JOHN IRVING GARNEY - 11/20/2017

1	IN THE UNITED STATES DISTRICT COURT
2	FOR THE EASTERN DISTRICT OF TEXAS
3	MARSHALL DIVISION
4	x
5	FUNDAMENTAL INNOVATION SYSTEMS
6	INTERNATIONAL LLC,
7	Plaintiff,
8	Civil Action No.
9	vs. 2:17-cv-00145-JRG
10	
11	SAMSUNG ELECTRONICS CO., LTD.,
12	SAMSUNG ELECTRONICS
13	AMERICA, INC.,
14	Defendants.
15	x
16	November 20, 2017
17	9:31 a.m.
18	
19	Videotaped Deposition of JOHN IRVING
20	GARNEY, taken at the offices of KIRKLAND &
21	ELLIS LLP, 601 Lexington Avenue, New York,
22	New York, before Frank J. Bas, a Registered
23	Professional Reporter, Certified Realtime
24	Reporter and Notary Public within and for the
25	State of New York.

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1	APPEARANCES:		1	EXHIBITS CONTINUED	0.5	
2			2	Garney Exhibit 5, Universal	85	
3	IRELL & MANELLA		3	Serial Bus Cable & Connector		
4	Attorneys for Plaintiff		4	Class Specification, Version 1.0		
5	1800 Avenue of the Stars		5	(No Bates)		
6	Los Angeles, California 90067		6			
7	BY: JASON SHEASBY, ESQ.		7	Garney Exhibit 6, Summary of	104	
8	jsheasby@irell.com		8	Opinions by Mr. John Garney (No		
9			9	Bates)		
10	KIRKLAND & ELLIS LLP		10			
11	Attorneys for Defendants and the Wit	ness	11	Garney Exhibit 7, USB 2.0	126	
12	601 Lexington Avenue		12	Specification (No Bates)		
13	New York, New York 10022		13			
14	BY: JAMES McCONNELL, ESQ.		14	Garney Exhibit 8, USB Frequently	127	
15	james.mcconnell@kirkland.com		15	Asked Questions (No Bates)		
16	TODD M. FRIEDMAN, P.C.		16			
17	todd.friedman@kirkland.com		17	Garney Exhibit 9, Provisional	137	
18	ALEX HENRIQUES, ESQ.		18	Application for Patent, Bates		
L9	alexhenriques@kirkland.com		19	FISI-145-00055102 through 160		
20			20			
21	ALSO PRESENT:		21	Garney Exhibit 10, PowerPoint	155	
22	ROBERT GIBBS, Videographer, DTI	Global	22	presentation, Bates		
23			23	FISI-145-00055514 through 546		
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1	Page		Page 8
1 2	EXHIBITS CONTINUED Garney Exhibit 17, Article 333		MR. SHEASBY: Jason Sheasby for
3	Garney Exhibit 17, Article 333 entitled "Use the USB Connector	2	Fundamental.
4		3	MR. McCONNELL: James McConnell
5	to Connect Your Galaxy S7 to Your	4	for Samsung and the witness. With me
	Previous Device" (No Bates)	5	is Todd Friedman and Alex Henriques,
6 7		6	and we are all with Kirkland & Ellis.
8		7	THE VIDEOGRAPHER: Thank you,
	TNORDIGETONG NOT TO ANGLED	8	gentlemen.
9	INSTRUCTIONS NOT TO ANSWER	9	Will the court reporter, Frank
10	Page Line	10	Bas of DTI Global, please swear the
11	7 10	11	witness.
12	333 10	12	
13		13	JOHN IRVING GARNEY,
14		14	called as a witness, having been first duly
15		15	sworn, was examined and testified
16		16	as follows:
17		17	THE VIDEOGRAPHER: You may
18		18	proceed, Counsel.
19		19	EXAMINATION BY
20		20	MR. SHEASBY:
21		21	Q. Good morning, sir. Can you
22		22	state your full name for the record.
23		23	A. John Irving Garney.
24		24	Q. And Mr. Garney, you've been
25		25	designated to opine as an expert witness for
	Pag	l l	Page 9
1	November 20, 2017	1	Samsung, is that correct?
2	New York, New York	2	A. Yes.
3		3	Q. And the subject matter of your
4	THE VIDEOGRAPHER: Good	4	testimony is the meaning of terms and context
5	morning, everyone. This is the video	5	relating to USB, is that correct?
6	operator speaking, Robert Gibbs of DTI	6	A. Terms and context that were
7	Global, 20750 Ventura Boulevard, Woodland Hills, California 90067.	8	within the summary of opinions.
8			O Did was proposed that summare of
0			Q. Did you prepare that summary of
9	Today is November 20, 2017 and the	9	the opinions?
10	Today is November 20, 2017 and the time is 9:31 a.m.	9	the opinions? A. I
10 11	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of	9 10 11	the opinions? A. I MR. McCONNELL: Objection.
10 11 12	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of Kirkland & Ellis LLP, 601 Lexington	9 10 11 12	the opinions? A. I MR. McCONNELL: Objection. I caution the witness not to
10 11 12 13	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York City, New York, to	9 10 11 12 13	the opinions? A. I MR. McCONNELL: Objection. I caution the witness not to reveal the substance of any
10 11 12 13 14	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York City, New York, to take the video deposition of Mr. John	9 10 11 12 13 14	the opinions? A. I MR. McCONNELL: Objection. I caution the witness not to reveal the substance of any communications or drafts with
10 11 12 13 14	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York City, New York, to take the video deposition of Mr. John Garney in the matter of Fundamental	9 10 11 12 13 14 15	the opinions? A. I MR. McCONNELL: Objection. I caution the witness not to reveal the substance of any communications or drafts with attorneys.
10 11 12 13 14 15	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York City, New York, to take the video deposition of Mr. John Garney in the matter of Fundamental Innovations Systems International LLC	9 10 11 12 13 14 15 16	the opinions? A. I MR. McCONNELL: Objection. I caution the witness not to reveal the substance of any communications or drafts with attorneys. BY MR. SHEASBY:
10 11 12 13 14 15 16 17	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York City, New York, to take the video deposition of Mr. John Garney in the matter of Fundamental Innovations Systems International LLC versus Samsung Electronics Corp. Ltd.	9 10 11 12 13 14 15 16	The opinions? A. I MR. McCONNELL: Objection. I caution the witness not to reveal the substance of any communications or drafts with attorneys. BY MR. SHEASBY: Q. You can answer the
10 11 12 13 14 15 16 17 18	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York City, New York, to take the video deposition of Mr. John Garney in the matter of Fundamental Innovations Systems International LLC versus Samsung Electronics Corp. Ltd. versus pardon me and Samsung	9 10 11 12 13 14 15 16 17	A. I MR. McCONNELL: Objection. I caution the witness not to reveal the substance of any communications or drafts with attorneys. BY MR. SHEASBY: Q. You can answer the question, sir.
10 11 12 13 14 15 16 17 18	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York City, New York, to take the video deposition of Mr. John Garney in the matter of Fundamental Innovations Systems International LLC versus Samsung Electronics Corp. Ltd. versus pardon me and Samsung Electronics America, Inc. in the	9 10 11 12 13 14 15 16 17 18	the opinions? A. I MR. McCONNELL: Objection. I caution the witness not to reveal the substance of any communications or drafts with attorneys. BY MR. SHEASBY: Q. You can answer the question, sir. A. I reviewed the opinion summary
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10 11 12 13 14 15 16 17 18 19 20 21	Today is November 20, 2017 and the time is 9:31 a.m. We are at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York City, New York, to take the video deposition of Mr. John Garney in the matter of Fundamental Innovations Systems International LLC versus Samsung Electronics Corp. Ltd. versus pardon me and Samsung Electronics America, Inc. in the United States District Court for the Eastern District of Texas, Marshall	9 10 11 12 13 14 15 16 17 18 19 20 21	A. I MR. McCONNELL: Objection. I caution the witness not to reveal the substance of any communications or drafts with attorneys. BY MR. SHEASBY: Q. You can answer the question, sir. A. I reviewed the opinion summary to determine it reflected my opinions. Q. So you reviewed the summary of

