

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPROVAL BOARD

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APPLE, INCORPORATED, :
Petitioner, :
v. : CASE No's. IPR2016-00754
PERSONALIZED MEDIA : And IPR2016-00755
COMMUNICATIONS, LLC, :
Patent owner. :
----- x

Videotaped Deposition of ALFRED WEAVER, PH.D.

Washington, D.C.

Friday, February 24, 2017

9:02 a.m.

Reported by: Cassandra E. Ellis, RPR

Job No.: 18149

TransPerfect Legal Solutions
212-400-8845 -- Depo@transperfect.com

1 Deposition of ALFRED WEAVER, PH.D., held at
 2 the offices of Kirkland & Ellis LLP, 655 15th Street
 3 Northwest, Suite 1200, Washington, D.C. 20005,
 4 pursuant to agreement, before Cassandra E. Ellis,
 5 Certified Court Reporter - WA, Certified Shorthand
 6 Reporter - HI, Registered Professional Reporter,
 7 Certified Livenote Reporter, Realtime Systems
 8 Administrator and Notary Public of The District of
 9 Columbia.
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1 CONTENTS
 2 EXAMINATION OF ALFRED WEAVER, PH.D. PAGE
 3 By Mr. Sernel 7
 4 By Ms. Albert 177
 5
 6
 7 EXHIBITS
 8 (Attached to the Transcript)
 9 ALFRED WEAVER, PH.D. Deposition Exhibit PAGE
 10 Previously Marked
 11 Apple Exhibit-1003-1 US Patent No. 8,191,091 20
 12 Apple Exhibit-1003-2 US Patent No. 8,559,635 43
 13 Apple Exhibit 1004 US Patent No. 4,613,901 63
 14 Apple Exhibit-1005 US Patent No. 4,736,422 162
 15 Apple Exhibit-1006 US Patent No. 4,337,483 112
 16 Apple Exhibit-1008 US Patent No. 4,388,643 143
 17 Apple Exhibit 1021 VIDEOTEX the new 107
 18 Television-telephone information services
 19 Apple Exhibit 1022 New Ancillary Services 101
 20 Using a Television Channel By Bernard Marti
 21 Paper No 14 Decision Institution of Inter
 22 Partes Review 37 C.F.R. § 42.108

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 21
 22

1 EXHIBITS CONTINUED
 2 (Attached to the Transcript)
 3 ALFRED WEAVER, PH.D. Deposition Exhibit PAGE
 4 Previously Marked
 5 PMC Exhibit 2019 Declaration of Alfred Weaver, 94
 6 PH.D. Pursuant to 37 C.F.R. § 1.68
 7 PMC Exhibit 2022 Declaration of Alfred C. 11
 8 Weaver, PH.D., In Support of Patent Owner's
 9 Response
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1 PROCEEDINGS
 2 THE VIDEOGRAPHER: Good
 3 morning. This is the beginning of
 4 disc number one in the deposition
 5 of Dr. Alfred Weaver, taken in the
 6 matter of Apple, Incorporated
 7 versus Personalized Media
 8 Communications, LLC, with a Case
 9 Numbers IPR2016-00754 and
 10 IPR2016-00755 -- 5, held in the
 11 United States Patent and Trademark
 12 Office Before the Patent and Trial
 13 and Appeal Board.

14 Today's date is February
 15 24th, 2017, and the time on the
 16 monitor is 9:02 a.m. My name --
 17 my name is Joseph Ellis, I am the
 18 certified legal videographer, the
 19 court reporter is Cassandra Ellis,
 20 and we are here with Transperfect
 21 Legal Solutions.

22 If counsel would please

1 Q Just to get a -- a clean
 2 record, can you please state your full
 3 name for the record?

4 A Alfred Charles Weaver.

5 Q And I don't know if its changed
 6 since we last spoke, but could you state
 7 your current home address?

8 A That's 1400 Ballard Woods
 9 Court, Charlottesville, Virginia 22901.

10 Q And who is your current
 11 employer?

12 A That's the University of
 13 Virginia.

14 Q Now, I usually ask a question
 15 about whether you've been deposed before,
 16 and how many times, but I think I know
 17 the answers to those questions. So given
 18 that you've been deposed before, I just
 19 want to remind you of sort of the rules
 20 that I expect will govern our proceeding
 21 today.

