

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO. LTD, SAMSUNG ELECTRONICS
AMERICA, INC., AND APPLE, INC.

Petitioner,

vs.

NEONODE SMARTPHONE, LLC

Patent Owner.

Case IPR 2021-00144
Patent 8,095,879

REMOTE EXPERT DEPOSITION OF BENJAMIN BEDERSON, Ph.D.

FEBRUARY 28, 2022

8:03 a.m.

Diana Janniere, CSR-10034

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(Original Exhibit 2006 is attached hereto.)

REMOTE EXPERT DEPOSITION OF BENJAMIN BEDERSON, Ph.D.
FEBRUARY 28, 2022

BENJAMIN BEDERSON, Ph.D.,
having been first duly sworn, testifies as follows:

EXAMINATION

BY MR. HENDIFAR:

Q Good morning, Dr. Bederson. Thank you very much for your time. Am I pronouncing your name correctly? Bederson?

A That's fine. Thank you.

Q So you understand that you're testifying under oath today; correct?

A Yes, I understand that.

Q And because the questions and answers are being recorded, it's important that we do not speak over each other.

So I will wait for you to answer your -- to -- to complete your answers before I speak and I request the same courtesy, that you wait until I complete my questions before you respond.

The only thing that is going to be recorded is verbal communications. So, for example, nodding your head will not be recorded. So it's important

that if you would please give audible responses, such as yes and no, if I may request so.

You're not permitted by the rules to speak with your attorneys during the course of your examination on any issue other than issues related to privilege.

Do you understand that?

A Just to clarify, my general understanding is that I am not allowed to speak with attorney -- my attorney about the case except for matters regarding privilege; but if I wanted to talk with counsel about things unrelated to the case, that would be acceptable?

Q Yes, that's correct.

A Okay. Then, with that, I understand. Thank you.

Q Yes. So your counsel will make short, two-word objections. For example, they can make an objection as to scope.

Once counsel makes an objection, you should still continue to answer the question until -- unless the counsel specifically directs you not to testify based on privilege.

So because your counsel will not be able to make speaking objections, for example, explain why a

1 question may be vague or a hypothetical may be
2 incomplete, I request that if you have any doubts
3 about the question, if you have any ambiguity, if you
4 need more information; if you think you need more
5 assumptions in the hypothetical or anything else; if
6 you'd please ask me; and I will be happy to supplement
7 that information or rephrase the question.

8 Is that fair?

9 A Most of what you said was fine. There was
10 one thing also I didn't understand quite differently.

11 My understanding is that if my counsel
12 directs me not to respond, that I may choose not to
13 respond. I am not going to make a judgment as to what
14 the reason is they may direct me not to respond.

15 Because you said they may direct me not to
16 respond only in the case of privilege. I don't know
17 the rules on when they may or may not choose to direct
18 me not to respond.

19 Q That's fine. That's something I will take
20 up with counsel.

21 My point was if counsel specifically
22 instructs you not to answer, even though they make
23 objections, to preserve those objections, you still
24 continue to respond to the question.

25 Now, other than being a testifying expert in

1 Google before?

2 A Yes, I have.

3 Q And do you currently have or have you had in
4 the past any association with either Google or its
5 parent company?

6 A I have had some research grants from what
7 was Google at the time, and I did visit their office
8 as a researcher for, I think, a couple of weeks or a
9 few weeks one time quite a few years ago.

10 Q And do you recall approximately the years
11 when you received research grants from Google?

12 A They are on my CV, but off the top of my
13 head, I don't remember what years they are.

14 Q And do you recall the topic of the research
15 for which you received grants from Google?

16 A They supported my research at the time,
17 which partly involved crowd sourcing, partly
18 involved --

19 THE REPORTER: What type of sourcing?

20 THE WITNESS: Oh, crowd sourcing.

21 THE REPORTER: Crowd. Thank you.

22 THE WITNESS: Crowd. Or user interfaces for
23 crowd sourcing.

24 They may have also partly supported my work
25 on mobile interface design. I can't quite remember

1 this matter, and I understand in another IPR, do you
2 currently have or have you had any association with
3 petitioner, Apple?

4 MS. MILLER: Objection to form.

5 THE WITNESS: Aside from the work I have
6 been doing with them, Apple, as an expert, no, I don't
7 have any other relation with Apple. I guess -- I
8 guess as a consumer.

9 BY MR. HENDIFAR:

10 Q Have you received any research grants from
11 Apple?

12 A No, I never have.

13 Q Have you ever been retained by Apple as an
14 industry expert as to be distinguished from a
15 litigation expert?

16 A No, I have not.

17 Q Same questions for Samsung. Do you
18 currently have or have you had before any association
19 with petitioner, Samsung other than being retained as
20 a litigation expert?

