

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MOBILE TELECOMMUNICATIONS)	
TECHNOLOGIES, LLC)	
)	Civil Action No.
v.)	2:12-cv-832-JRG-RSP
)	(Lead Case)
SPRINT NEXTEL CORPORATION)	
MOBILE TELECOMMUNICATIONS)	
TECHNOLOGIES, LLC)	
v.)	Civil Action No.
)	2:13-cv-259-JRG-RSP
SAMSUNG TELECOMMUNICATIONS)	
AMERICA, LLC)	
MOBILE TELECOMMUNICATIONS)	
TECHNOLOGIES, LLC)	
v.)	Civil Action No.
)	2:13-cv-258-JRG-RSP
APPLE INC.)	

VIDEOTAPED DEPOSITION OF
WILLIAM HAYS
HELD ON APRIL 1, 2014
VOLUME 2

JOB NO.1830156
PAGES 272 - 446

1	
2	
3	VIDEOTAPED DEPOSITION of WILLIAM HAYS, produced
4	as a witness at the instance of the Defendant,
5	Samsung Telecommunications America, LLC, and duly
6	sworn, was taken in the above-styled and numbered
7	cause on Tuesday, the 1st day of April, 2014, from
8	8:55 a.m. to 2:36 p.m., before Steven Stogel, CSR,
9	CLR, in and for the State of Texas, reported by
10	machine shorthand, at the offices of Reed &
11	Scardino, LLP, 301 Congress Avenue, Suite 1250,
12	Austin, Texas, pursuant to the Federal Rules of
13	Civil Procedure; that the Witness will read the
14	deposition.
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
	Page 273

1	I N D E X
2	PAGE
3	APPEARANCES..... 274
4	
5	WITNESS: WILLIAM HAYS
6	EXAMINATION BY TACHÉ..... 278
7	EXAMINATION BY DESAI..... 310
8	EXAMINATION BY TAYLOR..... 423
9	
10	CHANGES AND SIGNATURE..... 445
11	REPORTER'S CERTIFICATE..... 446
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
	Page 275

1	A P P E A R A N C E S
2	COUNSEL FOR PLAINTIFF:
3	Mr. Dustin L. Taylor
4	- and -
5	Mr. Steven Tepera
6	REED & SCARDINO, LLP
7	301 Congress Avenue, Suite 1250
8	Austin, Texas 78701
9	Phone: 512.474.2449
10	Email: dtaylor@reedscardino.com
11	stepera@reedscardino.com
12	COUNSEL FOR DEFENDANT, Samsung Telecommunications
13	America, LLC:
14	Mr. Rick Taché
15	- and -
16	Mr. Erikson C. Squier
17	GREENBERG TRAURIG, LLP
18	3161 Michelson Drive, Suite 1000
19	Irvine, California 92612
20	Phone: 949.732.6500
21	Email: tacher@gtlaw.com
22	squiere@gtlaw.com
23	COUNSEL FOR DEFENDANT, Apple Inc.:
24	Mr. Anish Desai
25	- and -
26	Mr. Christopher T. Marando
27	WEIL, GOTSHAL & MANGES LLP
28	1300 Eye Street, NW, Suite 900
29	Washington, D.C. 20005
30	Phone: 202.682.7000
31	Email: anish.desai@weil.com
32	christopher.marando@weil.com
33	VIDEOGRAPHER:
34	Mr. Dane Depinho
35	COURT REPORTER:
36	Mr. Steven Stogel, CSR, CLR
37	
38	
39	
40	
41	
42	
43	
44	
45	
46	
47	
48	
49	
50	
	Page 274

