

In The Matter Of:

Motorola Mobility, Inc.

vs.

Apple, Inc., et al.

JOSEPH SHAIN

and

THOMAS ERIKSSON

March 19, 2012

MERRILL CORPORATION

Legalink, Inc.

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Joseph Shain and Thomas Eriksson
March 19, 2012

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

IN THE MATTER OF)
)
MOTOROLA MOBILITY, INC.,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO:
) 1:10cv023580-Civ-UU
)
APPLE INC.,)
)
Defendant.)
-----)
APPLE INC.,)
)
Counterclaim Plaintiff)
)
v.)
)
MOTOROLA, INC. and)
)
MOTOROLA MOBILITY, INC.,)
)
Counterclaim Defendants.)

30(b)(6) VIDEOTAPED DEPOSITION OF NEONODE, INC.
DESIGNEES: JOSEPH SHAIN and THOMAS ERIKSSON

VOLUME I

Monday, March 19, 2012
AT: 1:32 p.m.

Taken at:

Neonode Technologies AB
Linnegatan 89D
115 23 Stockholm
Sweden

Court Reporter:

ANNE-MARIE STALLARD
Accredited Real-time Reporter

Merrill Corporation - Chicago

Joseph Shain and Thomas Eriksson

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17 VIDEOGRAPHER:

18 PHILLIP HILL

19 Videographer

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10 websites about Neonode N1 and

11 Neonode N1m

12 Exhibit 12 List of weblinks to78

13 documentation regarding

14 Neonode N1

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12:39:23 1 THE VIDEOGRAPHER: This is the beginning of

13:31:52 2 videotape number 1, volume 1, this is the video

13:31:55 3 operator speaking, Phillip Hill for Merrill Legal

13:31:59 4 Solutions, Chicago office. Today's date is March 19,

13:32:05 5 2012. The time on the video screen is 13:32 Swedish

13:32:13 6 time.

13:32:14 7 We are at the Stockholm offices of Neonode to

13:32:19 8 take the videotaped deposition of Yossi Shain. This is

13:32:23 9 taken in the matter of Motorola Mobility, Inc. versus

13:32:28 10 Apple Inc. This is being heard in the United States

13:32:30 11 District Court for the Southern District of Florida,

13:32:36 12 case number 1:10cv023580-Civ-UU. Please will counsel

13:32:47 13 introduce themselves and state whom they represent.

13:32:50 14 MS. GARRIGAN: Cathleen Garrigan from Quinn

13:32:53 15 Emanuel Urquhart & Sullivan on behalf of Motorola

13:32:56 16 Mobility Inc. and Motorola Solutions, Inc.

13:33:01 17 MS. HO: Jill Ho from Weil Gotshal & Manges,

13:33:05 18 on behalf of Apple.

13:33:08 19 MR. KRONENGOLD: Steve Kronengold, SRK Law,

13:33:10 20 on behalf of Neonode.

13:33:16 21 THE VIDEOGRAPHER: The court reporter today

13:33:17 22 is Ms. Anne-Marie Stallard of Merrill Legal Solutions,

13:33:24 23 London office. Please will the court reporter swear in

13:33:26 24 the witness.

