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UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____)	
FACEBOOK, INC.,)	
)	
Petitioner,)	
)	
vs.)	No. IPR2016-01156
)	IPR2016-01157
WINDY CITY INNOVATIONS, LLC,)	IPR2016-01158
)	IPR2016-01159
Patent Owner.)	
)	
_____)	
)	
AND RELATED ACTIONS.)	
_____)	

VIDEOTAPED DEPOSITION OF TAL LAVIAN, Ph.D.
Palo Alto, California
Wednesday, March 8, 2017

Reported by:
CATHERINE A. RYAN, RMR, CRR
CSR No. 8239

TAL LAVIAN

Page 2	Page 4
<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 BEFORE THE PATENT TRIAL AND APPEAL BOARD 3 4 _____) 5 FACEBOOK, INC.,)) 6 Petitioner,)) 7 vs.) No. IPR2016-01156) IPR2016-01157 8 WINDY CITY INNOVATIONS, LLC,) IPR2016-01158) IPR2016-01159 9 Patent Owner.)) 10 _____)) 11 AND RELATED ACTIONS.)) 12 _____) 13 14 15 16 Videotaped deposition of TAL LAVIAN, 17 Ph.D., taken on behalf of the Patent Owner, 18 at 3175 Hanover Street, Palo Alto, California, 19 beginning at 10:05 a.m. and ending at 4:52 p.m., 20 on Wednesday, March 8, 2017, before CATHERINE A. 21 RYAN, Certified Shorthand Reporter No. 8239. 22 23 24 25</p>	<p>1 INDEX 2 WITNESS EXAMINATION 3 TAL LAVIAN, Ph.D. 4 BY MR. HAREL 7 5 6 EXHIBITS 7 NUMBER DESCRIPTION PAGES 8 Exhibit 1 "Declaration of Tal Lavian, Ph.D., in 8 9 Support of Petition for Inter Partes 10 Review of U.S. Patent No. 8,458,245"; 11 98 pages 12 13 Exhibit 2 "United States Patent, Marks, Patent 15 14 No.: US 8,458,245 B1, Date of Patent: 15 Jun. 4, 2013"; 37 pages 16 17 Exhibit 3 "United States Patent, Roseman, Patent 15 18 No.: US 6,608,636 B1, Date of Patent: 19 Aug. 19, 2003"; 33 pages 20 21 Exhibit 4 "Computer, The Road to Software 96 22 Maturity, January 1995"; 6 pages 23 24 Exhibit 5 "Chapter 12: People Connection"; 28 118 25 pages</p>
Page 3	Page 5
<p>1 APPEARANCES: 2 3 For Petitioner Facebook, Inc.: 4 COOLEY LLP BY: ANDREW MACE 5 YUAN LIANG Attorneys at Law 6 3175 Hanover Street Palo Alto, California 94304-1130 7 (650) 843-5808 (650) 849-7400 Fax 8 amace@cooley.com 9 10 For Patent Owner: 11 BROWN RUDNICK BY: SHAHAR HAREL 12 Attorney at Law Seven Times Square 13 New York, New York 10036 (212) 209-4800 (212) 209-4801 Fax 14 sharel@brownrudnick.com 15 16 For Microsoft, Inc.: 17 KLARQUIST SPARKMAN, LLP BY: TODD M. SIEGEL 18 Attorney at Law One World Trade Center 19 121 SW Salmon Street, Suite 1600 Portland, Oregon 97204 20 (503) 595-5300 (503) 473-0918 Fax 21 todd.siegel@klarquist.com 22 23 Also Present: 24 QUINCY WONG, Videographer, Veritext 25</p>	<p>1 EXHIBITS (Continued) 2 NUMBER DESCRIPTION PAGES 3 Exhibit 6 "Chapter 3: Online Help & the 118 4 Members"; 30 pages 5 6 Exhibit 7 "The Official America Online for 118 7 Macintosh Membership Kit & Tour Guide, 8 Second Edition"; 61 pages 9 10 Exhibit 8 "Declaration of Tal Lavian, Ph.D., in 133 11 Support of Petition for Inter Partes 12 Review of U.S. Patent No. 8,407,356"; 13 108 pages 14 15 Exhibit 9 "ACM SIGPLAN Notices, Volume 30, 134 16 Number 3, March 1995"; 11 pages 17 18 Exhibit 10 "Declaration of Tal Lavian, Ph.D., in 155 19 Support of Petition for Inter Partes 20 Review of U.S. Patent No. 8,694,657"; 21 96 pages 22 23 24 25</p>

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 Windy City Innovations, LLC, Patent Owner, et al.



