	Page 1
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE	
BEFORE THE PATENT TRIAL AND APPROVAL BOARD	
x	
APPLE, INCORPORATED, :	
Petitioner, :	
v. : CASE No's. IPR2016-00754	
PERSONALIZED MEDIA : And IPR2016-00755	
COMMUNICATIONS, LLC, :	
Patent owner. :	
x	
Videotaped Deposition of THOMAS J. SCOTT, JR.	
Washington, D.C.	
Friday, February 17, 2017	
9:09 a.m.	
Reported by: Cassandra E. Ellis, RPR	
Job No.: 18148	

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1	Deposition of THOMAS J. SCOTT, JR., held at	1	CONTENTS
2	the offices of Kirkland & Ellis LLP, 655 15th Street	2	EXAMINATION OF THOMAS J. SCOTT, JR. PAGE
3	Northwest, Suite 1200, Washington, D.C. 20005,	3	By Mr. Merkin 6
4	pursuant to agreement, before Cassandra E. Ellis,	4	
5	Certified Court Reporter - WA, Certified Shorthand	5	
6	Reporter - HI, Registered Professional Reporter,	6	
7	Certified Livenote Reporter, Realtime Systems	7	EXHIBITS
8	Administrator and Notary Public of The District of	8	(Attached to the Transcript)
9	Columbia.	9	THOMAS J. SCOTT, JR. Deposition Exhibit PAGE
10	Columbia.	10	Previously Marked
11		11	Exhibit 2020 Thomas J. Scott, Jr. Declaration 13
12		12	In IPR2016-00754
13		13	Exhibit 2024 Thomas J. Scott, Jr. Declaration 13
14		14	In IPR2016-00755
15		15	
16		16	
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22		22	
	Page 3		Page 5
1	A P P E A R A N C E S	1	P R O C E E D I N G S
2		2	THE VIDEOGRAPHER: Good
3	ON BEHALF OF PETITIONER APPLE:	3	morning. This is the beginning of
4	JOEL R. MERKIN, ESQUIRE	4	disc number one in the deposition
5	KIRKLAND & ELLIS LLP	5	of Thomas Scott, taken in the
6	601 Lexington Avenue	6	matter of Apple, Incorporated,
7	New York, New York 10022	7	versus Personalized Media
8	(212) 446-4663	8	Communications, LLC, with Case
9	joel.merkin@kirkland.com	9	Numbers IPR2016-00754 and
10		10	IPR2016-00755, held in the United
11		11	States Patent and Trademark Office
12	ON BEHALF OF PATENT OWNER PMC:	12	before the Patent Trial and Appeal
13	DOUGLAS J. KLINE, ESQUIRE	13	Board.
14	GOODWIN PROCTER LLP	14	Today's date is February
15	901 New York Avenue, Northwest	15	17th, 2017, and the time on the
16	Washington, D.C. 20001	16	monitor is 9:09 a.m. My name is
17	(202) 346-4059	17	Joseph Ellis, the certified legal
		18	video specialist, the court
18	Dkline@goodwinlaw.com		
18 19	Dkline@goodwinlaw.com	19	reporter is Cassandra Ellis, and
18 19 20		19 20	we are here with Transperfect
18 19 20 21	Dkline@goodwinlaw.com ALSO PRESENT: Joseph E. Ellis, CLVS	19 20 21	we are here with Transperfect Legal Solutions.
18 19 20		19 20	we are here with Transperfect

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1	identify themselves, and whom they	1	before, no.
2	represent, after which the court	2	Q Prior to joining PMC you were
3	reporter will swear in the witness	3	an attorney at Goodwin Procter, a law
4	and you may proceed.	4	firm; correct?
5	MR. MERKIN: Joel Merkin, of	5	A Yes.
6	Kirkland and Ellis, on behalf of	6	Q How long were you an attorney
7	petitioner, Apple.	7	at Goodwin Procter, approximately?
8	MR. KLINE: Doug Kline, of	8	A I joined Goodwin Procter in
9	Goodwin, on behalf of patent	9	April well, April 23rd, 2007, and I
10	owner, PMC, and the witness.	10	left on March 31, 2014.
11	THOMAS J. SCOTT, JR.	11	Q As an attorney of Goodwin
12	having been sworn, testified as follows:	12	Procter you represented PMC?