25

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March 19, 2012

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<p>13:33:27 1 JOSEPH SHAIN 13:33:38 2 having been duly affirmed testified as follows: 13:33:38 3 EXAMINATION BY MS. GARRIGAN 13:33:39 4 Q. Good afternoon, Mr. Shain. Thank you very much 13:33:42 5 for taking the time to meet with me today. I'm 13:33:45 6 an attorney for Motorola and I'm going to ask you 13:33:50 7 a series of questions today. Have you ever been 13:33:52 8 deposed before? 13:33:53 9 A. No. 13:33:54 10 Q. So if I ask a question that's unclear, you 13:33:58 11 should just let me know and I'll try to rephrase 13:34:02 12 the question so that we can reach a mutual 13:34:05 13 understanding of what it is. Don't speculate if you 13:34:08 14 don't know what the answer is, and if you could just 13:34:11 15 give clear, verbal answers, it will help our court 13:34:14 16 reporter out today. So no nodding. 13:34:17 17 A. Okay. 13:34:19 18 Q. And then is there any reason why you can't 13:34:23 19 testify accurately and truthfully today? 13:34:26 20 A. No. 13:34:27 21 Q. Could you please state your full name for 13:34:29 22 the record. 13:34:30 23 A. Joseph Shain. 13:34:31 24 Q. And your current address? 13:34:34 25 A. 27B Pinsky Street, Rehovot, Israel.</p>	<p>13:35:35 1 me and we'll go back. 13:35:37 2 A. Okay. 13:35:38 3 Q. Have you worked at Neonode continuously since 13:35:40 4 2008? 13:35:41 5 A. Yes. 13:35:45 6 Q. What are your current responsibilities as 13:35:47 7 the Vice President of Intellectual Property? 13:35:51 8 A. Drafting and prosecuting patent applications 13:35:53 9 that cover the company's technological innovations, and 13:36:00 10 trademark applications as well. 13:36:06 11 Q. Are you familiar with the N1 phone? 13:36:10 12 A. Yes. 13:36:12 13 Q. Was the N1 phone developed by Neonode? 13:36:14 14 A. Yes. 13:36:16 15 Q. Was the N1 phone the first phone developed by 13:36:19 16 Neonode? 13:36:22 17 A. Yes. 13:36:24 18 Q. When did Neonode begin working on the N1 phone? 13:36:28 19 A. In 2001. 13:36:35 20 Q. Who was involved in developing the N1 phone in 13:36:39 21 2001? 13:36:41 22 A. Thomas Eriksson and Magnus Goertz. 13:36:47 23 Q. How long did they work on developing the N1 13:36:49 24 phone? 13:36:52 25 A. The phone was commercially available</p>
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<p>13:34:38 1 Q. Are you familiar with the company Neonode? 13:34:40 2 A. Yes. 13:34:41 3 Q. Are you an employee at Neonode? 13:34:43 4 A. I am. 13:34:44 5 Q. When did you first become an employee at 13:34:46 6 Neonode? 13:34:48 7 A. I first started working for Neonode 13:34:50 8 in April 2008. 13:34:54 9 Q. What was your title when you first joined 13:34:57 10 Neonode in 2008? 13:35:00 11 A. Patent Engineer. 13:35:02 12 Q. And is that your title today? 13:35:04 13 A. No, today I'm Vice President of Intellectual 13:35:08 14 Property. 13:35:09 15 Q. Between when you first joined and being 13:35:12 16 Vice President of Intellectual Property, did you have 13:35:15 17 any intermediate titles? 13:35:19 18 A. No. 13:35:19 19 Q. Have you worked at Neonode continuously 13:35:21 20 since -- 13:35:22 21 A. Oh, possibly Intellectual Property Manager at 13:35:27 22 one point. 13:35:28 23 Q. Thank you, and that actually brings up another 13:35:29 24 thing. If at any point you want to go back and clarify 13:35:32 25 something or correct it, you should just do that; stop</p>	<p>13:36:55 1 on November 1, 2004, so I would say three years. More 13:37:03 2 than three years. 13:37:08 3 Q. What were the goals in developing the N1 phone? 13:37:14 4 MR. KRONENGOLD: I object to that question to 13:37:15 5 the extent that it asks for confidential and 13:37:17 6 proprietary information. The witness -- Yossi, you may 13:37:23 7 answer, but it's a broad question and please do not go 13:37:26 8 into any confidential proprietary information of 13:37:30 9 the company as to what the goals were in developing 13:37:33 10 the N1 phone. 13:37:36 11 THE WITNESS: So, briefly, the goals were to 13:37:38 12 create a phone, something novel. A touch screen phone. 13:38:15 13 BY MS. GARRIGAN 13:38:16 14 Q. When was the N1 phone first announced to 13:38:18 15 the public? 13:38:22 16 A. I believe it was announced in 2001. I was able 13:38:25 17 to establish announcements going back to 2002. 13:38:32 18 Q. Are you familiar with the German technology 13:38:34 19 con- -- the German technology conference, CeBit? 13:38:40 20 A. Yes. 13:38:40 21 Q. Was the N1 phone shown at CeBit in 2002? 13:38:46 22 A. I'm not sure. I believe it was. I'm not 13:38:50 23 positive. 13:39:16 24 Q. Do you know if the N1 phone was demonstrated at 13:39:19 25 the March 2002 CeBit conference?</p>

