

Exhibit 17

Transcript of Hugh Smith, Ph.D.
Conducted on June 29, 2022

<p>1 UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS WACO DIVISION -----X 2 AIRE TECHNOLOGY LTD., : 3 Plaintiff, : 4 v. :Civil Action No: 5 SAMSUNG ELECTRONICS CO., LTD. : :6:21-cv-955-ADA 6 and SAMSUNG ELECTRONICS AMERICA, : 7 INC., : 8 Defendants. : 9 AIRE TECHNOLOGY LTD., : 10 Plaintiff, : 11 v. :Civil Action No: 12 APPLE INC. : :6:21-CV-1101 13 Defendant. : 14 -----X 15 DEPOSITION OF HUGH SMITH, Ph.D. 16 APPEARING REMOTELY FROM SAN LUIS OBISPO, CA 17 WEDNESDAY, JUNE 29, 2022 18 4:02 P.M. EST 19 20 21 22 23 Job No.: 453528 24 Pages 1 - 74 25 Reported by: Adrienne Mignano, RPR</p>	<p>1 A P P E A R A N C E S 2 3 ON BEHALF OF PLAINTIFF: 4 DREW HOLLANDER, ESQUIRE 5 SETH HASENOUR, ESQUIRE 6 RUSS AUGUST & KABAT 7 12424 Wilshire Boulevard 8 12th Floor 9 Los Angeles, California 90025 10 310.826.7474 11 12 13 ON BEHALF OF DEFENDANT - APPLE INC. 14 ANDREW RADSCH, ESQUIRE 15 DAVID SERATI, ESQUIRE 16 ROPES & GRAY 17 Three Embarcadero Center 18 San Francisco, California 94111 19 415.315.6300 20 21 ALSO PRESENT: 22 George Larkins - Videographer 23 Alan Ross - Remote Technician 24 25</p>
<p>1 Deposition of HUGH SMITH, Ph.D., held via 2 Zoom videoconferencing pursuant to Notice, before 3 Adrienne M. Mignano, a Notary Public and Registered 4 Professional Reporter in and for the State of New 5 York. 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 C O N T E N T S 2 3 EXAMINATION OF HUGH SMITH, Ph.D. PAGE 4 By Mr. Radsch 6 5 6 E X H I B I T S 7 (Attached to the transcript) 8 SMITH DEPOSITION EXHIBITS PAGE 9 Exhibit 1 Declaration of Dr. Hugh Smith 16 10 Exhibit 2 '249 Patent 17 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: right;">5</p> <p>1 THE VIDEOGRAPHER: We are now on the 2 record. Here begins Media Unit Number 1 in the 3 video deposition of Dr. Hugh Smith in the matter 4 of Aire Technology Limited versus Apple 5 Incorporated, being heard in the United States 6 District Court for the Western District of 7 Texas, Waco Division; Case Number: 8 6:21-cv-1101-ADA. 9 Today's date is June 29, 2022. The 10 time on the video monitor is 4:02 p.m. Eastern 11 Time. My name is George Larkins, notary and 12 remote certified legal video specialist on 13 behalf of Planet Depos. Today's video 14 deposition is taking place -- is taking place 15 remotely. 16 Will counsel please state their 17 appearances and whom they represent at this 18 time. 19 MR. RADSCH: This is Andrew Radsch 20 from Ropes & Gray on behalf of Defendant, 21 Apple Inc., and I am joined today by David 22 Serati, also from Ropes & Gray. 23 MR. HOLLANDER: This is Drew 24 Hollander. I am with Russ August & Kabat on 25 behalf of the plaintiff. With me today is Seth</p>	<p style="text-align: right;">7</p> <p>1 Q And have you been deposed before? 2 A Yes, I have. 3 Q About how many times? 4 A 40, give or take. 5 Q Is there any reason why you cannot 6 give complete and accurate testimony today? 7 A No, there is not. 8 (Pause in proceedings.) 9 Q Do you have any exhibits or documents 10 with you today? 11 A Yes, I do. 12 Q What do you have with you? 13 A I have my declaration, a copy of the 14 '249 patent, a copy of the claims, 10 -- 1 and 15 10, and then the declaration of Dr. Black. 16 Q When you say you have "a copy of the 17 claims," is that just a document to which the 18 claim language has been copied? 19 A Yes, and it has the claim term and 20 then the claim language for Claim 1 and the 21 claim language for Claim 10. 22 Q Okay. And, in any of the documents 23 you just listed, are there any annotations in 24 any of them? 25 A No, there is not.</p>
<p style="text-align: right;">6</p> <p>1 Hasenour, also with Russ August on behalf of the 2 plaintiff. 3 THE VIDEOGRAPHER: The court reporter 4 today is Adrienne Mignano representing Planet 5 Depos. 6 Will the court reporter please swear 7 in the witness. 8 Whereupon, 9 HUGH SMITH, Ph.D., 10 being first duly sworn or affirmed to testify to 11 the truth, the whole truth, and nothing but the 12 truth, was examined and testified as follows: 13 EXAMINATION BY COUNSEL FOR THE DEFENDANT - 14 APPLE INC. 15 BY MR. RADSCH: 16 Q Good afternoon, Dr. Smith. 17 A Good afternoon. 18 Q Could you please state your full name 19 for the record. 20 A Yes. Hugh Morris Smith. 21 Q And where are you located, Dr. Smith? 22 A I'm in San Luis Obispo, California. 23 Q Who are you currently employed by? 24 A California Polytechnic State 25 University.</p>	<p style="text-align: right;">8</p> <p>1 Q What is your current role at Cal 2 Poly? 3 A I am a full professor in the 4 Department of Computer Engineering, and I'm -- 5 teach computer engineering, computer science 6 courses. 7 Q What experience do you have with 8 authentication technologies? 9 A So in terms of relating to the 10 technologies we're talking about in this case, I 11 started in, probably, 1988 working with a large 12 distributed system on authenticating the users 13 and how we manage multi -- multiple sign-ons and 14 things like that that is in a purchasing system 15 at Procter & Gamble. 16 In addition, I have studied them as a 17 grad student through the '90s, and then, also, I 18 teach different techniques for security and 19 authentication in my networking courses. 20 Q In those networking courses, which 21 different techniques for security authentication 22 do you teach? 23 A So a lot of the focus there is on 24 using public/private-key and then symmetric-key 25 encryption for authenticating using keys, using</p>

