

In The Matter Of:
Uniloc USA, Inc., et al. v.
Apple, Inc.

Theresa Lanowitz
August 29, 2018
Video Deposition

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1 UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF CALIFORNIA
 3 SAN FRANCISCO DIVISION
 4
 5 UNILOC USA, INC., and Case No.: 3:18-cv-00360-WHA
 6 UNILOC LUXEMBOURG, S.A., Case No.: 3:18-cv-00363-WHA
 7 Plaintiffs, Case No.: 3:18-cv-00365-WHA
 8 v. Case No.: 3:18-cv-00572-WHA
 9 APPLE INC.,
 10 Defendants.
 11
 12 VIDEOTAPED DEPOSITION OF THERESA LANOWITZ
 13 Taken in behalf of the Plaintiffs
 14 August 29, 2018
 15 (Pages 76 through 267 videotaped)
 16 * * *
 17
 18
 19
 20
 21
 22
 23
 24

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1 BE IT REMEMBERED THAT, pursuant to Federal
 2 Rules of Civil Procedure, the deposition of THERESA
 3 LANOWITZ was taken before Julie A. Walter,
 4 CSR No. 90-0173 on August 29, 2018, commencing at
 5 the hour of 9:01 a.m., the proceedings being
 6 reported in the offices of Beovich Walter & Friend,
 7 1001 SW Fifth Avenue, Suite 1200, Portland, Oregon.
 8 * * *
 9 APPEARANCES
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 12 Boston, Massachusetts 02110
 13 617 456 8087
 14 By Tyrus Cartwright
 15 Counsel for the Plaintiffs Uniloc
 16
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 19 Chicago, Illinois 60661
 20 312 681 6000
 21 By Mr. Doug Winnard
 22 Counsel for Defendant Apple, Inc.
 23
 24

Page 3

1 ORACLE
 2 475 Sansome Street, 12th Floor
 3 San Francisco, California 94111
 4 415 402 7256
 5 By Mr. Andrew Temkin, Senior Corporate Counsel
 6 Counsel for the Deponent
 7
 8 Also Present: Mick Irwin - Videographer
 9
 10
 11
 12
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 14
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 24

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1 THERESA LANOWITZ,
 2 having first been sworn, testified under oath as
 3 follows:
 4
 5 **EXAMINATION**
 6 **BY MR. CARTWRIGHT:**
 7 Q. Good morning, Ms. Lanowitz.
 8 A. **Good morning.**
 9 Q. My name is Tyrus Cartwright on behalf of the Uniloc
 10 plaintiffs for Prince Lobel Tye.
 11 **MR. TEMKIN:** Andrew Temkin on behalf of Oracle
 12 America, which is the successor in interest to Sun
 13 Microsystems and on behalf of the witness.
 14 **MR. WINNARD:** Doug Winnard of Goldman Ismail
 15 Tomaselli Brennan & Baum on behalf of defendant
 16 Apple, Inc.
 17 Q. BY MR. CARTWRIGHT: So let me just -- I'm just
 18 going to start off with a little bit of ground
 19 rules. If I ask questions and if you don't
 20 understand, just please let me know, otherwise I
 21 have to assume that you understand my question.
 22 Please do not talk during the questions and I
 23 will try not to talk before you are finished and so
 24 forth. And if your counsel objects, you can let

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1 them object but if they don't instruct you to not
 2 answer the question, please try to answer the
 3 question.
 4 For the record, what is your name?
 5 **A. My name is Theresa Lanowitz.**
 6 Q. Who is your current employer?
 7 **A. I am currently employed by voke, V-O-K-E.**
 8 Q. How long have you been employed with them?
 9 **A. Since 2006.**
 10 Q. And what is your title at your employer?
 11 **A. I'm CEO and founder.**
 12 Q. Describe your responsibilities at voke?
 13 **A. At voke we're an independent industry analyst firm,**
 14 **and what we do is we provide research, public**
 15 **speaking, and advisory services to our clients.**
 16 Q. Can you please describe your educational
 17 background?
 18 **A. Yes. I have a bachelors in computer science from**
 19 **the University of Pittsburgh.**
 20 Q. Did you pursue any post -- post undergraduate
 21 degrees?
 22 **A. Post undergraduate, meaning?**
 23 Q. After under -- after University of Pittsburgh?
 24 **A. So postgraduate?**