1	EXHIBITS FOR IDENTIFICATION
2	NUMBER DESCRIPTION PAGE
3	Exhibit 15 Australian Patent 288
4	No. AU-A-79030/87
5	Exhibit 16 "Predicting the Range and 299
6	Throughput of Mobile Data
7	Systems" by P.J. Mabey
8	Exhibit 17 US Patent No. 5,659,891 361
9	Exhibit 18 11/17/94 Interoffice 377
10	Memorandum from William Hays
11	to Candy Hunt
12	Exhibit 19 11/17/94 Interoffice 382
13	Memorandum from William Hays
14	to Candy Hunt
15	Exhibit 20 US Patent No. 5,786,748 383
16	Exhibit 21 11/17/94 Interoffice 385
17	Memorandum from William Hays
18	to Candy Hunt
19	Exhibit 22 2/17/95 Interoffice Memo from 389
20	Dinesh Sheth
21	Exhibit 23 US Patent No. 4,644,351 404
22	
23	
24	
25	
	Page 276

1 PROCEEDINGS
2 THE VIDEOGRAPHER: Good morning. We 08:55
3 are on the record at 8:55 a.m. on April 1st, 2014. 08:55
4 This is the video reported deposition of William 08:55
5 Hays, Volume 2. My name is Dane Depinho, here with 08:55
6 our court reporter, Steve Stogel. We are here from 08:55
7 Veritext Legal Solutions at the request of counsel 08:55
8 for the defendant. 08:55
9 This deposition is being held at 301 08:55
10 Congress in Austin, Texas. The caption of this case 08:55
11 is MTEL versus Samsung, et al., Case 08:55
12 No. 2:12-CV-832-JRG-RSP. 08:56
13 Please note that audio and video 08:56
14 recording will take place unless all parties agree 08:56
15 to go off the record. Microphones are sensitive and 08:56
16 may pick up whispers and private conversations and 08:56
17 cellular interference. 08:56
18 I am not authorized to administer an 08:56
19 oath. I am not related to any party in this action, 08:56
20 nor am I financially interested in the outcome in 08:56
21 any way. 08:56
22 May I please have an agreement from 08:56
23 all parties that we can proceed? 08:56
24 MR. TACHÉ: Yes. 08:56
25 MR. TAYLOR: Yes. 08:56

Page 277

1 THE VIDEOGRAPHER: At this time, will 08:56
2 counsel and all present please identify themselves 08:56
3 for the record? 08:56
4 MR. TAYLOR: Dustin Taylor and Steven 08:56
5 Tepera from Reed & Scardino on behalf of the 08:56
6 plaintiff, MTEL. 08:56
7 MR. TACHÉ: Rick Taché and Erik 08:56
8 Squier from Greenberg Traurig on behalf of Samsung. 08:56
9 THE VIDEOGRAPHER: Thank you. 08:56
10 MR. DESAI: Anish Desai and Chris 08:56
11 Marando from Weil Gotshal on behalf of Apple. 08:56
12 WILLIAM HAYS, 08:56
13 having been previously sworn, continued to testify 08:56
14 as follows: 08:56
15 EXAMINATION 08:56
16 BY MR. TACHÉ: 08:56
17 **Q. Good morning, Mr. Hays. 08:56**
18 A. Good morning. 08:57
19 **Q. You testified yesterday that you have a 08:57**
20 **degree from the University of Virginia in electrical 08:57**
21 **engineering. Is that correct? 08:57**
22 A. Yes. 08:57
23 **Q. In order for someone to understand the 08:57**
24 **invention that is the subject of the '428 patent, 08:57**
25 **would they necessarily require a degree in 08:57**

