

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

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:
IPR2016-01839
: U.S. Patent No. 6,470,399
APPLE, INC.,
:
IPR2016-01842
Petitioner, U.S. Patent No. 9,189,437
:
v. IPR2016-01860
:
U.S. Patent No. 8,966,144
PAPST LICENSING
GMBH & CO., KG, : IPR2016-01863
U.S. Patent No. 8,504,746
Patent Owner. :
IPR2016-01864
:
U.S. Patent No. 6,470,399

November 28, 2017
Washington, D.C.

Deposition of:

EREZ ZADOK,
called for oral examination by counsel for the
Patent Owner, pursuant to notice, at the law
offices of Sterne, Kessler, Goldstein & Fox, PLLC,
1100 New York Avenue, Northwest, Suite 800,
Washington, D.C. 20005, before Christina S.
Hotsko, RPR, CRR, of Veritext Legal Solutions, a
Notary Public in and for the District of Columbia,
beginning at 10:08 a.m., when were present on
behalf of the respective parties:

<p>1 APPEARANCES</p> <p>2 On behalf of Petitioner:</p> <p>3 TYLER J. DUTTON, ESQUIRE</p> <p>4 BYRON L. PICKARD, ESQUIRE</p> <p>5 STEVEN W. PETERS, Ph.D.</p> <p>6 Sterne, Kessler, Goldstein & Fox, PLLC</p> <p>7 1100 New York Avenue, Northwest, Suite 800</p> <p>8 Washington, D.C. 20005</p> <p>9 (202)371-2600</p> <p>10 DAVID ALBERTI, ESQUIRE</p> <p>11 Feinberg Day Alberti & Thompson, LLP</p> <p>12 1600 El Camino Real, Suite 280</p> <p>13 Menlo Park, California 94025</p> <p>14 (650) 384-9869</p> <p>15</p> <p>16 On behalf of Patent Owner:</p> <p>17 GREGORY DONAHUE, ESQUIRE</p> <p>18 DiNovo Price, LLP</p> <p>19 7000 North MoPac Expressway, Suite 350</p> <p>20 Austin, Texas 78731</p> <p>21 (512) 539-2626</p> <p>22</p> <p>Page 2</p>	<p>1 PROCEEDINGS</p> <p>2 Whereupon,</p> <p>3 EREZ ZADOK,</p> <p>4 being first duly sworn or affirmed to testify to</p> <p>5 the truth, the whole truth, and nothing but the</p> <p>6 truth, was examined and testified as follows:</p> <p>7 EXAMINATION BY COUNSEL FOR PATENT OWNER</p> <p>8 BY MR. DONAHUE:</p> <p>9 Q. Good morning. My name is Greg Donahue.</p> <p>10 I am an attorney. I work with DiNovo Price, and I</p> <p>11 represent Papst Licensing in a patent litigation</p> <p>12 matter against, among others, Apple. And also in</p> <p>13 these IPR proceedings, which are numbered</p> <p>14 IPR 2016-01839, IPR 2016-1 -- excuse me, 01842,</p> <p>15 IPR 2016-01860, IPR 2016-01863, and</p> <p>16 IPR 2016-01864.</p> <p>17 Do you understand that?</p> <p>18 A. Yes, I do.</p> <p>19 Q. Okay. Have you ever been deposed before?</p> <p>20 A. Yes, I have.</p> <p>21 Q. Have you ever been deposed before in a</p> <p>22 patent case?</p> <p>Page 4</p>
<p>1 CONTENTS</p> <p>2</p> <p>3 EXAMINATION BY: PAGE</p> <p>4 Counsel for Patent Owner 04</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>Page 3</p>	<p>1 A. Yes, I have.</p> <p>2 Q. Have you ever been deposed before in</p> <p>3 conjunction with an IPR proceeding?</p> <p>4 A. Yes, I have.</p> <p>5 Q. Okay. So you're probably familiar with</p> <p>6 the process, but let me start off by entering the</p> <p>7 relevant deposition notices, which are marked as</p> <p>8 paper 26 in the 1839 proceeding, paper 19 in the</p> <p>9 1842, 1860, 1863 proceedings, and paper 22 in the</p> <p>10 1864 proceeding.</p> <p>11 So if we could get those five notices, we</p> <p>12 could just put those in front of you very briefly.</p> <p>13 A. Okay. I have those in front of me.</p> <p>14 Q. Okay. Great. Thank you.</p> <p>15 Have you seen those documents before?</p> <p>16 A. Give me a second.</p> <p>17 I'm not sure that I've seen these</p> <p>18 particular documents. I probably have. But I was</p> <p>19 certainly informed by e-mail about this deposition</p> <p>20 and the time, the place, the scope, et cetera.</p> <p>21 Q. Great. So do you understand that you're</p> <p>22 here to testify regarding your reply declarations</p> <p>Page 5</p>

