog. Trying to find that searching on
20 something like the word "Systems" and "Review," you would get
21 dozens, if not hundreds of records that had those two words
22 in it. So it would be a matter of having to sift through to
23 find this particular title.
24 Q. And would you be able to search for an article within a
25 journal?

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1 A. Within the library's catalog, no, not in 2000.
2 Q. Would you be able to search for it in any other way back in
3 2000?
4 A. Yes.
5 Q. How would that be?
6 A. There are a number of Sci-tech engineering computer science
7 databases that that's what those products do is index at a
8 finer level content in those kinds of subject areas. I know
9 of one in particular called Inspec, I-n-s-p-e-c. That
10 indexes computer science material and indexes ACM
11 publications.
12 I did not look for this particular article in Inspec,
13 but in general, Inspec index ACM publications. So it should
14 have a record of all of the articles that appear in this
15 journal.
16 Q. And when you're referring to Inspec, are you referring to
17 what you can search for today or in 2000?
18 A. In 2000.
19 Q. I would like to introduce Exhibit 1.
20 (Exhibit No. 1 marked
21 for identification.)
22 Q. Do you recognize this document?
23 A. Yes.
24 Q. What is it?
25 A. It's a declaration that I submitted April 15th. The date, by

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1 the way, the year was a typo. It says it was April 15, 2015.
2 It was April 15, 2016. I noticed that actually whenever I
3 pulled it back up a couple weeks ago.
4 Q. And was this about the time that counsel contacted you to
5 write this declaration?
6 A. It would have been some time before that when I first got
7 contacted. I don't know, like I said, the exact date. We
8 went through a little exchange back and forth over E-mail
9 about the specific wording because there was I think some
10 misinterpretation about what some of the dates on the cover
11 of the journal issue in question, what they actually meant.
12 I think I was able to clarify those and then reworded the
13 declaration to show what it -- what those dates really were,
14 what they really meant.
15 Q. Did you write this declaration?
16 A. I edited this declaration, yes.
17 Q. Could you point to what you edited specifically?
18 A. Oh, a significant chunk of item 3. A significant portion of
19 item 3 was stuff that was written by me. I know I also
20 changed some -- most of probably -- most of item 2. Not much
21 of anything, I don't think, maybe a word or two here or
22 there. Without having the original version, the draft that I
23 was sent, it's -- I don't know exactly what I changed from
24 one to the other.
25 Like I said, my goal is always to make sure that

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1 whatever I'm submitting is accurate. Beyond that, I have no
2 vested interest one way or the other.
3 Q. Is that your signature at the bottom of the page?
4 A. Yes, it is.
5 Q. Okay. So if you could refer to paragraph 1, what do you mean
6 when you say "normal business practices"?
7 A. How we go about -- well, in this context, it was meant to
8 describe how we process materials, since that's what's
9 important in terms of what was being -- what I was being
10 asked to verify in the declaration. So knowing what -- how
11 we within the engineering library as opposed to within any of
12 the other units on campus, how we process material when it
13 comes in the door.
14 Q. How do you process material when it comes in the door?
15 A. Journal issues?
16 Q. Yes.
17 A. Okay. We would -- it would come to us in the vast majority
18 of cases from the main library. So everything would be
19 received in a central receiving unit within the main library
20 first, and then for any of the material that actually belongs
21 and who has a shelving location, other than somewhere within
22 the main library, it would be sent down to a mail room and
23 then shipped over here.
24 We would get it, we would have -- we have one person in
25 particular that normally does what we call serial check-in,

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1 and they would take all of those issues that were received
2 from the main library and would go into our records on this
3 end and verify, yes, we now have received this; they would
4 add a little notation to it.
5 And then depending on where it ultimately got shelved,
6 and different titles would get shelved in different places;
7 it doesn't work that way that much anymore but it did at the
8 time, would affix -- for items that were shelved in a
9 particular location, which in this case was our current
10 periodicals area or browsing collection would have a sticker
11 affixed to it.
12 And that sticker would then be stamped with a date one
13 month ahead on the calendar. And then it would be put up in
14 the current periodical area, so that users could then access
15 it from that point. And the reason that date was on there
16 dated one month ahead is that's how long we would leave
17 current issues, newly received issues of any given title in
18 that area would be for a month, and then they would get
19 pulled and collocated with the older issues of the same
20 journal.
21 Q. So earlier you said that different titles are shelved in
22 different places?
23 A. Uh-huh.
24 Q. What do you mean by that?
25 A. Well, back in 2000 when we were still receiving hundreds of