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1 relatively higher quality. And so it is about
 2 the nature of that method, is what that is
 3 talking about, what they clarified when they
 4 added that amendment.
 5 Do you want me to keep going on every
 6 word? I mean, it is all laid out in my
 7 declaration, so I could continue reading from my
 8 declaration if you wish.
 9 Q Well, it -- paragraph 13 of your
 10 declaration, you say that no construction is
 11 necessary and that the phrase is understood
 12 under plain and ordinary meaning; do you see
 13 that?
 14 A Yes.
 15 Q And what do you contend the plain and
 16 ordinary meaning of that phrase is?
 17 A So for me -- and, now, we're talking
 18 in a very general sense, so the plain and
 19 ordinary meaning of that is, is there a -- based
 20 on the way the specification reads, first of
 21 all, we can look at inherently relatively higher
 22 quality. Okay. So this -- I -- right?
 23 Well, the specification is clear on
 24 that, that that is something that presupposes
 25 the presence of the user, like a biometric

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1 method. And then the next part is relatively --
 2 inherently relatively lower quality, and the
 3 specification is also very clear on that, that
 4 that is something that does not presuppose the
 5 presence of the user, and, in that case, like
 6 knowledge based.
 7 And so I think that sort of spells it
 8 out. I think one skilled in the art reading the
 9 specification would see it that way.
 10 Q So the claims are limited to use of a
 11 biometric method; is that your opinion?
 12 MR. HOLLANDER: Objection. Misstates
 13 testimony.
 14 A No, that wasn't my testimony. So my
 15 testimony is that it -- that the inherently --
 16 the relatively higher quality from a security
 17 perspective, inherently relatively higher
 18 quality, would be something that presupposes the
 19 presence of the user, such as a biometric
 20 technique.
 21 Q Are there other authentication
 22 methods other than biometric techniques that
 23 presuppose the presence of the user?
 24 A As I sit here today, I'm not aware of
 25 any that presuppose the presence of the user

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1 that are not biometric.
 2 Q So from that perspective then, is it
 3 your opinion the claims require use of a
 4 biometric method?
 5 MR. HOLLANDER: Objection. Misstates
 6 testimony.
 7 A Well, as I stated, the patent is
 8 talking about something that presupposes the
 9 presence of the user for the inherently
 10 relatively higher quality, and we just discussed
 11 biometric is one way to do that. And it -- as I
 12 sit here, it's the only way that I'm aware of.
 13 It doesn't mean it is the only way that will
 14 ever be available.
 15 Q At the time of the '249 patent's
 16 purported invention, were there other methods
 17 available, other than biometric, that
 18 presupposed the personal presence of the user?
 19 A As I sit here today, I cannot recall
 20 any other technique other than the biometric
 21 techniques at the time of this patent. I don't
 22 recall any at this time.
 23 MR. RADSCH: If you could turn to
 24 Claim 1 of the patent and put that on the
 25 screen, if you would.

