

## **EXHIBIT 2-6**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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ORACLE AMERICA, INC., )  
Plaintiff, )  
vs. ) No. CV 10-03561 WHA  
GOOGLE, INC., ) VOLUME I  
Defendant. )  

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Videotaped Patent Issues Deposition  
of JOHN C. MITCHELL, Ph.D., taken at  
755 Page Mill Road, Palo Alto, California,  
commencing at 9:43 a.m., Tuesday,  
September 6, 2011, before Leslie Rockwood,  
RPR, CSR No. 3462.

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1 A. I believe it's important to have adequate and  
2 attractive networking connections. Something that's not  
3 state-of-the-art would probably impede -- stands to  
4 reason something that's not state-of-the-art may impede  
5 sales.  
6 As an additional factor, I just would point  
7 out that as far as I understand -- and it should be easy  
8 to find more information about it -- there are various  
9 manufacturers of wireless networking hardware, and one  
10 may be substitutable for another.  
11 Q. So having a 3G air interface or above is also  
12 the basis for consumer demand for Android products?  
13 A. I think I've explained the importance of that  
14 factor.  
15 Q. Is it more or less important in the patents  
16 patents-in-suit, sir?  
17 A. Well, one factor that comes to mind -- and  
18 there may be others -- that would occur to me on  
19 reflection is that there is -- I believe a -- some degree  
20 of substitutability across available networking hardware,  
21 whereas as I've laid out in this report, based on my  
22 study and evaluation to the best that I'm able to do  
23 this, it doesn't appear that there is reasonable  
24 substitutability of another platform for the platform  
25 that draws critically on the patents-in-suit.

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1 Q. So in your opinion, the patents-in-suit are  
2 more important than having a 3G air interface on an  
3 Android device?  
4 A. That's not what I said.  
5 Q. Well, what is your opinion? Are the  
6 patents-in-suit more important or is having a 3G air  
7 interface more important?  
8 MR. PETERS: Objection. Form.  
9 THE WITNESS: I believe that the -- and it  
10 would be possible to look into this if this is an  
11 absolutely critical issue, and maybe other people know  
12 more about it, but it strikes me that there are likely a  
13 number of different ways to assemble a phone with  
14 adequate networking so that an individual chip to provide  
15 networking could be replaced with another, whereas as I  
16 think I tried to explain, I don't see that as being an  
17 aspect of the patents-in-suit in the software technology  
18 at issue.  
19 MR. PAIGE: Okay. We need to take a break to  
20 change the tape, please.  
21 THE VIDEOGRAPHER: This is the end of Disk  
22 Number 1, Volume 1. We are off the record at 11:38 a.m.  
23 (Recess.)  
24 THE VIDEOGRAPHER: This is the beginning of  
25 Disk Number 2, Volume 1. We are back on the record at

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1 11:59 a.m.  
2 You may proceed.  
3 Q. BY MR. PAIGE: Welcome back, Professor  
4 Mitchell.  
5 A. Thank you.  
6 Q. You say that the Oracle employees Landau,  
7 Poore and Vandette conducted certain experiments at your  
8 direction; correct?  
9 A. I believe that's what it says in that report.  
10 Q. Why did you choose to use Oracle employees  
11 rather than an independent consulting firm?  
12 A. I believe that I asked if it was possible to  
13 get someone to help with some kinds of experiments like  
14 that or perhaps someone asked me if I knew students, and  
15 I suggested that perhaps someone who works for Oracle  
16 could be one possibility of doing that.  
17 Q. Are there no consulting firms capable of  
18 doing the type of work that those employees did?  
19 A. There may be. I didn't -- I didn't research  
20 that.  
21 Q. Did you think it might be better to have  
22 someone independent rather than a partisan with a stake  
23 in the matter doing these experiments?  
24 MR. PETERS: Objection. Form.  
25 THE WITNESS: I didn't really even make that

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1 judgment. It didn't strike me that this would be an  
2 issue where partisanship or opinion would have much  
3 bearing on it. What I believe those engineers have done  
4 is modify the system in various ways that's easily  
5 documented and run the system with certain measurements  
6 afterwards. I think the results there are probably  
7 concrete and can be evaluated objectively.  
8 Q. BY MR. PAIGE: Did you design the experiments  
9 conducted by Landau, Poore and Vandette?  
10 A. I believe I did to a certain degree. That  
11 is, the experiments are to the -- as far as I recall,  
12 basically comparisons against the Android system or  
13 components of it as it exists now versus some  
14 modification. As far as I recall, those modifications  
15 were modifications that I suggested.  
16 Q. Okay. So you're the one who came up with the  
17 actual modifications they implemented; is that right?  
18 A. At some degree of detail, I believe so.  
19 Q. Okay. You might not have done the actual low  
20 level code, but you told them on a high level, "This is  
21 what I'd like you to do in order to carry out this  
22 experiment"?"  
23 A. I don't remember the exact, you know, wording  
24 of the discussion, but I believe I handled it the same  
25 way I would with a graduate student. I want them to feel

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