TAL LAVIAN

<p style="text-align: right;">Page 6</p> <p>1 Palo Alto, California; Wednesday, March 8, 2017</p> <p>2 10:05 a.m.</p> <p>3</p> <p>4 THE VIDEOGRAPHER: Good morning. We are</p> <p>5 on the record at 10:05 a.m. on March 8th, 2017.</p> <p>6 This is the video-recorded deposition of Tal Lavian.</p> <p>7 My name is Quincy Wong, here with our court</p> <p>8 reporter, Catherine Ryan. We are here from Veritext</p> <p>9 Legal Solutions. This deposition is being held at</p> <p>10 3175 Hanover Street in Palo Alto, California. The</p> <p>11 caption of this case is Microsoft Corporation versus</p> <p>12 Windy City Innovations, case numbers IPR2016-01156,</p> <p>13 -01157, -01158, -01159.</p> <p>14 Please note that audio and video recording</p> <p>15 will take place unless all parties agree to go off</p> <p>16 the record. Microphones are sensitive and may pick</p> <p>17 up whispers, private conversations, and cellular</p> <p>18 interference.</p> <p>19 I am not authorized to administer an oath.</p> <p>20 I am not related to any party in this action, nor am</p> <p>21 I financially interested in the outcome in any way.</p> <p>22 If there are any objections to proceeding,</p> <p>23 please state them at the time of your appearance,</p> <p>24 beginning with the noticing attorney. Will counsel</p> <p>25 please identify yourselves and state whom you</p>	<p style="text-align: right;">Page 8</p> <p>1 A Thirty, thirty-five, approximately. I</p> <p>2 don't know.</p> <p>3 Q So you're familiar with how this works.</p> <p>4 I'll just go over it at a high level. The most</p> <p>5 important thing is that we get a clear record. So I</p> <p>6 ask that you speak audibly and provide oral answers</p> <p>7 as opposed to shaking or nodding your head.</p> <p>8 It's important that we don't talk over</p> <p>9 each other, and so listen until I finish, and I'll</p> <p>10 give you the same courtesy.</p> <p>11 If at any time you don't understand a</p> <p>12 question, just ask me to rephrase it. If you do</p> <p>13 answer, I'm going to assume that you understood my</p> <p>14 question.</p> <p>15 Is that okay?</p> <p>16 A Yes.</p> <p>17 Q And is there anything such as prescription</p> <p>18 drugs or anything like that that would prevent you</p> <p>19 from testifying honestly today?</p> <p>20 A No.</p> <p>21 MR. HAREL: I'll mark Exhibit 1.</p> <p>22 (Exhibit 1 was marked for identification</p> <p>23 by the court reporter.)</p> <p>24 MR. HAREL: And for the record, this is</p> <p>25 your declaration in the 1156 IPR, which is with</p>
<p style="text-align: right;">Page 7</p> <p>1 represent.</p> <p>2 MR. HAREL: Shahar Harel on behalf of the</p> <p>3 patent owner, Windy City Innovations, LLC.</p> <p>4 MR. MACE: Andrew Mace with Cooley for the</p> <p>5 petitioner, Facebook, and with me is Yuan Liang.</p> <p>6 And just for the record, I'd like to note</p> <p>7 that the caption should be Facebook versus Windy</p> <p>8 City, not Microsoft.</p> <p>9 MR. SIEGEL: I am Todd Siegel from</p> <p>10 Klarquist, and I do represent Microsoft.</p> <p>11 THE VIDEOGRAPHER: Thank you. The witness</p> <p>12 will be sworn, and counsel may begin the</p> <p>13 examination.</p> <p>14 TAL LAVIAN, Ph.D.,</p> <p>15 having been administered an oath, was examined and</p> <p>16 testified as follows:</p> <p>17 EXAMINATION</p> <p>18 BY MR. HAREL:</p> <p>19 Q Good morning, Dr. Lavian.</p> <p>20 A Lavian.</p> <p>21 Q Lavian.</p> <p>22 A Good morning.</p> <p>23 Q Have you been deposed before?</p> <p>24 A Yes.</p> <p>25 Q Approximately how many times?</p>	<p style="text-align: right;">Page 9</p> <p>1 respect to the '245 patent.</p> <p>2 Q Do you see it?</p> <p>3 A Yes.</p> <p>4 Q Okay. We start at the back, Exhibit A,</p> <p>5 which is your curriculum vitae. So this is pages 83</p> <p>6 to 98.</p> <p>7 Do you see that?</p> <p>8 A Yes.</p> <p>9 Q Okay. And is this a fair and accurate</p> <p>10 summary of your professional accomplishments up to</p> <p>11 the present date?</p> <p>12 A That's my resumé. It's fair, yes.</p> <p>13 Q Okay. You list a Ph.D.</p> <p>14 What was the -- what was your thesis title</p> <p>15 for your Ph.D.?</p> <p>16 A The thesis title? I don't remember the</p> <p>17 exact title, but it was network communication,</p> <p>18 telecommunication related to Cray computing. I</p> <p>19 don't remember the exact title.</p> <p>20 Q And what year was that?</p> <p>21 A 2006.</p> <p>22 Q And who was your advisor?</p> <p>23 A Professor Randy Katz.</p> <p>24 Q And could you spell that for the court</p> <p>25 reporter.</p>