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1 If you will, just scroll to the last
 2 page of the document, Claim 1, please.
 3 Thank you.
 4 Q So do you see on the screen,
 5 Dr. Smith, Claim 1 of the '249 patent?
 6 A Yes.
 7 THE WITNESS: Can you zoom so I can
 8 see the whole thing?
 9 A Yes, I do.
 10 Q And it is your opinion that that last
 11 clause, the "wherein the difference in quality
 12 of said user authentication methods," et cetera,
 13 that -- your opinion, that's not indefinite,
 14 correct?
 15 A So my opinion is that the term
 16 "inherently relatively lower quality, inherently
 17 relatively higher quality" from a security
 18 perspective would be understood by one skilled
 19 in the art. So, no, it is not indefinite.
 20 Q So those -- the -- if the phrase said
 21 "user authentication methods" in what you
 22 referenced, refers back to the different-quality
 23 user authentication methods at the beginning of
 24 Claim 1; is that right?
 25 MR. HOLLANDER: Objection. Vague.

<p style="text-align: right;">45</p> <p>1 authentication check and at least one biometric, 2 within which the biometric features of the user 3 may be present. The biometric method inherently 4 constitutes the higher quality one here since it 5 presupposes the personal preference of the user. 6 This is not insured in a knowledge-based method 7 since the knowledge can be acquired by an 8 unauthorized user. 9 And so right there, it is talking 10 about the higher quality versus the lower 11 quality, which is presupposing the presence of 12 the user, like a biometric, or not presupposing 13 the presence of the user. 14 Q Have you -- sorry. Go ahead. 15 A So if you look at paragraph 16, there 16 is a number of other references that discuss 17 that, including column 3:58 through 62 and 18 column 5:31 through 38. So there is at least 19 one more that -- I believe, column 1:62 through 20 column 2:3 -- line 3. Okay. 21 I'm sorry. I think I answered your 22 question. Go ahead and ask the next one. 23 Q In the portion of the specification 24 that you read from at column 3 around line 25, 25 where it states that -- or a little lower than</p>	<p style="text-align: right;">47</p> <p>1 you know, in terms of the context of the rest of 2 the claim, we would have to go through and talk 3 about the rest of the claim, but this claim -- 4 this here, the term we're talking about, is 5 talking about two caps. It is defining those 6 two. 7 Q Two caps are inherently lower and 8 inherently higher quality authentication 9 methods, correct? 10 A As we have been discussing throughout 11 this deposition. 12 Q And the portion of the specification 13 that we just read from, where it says that "The 14 biometric method inherently constitutes the 15 higher quantity one here," that is referring to 16 the specific example provided in the 17 specification, correct? That's what is meant by 18 the word "here"? 19 A Well, it means "here" because it 20 is -- yes, it is the example of something that 21 presupposes a personal presence of the user, and 22 so sort of a qualification there of what it -- 23 why, right? And biometric happens to be, you 24 know, a whole category of techniques that 25 presuppose the presence of the user.</p>
<p style="text-align: right;">46</p> <p>1 that, line 28 -- "The biometric method 2 inherently constitutes the higher quality one 3 here." 4 What does that word, "here," in that 5 sentence mean? 6 A So it is just talking about in this 7 example the biometric one constitutes the higher 8 quality one since it presupposes the presence of 9 the user. So, earlier today, you asked me, is 10 biometric the only way that you can do 11 authentication that presupposes presence of the 12 user? And I said it is the only way that I'm 13 aware of. But, in this case, it is the example 14 of a technique that presupposes the presence of 15 the user. 16 Q So would use of two authentication 17 techniques, each of which presupposes the 18 presence of the user, would that be -- then fall 19 outside the scope of the claims, in your 20 opinion? 21 A So in terms of the term that we're 22 construing here, discussing the construction of, 23 I believe it is looking at two camps, and in one 24 that presupposes and one that doesn't, or 25 biometric versus knowledge based. I don't --</p>	<p style="text-align: right;">48</p> <p>1 Q Would you agree that this sentence 2 doesn't say that biometric methods always 3 inherently constitute a higher quality method? 4 A I think once -- yes, I -- actually, I 5 do because the biometric method says it 6 presupposes a personal preference of the user, 7 so to the extent that the biometric method 8 presupposes the presence of the user, it would 9 always fall into the higher quality. 10 Now, if it -- if there is a biometric 11 method you'd like to talk about that doesn't 12 presuppose the presence of the user, then that 13 would fall into the lower category if it doesn't 14 presuppose, but I'm not aware of any, as I sit 15 here, that don't presuppose the presence of the 16 user. 17 Q Doesn't your answer ignore the word 18 "here" in that sentence, where it says, "The 19 biometric method inherently constitutes the 20 higher quality one here" instead of in all 21 biometric cases? 22 A No, because it is -- actually, you 23 can read that word "here" to say versus a lower 24 quality, which would be the PIN, which is what 25 it goes on to talk about below that. And then</p>

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