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1 Q. Yes.
 2 **A. I have taken several German classes at Portland**
 3 **Community College and a couple of German classes in**
 4 **Southern California, but no other formal**
 5 **postgraduate work.**
 6 Q. Okay. Have you ever been deposed before?
 7 **A. No, I have not.**
 8 Q. Have you ever testified at trial before?
 9 **A. No, I have not.**
 10 Q. Have you ever signed and submitted a declaration
 11 for a case before in addition to this case, or
 12 outside of this case?
 13 **A. This is the first one.**
 14 Q. Okay. When did you first learn about the Uniloc
 15 versus Apple litigation?
 16 **A. Mr. Winnard contacted me by voicemail in the middle**
 17 **of July and left me a voice mail message and I**
 18 **phoned him back and that's when I learned about it.**
 19 Q. You said middle of July?
 20 **A. Yes.**
 21 Q. That's 2018?
 22 **A. 2018, yes.**
 23 Q. What did you discuss when you spoke to Mr. Winnard?
 24 **A. The first, very first question he asked me was if**

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1 anybody else had contacted me about this case, and
 2 I answered no. So he asked me if I had worked at
 3 Sun Microsystems on the Jini project. I answered
 4 yes. And he just asked me a little bit about what
 5 I did at Sun Microsystems on the Jini project, and
 6 we talked about what Jini did and what the vision
 7 for Jini was.
 8 Q. How long was the conversation, generally?
 9 A. **The first conversation was probably about a half an**
 10 **hour, 45 minutes or so.**
 11 Q. Did you have any follow-up conversations with
 12 Mr. Winnard since then?
 13 A. **Yes. We had one follow-up phone conversation about**
 14 **Jini, and then Mr. Winnard came to Portland,**
 15 **Oregon, July 19th, 2018, and we created the**
 16 **declaration that is submitted.**
 17 Q. On the follow-up call, what did you discuss that
 18 was different from the first phone call?
 19 A. **We talked more about the details of Jini, some of**
 20 **the details of what I had done. On the previous**
 21 **call I had mentioned that in my current position I**
 22 **was presenting some information about the Internet**
 23 **of Things to some of my clients and Jini was really**
 24 **perceived to be the precursor to the current**

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1 **Internet of Things or IoT.**
 2 **So I had mentioned that I had some materials**
 3 **that we had created at Jini, some marketing**
 4 **materials for the Jini project, and then I had put**
 5 **them into a presentation I was currently giving.**
 6 **So I sent them to him and on the subsequent call we**
 7 **talked about the materials and some of the things**
 8 **that I had spoken about in my presentation.**
 9 Q. Were those marketing materials disclosed in this
 10 case or did you cite to those marketing materials
 11 in your declaration?
 12 A. **I don't believe those marketing materials were**
 13 **cited in my -- well, they were. The marketing**
 14 **materials were cited in my declaration because in**
 15 **the declaration we talked about the use cases and**
 16 **those marketing materials specifically referenced**
 17 **the use cases.**
 18 Q. Okay. Who prepared the exhibit that was submitted
 19 for -- as your declaration? Who submit -- who
 20 prepared the declaration that you signed and
 21 submitted?
 22 A. **Mr. Winnard created the declaration. We were doing**
 23 **it realtime. He was sitting at his computer across**
 24 **from me and asking me questions. And as I answered**

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1 **the questions, he took notes, and then would**
 2 **prepare part of the declaration. And as he was**
 3 **preparing sections of the declaration, he would let**
 4 **me take a look at it, review it. And if there was**
 5 **anything that was inaccurate, misspelled,**
 6 **punctuation issues, grammar issues, we corrected it**
 7 **realtime.**
 8 Q. Were there multiple drafts of the declaration or
 9 was it just that one declaration?
 10 A. **It was that one declaration.**
 11 Q. So you reviewed it in realtime?
 12 A. **Yes.**
 13 Q. And then signed it and it was complete after that?
 14 A. **Yes.**
 15 Q. Did Mr. Winnard provide you any documents during
 16 this process of preparing the declaration?
 17 A. **I believe he had a copy of some magazine articles**
 18 **that he had found during his research on Jini, and**
 19 **he showed me some of the magazine articles, and we**
 20 **reviewed some of the magazine articles.**
 21 Q. Do you know the publication date of those magazine
 22 articles, or were you aware of the publication date
 23 at the time when you were reviewing them?
 24 A. **Yes.**

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1 Q. Do you recall what those dates were?
 2 A. **Publication date on those articles was 1998, 1999.**
 3 Q. Do you know specifically when in 1998 they were
 4 published?
 5 A. **I don't know specifically. There are a number of**
 6 **articles.**
 7 Q. Are you being paid for your testimony?
 8 A. **Yes, I am.**
 9 Q. Who is paying for your testimony?
 10 A. **Mr. Winnard's law firm. And as I do this**
 11 **testimony, I'm also deferring other billable work**
 12 **that I should be doing today.**
 13 Q. Okay. And how much are you being paid? How much
 14 have you been paid so far for your work on this
 15 case?
 16 A. **So can you -- how much am I being paid or how much**
 17 **have I been paid?**
 18 Q. How much have you been paid and how much do you
 19 expect to be paid by the end of today's deposition?
 20 A. **Okay.**
 21 **MR. TEMKIN: Objection. Form of the question.**
 22 **You can answer.**
 23 Q. **BY MR. CARTWRIGHT: You can answer.**
 24 A. **I can answer, okay.**