22 First of all, its important

1 introduce yourselves, and whom you
 2 represent, after which the court
 3 reporter will swear in the
 4 witness, and then you may proceed.

5 MR. SERNEL: My name is Marc
 6 Sernel, I'm with the law firm of
 7 Kirkland and Ellis, and I
 8 represent the petitioner, Apple,
 9 Incorporated.

10 MS. ALBERT: Jennifer
 11 Albert, for the patent owner,
 12 Personalized Media Communications,
 13 and with me today is my colleague,
 14 Charles Cox. I also -- I'm sorry,
 15 I also represent the witness
 16 today.

17 ALFRED WEAVER
 18 having been sworn, testified as follows:

19 EXAMINATION

20 BY MR. SERNEL:

21 Q Good morning, Dr. Weaver.

22 A Good morning, Mr. Sernel.

1 that you understand each of my question,
 2 if for some reason you don't understand a
 3 question or part of a question you need
 4 to tell me that so that I can clarify the
 5 question so that you can and do
 6 understand it, will you agree to tell me
 7 if you don't understand a question or
 8 part of a question?

9 A Yes, I will.

10 Q It's also important that you
 11 hear each of my questions and every part
 12 of a question. If for some reason you
 13 don't think you've heard a question or
 14 part of a question you need to tell me
 15 that so that I can repeat the question so
 16 that you do hear it fully.

17 Will you agree to tell me if
 18 you don't hear a question or part of a
 19 question?

20 A Yes, I will.

21 Q It's also important that we get
 22 a complete record and I get your complete

1 answers. I don't want to cut off any of
2 your answers. I want to allow you to
3 finish your answers. And so if I ever
4 cut off or prevent you from finishing an
5 answer you need to tell me that so that I
6 can allow you to finish an answer and
7 give me a complete answer.

8 So will you agree to tell me if
9 I ever cut off or prevent you from
10 finishing an answer?

11 A Yes, I will.

12 Q Is there any medication or
13 illness that would prevent you from
14 testifying truthfully and accurately here
15 today?

16 A No.

17 Q So, you have an understanding,
18 sir, that we are here today in a
19 deposition regarding declarations that
20 you have prepared and submitted for two
21 IPR proceedings; is that your
22 understanding?

1 Exhibit 2022 from the 755 IPR proceeding
2 a declaration that you prepared and
3 executed and signed on December 16th,
4 2016?

5 A Yes, it is.

6 Q And is it correct this contains
7 all the opinions that you had with
8 respect to the challenged claims of the
9 '091 patent as of December 16, 2016?

10 MS. ALBERT: Object to the
11 form.

12 A There were -- there was a
13 previous declaration, that contained my
14 opinions, and this is the most recent
15 version of declaration in support of the
16 patent owner.

17 Q And given that it's the most
18 recent declaration in support of the
19 patent owner for the '091 patent is it
20 fair that I conclude that this contains
21 your most recent opinions regarding the
22 '091 challenged claims?

1 A Yes, it is.

2 Q And one of the IPR proceedings
3 is IPR2016-00754, which relates to the
4 '635 patent; is that correct?

5 A That's correct.

6 Q And then the other one is
7 IPR2016-00755, for the '091 patent;
8 correct?

9 A Correct.

10 (Previously marked Exhibit
11 No. 2022 was identified for the
12 record.)

13 BY MR. SERNEL:

14 Q Okay. So let's just dive right
15 in here. I'm going to mark as the first
16 in order -- or actually, I'm going to
17 show you what is marked PMC Exhibit 2022
18 in the 755 IPR proceeding relating to the
19 '091, which I believe is the declaration
20 of yourself in support of patent owner's
21 response.

