

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN THE MATTER OF
DANIEL M. MILLER
Plaintiff,

CASE NO:
v. CV-10-264 (WHA)
FACEBOOK, INC. and
YAO WEI YEO

Defendant.

HIGHLY CONFIDENTIAL
DEPOSITION OF TIMOTHY HALBERT
VOLUME 1

Friday, February 11, 2011
AT: 5:18 p.m.

Taken at:
Orrick Herrington & Sutcliffe LLP (London)
107 Cheapside
EC2V 6DN, London
United Kingdom

Reported by:
Leanne Shipp
Accredited Real-time Reporter
JOB No. 155429

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1 iPhone one ... um ... and I didn't make any effort to chase
2 up any kind of share of the money for that because I thought
3 I'd already ... um ... exhausted his generosity enough by
4 that stage.
5 Q. Okay, I understand. Are you aware whether or not
6 Mr. Miller was compensated for -- for allowing Mr. Thurman
7 to port Boomshine onto the iPhone?
8 A. I believe they have a -- an agreement between them.
9 I don't know if it's a written contract or whatever.
10 I would be merely speculating so I would -- that's between
11 them.
12 Q. Okay. Just going back to the GP2X -- the Boomshine
13 2X game, do you know whether that game includes your music
14 and sound effects?
15 A. I don't know. Let me see, I -- I think it's --
16 it's probable it does. I think that's one of Danny's
17 requirements for the -- for a port to be allowed, that it
18 has to come with it, unless there are reasons for whatever
19 reason like a music file takes up quite a lot of memory, so
20 it's possible that some people might have to actually remove
21 the music track. Well, I say "remove"; I mean don't include
22 a music track of any -- of any type in their final port. Um
23 ... I -- I presume the music was in this -- in this
24 particular port. That's usually the requirement.
25 Q. Okay. When you -- when you referred to Danny's

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1 I suppose you could call it integration between the Obechi
2 game and -- and the Facebook API. Is that an accurate
3 statement?
4 A. Okay, I'd like to retract what I just said.
5 Q. No, I'm not trying to -- I'm not trying to catch
6 you in anything --
7 A. No, it's fine. I may have misunderstood your
8 question. I did -- I wrote none of the flash code for the
9 Obechi game, but when it was put on Facebook, I wrote quite
10 a lot, probably a good half of the code required to
11 integrate it with Facebook and the websites that housed it.
12 Q. That's fine. For the record, Mr. Halbert, I don't
13 think that the two statements that you just said were
14 inconsistent.
15 A. Okay.
16 Q. I was referring on the one hand to the game and on
17 the other hand to --
18 A. Okay.
19 Q. -- integration, that's something else.
20 A. Right, great.
21 Q. Um ... so you said you had coded probably half, you
22 said, of that kind of -- that Facebook API integration, is
23 that right?
24 A. Yes, that's what I would say.
25 Q. About how long would you say that that took you?

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1 "requirements", is that -- what are you referring to there?
2 A. Nothing -- nothing stringent of any kind. It's ...
3 um ... merely he wouldn't want someone making a really
4 embarrassing clone which does the original game no justice
5 at all and calling it Boomshine and, you know, attempting to
6 kind of enjoy some success off the back saying, "Oh, this is
7 Boomshine, it's been done by this -- this porter", if you
8 want to call them one of those, when actually it's nowhere
9 near as good as the original.
10 Q. And how do you -- how do you know that? How do you
11 have knowledge of Mr. Miller's requirements or -- yeah,
12 let's just leave it at that. Is that something that he's
13 expressed to you?
14 A. I think it's -- I mean it's pretty clear from what
15 I can see ... um ... that when someone does approach him
16 about a port, he obviously wants it to be good and just
17 by -- I would imagine by common sense he would want it to be
18 good so as not to defile the actual -- the name of the game.
19 Q. Okay. All right, thank you, Mr. Halbert. You can
20 put those aside.
21 Did you -- did you do any actual programming for the
22 Obechi game?
23 A. No. I don't think so.
24 Q. Okay. I'll represent to you that on Monday
25 Mr. Miller testified that you had helped code some of the --

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1 A. We did it October, November-ish of 2009, so I think
2 it was about one month's work. It was a fairly drawn out
3 process, but we eventually got there.
4 Q. So your understanding, Mr. Halbert, having coded,
5 you know, some or half of that code, the SWF -- the SWF
6 flash file for Obechi, do you know where that flash file
7 resides online?
8 A. Um ... I could -- I could find the address. Um ...
9 the -- it will be linked to by one of the web pages that we
10 created for the Facebook application. It will also be on
11 his K2xl.com website as well.
12 Q. Okay. So sorry, I just want to clarify, is it your
13 testimony that that SWF file -- well, strike that. If
14 I were to play the Obechi application through the Facebook
15 platform, where would that SWF file reside?
16 A. Um ... I'm pretty certain that's hosted on his
17 website, K2xl.com and it just appears in -- in the Facebook
18 browser.
19 Q. Okay. Has Mr. Miller told you anything about his
20 case against Facebook?
21 A. ... um ...
22 Q. And Mr. Yao?
23 A. I'm aware he's been advised to tell me as little as
24 possible. He's tried to tell me as little as possible
25 without harming the nature of the case --

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