1   UNITED STATES PATENT AND TRADEMARK OFFICE

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4   WHATSAPP, INC.,   )

5   Applicant,   )   IPR 2016-00717

6   vs.   )   IPR 2016-00718

7   TRIPLAY COMMUNICATIONS, LTD.,)

8   Patent Owner.   )

9   _____)

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14   DEPOSITION OF DAVID KLAUSNER

15   THURSDAY, NOVEMBER 10, 2016

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25   Job No. NJ2480287

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10   Deposition of DAVID KLAUSNER, taken on behalf of
11 Applicant, at Cooley, 3175 Hanover Street, Palo Alto,
12 California, commencing at 9:04 a.m., Thursday, November
13 10, 2016, before Kelli Combs, CSR No. 7705.
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5   (BY MR. WEIDER)   6
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2 (Pages 2 - 5)

1   DAVID KLAUSNER,
2   after having been duly sworn, testified as follows:
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4
5   EXAMINATION
6 BY MR. WEIDER:
7   Q   Good morning, Mr. Klausner.
8   A   Good morning.
9   Q   We're here today in the --
10   First of all, I represent TriPlay in this
11 matter, Douglas Weider. With me is my colleague, Steve
12 Ullmer. We are here today to take your deposition in
13 the TriPlay IPR matter involving the '677 patent and the
14 declaration you provided in this matter.
15   A few just brief ground rules. I know you've
16 done this before, but just a few things just to be
17 clear; it's important that you and I don't talk over
18 each other, so I'll try my best to wait until you've
19 finished answering before I ask the question. By the
20 same token, if you wait until I finish asking before you
21 answer.
22   Is that okay with you?
23   A   Yes.
24   Q   If, for some reason, you don't understand my
25 question, please ask me to rephrase it. If you answer,

1 I'll assume you understood the question.
2   Is that okay with you?
3   A   Yes.
4   Q   Any reason you can't give your best testimony
5 here today?
6   A   No.
7   Q   Do you remember, I think the last time we
8 deposed you related to TriPlay was in connection with
9 the '475 matter, and I think we talked a little bit
10 about the SIP protocol.
11   What does "SIP" stand for?
12   A   Session Initiation Protocol.
13   Q   And what --
14   Can you explain what a "session" means in the
15 context of SIP?
16   A   I don't understand the question.
17   Q   Okay.
18   Does SIP have a method of communication that's
19 referred to as session-based?
20   A   May I see the RFC 2543?
21   Q   Sure.
22   I'm showing you the RFC 2543, which was marked
23 as Patent Owner's Exhibit 2103.
24   A   Thanks. I have it.
25   Can you repeat the question.

1   Q   Sure.
2   I believe my question was: Does SIP have a
3 mode of communication referred to as session-based?
4   A   Yes.
5   Q   And in answer to my question, you reviewed the
6 RFC 2543. Is there a particular part of that that
7 you're referring to to answer the question?
8   A   I glanced briefly at the RFC. I didn't review
9 it. It is 136 pages. I looked at page 10 where
10 terminology is described for a session, and they
11 describe it as being from the STP specification. I'm
12 not going to read the rest of it into the record.
13   Q   Okay.
14   Do you have an understanding of what a
15 "session" means in the context of SIP?
16   A   I don't understand the question.
17   Q   Okay.
18   Let's go, if you would, to the first page of
19 the document.
20   A   I have it.
21   Q   Okay.
22   You see in the abstract, there's a sentence
23 that reads:
24   "The Session Initiation
25   Protocol (SIP) is an application

1   layer control (signaling) protocol
2   for creating, modifying and
3   terminating sessions with one or
4   more participants."
5   Do you see that sentence?
6   A   Yes.
7   Q   Do you have an understanding of what
8 "sessions" refers to in that sentence?
9   A   Yes.
10   Q   What's your understanding?
11   A   Sessions include Internet multimedia
12 conferences, Internet telephone calls and multimedia
13 distributions.
14   Q   So you've answered the question based on what
15 a session includes, but do you have an understanding of
16 what a session is in the context of SIP?
17   MR. LIANG: Objection; asked and answered.
18   THE WITNESS: I don't understand that
19 question.
20 BY MR. WEIDER:
21   Q   Do you have an understanding of how one
22 establishes a session within the context of SIP?
23   A   Yes.
24   Q   What's your understanding of how one
25 establishes a session?