Page 278

1 **electrical engineering? 08:57**
2 MR. TAYLOR: Objection; form. 08:57
3 A. Actually, I've known many technical people 08:57
4 who didn't have degrees, so my answer would be no. 08:57
5 BY MR. TACHÉ: 08:57
6 **Q. What would you think would be the minimum 08:57**
7 **educational background that one would need to be 08:57**
8 **considered one skilled in the art of the invention 08:57**
9 **that's the subject of the '428 patent? 08:57**
10 MR. TAYLOR: Objection; form. 08:57
11 A. You know, again, I look to the founders of 08:57
12 Apple, for example. The people had very little 08:57
13 education and they did quite well, so I'm really not 08:57
14 in a position to judge that. 08:58
15 BY MR. TACHÉ: 08:58
16 **Q. From your perspective, if one didn't have 08:58**
17 **a four-year degree or an equivalent from a well 08:58**
18 **recognized institution, is there sort of a work 08:58**
19 **equivalent that you would consider to have as a base 08:58**
20 **requirement for one to be skilled in the art? 08:58**
21 MR. TAYLOR: Objection; form. 08:58
22 A. Again, I really can't comment on that. 08:58
23 You know, if I was going to recruit somebody, I 08:58
24 would ask for certain requirements, but otherwise, I 08:58
25 can't -- I can't be certain of what that would be. 08:58

Page 279

1 BY MR. TACHÉ: 08:58
2 **Q. Let's take your scenario, then. Assuming 08:58**
3 **that you were going to hire someone at MTEL, what 08:58**
4 **would the requirements be from an educational 08:58**
5 **perspective and a work experience perspective? 08:58**
6 A. We would ask for them to have a work 08:58
7 history in this industry, and we would add the words 08:58
8 "or equivalent." 08:59
9 **Q. And define, from your perspective, what 08:59**
10 **the industry would be. 08:59**
11 A. Well, that's why we'd keep it very broad. 08:59
12 I don't think we'd zero in on the degree of it. I 08:59
13 think, as I said before, there are many talented 08:59
14 people out there who are very successful in 08:59
15 technical areas that weren't constrained by training 08:59
16 or background. 08:59
17 **Q. Would one need to have an understanding of 08:59**
18 **the paging -- of paging systems to be considered for 08:59**
19 **a position? 08:59**
20 MR. TAYLOR: Objection; form. 08:59
21 A. I don't think that would be a requirement. 08:59
22 BY MR. TACHÉ: 08:59
23 **Q. Would one need to have an understanding of 08:59**
24 **cellular networks to be considered one skilled in 08:59**
25 **the art relating to the '428 patent? 08:59**

Page 280

Pages 277 to 280

Veritext National Deposition & Litigation Services
866 299-5127

1 MR. TAYLOR: Objection; form. 08:59
2 A. That would not be a primary requirement, 09:00
3 no. 09:00
4 BY MR. TACHÉ: 09:00
5 **Q. Is there -- are there any other special 09:00**
6 **knowledge or skill required that you would consider 09:00**
7 **necessary for one to be skilled in the art relating 09:00**
8 **to the '428 patent? 09:00**
9 MR. TAYLOR: Objection; form. 09:00
10 A. The '428 patent has many broad concepts 09:00
11 expressed in it, and lots of disciplines would be -- 09:00
12 would benefit from the execution of it, I'm sure, 09:00
13 but I can't -- I can't think of any particular one 09:00
14 that stands out. 09:00
15 BY MR. TACHÉ: 09:00
16 **Q. Okay. I sort of have the same series of 09:00**
17 **questions with respect to the '946 patent. In your 09:00**
18 **own mind, can you explain what you would consider 09:00**
19 **one skilled in the art to be relating to the '946 09:00**
20 **patent? 09:00**
21 MR. TAYLOR: Objection; form. 09:00
22 A. Well, again, that's conjecture on my part. 09:00
23 I -- I would go back to the fact that there have 09:00
24 been many skilled people who don't have particular 09:01
25 educational backgrounds that would be very capable 09:01

