

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

SAMSUNG ELECTRONICS CO.,) IPR2022-01002
LTD., APPLE INC., AND) PATENT 9,191,083
SAMSUNG ELECTRONICS AMERICA,)
INC.,)
)
)
Petitioner,)
)
vs.)
)
SMART MOBILE TECHNOLOGIES)
LLC,)
)
)
Patent Owner.)
)

REMOTE DEPOSITION OF MICHAEL JENSEN, PH.D.
PROVO, UTAH
THURSDAY, APRIL 13, 2023

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DORIEN SAITO, CSR 12568, CLR

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 SMART MOBILE TECHNOLOGIES)
 9 LLC,)
)
 10 Patent Owner.)
)

11
 12
 13 REMOTE DEPOSITION OF MICHAEL
 14 JENSEN, PH.D., taken on behalf of
 15 PATENT OWNER, in Provo, Utah,
 16 commencing at 9:08 a.m., Thursday,
 17 April 13, 2023, before DORIEN
 18 SAITO, CSR 12568, CLR.
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 20
 21
 22
 23
 24
 25

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 2
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 6 INFORMATION REQUESTED:
 7 (NONE)
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 9 QUESTIONS INSTRUCTED NOT TO ANSWER:
 (NONE)
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1 PROVO, UTAH; THURSDAY, APRIL 13, 2023
 2 9:08 A.M.
 3 -0o0-
 4 ***
 5 THE REPORTER: Good morning. Because
 6 we are all appearing remotely, I would like to
 7 remind everyone to be more conscious than ever of
 8 not speaking over each other. When there are
 9 simultaneous speakers, I will not be able to hear
 10 any of the words that are being said.
 11 Pauses are very important to ensure that I
 12 have time to clarify the record and to ensure all
 13 objections are on the record.
 14 Please also be aware that noises around
 15 your microphone cause disruptions in how words come
 16 through on a virtual platform. If you are not
 17 speaking, please mute yourself.
 18 I will now swear in the witness.
 19 ***
 20 MICHAEL JENSEN, PH.D.,
 21 having been duly administered an oath
 22 in accordance with CCP 2094, was
 23 examined and testified as follows:
 24 ///
 25 ///



EXAMINATION

BY MR. HENDIFAR:

Q. Good morning, Dr. Jensen.

A. Good morning.

Q. Thank you very much for your time this morning. We had an -- we had a prior deposition in another IPR between the parties, IPR2022-01002.

Do you recall that?

A. I remember the deposition. I don't remember the case number. But yes, I remember the deposition.

Q. Thank you.

And we discussed the background information as well as the procedure for the deposition. Is there any part of your testimony in the prior deposition in IPR2022-01002 that you now have come to believe was not accurate?

A. No, sir.

Q. So all the information about your background, expertise and experience, as you testified in that earlier deposition, will apply to this deposition as well; correct?

A. Yes, sir.

Q. I understand you have also been deposed in yet another IPR between the same parties by my

colleague Mr. Philip Graves in IPR2022-00766.

Do you recall that?

A. I don't recall being deposed by Mr. Graves. Mr. Hwang maybe?

Q. Yes. I'm sorry. Let me check that. One moment, please.

That's correct, with Mr. Rex Hwang. I apologize.

Do you recall that deposition? It was January of 2023.

A. Yes, I recall the deposition with Mr. Hwang.

Q. Any part of your testimony in that deposition that you have now come to believe was not accurate?

A. No.

Q. In fact, this is a routine question, I'm not trying to get -- this is really just routine that I have to ask just to cover my bases. I appreciate your patience.

A. Yes, of course.

Q. Thank you.

So you understand that in an IPR deposition you are not permitted to speak with your attorney during the breaks regarding the contents of your

deposition, other than issues relating to privilege; correct?

A. I understand that.

Q. So we will take breaks over the course of today, but it will be my expectation that you won't be discussing the substance of your testimony with your attorney unless it's a privileged issue. And please let me know if, at any point, that turns out not to be the case.

A. I understand. That's correct. Yes.

Q. Thank you.

Your counsel will make short, two word, non speaking objections such as objection; scope. Once Counsel makes the objections, you still have to answer the question unless you're specifically instructed not to answer.

If -- because Counsel will not be able to provide speaking objections, if you have any doubts about what I'm asking, if you need more information or if my question is in any way ambiguous or not clear to you, please let me know and I will be happy to rephrase that question. Is that fair?