<p>1 that you submitted on October 18, 2017, in 2 conjunction with the 1839 proceeding; and 3 October 23, 2017, in the 1842, 1860, 1863, and 4 1864 proceedings? 5 A. Right. Yes. 6 Q. Okay. Although you've been deposed 7 before, let me just talk briefly about some 8 basics, deposition basics. If at any time you 9 need to or want to take a break, please just let 10 me know and I'll attempt to accommodate you. I 11 would ask that you try to complete your answer to 12 any pending question. But please let me know if 13 you need to take a break. 14 Also, to ensure we maintain a clear and 15 accurate record, I'll ask that you give verbal 16 answers to my questions rather than shaking your 17 head or making hand gestures that would be 18 difficult for the court reporter to record and, in 19 this instance, for me to see, given that I'm 20 appearing telephonically. 21 Does that sound okay? 22 A. Yes. That's okay.</p> <p style="text-align: right;">Page 6</p>	<p>1 things are discussed in all five of the IPRs. 2 So I would ask that we have an agreement 3 that the entire transcript from today will be 4 filed in all five of the IPR proceedings. 5 Is that acceptable to the attorneys? 6 MR. DUTTON: Yes. That's acceptable. 7 And we filed both transcripts in all of the 8 proceedings from the Gafford deposition. 9 MR. DONAHUE: All right. Well, let's go 10 ahead and get started with the Kawaguchi-based 11 IPR, which is IPR 2016-01839. 12 BY MR. DONAHUE: 13 Q. And if we could get -- I guess for now, 14 if you could get two things in front of you. One 15 will be your reply declaration, which is 16 Exhibit 1032. And then also, if you could get out 17 from the 1839 proceeding, Exhibit 2003, which is 18 the Court's claim construction. 19 A. Okay. I have my reply declaration, 20 Exhibit 1032, and I have what looks like the 21 District Court construction, although I don't 22 think it actually says on it that it's Exhibit</p> <p style="text-align: right;">Page 8</p>
<p>1 Q. I'd also ask that you allow me to finish 2 my question before you begin answering, and I will 3 of course extend you the same courtesy, to try to 4 allow you to finish your answer before I ask 5 another question. 6 Does that sound fair? 7 A. Yes. 8 Q. Are you on any medication today that 9 would prevent you from being able to testify 10 truthfully and accurately? 11 A. No, not that I know of. 12 MR. DONAHUE: So this is actually for the 13 attorneys. I want to make sure we're in 14 agreement. 15 In the Gafford deposition, we agreed to 16 have the deposition transcript filed in all of the 17 proceedings. And here we're going to have a 18 single transcript, so it probably makes even more 19 sense. But I want to make sure, we're going to 20 start off by discussing the Kawaguchi IPR, then 21 move to the Pucci IPR. But there will be some 22 overlap, given that the SCSI book and some other</p> <p style="text-align: right;">Page 7</p>	<p>1 2003. I assume that's the one. 2 Q. Okay. Yeah. I don't know if it's a copy 3 from the -- 4 A. Okay. 5 Q. -- what was filed. But at the very 6 bottom, there's kind of a five-line, looks almost 7 like a -- 8 A. Yes. 9 Q. -- footer that kind of has an EXH2003. I 10 don't know if that's the version you have in front 11 of you or not. 12 A. Yes, yes. You're correct. It's just a 13 little on the bottom hidden. Got it. 14 Q. Okay. Great. 15 Well, let me start by asking, have you 16 seen this Claim Construction Memorandum Opinion 17 and Order that's Exhibit 2003 before? 18 A. Yes, I have. 19 Q. Okay. If you'll flip to page 29 for me 20 and let me know when you're there. 21 A. Okay. 22 Q. Okay. On the very top of the page,</p> <p style="text-align: right;">Page 9</p>