13	EXAMINATION	13	A Yes.
14	BY MR. MERKIN:	14	Q When did you start representing
15	Q Mr. Scott, good morning.	15	PMC?
16	A Good morning.	16	A Sometime prior to September
17	Q Can you please state your full	17	11th, 1987, and after August 31st, 1985.
18	name for the record?	18	Q Have you separately represented
19	A Thomas J. Scott, Junior.	19	Mr. John Harvey?
20	Q Thank you for joining us today.	20	A Yes.
21	I understand that you've been deposed	21	Q When did you start representing
22	several times, previously; is that	22	Mr. Harvey?
	Page 7		
			Page 9
1	correct?	1	A In 1979, while I was employed
2	correct? A Yes.	2	A In 1979, while I was employed at the law firm, in New York, of Cooper
2 3	correct? A Yes. Q You submitted a declaration	2 3	A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I
2 3 4	correct? A Yes. Q You submitted a declaration regarding secondary considerations in	2 3 4	A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal
2 3 4 5	correct? A Yes. Q You submitted a declaration regarding secondary considerations in IPR2016-754 and 755; correct?	2 3 4 5	A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal capacity.
2 3 4 5 6	correct? A Yes. Q You submitted a declaration regarding secondary considerations in IPR2016-754 and 755; correct? A That is correct.	2 3 4 5 6	A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal capacity. Q Were those for matters outside
2 3 4 5 6 7	correct? A Yes. Q You submitted a declaration regarding secondary considerations in IPR2016-754 and 755; correct? A That is correct. Q It's the same declaration in	2 3 4 5 6 7	 A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal capacity. Q Were those for matters outside the scope of PMC?
2 3 4 5 6 7 8	correct? A Yes. Q You submitted a declaration regarding secondary considerations in IPR2016-754 and 755; correct? A That is correct. Q It's the same declaration in both of those IPR proceedings; is that	2 3 4 5 6 7 8	 A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal capacity. Q Were those for matters outside the scope of PMC? A Well, PMC didn't exist, at the
2 3 4 5 6 7 8 9	correct? A Yes. Q You submitted a declaration regarding secondary considerations in IPR2016-754 and 755; correct? A That is correct. Q It's the same declaration in both of those IPR proceedings; is that correct?	2 3 4 5 6 7 8 9	 A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal capacity. Q Were those for matters outside the scope of PMC? A Well, PMC didn't exist, at the time.
2 3 4 5 6 7 8 9 10	correct? A Yes. Q You submitted a declaration regarding secondary considerations in IPR2016-754 and 755; correct? A That is correct. Q It's the same declaration in both of those IPR proceedings; is that correct? A Yes.	2 3 4 5 6 7 8 9 10	 A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal capacity. Q Were those for matters outside the scope of PMC? A Well, PMC didn't exist, at the time. Q Outside the scope of PMC or
2 3 4 5 6 7 8 9 10 11	correct?AQYou submitted a declarationregarding secondary considerations inIPR2016-754 and 755; correct?AThat is correct.QIt's the same declaration inboth of those IPR proceedings; is thatcorrect?AYes.QYou are the general counsel of	2 3 4 5 6 7 8 9 10 11	 A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal capacity. Q Were those for matters outside the scope of PMC? A Well, PMC didn't exist, at the time. Q Outside the scope of PMC or PMC's predecessor companies?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	correct? A Yes. Q You submitted a declaration regarding secondary considerations in IPR2016-754 and 755; correct? A That is correct. Q It's the same declaration in both of those IPR proceedings; is that correct? A Yes. Q You are the general counsel of PMC; correct? A That is correct. Q You've been the general counsel of PMC since April 2014; correct? A That's correct. Q When did you join PMC? A April 1, 2014. Q So you didn't hold any other positions at PMC prior to general counsel; correct?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal capacity. Q Were those for matters outside the scope of PMC? A Well, PMC didn't exist, at the time. Q Outside the scope of PMC or PMC's predecessor companies? A Well, neither of them existed, at that time. It was Mr. Harvey in a personal capacity. Q Generally speaking, what types of matters did you represent Mr. Harvey on? A Oh, I mean, I actually testified to this before, but I'll just roughly repeat, Mr. Harvey was, in 1979 a officer in the Hambros Bank, and as I
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	correct? A Yes. Q You submitted a declaration regarding secondary considerations in IPR2016-754 and 755; correct? A That is correct. Q It's the same declaration in both of those IPR proceedings; is that correct? A Yes. Q You are the general counsel of PMC; correct? A That is correct. Q You've been the general counsel of PMC since April 2014; correct? A That's correct. Q When did you join PMC? A April 1, 2014. Q So you didn't hold any other positions at PMC prior to general	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A In 1979, while I was employed at the law firm, in New York, of Cooper Dunham Clark Griffin and Moran, I represented Mr. Harvey in his personal capacity. Q Were those for matters outside the scope of PMC? A Well, PMC didn't exist, at the time. Q Outside the scope of PMC or PMC's predecessor companies? A Well, neither of them existed, at that time. It was Mr. Harvey in a personal capacity. Q Generally speaking, what types of matters did you represent Mr. Harvey on? A Oh, I mean, I actually testified to this before, but I'll just roughly repeat, Mr. Harvey was, in 1979 a

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	Page 10		Page 12
1	closer in time is probably is the best	1	from PMC?
