Highly Confidential - Attorneys' Eyes Only

1   UNITED STATES DISTRICT COURT

2   NORTHERN DISTRICT OF CALIFORNIA

3   SAN FRANCISCO DIVISION

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5   _____

6   ORACLE AMERICA, INC.,   )

7   Plaintiff,   )

8   vs.   ) No. CV 10-03561 WHA

9   GOOGLE, INC.,   )

10   Defendant.   )

11   _____)

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14   HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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17   Videotaped Deposition of BOB LEE,

18   taken at 110 Fifth Street, Suite 400,

19   San Francisco, California, commencing

20   at 9:35 a.m., Wednesday, August 3, 2011,

21   before Leslie Rockwood, RPR, CSR No. 3462.

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25   PAGES 1 - 82

Page 1

EXHIBIT G

1 that the Google and Noser team fixed up the Harmony code

2 and made it more optimal for Android?

3   MR. PURCELL: Object to the form.

4   THE WITNESS: I mean, we improved Harmony and

5 contributed those changes back.   11:42:55

6   Q. BY MR. PETERS: So Google -- Google took the

7 changes it had made to the Harmony code and sent it back

8 up stream to Apache?

9   A. Correct.

10   Q. Why did Google think that it could use -- let   11:43:18

11 me start over.

12   Why did Google think that it could release a

13 product, including Java API implementations based on

14 Harmony, when Apache was in a dispute with Sun about

15 whether or not Harmony could be put on mobile devices?   11:43:53

16   MR. PURCELL: Object to the form.

17   THE WITNESS: Well, like I said before, that

18 dispute came to light, at least to me, much later.

19   And also, there's the issue where Harmony had

20 a different goal. Harmony was trying to license and   11:44:09

21 implement Java SE. Android is creating something new

22 that doesn't exist yet. So there was no specification

23 that Android can and could adhere.

24   MR. PURCELL: Counsel, by my clock, we have

25 about five minutes left of the two hours.   11:44:30

Page 72

EXHIBIT G

1   MR. PETERS: All right.

2   THE WITNESS: So they had very different

3   goals.

4   Q. BY MR. PETERS: Did Google analyze whether or

5   not the dispute between Sun and Apache was any bar to its   11:44:52

6   release of Android?

7   MR. PURCELL: Object to the form.

8   And to the extent you're aware of any

9   analysis done by Google's lawyers or at the instruction

10   of Google's lawyers, I instruct you not to answer.   11:45:04

11   THE WITNESS: Okay. I'm not sure. I don't

12   know.

13   Q. BY MR. PETERS: What did you do to resolve

14   the dispute between Sun and Apache?

15   MR. PURCELL: Object to the form.   11:45:21

16   THE WITNESS: What did I do to resolve the

17   dispute between Sun and Apache? Well, I thought really

18   hard about it, about trying to come up with some kind of

19   compromise with them and wasn't able to. And we

20   encouraged them to seek mediation. And they weren't up   11:45:39

21   for that.

22   There wasn't really a whole lot I could do,

23   because this was -- I mean, it was mostly a private

24   dispute. Like I said, these contracts are confidential

25   and stuff. So I wasn't even able to see them.   11:45:53

Page 73

EXHIBIT G

1   Q. BY MR. PETERS: Did Google -- as a way to put

2   pressure on Sun in the Sun Apache dispute, did Google

3   stop voting for JSRs with -- having licensing terms that

4   it disagreed with?

5   MR. PURCELL: Object to the form.   11:46:16

6   THE WITNESS: To my knowledge, it voted "no".

7   Because those -- for example, the latest Java -- JSR

8   violates the JSPA. So it would be -- it would sully the

9   JCP process to vote "yes" on something like that.

10   Q. BY MR. PETERS: What is the latest Java JSR?   11:46:35

11   A. The one that was just voted on is SE 7.

12   Q. Okay. But SE 7 passed; is that right?

13   A. Yes. With the majority of the members

14   explicitly objecting to what Oracle's doing.

15   Q. But although they may have stated objections, 11:47:03

16   the majority of the members of the JCP executive

17   committee did vote for SE 7; is that right?

18   A. Well, it's worth noting that besides Google,

19   Doug Lea steps down over this issue, so did not vote. As

20   did the Apache Software Foundation. So they did not   11:47:23

21   vote. As did Tim Peierls also stepped down over this

22   issue and didn't vote.

23   So really, the only people that are left are

24   partners of Oracle, so --

25   MR. PURCELL: Counsel, there's about two   11:47:41

                                                              Page 74

EXHIBIT G

1   STATE OF CALIFORNIA   ) ss:

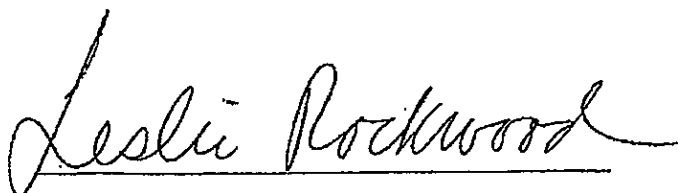2   COUNTY OF MARIN   )

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4   I, LESLIE ROCKWOOD, CSR No. 3462, do hereby

5   certify:

6   That the foregoing deposition testimony was

7   taken before me at the time and place therein set forth

8   and at which time the witness was administered the oath;

9   That testimony of the witness and all

10   objections made by counsel at the time of the examination

11   were recorded stenographically by me, and were thereafter

12   transcribed under my direction and supervision, and that

13   the foregoing pages contain a full, true and accurate

14   record of all proceedings and testimony to the best of my

15   skill and ability.

16   I further certify that I am neither counsel

17   for any party to said action, nor am I related to any

18   party to said action, nor am I in any way interested in

19   the outcome thereof.

20   IN WITNESS WHEREOF, I have subscribed my name

21   this 4th day of August, 2011.

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24   _____

25   LESLIE ROCKWOOD, CSR. NO. 3462

Page 79

EXHIBIT G