

EXHIBIT E

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

MAXELL, LTD.,)	Case No.
)	5:19-cv-00036-RWS
Plaintiff)	
)	
vs.)	
)	
APPLE, INC.,)	
)	
Defendant)	

Videotaped Deposition of
Michael C. Brogioli, Ph.D.

Washington, D.C.

October 24, 2019

8:35 a.m.

Reported by: Bonnie L. Russo
Job No. 170302

1 MICHAEL C. BROGIOLI, PH.D.

2 term "layperson." I don't -- I'm not sure what
3 the definition of that is.

4 BY MR. ZHOU:

5 Q. A person without engineering or any
6 person who does not qualify as a person of
7 ordinary skill in the art by your definition.

8 A. I don't have an opinion on that.

9 Q. You don't have an opinion on that.

10 Earlier, I asked whether a person of
11 ordinary skill in the art would be able to
12 understand what is included versus what is
13 excluded by the capacity detector term, and I
14 believe your answer is that a person of skill
15 in the art would read the patent and understand
16 what the capacity detector needs to do; is that
17 right?

18 MR. BARROW: Objection. Form.

19 THE WITNESS: What I was saying is
20 that a person of skill in the art would
21 understand what capacity detector is talking
22 about in the patent and understand a structure
23 to perform that or a number of structures I
24 guess.

25 BY MR. ZHOU:

1 MICHAEL C. BROGIOLI, PH.D.

2 Q. So on the top of Page 9, you
3 describe a stated function of detecting a
4 remaining capacity of the battery.

5 Do you see that?

6 A. Yes.

7 Q. And that is the function required by
8 the capacity detector terms, right?

9 A. Well, I'm saying that the capacity
10 detector terms have their plain and ordinary
11 meaning and that a structure for the stated
12 function of detecting a remaining capacity of
13 the battery would be known by someone of skill
14 in the art.

15 Q. Can you think of any structure that
16 would perform this function of detecting a
17 remaining capacity of the battery that would
18 fall outside of the plain and ordinary meaning
19 of the battery capacity -- of the capacity
20 detector terms?

21 MR. BARROW: Objection. Form.

22 Objection. Scope.

23 THE WITNESS: I'm not sure the
24 patent talks about -- the question doesn't make
25 sense to me. I don't think the patent talks

1 MICHAEL C. BROGIOLI, PH.D.

2 about things that are intentionally outside the
3 scope of the patent.

4 BY MR. ZHOU:

5 Q. I am not asking about what the
6 patent talks about.

7 I'm asking about, what is your
8 understanding of the plain and ordinary meaning
9 of the term, right? So there is a plain and
10 ordinary meaning of the capacity detector term,
11 right?

12 A. Right.

13 Q. And you mentioned that there are a
14 number of structures that could perform the
15 function of detecting a capacity detector --
16 I'm sorry, strike that.

17 There are a number of structures
18 that could perform the function of detecting a
19 remaining capacity of the battery, right?

20 A. There are a few that I talk about in
21 my declaration.

22 Q. And you opine that a person of skill
23 in the art would know a different number of
24 possible structures that could perform this
25 function, right?

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