22 So the first question is, is

1 A Yes.

2 Q Have you formed any new or
3 different opinions regarding the
4 challenged claims of the '091 patent that
5 are not contained in Exhibit 2022?

6 A No. My opinions are -- are
7 contained in this document.

8 Q Okay. If you could turn to
9 page two, actually, sorry, page six,
10 we're going to use the pagination in the
11 bottom right, so it's page six of Exhibit
12 2022 in the 755 IPR proceeding. I'm
13 looking at paragraph five, at the top of
14 that page, and you reference being a
15 principal investigator for something
16 called Secure E-Commerce, a Modular
17 Course Supported By Virtual Laboratories;
18 do you see that?

19 A Yes, I do.

20 Q And when did you receive that
21 funding?

22 A The dates are in my CV, if --

1 if you would hand me that, I would have
 2 a -- look it up and tell you.
 3 Q I don't know that I have a copy
 4 of your CV. Do you have a good estimate
 5 as to when you would have done that work?
 6 A It would have been in the
 7 decade of the 2000s.
 8 Q Closer to early 2000 or --
 9 or -- or 2000, or is it like a 2010 type
 10 of thing?
 11 MS. ALBERT: Object to the
 12 form.
 13 A Well, again, it's -- it's --
 14 it's all clearly laid out in the CV.
 15 Just by recollection, middle 2000.
 16 Q Okay. And can you describe for
 17 me what work was done pursuant to this
 18 research project?
 19 A Sure. I've been teaching the
 20 electronic commerce course at the
 21 University of Virginia since 1995. And I
 22 thought that I might be able to do a good

1 that was the first one at the University.
 2 Q Do you believe you were one of
 3 the first people to teach an e-commerce
 4 course anywhere starting in 1995?
 5 A I would have been one of the
 6 early instructors, because electronic
 7 commerce, itself, was new.
 8 Q When do you think electronic
 9 commerce became a thing?
 10 MS. ALBERT: Object to the
 11 form.
 12 A The type of electronic commerce
 13 that -- that I deal with in my course is
 14 the buying and selling of products and
 15 services over the internet. And, in
 16 particular, we focus on operations that
 17 are web-enabled. So electronic commerce
 18 that is web-enabled is, in the United
 19 States, is about a 1993 phenomena.
 20 Q Before 1993 there was no such
 21 thing as web-enabled commerce?
 22 A The -- by -- by web-enabled I

1 job of providing information to my
 2 students if they were to have problems
 3 that they could work on outside of
 4 lecture time.
 5 So I wrote a proposal to the
 6 National Science Foundation proposing
 7 to create a course, it would be a
 8 traditional lecture course, but
 9 supplemented by virtual laboratories.
 10 And the virtual laboratories were
 11 programming exercises that entail
 12 programmatic operations relevant to
 13 electronic commerce.
 14 Q Okay. You said you've taught a
 15 course at the University of Virginia in
 16 e-commerce since 1995?
 17 A That's right.
 18 Q Was there an e-commerce course
 19 at the University of Virginia, prior to
 20 1995, that somebody else taught or was
 21 that the first one you're aware of?
 22 A To the best of my knowledge,

1 mean using a web browser and a web
 2 server. And by e-commerce I'm talking
 3 about buying and selling products and
 4 services. So while commerce had been
 5 conducted electronically for many years.
 6 I'm talking about the content of my
 7 course and my course was predicated on
 8 the public availability of web browsers
 9 and servers.
 10 Q And the public availability of
 11 web browsers and servers is a
 12 approximately 1993 phenomenon?
 13 A That's right, they -- at least
 14 in -- at least in the United States. The
 15 public availability of the Netscape
 16 browser, in 1993, marked a -- an
 17 important time for e-commerce.
 18 Q Got it. If you could turn to
 19 page nine of Exhibit 2022, in the 755
 20 IPR, you list here a series of materials
 21 reviewed and relied upon in a chart there
 22 in paragraph 16; do you see that?

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