21 A No, I do not.

22 Q Okay. Same question about Google. Have you
23 heard of the company Google?

24 I guess, they have a parent company now, but
25 have you heard of the company or the parent company

1 the details of those grants at this point.

2 BY MR. HENDIFAR:

3 Q Can you elaborate on generally what your
4 work has been to date on mobile interface design?

5 A My work on mobile interface design has
6 covered quite a wide range of topics and technologies.
7 So I don't know that I can characterize it simply.

8 But I can say that I started it, I would
9 say, intensively in approximately 2001, and it
10 involved in early days applying some of my work on
11 Zoomable User Interfaces to mobile devices.

12 So I built and studied underlying
13 interaction techniques. I built a wide range of
14 applications that often explored those techniques
15 including calendars, photo browsers, children's
16 digital library; among other things.

17 I co-founded a company called Zumobi in
18 about 2006 that built on some of those research ideas.
19 I should say, up until 2006, I collaborated with
20 Microsoft on some of the ideas that I just summarized.

21 So, anyway, I can walk you through the
22 details on my CV and give you more information about
23 any of those things; but that's at least some of the
24 things that I worked on.

25 Q I appreciate your explanation. If there are

1 more details, we will get into them in due course.

2 Have you before deposed before today?

3 A Yes, I have.

4 Q And approximately how many times?

5 A For the last 13 years or so, I think it's
6 been about 40 times.

7 Q And how many of those have been in the
8 context of an inter partes review proceeding?

9 A Several of them, but I don't have a count
10 off the top of my head.

11 Q And have you ever been retained by the
12 patent owner as a expert consultant in litigation?

13 A I am not sure I know legally who is the
14 patent owner.

15 Q Have you ever been opine -- strike that.

16 Have you ever been retained as an expert
17 consultant in litigation to opine that a patent valid?

18 A I -- I believe I have, yes.

19 Q What did you do to prepare for your
20 deposition today?

21 A I read documents and talked with counsel.

22 Q And how many hours, approximately, did you
23 devote to preparing for your deposition today?

24 A Well, to clarify, I first prepared for a
25 deposition that was scheduled for about a couple of

1 now.

2 Q When were you first contacted about this
3 IPR?

4 A I do not recall.

5 Q Okay. Do you recall who contacted you?

6 A I do not.

7 Q Okay. How many hours approximately have you
8 devoted to this IPR so far?

9 A I do not recall.

10 Q More than 50?

11 A I just have no way of adding up those hours
12 in my head over a long period of time. I just don't
13 know.

14 Q I know you have been deposed a lot of times,
15 but one other aspect of deposition I want to mention.
16 So I am entitled to your best estimate of various
17 information that I may ask you.

18 Obviously, I do not want you to guess or
19 speculate. So, for example, if I ask you what is the
20 size of this conference table in this conference room
21 here, you have no way of being able to estimate that.
22 And that would be a pure guess, which is not something
23 I want.

24 But on information that you may have the raw
25 data, you may be able to estimate. I am entitled to

1 weeks ago that was canceled, and then it was
2 rescheduled for today.

3 So, then, I spent more time preparing for it
4 today, but I didn't count the hours -- I'm sorry. I
5 did not -- I counted it for billing purposes, but I
6 did not look at how many hours I counted for billing
7 purposes in that preparation over a period of a few
8 weeks. And I don't recall off the top of my head how
9 many hours that added up to.

10 Q Okay. How many meetings did you have with
11 counsel to prepare for either the deposition today or
12 the originally-scheduled date about two weeks ago?

13 A It was definitely a few meetings, but I
14 don't recall the exact number.

15 Q More than five?

16 A Well, probably somewhere in that ballpark,
17 but I don't remember the exact number.

18 Q Okay. And other than documents which may
19 have been prepared by counsel, what other documents
20 did you review in preparation for your deposition?

21 A Generally, I reviewed my declaration and
22 many of the documents that were referenced in the
23 declaration.

24 Q Anything else?

25 A I can't think of any in particular right

1 your best estimate of various parameters.

2 So do you have any way of estimating, even
3 in the ballpark, how many hours you've spent on this
4 case so far?

5 MS. MILLER: Objection to form.

6 THE WITNESS: Without looking at my billing
7 logs, which is where -- the only place that
8 information is kept, I definitely do not recall.