Page 281

1 of using this information. 09:01
2 BY MR. TACHÉ: 09:01
3 **Q. The same question with respect to the '946 09:01**
4 **patent as it relates to work experience. Is there a 09:01**
5 **minimum requirement? 09:01**
6 MR. TAYLOR: Objection; form. 09:01
7 A. I would say the same answer, that there 09:01
8 have been many people in history in technology that 09:01
9 have not had particular educational backgrounds that 09:01
10 do quite well. And so I would not restrict their -- 09:01
11 their involvement. 09:01
12 BY MR. TACHÉ: 09:01
13 **Q. Okay. So an understanding of paging, 09:01**
14 **two-way paging systems, or two-way paging networks 09:01**
15 **would not be required from your perspective to be 09:01**
16 **one skilled in the art? 09:01**
17 MR. TAYLOR: Objection; form. 09:01
18 A. It would certainly be helpful, but not 09:01
19 essential. 09:01
20 BY MR. TACHÉ: 09:01
21 **Q. What about an understanding of cellular 09:02**
22 **networks in terms of being one skilled in the art? 09:02**
23 MR. TAYLOR: Objection; form. 09:02
24 A. Again, it would be good background but not 09:02
25 essential. 09:02

Page 282

1 BY MR. TACHÉ: 09:02
2 **Q. Prior to being -- prior to joining MTEL -- 09:02**
3 **and I know we went through your educational 09:02**
4 **background yesterday -- how much direct experience 09:02**
5 **did you have in paging systems? 09:02**
6 A. I didn't have any direct experience in 09:02
7 paging systems per se, only in electronics 09:02
8 development, testing of systems. 09:02
9 **Q. During your days at MTEL, did the 09:02**
10 **individuals named as inventors on either -- on the 09:02**
11 **'428 patent have a common set of minimum educational 09:02**
12 **requirements? 09:02**
13 A. Not to my knowledge. 09:02
14 **Q. So the named inventors did not all have 09:03**
15 **four-year degrees? 09:03**
16 A. Well, I understood your question to say 09:03
17 were there any requirements, and I'm saying I don't 09:03
18 know that there were any requirements. So I'm not 09:03
19 sure about their individual backgrounds. Many of 09:03
20 them did have degrees, I know. 09:03
21 **Q. Do you know of anyone that's a named 09:03**
22 **inventor on the '428 patent that didn't have a 09:03**
23 **four-year degree? 09:03**
24 A. Let me -- let me refresh my list on that. 09:03
25 **Q. I believe that's Exhibit 3. 09:03**

Page 283

1 A. Just a second. Well, I don't think I have 09:03
2 Exhibit 3. 09:03
3 **Q. We have an extra copy, if that would help 09:03**
4 **you. 09:04**
5 A. Okay. 09:04
6 **Q. We're also going to be asking the same 09:04**
7 **questions with respect -- 09:04**
8 A. Okay. I did -- 09:04
9 **Q. -- to Exhibit 9 if that's -- 09:04**
10 A. You might want to get it. 09:04
11 **Q. -- really concurrent. 09:04**
12 THE WITNESS: Is that 3? 09:04
13 MR. TAYLOR: That's 3. 09:04
14 THE WITNESS: Oh, this is 3. All 09:04
15 right. 09:04
16 A. Masood Garahi did have a degree and -- 09:04
17 BY MR. TACHÉ: 09:04
18 **Q. Do you happen to recall what that was in? 09:04**
19 A. No. It was a technical degree, but I 09:04
20 don't know what the -- what the actual degree was. 09:04
21 Pinter also had a degree, and I'm not 09:04
22 sure what the degree was in. Gregory Pinter had a 09:04
23 degree. 09:04
24 John Hale, I am -- I am not certain 09:04
25 about John. 09:04