<p>1 you'll see a storage input-output device customary 2 in a host device construction. 3 Do you see that? 4 A. Yes. I guess it's a continuation of the 5 table of constructions from the previous page. 6 Q. Correct. 7 Now, were you aware that in the past 8 Apple District Court litigation, the term "a 9 storage input-output device customary in a host 10 device" was construed as storage input-output 11 device normally part of commercially available 12 computer systems at the time of the invention? 13 MR. DUTTON: I'm going to object to 14 scope, because Dr. Zadok hasn't provided any 15 opinions on the District Court Claim Construction. 16 MR. DONAHUE: In his reply declaration, 17 he talks about a storage input device customary 18 host device. So I think it's well within the 19 scope of his reply declaration. 20 BY MR. DONAHUE: 21 Q. Have you -- again, were you aware of this 22 Claim Construction?</p> <p style="text-align: right;">Page 10</p>	<p>1 this means one and only one. 2 Q. Okay. But I just want to be clear 3 because the Court construed the term as it did on 4 the top of page 29. I want to know, do you agree 5 that that claim construction is correct? 6 A. I agree with this construction, and my 7 declarations and use of -- are consistent with it. 8 But again, I don't think it means one and only 9 one. 10 Q. So you don't believe that the Court's 11 claim construction believes -- means one and only 12 one? Is that what you're saying? 13 A. Well, my understanding of claims is that 14 words like "a" mean typically one or more. And 15 when you read the claims as a whole, there's no 16 restrictions that I see there that suggest that it 17 has to be only one device. 18 Q. Okay. So we're past the Claim 19 Construction stage, correct? 20 A. Sorry, what was the question? 21 Q. In the District Court proceeding, we're 22 past the Claim Construction stage, right? The</p> <p style="text-align: right;">Page 12</p>
<p>1 A. I reviewed a number of documents that 2 were available to me over time, and I used -- in 3 some cases I was given the constructions that I 4 was told were agreed upon or decided; and in some 5 cases I defined what I meant by certain terms. 6 Q. Okay. Well, looking at this 7 construction, do you notice that the "a" before "a 8 storage input-output device customary in a host 9 device," did you notice that there was not a 10 corresponding reference in the construction to "a" 11 or one or more? 12 A. Okay. Yes. I see that the word "a" in 13 the term is not there in the construction. 14 Q. Okay. Do you also notice that the 15 construed term references a device, singular, as 16 opposed to devices plural? 17 A. Yes. I see that, at least in the 18 construction. 19 Q. Do you agree with the District Court's 20 construction? 21 A. So I generally agree with their 22 constructions. That said, I do not agree that</p> <p style="text-align: right;">Page 11</p>	<p>1 Court has already construed the claim; is that 2 correct? 3 MR. DUTTON: Objection. Relevance. 4 THE WITNESS: So I'm not entirely sure 5 what is going on in the District Court litigation 6 part, because that's not what I'm involved. But I 7 do have this court order. 8 And I seem to recall somewhere in the 9 PTAB's decisions that they were saying that they 10 wanted to go with these constructions. 11 BY MR. DONAHUE: 12 Q. Right. So that's why I'm asking you 13 about this construction here today. It is 14 relevant to our PTAB discussion. And my question 15 is, you're talking about rules of construction. 16 But at this stage, the District Court has already 17 construed the term, the phrase, "the storage 18 input-output device customary in a host device," 19 correct? 20 A. Right. At this stage it looks like the 21 District Court has, indeed, construed this term. 22 Q. Right. So we don't need to talk about</p> <p style="text-align: right;">Page 13</p>