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1 **So I am being paid \$500 per hour and, to date,**
2 **my compensation on this case has been approximately**
3 **\$6400.**
4 Q. All right. So we're going to move into the
5 declaration. I'm going to offer Exhibit P from
6 case number 3:18-CV-00365-WHA, Exhibit P, that was
7 filed on August 9, 2018.
8 Here is a copy of the declaration.
9 What was your employment prior to joining Sun
10 in December 1997?
11 A. **Prior to joining Sun in December of 1997, I was**
12 **working at Borland International Software Company.**
13 Q. And what was your job -- what was your title at
14 Borland?
15 A. **My title at Borland was product line manager.**
16 Q. And what were your responsibilities?
17 A. **My responsibilities at Borland in that particular**
18 **capacity was I was the product manager for J**
19 **Builder, which was a Java development environment**
20 **built by Borland. I also managed several other**
21 **people who were product managers and product**
22 **marketing managers on other products.**
23 Q. When you joined Sun Microsystems in December 1997
24 as the marketing strategist for Jini and only

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1 worked on until July 1999 when your employment
2 ended. Correct?
3 A. **Yes, that's correct.**
4 Q. What were your responsibilities as a marketing
5 strategist or strategist?
6 A. **So at Sun, as a marketing strategist on the Jini**
7 **project, I was responsible for creating marketing**
8 **assets that we would give to clients, to press, to**
9 **partners, coming up with use case scenarios about**
10 **how the Jini technology would be used, meeting with**
11 **customers, partners, press, and so on, and just**
12 **generally helping with the positioning and the**
13 **messaging of the Jini project.**
14 Q. Were you ever asked to sign a nondisclosure
15 agreement as part of your employment with Sun?
16 A. **I do not recall.**
17 Q. Do you recall if you actually signed one, a
18 nondisclosure agreement?
19 **MR. TEMKIN:** Objection. Form.
20 You can answer.
21 **THE WITNESS:** With Sun?
22 Q. **BY MR. CARTWRIGHT:** Yes.
23 A. **I don't recall if I signed a nondisclosure with**
24 **Sun.**

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1 Q. Did you ever work on the design of Jini?
2 A. **I did not work on the design. I worked on the use**
3 **cases. The engineers and the architects typically**
4 **worked on the design.**
5 Q. And did you ever work on the functionalities of
6 Jini? So, for example, you said you worked on the
7 use cases, but did you contribute to any of the
8 functionalities that were projected to be used in
9 Jini?
10 A. **So when you say "functionalities," are you**
11 **suggesting the source code, so would I be the**
12 **person writing the source code, is that what you**
13 **are asking?**
14 Q. No, not necessarily, just how Jini functions. So
15 if Jini functions a certain way, did you contribute
16 to any ideas that were built into the Jini platform
17 or the Jini software?
18 A. **Yes, I contributed ideas, but I did not write the**
19 **source code.**
20 Q. Okay. Were you ever invited to any of the design
21 meetings for Jini?
22 A. **Yes.**
23 Q. Can you please describe those -- the format of
24 those design meetings, like what was discussed and

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1 how those conversations ended up being applied to
2 Jini?
3 A. **Sure. We had several types of design meetings.**
4 **Some design meetings were for the engineers, the**
5 **people who were actually writing the source code to**
6 **get together and talk about architectural**
7 **structures of how Jini would be built, and**
8 **sometimes we sat in on those as marketing people.**
9 **The other types of things, the other types of**
10 **design meetings, they were brainstorming meetings**
11 **where we would get together and brainstorm use**
12 **cases for Jini saying, How could Jini be used in**
13 **the home? How could Jini be used in the office?**
14 **How could Jini be used in the car of the future?**
15 **So we had a lot of just different brainstorming**
16 **scenarios where we would just come together and**
17 **figure out different ways that Jini could possibly**
18 **be used so that we could go out and talk to**
19 **our -- our partners, our prospects, our clients**
20 **about how we felt Jini would be used.**
21 Q. Okay. And you did not write any of the source code
22 for Jini. Correct?
23 A. **I did not write any of the source code.**
24 Q. Did you ever view any of the source code for Jini?

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