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1 different journals in print, the area that we had available
2 to display current periodicals was not large enough to house
3 a single issue of all of those titles all at the same time.
4 There just wasn't enough space. So we picked and chose which
5 titles would go into that display periodical area. This
6 happened to be one that did go to that area.
7 Others would go directly on to -- well, the shelves
8 like the ones immediately behind you, where you've got the
9 bound volumes, and there would be a box where the loose
10 issues would be added to the -- into the boxes they were
11 received and just -- they would sit there next to the other
12 bound volumes until we got enough that we would then take
13 those, ship them off to a commercial bindery. They would
14 bind either half a year or a year's worth, and they would
15 come back.
16 Q. So in that period of March, how many journals were in the
17 display area?
18 A. Oh, Lord, I -- the best I could tell you is hundreds. And by
19 that, I don't mean low hundreds. It's been so long ago and
20 we have changed the size of that area so much over the last
21 16, 15 years, I really don't know how many different titles
22 were represented in that area at that time.
23 Q. Could you give a ball park?
24 A. And this is a best guess, I would say 800 to a thousand.
25 Q. If you could turn to paragraph 2 of your declaration, who

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1 would send periodicals to the library?
2 A. Who would what?
3 Q. Send periodicals to the library?
4 MR. ARMON: Object to the form of that
5 question.
6 Q. Who would send the, I guess, the journals to the library, the
7 main library, which would then be received here?
8 A. Oh, okay. In general, the individual publishers. Whoever we
9 were arranging to receive a subscription from. And in most
10 cases, we actually went through a journal vendor who would
11 arrange for the subscription. And that's pretty common
12 practice that rather than have to go to every individual
13 publisher for every individual title, you pay a serial vendor
14 who manages your subscriptions. The content, whenever it's
15 shipped, comes from the publisher, so in this case, ACM.
16 Q. And how many did you receive in January?
17 A. How many?
18 Q. Journals did you receive in January?
19 A. Journal issues?
20 Q. Yes.
21 A. I have no idea. And it's partly because some journals are
22 monthly, some are bi-monthly, some are quarterly. In fact,
23 there are a few that were even more than -- where issues come
24 out more than once a month. What we actually receive, the
25 number of issues that we receive in any given month, I didn't

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1 know then, and to be honest, I don't know now.
2 Q. And for the record, I'm referring to January of 2000. And in
3 January of 2000, how many staff members were responsible for
4 processing these journal issues or whatever came into the
5 engineering library?
6 A. As standard practice, one.
7 Q. And who would choose which periodicals would be displayed?
8 A. Largely that was the librarians based on what our perception
9 was of which titles were the most -- either the most used or
10 of the most interest to our user population. But it's not
11 like it's something that changed a lot. It's not like we
12 would put one title in that current -- in that browsing
13 collection display periodical area and leave it there for a
14 year, and then turn around and yank it back out and put a
15 different one in its place.
16 It tended to be fairly static. Once the decision was
17 made for something to go in there, it was pretty unusual for
18 it then to get pulled out. Now, if we cancelled a
19 subscription, that would pull it out, that would create room
20 to turn around and add other titles in.
21 But, in general, it was the librarians, based on --
22 mostly on use, what we saw as either getting used or things
23 that we would -- people would ask us about particular titles.
24 Q. And who was the one person who was processing these journals
25 as they came in in 2000?

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1 A. Want a name or a position or?
2 Q. Both.
3 A. Okay. The question is can I remember her last name because
4 she hasn't worked here in 12 or 13 years. She was a serials
5 technician. Oh, shoot, what is her last name? I don't
6 remember now off the top of my head. Like I said, she only
7 worked here for a couple years after I started. First name
8 was Shelby, but I don't remember off the top of my head her
9 last name.
10 Q. Is she the same person who would put the stamps on the
11 journals?
12 A. Yes. Basically, she was responsible for the entirety of the
13 individual journal issue processing from the time an issue
14 came in the door all the way up through the point at which
15 individual issues of a particular journal, once you're at a
16 mass, half a year or year's worth, would have been sent off
17 to binding.
18 Q. And did you see her put these stamps on Exhibit A of your
19 declaration?
20 A. No.
21 Q. Did you personally review any of the stamps as they came in
22 from --
23 A. Personally review any of the what?
24 Q. The stamps and when they came in?
25 A. No. Those stamps were applied after the issues got here.

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1 Q. Did you review the stamps after they were applied after they
2 got here?
3 A. No.
4 Q. To this library?
5 A. No.
6 Q. And where is the display periodical in this library or the
7 display shelving area?
8 A. It's a little bit moved from where it was in 2000, but it's
9 largely about 25 feet behind you. It's actually on this
10 floor right around the corner from where we're sitting now.
11 Q. And we're on the second floor; is that correct?
12 A. Yes, we're on the second floor. And it was -- it has always
13 been on the second floor since I have been here and at least
14 a number of years before that. It just took up a slightly
15 different area of the second floor and was -- and at that
16 time was much larger.
17 Q. And so this was -- the location you just described was near
18 where it was in 2000?
19 A. Uh-huh. Yeah, it was on the second floor. It's on the
20 second floor now and it was on the second floor in 2000.
21 Just a little bit different portion of the second floor. It
22 actually overlaps with the area where those materials are
23 now. It's just -- it took up a much larger area in 2000. So
24 what's out there now is sort of a subset of -- or a sub area
25 of the area that it encompassed in 2000.

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