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<p style="text-align: right;">Page 10</p> <p>1 A Katz, K-a-t-z.</p> <p>2 Q Okay. And your master's in science from</p> <p>3 Tel Aviv University, what year was that?</p> <p>4 A I think 1996. I don't remember the exact</p> <p>5 date. Yes.</p> <p>6 Q And your bachelor's ...?</p> <p>7 A Computer science. Math and computer</p> <p>8 science.</p> <p>9 Q The year?</p> <p>10 A Year. Around 1996, 1997. About 30 years</p> <p>11 ago.</p> <p>12 Q '86 you mean?</p> <p>13 A '86, yes. Sorry.</p> <p>14 Q Okay. Now, you say that you've been an</p> <p>15 expert witness in numerous U.S. PTO PTAB</p> <p>16 proceedings.</p> <p>17 Do you see that?</p> <p>18 A Yes.</p> <p>19 Q Approximately how many would you say?</p> <p>20 A Twenty-five, plus, minus. Maybe a little</p> <p>21 bit more.</p> <p>22 Q And were these typically on behalf of the</p> <p>23 patent owner? petitioner? Can you give me a</p> <p>24 breakdown?</p> <p>25 A On PTAB I believe that most of them are on</p>	<p style="text-align: right;">Page 12</p> <p>1 A Hmm? Can you please repeat the question?</p> <p>2 Q How many times, to the best of your</p> <p>3 ability to remember, have you testified in a federal</p> <p>4 court in relation to your patent expert services?</p> <p>5 A In federal court I didn't testify.</p> <p>6 Q Have you testified at the ITC?</p> <p>7 A Yes.</p> <p>8 Q How many times?</p> <p>9 A One time.</p> <p>10 Q And today you are an expert on behalf of</p> <p>11 Facebook, correct?</p> <p>12 A Yes.</p> <p>13 Q Other than these petitions on behalf of</p> <p>14 Facebook against Windy City Innovations, have you</p> <p>15 performed expert patent work on behalf of Facebook</p> <p>16 before?</p> <p>17 A Yes.</p> <p>18 Q Approximately how many times?</p> <p>19 A I don't remember. I believe about 20,</p> <p>20 plus, minus.</p> <p>21 Q Okay. And these were -- any of the cases</p> <p>22 that you worked on behalf of Facebook where Facebook</p> <p>23 was asserting its own patents?</p> <p>24 A No.</p> <p>25 Q So it was always defending Facebook</p>
<p style="text-align: right;">Page 11</p> <p>1 behalf of the petitioner.</p> <p>2 Q Would you say over 20 were on behalf of</p> <p>3 the petitioner?</p> <p>4 A I don't know. Approximately. I don't</p> <p>5 know exactly.</p> <p>6 Q Okay. And you list over 30 cases in the</p> <p>7 federal courts in the ITC.</p> <p>8 Do you know the breakdown there?</p> <p>9 A No, not on top of my head.</p> <p>10 Q Okay. Do you have any sense as to whether</p> <p>11 it's more on behalf of a patent owner or somebody</p> <p>12 defending against a claim of patent infringement?</p> <p>13 A I was on both sides. I don't know.</p> <p>14 Q And you -- you can't say which one is</p> <p>15 more? It's --</p> <p>16 A I think more on the -- the defendants.</p> <p>17 Q Okay. And the work that you've done in</p> <p>18 the federal courts in the ITC, did it relate to</p> <p>19 patent validity? patent infringement? both? Which</p> <p>20 -- which ones would you typically do?</p> <p>21 A I worked on infringement. I worked on</p> <p>22 validity. I worked on both sides, yes.</p> <p>23 Q Okay. And how many times have you</p> <p>24 testified at court in a trial? And here I'm</p> <p>25 referring to federal court.</p>	<p style="text-align: right;">Page 13</p> <p>1 against charges of patent infringement?</p> <p>2 A I'm not a lawyer. I'm not defending</p> <p>3 anyone. I'm providing my expert services.</p> <p>4 Q Okay. Let me restate.</p> <p>5 All your work on behalf of Facebook was</p> <p>6 either determining that somebody else's patent was</p> <p>7 invalid or determining that Facebook did not</p> <p>8 infringe somebody else's patent; is that correct?</p> <p>9 A Yes.</p> <p>10 Q Okay. And I noticed in your declaration</p> <p>11 you list that you're being compensated at \$400 per</p> <p>12 hour; is that correct?</p> <p>13 A Yes.</p> <p>14 Q And is that your -- still your current</p> <p>15 rate that you're being compensated?</p> <p>16 A Yes.</p> <p>17 Q And is that your standard rate in general</p> <p>18 for --</p> <p>19 A Yes.</p> <p>20 Q -- patent expert services?</p> <p>21 At the bottom of page 83 you list</p> <p>22 different clients of yours including Cisco, Juniper,</p> <p>23 HP, Ericsson, Microsoft, Google, Samsung, and Apple.</p> <p>24 Do you see that?</p> <p>25 A Yes.</p>