A. I understand.

Q. Thank you.

And if you do answer a question, I will

assume that you have understood as well. Okay?

A. I agree. Yes.

Q. Okay. Thank you.

What is your hourly compensation in connection with this matter, which is IPR2022-01248?

A. \$475 per hour.

Q. Okay. And is that your ordinary and customary hourly rate for IP consultation?

A. Yes, sir.

Q. Now, you submitted a declaration in this IPR marked 1003; correct?

A. I -- yes, that's correct.

Q. Okay. And in your declaration, you relied on various prior art references to allege or opine that various claims are -- of the '653 patent are invalid; correct?

A. Yes, sir.

Q. And the first reference that I would like to discuss is called Yegoshin, Exhibit 1004.

Do you recall that reference?

A. Yes.

Q. And did you identify that reference to be used in your declaration?

A. No, sir, I did not. I did not identify this reference.

1 Q. How did you come to learn of the existence
2 of the declaration?

3 A. Counsel pointed me towards this reference.

4 Q. Did you have any familiarity with the
5 inventor of Yegoshin, Mr. Yegoshin, prior to this
6 IPR?

7 A. No, sir, I did not.

8 Q. Okay. Same question for the Johnston
9 reference marked as Exhibit 1005. Did you identify
10 the Johnston reference to be used in your
11 declaration?

12 A. So this one's slightly differently because
13 this one cites my work. I was aware of this patent,
14 but Counsel had also independently identified it.

15 Q. And which are -- I'm sorry. Would you
16 please point me to where Johnston cites your work,
17 please?

18 A. Sure.

19 So in that reference, I -- in the other
20 publications, my work is the final paper in that
21 list. And there are -- if you'd like me to find,
22 there are places in the patent where he refers to it
23 in talking about prior art.

24 Q. No. I found the paper. I just wanted to
25 confirm. That's okay.

1 Same question about the Billstrom
2 reference. Did you identify the Billstrom reference
3 that was used in your declaration?

4 A. So no, I did not find this reference.

5 Q. And were you familiar with Billstrom's
6 named inventor, Billstrom, prior to this IPR?

7 A. No, sir.

8 Q. And did I understand you correctly that you
9 were familiar with Johnston, the inventor of
10 Exhibit 1005, prior to this IPR?

11 A. I did not know Mr. Johnston, but I was
12 aware of the -- the patent.

13 Q. Understood.

14 Same question for Exhibit 1007, the Bernard
15 reference. Did you identify the Bernard reference
16 you used in your declaration?

17 A. No, sir.

18 Q. And were you familiar with Mr. Bernard, the
19 named inventor of the Bernard reference, prior to
20 this IPR?

21 A. No, sir.

22 Q. When you were retained for this IPR, did
23 you conduct any prior art search to identify
24 references to be used in your declaration?

25 A. Yes, sir, I did.

1 Q. Okay. Is it fair to say that you did not
2 find any prior art that you found sufficiently close
3 to the invention to be the basis of your grounds in
4 your declaration?

5 MR. KAZI: Objection to form.

6 THE WITNESS: I -- I don't know if that's
7 fair to say. I think, in review, I did find
8 references in review of the references. The set
9 that we selected were the ones that I felt were
10 the -- were the best to try to keep it to as few
11 references as possible.

12 BY MR. HENDIFAR:

13 Q. Okay. Have any of your opinions stated in
14 your declaration, Exhibit 1003, changed since you
15 submitted the declaration?

16 A. No, sir.

17 Q. And did you draft your declaration in
18 Exhibit 1003?

19 A. So -- so that's a -- that's a big question.
20 Would you like some detail about how that came to
21 be? I did not draft everything in that declaration.

22 Q. Which parts did you draft?

23 A. Well, certainly the figures and the
24 annotated figures, Counsel helps me with those,
25 under my guidance of what I would like to show.

1 There's legal language in my declaration, that first
2 draft by Counsel, so that I could review it and --
3 and edit it. And then the other parts were
4 collaborative.

5 There were first drafts, and I couldn't
6 tell you which parts were which, where Counsel
7 helped. But in the end, I edited and every -- every
8 part of the declaration and it became my own
9 document.