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<p>13:39:24 1 A. I believe it was. I -- yes, I don't know that 13:39:27 2 for sure. I didn't look into that. 13:39:41 3 Q. Do you know who would have attended the CeBit 13:39:43 4 conference in 2002 on behalf of Neonode? 13:39:45 5 A. I imagine Magnus Goertz, possibly 13:39:52 6 Thomas Eriksson. But actually that's conjecture on 13:39:56 7 my part. 13:39:57 8 Q. Okay. 13:39:57 9 A. I don't know for sure. 13:40:09 10 MR. KRONENGOLD: Again, if you don't know, 13:40:10 11 just say "I do not know". 13:40:13 12 THE WITNESS: Okay. 13:40:13 13 BY MS. GARRIGAN 13:40:14 14 Q. Do you know if an N1 phone was actually shown 13:40:19 15 at the March 2002 CeBit conference? 13:40:23 16 A. I don't know. 13:40:34 17 Q. Did an N1 phone, or a prototype of the phone, 13:40:37 18 exist in 2002? 13:40:40 19 A. I don't know. I believe it did. I don't know. 13:40:50 20 Certainly the end of 2002, but you asked 13:40:54 21 about March 2002. 13:40:55 22 Q. So by December of 2002 was there an N1 phone? 13:41:00 23 A. There was something, because I have a picture 13:41:04 24 of one from 2002, so I know that it exists. 13:41:10 25 Q. Why don't we mark that as an exhibit, what</p>	<p>13:47:45 1 (1:49 p.m.) 13:48:59 2 THE VIDEOGRAPHER: Going back on the record, 13:49:00 3 the time is 13:49. Thank you very much. 13:49:05 4 MS. GARRIGAN: So for the record, during 13:49:07 5 a break counsel had a discussion about the most 13:49:11 6 appropriate Neonode witness to answer questions about 13:49:14 7 the 2001 to 2005 timeframe and, based on our 13:49:18 8 discussion, Neonode has designated Mr. Thomas Eriksson 13:49:24 9 to answer questions about the earlier timeframe, and 13:49:28 10 I believe Apple does not have any objections to 13:49:30 11 the substitution of witnesses. 13:49:32 12 MS. HO: No objection. 13:49:33 13 MS. GARRIGAN: Could we swear in the witness. 13:49:35 14 THOMAS ERIKSSON 13:49:42 15 having been duly affirmed testified as follows: 13:49:43 16 EXAMINATION BY MS. GARRIGAN 13:49:43 17 Q. Thank you, Mr. Eriksson. 13:49:47 18 So going back to when Neonode was first announced 13:49:50 19 in 2001, are you familiar with the German technology 13:49:54 20 conference CeBit? 13:49:56 21 A. Yes. 13:49:57 22 Q. Was the N1 phone shown at CeBit in March 2002? 13:50:01 23 A. Yes. 13:50:02 24 Q. Was a -- was an actual prototype of the device 13:50:06 25 shown?</p>
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<p>13:41:13 1 you're gesturing to. 13:41:15 2 A. Okay. 13:41:15 3 Q. Can I see it from here? 13:41:16 4 MR. KRONENGOLD: This was produced in 13:41:17 5 response to the subpoena. 13:41:20 6 MS. GARRIGAN: I actually have this. 13:41:22 7 THE WITNESS: Okay. 13:41:25 8 MR. KRONENGOLD: And it is entitled "New 13:41:29 9 Ultra-Mobile Smartphone Neonode N1" dated December 21, 13:41:36 10 2002. 13:41:37 11 MS. GARRIGAN: Can we mark exhibit 1. 13:42:02 12 (Exhibit 1 marked for identification) 13:42:11 13 MS. HO: I'll note for the record that this 13:42:14 14 has a Moto-Apple Bates stamp instead of a Neonode Bates 13:42:20 15 stamp. 13:42:20 16 MS. GARRIGAN: Right. Mr. Kronengold gave us 13:42:22 17 a list of links in one of his subpoena responses and so 13:42:25 18 we went to the links and we produced them. They didn't 13:42:27 19 actually produce documents to us. 13:42:41 20 MR. KRONENGOLD: Cathleen -- off the record. 13:42:42 21 Cathleen and Jill. 13:42:51 22 THE VIDEOGRAPHER: Going off the record, 13:42:53 23 the time is 13:42. 13:43:01 24 (1:42 p.m.) 13:43:17 25 (Discussion off the record.)</p>	<p>13:50:06 1 A. Yes. 13:50:07 2 Q. And did Neonode refer to the device as "N1" at 13:50:13 3 that -- at that time? 13:50:13 4 A. Yes. 13:50:15 5 Q. Who presented the Neonode phone at the CeBit 13:50:20 6 conference in 2002? 13:50:21 7 A. Myself. 13:50:23 8 Q. Did you give a demonstration of how the device 13:50:27 9 worked at the conference? 13:50:28 10 A. Yes. 13:50:29 11 Q. Were people attending the conference permitted 13:50:33 12 to try out the N1 device? 13:50:38 13 A. Separate seatings, not publicly. 13:50:43 14 Q. Were the separate seatings for people that were 13:50:45 15 not Neonode employees? 13:50:47 16 A. Typically large operators or customers. 13:50:51 17 Q. Did the N1 phone shown at CeBit have 13:50:55 18 the ability to lock and unlock? 13:51:01 19 A. No, it was more of a show general of 13:51:05 20 the concept of gesturing instead of key pressing. 13:51:12 21 THE COURT REPORTER: Sorry, could you repeat 13:51:12 22 "The concept of gesturing", was it? 13:51:12 23 THE WITNESS: A gesture-based user interface, 13:51:18 24 that was the thing we showed. 13:51:24 25 MR. KRONENGOLD: Could you repeat</p>

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