Page 12 Page 10 I would have to check my that were here, and they reflect my opinions. Α. 1 2 records, but several months ago. 2 Q. So you reviewed a set of 3 Did you have a role in working 3 constructions by -- provided to you by with Kirkland on preparing and proposing counsel, correct? 4 4 5 constructions for terms in the past that you 5 Α. I didn't say that, no. considered? You didn't say that? Can you 6 6 ٥. 7 (Instruction not to answer.) answer my question? Did you review a set of 7 MR. McCONNELL: Objection; 8 8 constructions provided by your counsel? 9 calls for privilege, and in light of 9 I reviewed the constructions Α. 10 the discovery order in this case I represented in the summary of opinions -- the 10 instruct the witness not to answer. summary of my opinion and determined that they 11 11 reflected my opinions. 12 BY MR. SHEASBY: 12 13 You could answer the question. 13 Okay. And just so the record's 14 MR. McCONNELL: Counsel, I have 14 clear, because I want this for the court, were you given a set of constructions by counsel to 15 instructed the witness not to answer 15 16 the question. 16 review; yes or no? 17 BY MR. SHEASBY: 17 I reviewed the constructions Α. 18 that are represented in my summary disclosure. Did you provide your own claim 18 19 constructions of any terms in any of the 19 Q. What is USB? 20 patents that you considered? 20 A. USB is a standard term that 21 21 it's understood to be an abbreviation of A. What do you mean by provide? 22 Q. I mean it in its normal, 22 universal serial bus. And what is universal 23 ordinary sense, sir. 23 Q. 24 I determined that the 24 serial bus? 25 constructions were my opinions. 25 Universal serial bus is a set Page 11 Page 13 So the constructions were of specifications at the time of the patent 2 provided to you and you determined that you that would have included USB 2 and USB 1 and 3 agreed with them? 3 USB 1.1. 4 Well, I determined that they 4 And so to be clear, USB is Α. 0. defined by a set of specifications, is that 5 were my opinions. 6 Sir, if you could answer my 6 correct? 0. 7 7 Well, it's having to do with -question -depending upon how the USB is used in context, 8 8 Α. I have answered your 9 question, sir. it has to do with something related to the 10 -- I would appreciate it. 10 specifications. 11 You were provided 11 0. So USB relates to constructions, is that correct? 12 specifications, correct? 12 13 What I said is I reviewed the 13 Α. No. It has to do with some Α. 14 opinions and determined that they reflected part of the, what's defined in the 15 my -- my view. 15 specifications. 16 Q. Sir, can you answer my question 16 Q. So what is USB then? 17 yes or no. 17 Α. USB is an acronym for universal 18 Were you provided constructions 18 serial bus. 19 And what is universal 19 by your attorneys? 0. 20 Α. I have to answer it the way 20 serial bus? Universal serial bus is a --21 I've already answered it, sir. 21 22 Sir, can you answer my question within the context of the patents, used as a 23 yes or no, were you provided constructions by 23 specification that would have been available to one of ordinary skill; for example, at that 24 your attorneys? 24 time would have been USB 2 or USB 1.1 or I reviewed the constructions