3 (Pages 6 - 9)

1   A   That members communicate to the server, the
2 SIP server, and they indicate requests or they indicate
3 their properties, so to speak, and there's a registrar
4 that looks up the properties that are provided and
5 determines whether the communications can be established
6 and on what criteria and bases.
7   Q   And would that negotiation generally include
8 the participants identifying their capabilities?
9   A   It could, to some extent. The question's
10 vague, but I've answered it the best I can.
11   Q   I'm going to show you a copy of the Coulombe
12 reference, which was WhatsApp Exhibit Number 1103.
13   And I guess just to make clear on the record
14 here, there were two -- do you have an understanding
15 that there were two petitions filed in connection with
16 this matter? One that dealt with some of the claims of
17 the '677 patent and a separate petition that dealt with
18 other claims of the '677 patent?
19   A   I think so.
20   Q   Okay.
21   And then just for the record, there were --
22 I'm showing you one of the versions of, I think,
23 Coulombe was actually marked two different exhibit
24 numbers, depending on which petition it was filed under,
25 but for purposes of this deposition, I marked the one

1 present SIP-related specifications?
2   A   I don't think your question is an accurate
3 representation.
4   Q   Well, you said that I was short by --
5   Well, in what respect do you believe my
6 question isn't an accurate representation?
7   A   Paragraph 64 says: "The following elements
8 are novel." It does not say The following are the only
9 elements, nor The following are the only novel elements.
10   Q   Okay. All right. Let me rephrase.
11   So your understanding is what's listed at
12 paragraph 65 through 70 are elements that Coulombe
13 contends are novel as compared to SIP?
14   A   Correct.
15   Q   So let's go through each one of these.
16   So 65 says:
17   "Capabilities negotiation for
18   session-oriented and
19   non-session-oriented applications
20   provided during the registration
21   process."
22   A   Yes.
23   Q   What do you understand is being set out in 65
24 that's novel compared to what existed in SIP at the time
25 of this invention?

1 that's Exhibit 1103.
2   If you would, Mr. Klausner, turn to
3 paragraph 64 of the Coulombe reference.
4   A   I have it.
5   Q   And so paragraph 64 says:
6   "The following elements are
7   novel compared to the present
8   SIP-related specifications."
9   And then it lists a variety of things in
10 paragraph 65 through 68.
11   Is it your understanding that what's being set
12 out here is what Coulombe contends is novel about his
13 invention over capabilities that already existed within
14 SIP?
15   MR. LIANG: Objection; form.
16   THE WITNESS: Not only that. I believe your
17 characterization of 65 through 68 is short by two
18 paragraphs.
19 BY MR. WEIDER:
20   Q   Okay.
21   A   I believe the end of Coulombe's list is
22 paragraph 70.
23   Q   Okay.
24   So paragraph 65 through 70 lists the elements
25 that Coulombe is contending are novel compared to

1   MR. LIANG: Objection; form.
2   THE WITNESS: The document speaks for itself.
3 It's what it says in item 1, which is a very short
4 sentence.
5 BY MR. WEIDER:
6   Q   Well, it says:
7   "Capabilities negotiation for
8   session-oriented and
9   non-session-oriented
10   applications..."
11   So it -- withdrawn.
12   At the time of the Coulombe invention, did SIP
13 have a process for capability negotiation in
14 session-oriented communications?
15   A   I believe it did.
16   Q   So what's novel here is that Coulombe is
17 providing the additional capability of doing capability
18 negotiation when a communication was
19 non-session-oriented?
20   A   I think that's what it says, or at least to a
21 certain extent.
22   Q   And if we turn to paragraph 67, you agree that
23 the first sentence:
24   "In SIP, capability
25   negotiation occurs between two

