

# Exhibit 9

[PUBLIC VERSION - REDACTED]

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

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THE APPLE IPOD iTUNES  
ANTITRUST LITIGATION

No. C-05-00037-JW(RS)

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VIDEOTAPED DEPOSITION OF ROGER G. NOLL

VOLUME I

(Pages 1 to 215)

Taken before ERIN F. ROBINSON

CSR NO. 12199

April 7, 2011

1 BY MR. MITTELSTAEDT:

2 Q. Go ahead.

3 A. So we have we have the act of disablement, and  
4 we're sort of looking at the effect of all the periods  
5 there. There still is use of Harmony during that  
6 entire period. I don't have enough information about  
7 Harmony in April of -- to know if there was any  
8 significant effect on anything.

9 Before I would put that as a separate variable  
10 in the regression, I would want to do things like I did  
11 here, which is did that period have any effect on real  
12 network's sales in the audio download market? If it  
13 didn't, then it didn't matter from the standpoint of  
14 the effects on the market for portable digital media  
15 players. And I don't have that information. I don't  
16 know what it is.

17 Q. Have you asked for that information?

18 A. No, I've looked for it. I just don't find it.  
19 I haven't found it.

20 Q. What do you understand happened with respect to  
21 Harmony in April of 2005?

22 A. I'm not sure what happened because there are  
23 conflicting versions of what had happened, and I'm not  
24 sure what happened. There's two parts to the story,  
25 which is did they really succeed in overcoming the

1 software upgrades, and then No. 2 would be did  
2 consumers actually take advantage of it. And I suspect  
3 the answer to the first is yes, and I suspect the  
4 answer to the second is no because the consumers had  
5 already experienced the prior disabling.

6 So that's my expectation. But I don't have  
7 enough information to say anything more than that, and  
8 that's another issue that is relevant to how you would  
9 eventually specify this equation.

10 Q. Let's say Harmony came back into use in April  
11 of 2005 and remained in use until sometime the  
12 following year. How would you want to account for that  
13 in doing a regression to show impact or damages?

14 A. Well, you could add another period. But it's  
15 not obvious -- it doesn't work here, either. Because  
16 remember it wasn't until March that you couldn't access  
17 ITMS with the old version as well. So there isn't  
18 really a disjointedness. For those people who wanted  
19 to use Harmony, they could continue to use it through  
20 March anyway. And so, you know, a period of a couple  
21 of weeks, a few weeks isn't going to -- not much is  
22 going to happen then.

23 So there's more similarity than difference  
24 between October through March and April from then on  
25 because of the fact that those who really wanted to use

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MR. MITTELSTAEDT: Okay. Why don't we stop there for the day.

THE WITNESS: Okay.

THE VIDEOGRAPHER: This concludes Volume 1 of Dr. Roger No11. We are off the record at 3:38.

(Whereupon, the deposition was adjourned at 3:38 p.m.)

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SIGNATURE OF WITNESS

1 STATE OF CALIFORNIA )

2 )

3 COUNTY OF ALAMEDA )

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5 I, ERIN F. ROBINSON, do hereby certify:

6 That ROGER G. NOLL, in the foregoing deposition  
7 named, was present and by me sworn as a witness in the  
8 above-entitled action at the time and place therein  
9 specified;

10 That said deposition was taken before me at said  
11 time and place, and was taken down in shorthand by me,  
12 a Certified Shorthand Reporter of the State of  
13 California, and was thereafter transcribed into  
14 typewriting, and that the foregoing transcript  
15 constitutes a full, true and correct report of said  
16 deposition and of the proceedings that took place;

17 That before completion of the proceedings,  
18 review of the transcript was requested.

19 IN WITNESS WHEREOF, I have hereunder subscribed my  
20 hand this 12th day of April 2011.



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23

Erin F. Robinson  
ERIN F. ROBINSON, CSR NO. 12199  
State of California

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