Page 14 Page 16 It didn't have a meaning until USB 1.0. 1 2 Q. What's universal serial bus the first specification was released? 3 today? Well, it didn't have a meaning 4 As I'm sitting here right now? 4 until we first started working on it and A. 5 Q. Vec releasing early versions of it. Α. It would have been understood 6 And when did you release your 6 0. to refer to something within a specification earliest version of it? 7 8 of the specs that existed as of today, which 8 Again, I don't have it 9 have now expanded to include other 9 memorized. It would be in the frontest piece 10 specifications. of the USB 1 spec --10 11 Q. When was USB introduced? 11 (Reporter Clarification) 12 Α. What do you mean by introduced? 12 Α. It would be on the frontest When was it first introduced? 13 ٥. 13 piece. Front material. 14 When was the first specification introduced? 14 What is USB? Q. 15 Δ When was the first 15 Α. USB is an acronym for universal specification introduced? There were release 16 16 serial bus. candidates of the specification made available 17 17 And USB is a standard for 0. for the 1.0 spec. You could look at the communication, is that correct? 18 18 19 revision history in the spec to see exactly 19 Α. I am sorry. I couldn't hear 20 when they were. 20 you? 21 21 USB is a standard for Q. But sitting here today you Q. 22 don't know? 22 communication, is that correct? 23 23 Α. I haven't memorized that page Α. 24 of the spec, no. 24 USB is not a standard for 25 25 Q. When did you begin to work communication? Page 15 Page 17 on USB? 1 Not solely. It's an incomplete 1 Α. 2 A. Approximately 1994. 2 question. 3 And what specification was in 3 The defining method of USB is Q. ο. place in 1994? the method by which the device communicates 4 5 Α. There was no specification in with the host, correct? 6 place in 1994. 6 A. I'm sorry. Are you referring 7 7 So how could you be working on to something? I can't --If you can just answer my 8 USB if there was no specification? 8 Q. 9 A. Because I was one of the 9 question, I would appreciate it. 10 creators of the specification and I was 10 There's a number of words there. I would like to make sure I hear them 11 involved in creating the specification. 11 12 So USB existed before the clearly. I never heard that phrase before. 0. 12 13 specification? 13 Sure. The defining method of 14 USB couldn't have existed as a USB is the method by which the device 15 communicates with the host, correct? specified bus before the specification that 15 16 specifies the bus existed. 16 The defining method of -- I am sorry. I need to see that written down. 17 Q. When you were working on USB in 17 18 1994, what did USB mean? 18 There's too many words to hold in my head at 19 A. once. Can you refer me to where that is? I think before I started 19 Sure. It's right there 20 working on it, it didn't probably have a 20 Q. 21 meaning. 21 (indicating). 22 And when you started working on 22 I'm having a hard time 23 it in 1994 what meaning did it have? 23 technically. I mean, it seems like a valid 24 I don't know that it would have 24 English sentence, but technically it's unclear Α. had a meaning. what that sentence is trying to say.

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