10 Q. I understand. And thank you very much for
11 that explanation. I appreciate it.

12 In preparing your declaration,
13 Exhibit 1003, did you review the prosecution history
14 of the '653 patent?

15 A. Briefly.

16 Q. Briefly. And when you say "briefly," could
17 you elaborate on the extent of your review, please?

18 A. Well, this was some time ago. I -- I am --
19 I know that I didn't read every single word and
20 digest the whole of the file, but I did go through
21 the entire document and read different parts more
22 carefully than others. That's my recollection.

23 Q. In preparing your declaration in
24 Exhibit 1003, did you review the prosecution history
25 of any other patents in the same family as the '653

1 patent?

2 A. Well, I think the '946 is in the same
3 family and I would have done a similar review of its
4 file history. Honestly, there's so many patents, I
5 don't recall if there's others in the same family,
6 so we'd have to talk about specifics there.

7 Q. I guess my question is if you reviewed
8 anything in connection with preparing your
9 declaration here. So maybe if I narrow the
10 question, I can rephrase the question.

11 So in preparing your declaration in
12 Exhibit 1003, did you review the prosecution history
13 of any other patents in the same family as the '653
14 patent?

15 A. Again, I think the best way to answer that
16 is I know I reviewed the file history of '946. And
17 the timing of it in preparation for this declaration
18 and the other, there's a lot happening back then. I
19 just can't be confident in saying whether I did or
20 did not use any of that awareness for this
21 declaration. Presumably it would have influenced
22 me, but I just don't recall the details.

23 Q. Fair enough.

24 What did you do to prepare for today's
25 deposition?

1 A. Certainly reviewed, reread my declaration
2 1003, as well as the primary references, spent some
3 time with Counsel discussing certain issues.

4 Q. Did you review any other documents in
5 preparation for your deposition today?

6 A. Obviously the '653 patent was part of that.
7 I don't recall any others.

8 Q. Are you familiar with petitioners Samsung
9 and Apple's claim construction positions in the
10 district court litigation between the parties?

11 A. So I have been made aware of some claim
12 construction and some documents have been shared
13 with me, and so I have seen parts of those
14 documents.

15 Q. Okay. And do you recall what documents you
16 have seen?

17 A. I believe they were briefs submitted to the
18 court. I -- I'd have to -- I'd have to go look and
19 see what those were. Or submitted to the board,
20 say.

21 Q. And were you aware of petitioners' district
22 court claim construction position prior to
23 submitting your declaration here as Exhibit 1003?

24 A. I don't recall any discussions on
25 petitioners' claim constructions. That doesn't mean

1 it -- it didn't happen. I don't recall the details
2 of -- of discussions on claim construction.

3 Q. When, approximately, were you first made
4 aware of, for example, petitioners' district court
5 claim construction position with respect to the term
6 "multiplexing"?

7 A. So I know I was reminded of it recently in
8 the last few weeks. Whether I had seen that before,
9 I just don't recall.

10 Q. Did you do any analysis to confirm that
11 your opinions in your declaration in Exhibit 1003 do
12 not conflict with petitioners' district court
13 positions?

14 A. So when I became aware within the last few
15 weeks, I did such an exercise to ensure that the way
16 I was applying the term "multiplexing" was not in
17 conflict with that -- with that proposed
18 construction.

19 Q. But you did not do so at the time you
20 submitted 1003?

21 A. Again, I don't recall that exercise. If it
22 happened, I don't recall it.

23 Q. And how can you identify the district court
24 documents that you have reviewed today in connection
25 with petitioners' claim construction positions in

1 the district court?

2 MR. KAZI: Objection to form.

3 THE WITNESS: Did I step on somebody?
4 Sorry. There maybe was an echo.

5 I -- I believe I have such a document in my
6 email inbox that I would have to bring up and find
7 the email and the document.

8 BY MR. HENDIFAR:

9 Q. Is it just one document?

10 A. I just don't recall. There may have been
11 two. It wasn't a lot of documents. I know that
12 much.

13 Q. Is it in one email?

14 A. Yes, I think so.

15 Q. Do you happen to have access to it on your
16 computer now?

17 A. Yes. I have email closed, but I can open
18 it.

19 Q. I appreciate it. Sure. And generally, I
20 don't mind if you need to look at any documents on
21 your computer as long as you share with me what
22 you're looking at and they're not marked.

23 But I -- yes, if you could maybe bring up
24 the email to let me know what documents from the
25 district court you have reviewed in connection with

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