4 (Pages 10 - 13)

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1   clients during session
2   establishment (using SDP Session
3   Description Protocol)."
4   That first sentence is describing the existing
5 capability in SIP as the time of the Coulombe invention?
6   A   I think that's true. For example, if we look
7 at page 10, as part of the terminology section of the
8 RFC 2543, Exhibit 2103, the terminology for "session"
9 states that "SDP" -- which is the Session Description
10 Protocol -- "is used."
11   Q   Now, I think for this particular example, it
12 doesn't matter because it's both page 10 of the actual
13 document, the RFC itself, and it's also page 10 in terms
14 of the stamping numbers, but just so you and I are on
15 the same page, which page numbers are you referencing?
16   A   Yes, we are literally on the same page.
17   Q   Right.
18   In this example, but I'm concerned in the
19 future they may not line up. So do you want to refer to
20 page numbers by the bottom page number or the page
21 number in the document? I'm okay with either one as
22 long as we're consistent.
23   A   I'll refer to the Bates stamp number.
24   Q   Okay. Thank you.
25   And then the second sentence:

1   "Without a session, which is
2   the case for instance with SIP
3   instant messaging, there is no
4   means of knowing the capabilities
5   or user preferences of the
6   destination terminal."
7   Accurate to say that that's at least one of
8 the problems that Coulombe is seeking to solve the
9 problem; that without a session, SIP didn't have the
10 ability to do a capability negotiation?
11   A   I think that's true.
12   Q   And then the paragraph 68 says:
13   "This invention provides a
14   method for capability negotiation
15   regardless if the application is
16   session-based or not."
17   And is it --
18   So is it your understanding that the system
19 being described in Coulombe includes both the existing
20 session-based method for capability negotiation as well
21 as the additional features described in Coulombe to do
22 capability negotiation when the communications were not
23 session-based?
24   MR. LIANG: Objection; form.
25   THE WITNESS: It's a long sentence.

1 BY MR. WEIDER:
2   Q   It was. Let me see if I can break it down.
3   A   Thank you.
4   Q   Is it your understanding that what's being
5 described here in Coulombe includes both the existing
6 session-based capability negotiations that existed in
7 SIP as well as the new features that Coulombe was
8 describing as to how to handle it for non-session-based
9 communications?
10   MR. LIANG: Objection; form.
11   THE WITNESS: 68 does speak for itself. It's
12 a very short sentence. Your question was longer than
13 68.
14 BY MR. WEIDER:
15   Q   Well, let me try it this way --
16   A   Okay.
17   Q   -- can you give me your understanding of what
18 68 says beyond -- I guess, withdrawn.
19   I'm just trying to confirm -- I think the
20 sentence is fairly clear. I'm not arguing on that. I
21 just want to make sure there's not any confusion or
22 disagreement.
23   The invention being described here covers
24 both -- covers a system in which users would have the
25 ability to do capability negotiation, both using

1 traditional session-based techniques as well as the new
2 techniques being added in Coulombe for cases in which
3 the communications were not session-based?
4   MR. LIANG: Objection; form.
5   THE WITNESS: Perhaps I can make it easier
6 because you're describing techniques of Coulombe and
7 you're describing things that are somehow -- the
8 implication is that they're distinct and separate.
9 Coulombe makes it possible for non-session negotiations
10 to take place with respect to the capabilities.
11 BY MR. WEIDER:
12   Q   Okay.
13   But is it fair to say that the system being
14 described also encompasses the existing capabilities of
15 doing session-based negotiation?
16   MR. LIANG: Objection; foundation.
17   THE WITNESS: There are a number of inventions
18 in Coulombe; each of them is a separate claim. When you
19 say "the system," you haven't identified which one.
20   Can you repeat your question.
21 BY MR. WEIDER:
22   Q   Sure.
23   Do the -- let me try this a little bit
24 different way.
25   If you look at paragraph 56 of Coulombe --

5 (Pages 14 - 17)

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