<p>1 rules of construction anymore. We have a 2 construction, correct? 3 A. Yes. 4 Q. Okay. And do you agree with the District 5 Court's Claim Construction that's there on the top 6 of page 29? 7 A. Yeah. Generally, I agree. And I 8 followed these constructions. 9 Q. Okay. Thank you. 10 Now, I'm going to ask that you now open 11 up what's labeled as Exhibit 1001 from the 1839 12 proceeding. It's the '399 patent. 13 A. Okay. I have it in front of me. 14 Q. Okay. And it will -- I think maybe it 15 would be helpful, for the next few minutes, to 16 have it opened to Claim 1, which is in Column 12. 17 A. Okay. This is double-sided. Okay. Yes, 18 I see it. 19 Q. Okay. And if you'll look on Claim 1 -- 20 let's see, the third limitation of Claim 1 says, 21 "A first connecting device for interfacing the 22 host device with the interface device via the</p> <p style="text-align: right;">Page 14</p>	<p>1 host device and the data transmit-receive device? 2 A. I mean, it's generally what connects the 3 two sides, the host device and the, you know, data 4 transmit receive devices. 5 I'm not sure what you mean by "between," 6 because it -- you know, data transmit-receive 7 device, for example, doesn't have to be sort of a 8 completely external entity. 9 Q. Okay. But you agree that the interface 10 device connects on one side to the host and on the 11 other side to the data transmit-receive device, 12 correct? 13 A. Yes. Generally, that's what's 14 illustrated in figure 1. 15 Q. Now, if we move back to Claim 1 and we 16 look at the language starting one, two, three four 17 -- the fifth limitation. It says, "Wherein the 18 interface device is configured by the processor 19 and the memory to include a first-command 20 interpreter and a second-command interpreter." 21 Do you see that? 22 A. Yes.</p> <p style="text-align: right;">Page 16</p>
<p>1 multipurpose interface of the host device." 2 And then the next limitation says, "A 3 second connecting device for interfacing the 4 interface device with a data transmit-receive 5 device." 6 Do you see that? 7 A. Yes. 8 Q. Okay. So do you agree that Claim 1 9 requires the interface device to be between the 10 multipurpose interface of the host device and the 11 data transmit-receive device? 12 MR. DUTTON: Objection. Form. 13 THE WITNESS: Let me see. The interface 14 device is connected to the host device, and the 15 data transmit receive devices are connected to the 16 interface device. Generally, I think this is 17 illustrated, generally, in figure 1. 18 BY MR. DONAHUE: 19 Q. Okay. So let me ask if you could look at 20 figure 1, if that's helpful. 21 Do you agree that the interface device is 22 located between the multipurpose interface of the</p> <p style="text-align: right;">Page 15</p>	<p>1 Q. So would you agree with me that the 2 interface device includes the first-command 3 interpreter? 4 A. Well, it does sound like the interface 5 device has some form of command interpreter or 6 software program that executes actions. 7 Q. Okay. But it says, "The interface device 8 is configured by the processor and the memory to 9 include a first-command interpreter." 10 Correct? 11 A. Yes, that's what it says. 12 Q. So the interface device includes a 13 first-command interpreter, correct? 14 A. Well, it says, "configured to include," 15 but I guess that's what it means because you need 16 some sort of a software or firmware typically 17 running on this interface device to execute 18 actions. 19 Q. Okay. Now, if we move down to the next 20 limitation, it says, "Wherein the first-command 21 interpreter is configured in such a way that the 22 command interpreter, when receiving an inquiry</p> <p style="text-align: right;">Page 17</p>

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