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<p style="text-align: right;">Page 14</p> <p>1 Q Those cases that you worked on behalf of 2 those clients that I just listed -- were -- were any 3 of them where you provided expert opinion as to any 4 of those clients asserting any of their patents or 5 was it in cases where those clients were defending 6 against charges of patent infringement? 7 A First you say that I -- cases of patent 8 related -- involved. It's not that they are my 9 client, and I doubt that I work for -- always with 10 them. 11 Q Oh. 12 A I worked with Cisco and against Cisco. I 13 worked with Microsoft and against Microsoft. The 14 case of Samsung, I was against Samsung. So it's 15 mixed. 16 Q Okay. And Juniper, were you working on 17 behalf of Juniper or against Juniper or was it 18 mixed? 19 A Juniper, I remember a case that I worked 20 on IPR for -- for Juniper. I believe that I worked 21 on a different case -- federal case many years ago. 22 It was seven or eight years ago, but I don't 23 remember the details. I'm not sure. 24 Q And HP -- do you recall if you've worked 25 for them, against them or a mixture?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q Okay. When was the first time you've 2 encountered the Roseman patent? 3 A About nine months ago, plus, minus. 4 Q You hadn't seen it before? 5 A No. 6 Q Okay. And beyond the Roseman patent, are 7 you familiar with any implementations that NCR, the 8 assignee of the patent, actually implemented or 9 publicly released? 10 A Not on the top of my head. Not that I 11 know. 12 Q Okay. So can you explain to -- first of 13 all, why don't you just give a high-level one 14 paragraph summary of what you think Roseman 15 discloses. 16 A Roseman discloses a server-based virtual 17 conferencing. 18 Q In the Roseman system in order for a user 19 to access a conference room a user would need a key; 20 is that correct? 21 A Yes. 22 Q And what information does the key -- let 23 me restart. 24 What information is associated with a 25 specific key?</p>
<p style="text-align: right;">Page 15</p> <p>1 A I don't remember the details. I think at 2 HP I was for them and against them. I'm not sure 3 about the detail. Different cases. 4 Q And same question but with respect to 5 Ericsson. 6 A Ericsson, I was for Ericsson. 7 Q And Google? 8 A Google, I was in a case for Google and a 9 case against Google -- cases. 10 Q Okay. And Apple? 11 A Apple, I was in a case for Apple and I was 12 in cases against Apple. 13 MR. HAREL: Let me give you Exhibit 2, 14 which is the '245 patent. 15 (Exhibit 2 was marked for identification 16 by the court reporter.) 17 THE WITNESS: Thank you. 18 MR. HAREL: And let me give you Exhibit 3, 19 which is the Roseman patent, the '636 patent. 20 (Exhibit 3 was marked for identification 21 by the court reporter.) 22 BY MR. HAREL: 23 Q And I want you to look at those and tell 24 me if you recognize them. 25 A Yes.</p>	<p style="text-align: right;">Page 17</p> <p>1 A The information that is associated with 2 the key is information about the user, about his 3 identity and other information related to the 4 meeting room. 5 Q Anything else? 6 A Basically, it's information about the 7 identity -- about the identity of the user and the 8 room itself. If you want, I can go into detail and 9 read it carefully to find anything else. 10 Q So -- okay. Let me -- let's start with 11 that first. 12 When you say the identity of the user, 13 it's the identity of the user who is permitted to 14 go -- to enter a specific meeting room, correct? 15 A That's one example, yes. 16 Q It would never contain an identity of a 17 person who is not allowed to go into a meeting room; 18 is that correct? 19 A I'm not sure I understand the question. 20 Q A key wouldn't -- does Roseman disclose a 21 key that -- that has -- that is associated with the 22 identity of a person who is not allowed to enter a 23 specific meeting room? 24 MR. MACE: Object to form. 25 THE WITNESS: I'm not sure that I</p>

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