Page 284

1 **Q. Do you know how much work experience John had prior to joining MTEL?** 09:04
2 **Q. Was there anyone else named as a co-inventor on the '428 patent that, to your knowledge, did not have a degree other than Mr. Hale?** 09:05
3 A. No. 09:04
4 **Q. Thank you. If you could turn to Exhibit 9, which is the '946 patent.** 09:05
5 MR. TAYLOR: Let me take this one, 09:05
6 just to keep everything. 09:05
7 A. Oh, here it is. Exhibit 9? 09:05
8 BY MR. TACHÉ: 09:05
9 **Q. 9, yes.** 09:05
10 A. Okay. 09:05
11 **Q. Thank you. If you could walk through the list of inventors named other than the ones already covered in the '428 patent, and let me know if any of them did or didn't have a degree.** 09:05
12 A. Dennis Cameron has a -- has a degree. 09:05
13 **Q. Do you happen to recall what that degree is in?** 09:05
14 A. It's in -- it's in some electronics related field, but I don't know the exact -- 09:05
15
16
17
18
19
20
21
22
23
24
25
Page 285

1 **Q. But it's a technical degree?** 09:05
2 A. It's a technical degree. 09:05
3 **Q. Thank you.** 09:05
4 A. Walt Roehr was a consultant. I'm not -- I can't recall what his educational background was. 09:05
5 Dr. Petrovic had a degree in electrical engineering, a doctorate degree. 09:06
6 Jai Bhaget had degrees in electrical engineering. 09:06
7 Masood Garahi, I think we just covered him, he has a technical degree. 09:06
8 David Ackerman, I don't know his educational background. 09:06
9 **Q. Are you familiar with Mr. Ackerman's work experience prior to joining MTEL?** 09:06
10 A. I'm familiar with some of his experience. 09:06
11 **Q. Was any of it technical based?** 09:06
12 A. Yes. He worked for the -- for the -- one of the big telcos out of New York City. One of his fortes was intelligent networks. 09:06
13 **Q. Do you -- do you recall how many years experience Mr. Ackerman had prior to joining MTEL?** 09:06
14 A. No. 09:07
15 **Q. Was he a man in his 20's when he joined MTEL?** 09:07
16
17
18
19
20
21
22
23
24
25
Page 286

1 A. He was in his -- he was older than his 20's. 09:07
2 **Q. So is it fair to say that he would have had at least ten years work experience prior to joining MTEL?** 09:07
3 A. That would be an assumption on my part. I would -- I would think so, but I don't know. 09:07
4 **Q. If you had to characterize from your perspective who your contemporaries would have been at the time of the '428 and '946 inventions in terms of an educational background and a technical background, can you articulate that for me, please?** 09:07
5 MR. TAYLOR: Objection; form. 09:07
6 A. The named inventors are certainly -- I would certainly be comfortable in their group in a technical forum. 09:08
7 BY MR. TACHÉ: 09:08
8 **Q. And is it fair to say that at least the majority had at least a four-year degree from -- a four-year technical degree and/or commensurate work experience?** 09:08
9 MR. TAYLOR: Objection; form. 09:08
10 A. Yes. 09:08
11 BY MR. TACHÉ: 09:08
12 **Q. Would you consider your work experience** 09:09
13
14
15
16
17
18
19
20
21
22
23
24
25
Page 287

1 **and technical back -- technical education to be a typical sort of work experience and technical background of your peers at the time in question?** 09:09
2 MR. TAYLOR: Objection; form. 09:09
3 A. I would have -- I would have no basis to really say that. As I said before, I would be comfortable in a forum involving them. 09:09
4 BY MR. TACHÉ: 09:09
5 **Q. Thank you.** 09:09
6 MR. TACHÉ: Could you mark that? (Exhibit No. 15 marked) 09:09
7 BY MR. TACHÉ: 09:10
8 **Q. If you could, please take a look at what's been marked as Exhibit 15 in front of you. I would represent that it's an Australian patent numbered AU-A-79030/87.** 09:10
9 **And what I'd like to do is focus your attention on Page 15, Lines 15 through 29. Actually, I'm sorry. Page 15, Lines 15 through 34. And that continues to the top of Page 16, the first two lines.** 09:10
10 **And then let me show you a second location, because I think it might be helpful, is to also take a look at Figure 2, which appears three or four pages from the back of the document. From the** 09:11
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
Page 288

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.