2	source of what that was, of what	2	A No.
3	happened.	3	Q Do you receive compensation
4	He he was going to leave	4	from PMC, aside from a salary?
5	Hambros Bank to take a position with a	5	A No.
6	startup that was going to manufacture	6	Q Do you have any shares in PMC?
7	a patented product. And he asked me	7	A No.
8	to review the patent, and answer	8	Q Any units of ownership in any
9	certain questions he had about it,	9	PMC entities?
10	which I did.	10	A No.
11	And then, when he was going	11	Q Do you receive any compensation
12	to take the position, the owner of the	12	from PMC, aside from your annual salary?
13	company decided that he did not wish	13	A No, not monetary, anyway. It's
14	to hire Mr. Harvey and so he he	14	a great place to work.
14	didn't take that position. He left	15	Q Aside from monetary
16	Hambros and, thereafter, he had a	16	compensation, is there other forms
17	number of different proposals that he	17	A No. I mean, I just just the
18	was making to media companies, and I	18	, 5 5
10		19	enjoyment of working with the Harveys,
20	helped him with some of those. Q With regard to your	20	who are wonderful people.
20		20	Q I'm going to hand you a pair of
21	representation of PMC, prior to being	21	declarations, these are what I will
	general counsel of PMC, did you represent		represent to you as identical
	Page 11		Page 13
1	PMC with regard to patent prosecution	1	declarations from the two IPR proceedings
2	matters?	2	we're discussing today, aside from the
3	A Yes.	3	footer, which identifies the IPR
4	Q Did you represent PMC outside	4	proceeding.
5	of patent prosecution matters?	5	MR. KLINE: Do you have
6	A Well, I represented them in a	6	thank you.
7	number of different circumstances,	7	(Previously marked Exhibit
8	contracts and license agreements that	8	No's. 2020 and 2024 were
9	they entered into, I advised them with	9	identified for the record.)
10	respect to that and, you know, certain	10	BY MR. MERKIN:
11	proceedings that they brought in the	11	Q So the first declaration I've
12	in the International Trade Commission and	12	handed you is PMC Exhibit 2020, in Apple
13	district court I advised them with	13	v. PMC, IPR2016-754, the second
14	respect to that.	14	declaration I've handed you is Exhibit
15	Q As the current general counsel	15	2024, in Apple v. PMC, IPR2016-755. Do
16	of PMC you're an employee of the company;	16	you have each of these declarations in
17	correct?	17	front of you?
18	A Absolutely, yes.	18	A Yes.
19	Q PMC currently pays you an	19	Q And these are the declarations
20	annual salary; is that correct?	20	that you've submitted in these two IPR
21	A Yes.	21	proceedings regarding secondary
22	Q Do you receive an annual bonus	22	considerations; correct?
			·

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	Page 14		Page 16
1	A Yes, as best I can tell, from a	1	Q Is someone who is not a
2	brief review.	2	registered patent attorney, in your view,
3	Q These are the identical	3	not as qualified to be able to opine on
4	declarations that we discussed at the	4	secondary considerations?
5	beginning of your deposition	5	A Well, as a general matter, I
6	deposition that you submitted in these	6	mean, obviously, people, very different
7	IPRs; correct?	7	skills and understanding of of
8	A Well, the ones I submitted were	8	concepts, and there are many people who
9	identical, yes.	9	are not registered patent attorneys who
10	Q For purposes of today's	10	are very proficient in that subject, but
11	deposition I do want to walk through your	11	as a general matter, I would say a person
12	declaration. And so are you okay with	12	who has a deep experience in all aspects
13	walking through the PMC Exhibit 2020 from	13	of patent practice is better qualified.