9 And I am not sure how I could estimate,
10 because I would have to add up a bunch of monthly
11 numbers over a period of many months; and I just don't
12 recall even what those individual numbers are. I
13 certainly don't remember how -- what they add up to.

14 So I understand what you said. And if I
15 could give you what I thought was a reasonable
16 estimate, I would, but I just don't know how to give
17 that information to you.

18 Q Do you know if you spent more or less than
19 20 hours on this IPR so far?

20 A I believe I spent more than 20 hours so far.

21 Q Thank you. So you have signed a declaration
22 that is submitted as 1002 in IPR 2021-00144.

23 Do you happen to have a copy of that?

24 A Yes, I brought paper copies of the
25 declaration and some select exhibits from that

1 declaration.

2 Q And when I refer to your declaration, this
3 is the document I would be referring to unless we
4 specify otherwise. Is that okay?

5 A Just to confirm, did you -- what exhibit
6 number did you call it?

7 Q 1002.

8 A Okay. That's what mine is labeled.

9 Q Very good. Did you draft the first
10 iteration of your declaration?

11 A So this declaration is -- represents my
12 opinion that I stand behind. I wrote it in
13 collaboration with counsel, but I don't know that I
14 could tell you any more detail about how -- what that
15 collaboration looked like without revealing
16 communications with my counsel.

17 Q Well, you can tell me if you drafted the
18 first draft, and that's not privileged. So the
19 question is did you draft the first iteration of your
20 declaration?

21 A I certainly drafted many elements of this.
22 Certainly, some of the elements, for example, the --
23 it was a legal background section. At least I know
24 for sure that that was supplied to me by counsel.

25 So I think the clearest answer I could give

1 some time looking at prior art, but I -- it was a
2 while ago. I don't really remember any more detail
3 than that.

4 Q Okay. Was any of the prior art that you
5 found in connection with your prior art search
6 referenced or utilized in your declaration?

7 MS. MILLER: Objection to form.

8 THE WITNESS: Well, at the very least I
9 think there is some background that was informed what
10 a person of skill in the art would be familiar with.

11 So at the very least, I think my review of
12 background, which is part of prior art search, I would
13 consider in my report.

14 BY MR. HENDIFAR:

15 Q Okay. Anything else?

16 A I do not recall any specific pieces of art
17 that I discovered that I used in my declaration,
18 although there may have been some beyond background.

19 Q Do you recall if you found the reference
20 called the Ren Exhibit 1004?

21 A I do not specifically recall one way or the
22 other.

23 Q Have you reviewed the patent owner
24 preliminary response submitted in this IPR?

25 THE REPORTER: I didn't hear the -- hold on

1 to you is that the very first draft, some of it came
2 from me, and some of it came from counsel.

3 Q And have any of your opinions stated in your
4 declaration changed since the time you signed the
5 declaration?

6 A No, I cannot think of any of my opinions
7 that have changed since the time I signed it.

8 Q Okay. Did you find the prior art reference,
9 Hirayama 307, attached as Exhibit 1006 to the petition
10 referenced in your declaration?

11 A I am not sure I understand your question.
12 I -- I understood what -- the references you're
13 talking about, but I don't think I understand what you
14 mean by asking if I found it.

15 Q Okay. How did you come to know Hirayama
16 307, Exhibit 1006?

17 A I think the discussion of which prior art to
18 use, I may have been involved with. I don't -- to be
19 honest, I don't think I recall exactly what the
20 process was; and I don't recall specifically about
21 Hirayama 307, how I came to first know of the art.

22 Q Did you perform any prior art searches in
23 connection with preparing your declaration in this
24 IPR?

25 A I have a general recollection that I spent

1 a second. I didn't understand the ending part of that
2 question. Can you state it again?

3 BY MR. HENDIFAR:

4 Q Have you reviewed the patent owner
5 preliminary response submitted in this IPR?

6 A I believe I did.

7 Q And do you recall when that was?

8 A I do not.

9 Q Okay. Was it more than a month ago?

10 A The only thing I recall is that I did not
11 review it very recently, if not for this week.

12 Q Have you reviewed the board's initial denial
13 of institution in this IPR?

14 A I believe I did.

15 Q And approximately when was that?

16 A I believe it was -- I might -- I think it
17 was in preparation for the originally-scheduled
18 deposition, but I am not a hundred percent sure.

19 Q Okay. And have you reviewed the board's
20 subsequent institution of trial in this IPR?

21 A I believe I did. Yeah, I -- I think that I
22 did.

23 Q Okay. And was that in connection with the
24 preparation for this deposition, including the
25 originally-scheduled date?

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