14	IPR2016-754?	14	Q If I can turn your attention to
15	A Well, I'll answer any questions	15	paragraph four of your declaration,
16	you have about either one of them.	16	starting on page two?
17	Q And it's your understanding,	17	A Yes.
18	correct, that the paragraph numbers in	18	Q You state that PMC's patent
19	each declaration are the same?	19	portfolio comprises 97 US patents;
20	A Well, yes, that's what I said,	20	correct?
21	they the ones that I submitted were	21	A Yes.
22	identical.	22	Q Does PMC have any foreign
	Page 15		Page 17
1	Q Thank you. If you could please	1	patents?
2	turn to noncomple thread on magaze true of		
	turn to paragraph three on page two of	2	A Well, yes, it it has foreign
3	your declaration?	3	patents. But they're all expired or
3 4	your declaration? A Yes.	3 4	patents. But they're all expired or unenforceable.
3 4 5	your declaration? A Yes. Q You started that paragraph by	3 4 5	patents. But they're all expired or unenforceable. Q Of the 97 US patents you refer
3 4 5 6	your declaration? A Yes. Q You started that paragraph by stating "as a registered patent	3 4 5 6	patents. But they're all expired or unenforceable.Q Of the 97 US patents you refer to in paragraph four, are any of those
3 4 5 6 7	your declaration? A Yes. Q You started that paragraph by stating "as a registered patent attorney"; is that correct?	3 4 5 6 7	patents. But they're all expired or unenforceable.Q Of the 97 US patents you refer to in paragraph four, are any of those patents expired?
3 4 5 6 7 8	your declaration? A Yes. Q You started that paragraph by stating "as a registered patent attorney"; is that correct? A Yes.	3 4 5 6 7 8	 patents. But they're all expired or unenforceable. Q Of the 97 US patents you refer to in paragraph four, are any of those patents expired? A Oh, yes, mm-hmm.
3 4 5 6 7 8 9	your declaration? A Yes. Q You started that paragraph by stating "as a registered patent attorney"; is that correct? A Yes. Q Do you believe you need to be a	3 4 5 6 7 8 9	 patents. But they're all expired or unenforceable. Q Of the 97 US patents you refer to in paragraph four, are any of those patents expired? A Oh, yes, mm-hmm. Q How many of
3 4 5 6 7 8 9 10	your declaration? A Yes. Q You started that paragraph by stating "as a registered patent attorney"; is that correct? A Yes. Q Do you believe you need to be a registered patent attorney to provide a	3 4 5 6 7 8 9 10	 patents. But they're all expired or unenforceable. Q Of the 97 US patents you refer to in paragraph four, are any of those patents expired? A Oh, yes, mm-hmm. Q How many of A Seven.
3 4 5 6 7 8 9 10 11	your declaration? A Yes. Q You started that paragraph by stating "as a registered patent attorney"; is that correct? A Yes. Q Do you believe you need to be a registered patent attorney to provide a declaration regarding secondary	3 4 5 6 7 8 9 10 11	 patents. But they're all expired or unenforceable. Q Of the 97 US patents you refer to in paragraph four, are any of those patents expired? A Oh, yes, mm-hmm. Q How many of A Seven. Q So for the record, 7 of the 97
3 4 5 6 7 8 9 10 11 12	your declaration? A Yes. Q You started that paragraph by stating "as a registered patent attorney"; is that correct? A Yes. Q Do you believe you need to be a registered patent attorney to provide a declaration regarding secondary considerations?	3 4 5 6 7 8 9 10 11 12	 patents. But they're all expired or unenforceable. Q Of the 97 US patents you refer to in paragraph four, are any of those patents expired? A Oh, yes, mm-hmm. Q How many of A Seven. Q So for the record, 7 of the 97 PMC patents
3 4 5 6 7 8 9 10 11 12 13	 your declaration? A Yes. Q You started that paragraph by stating "as a registered patent attorney"; is that correct? A Yes. Q Do you believe you need to be a registered patent attorney to provide a declaration regarding secondary considerations? A Well, I believe it helps. I 	3 4 5 6 7 8 9 10 11 12 13	 patents. But they're all expired or unenforceable. Q Of the 97 US patents you refer to in paragraph four, are any of those patents expired? A Oh, yes, mm-hmm. Q How many of A Seven. Q So for the record, 7 of the 97 PMC patents A Right.
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