

# EXHIBIT 2

**In The Matter Of:**  
*ELAN MICROELECTRONICS v.*  
*APPLE*

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*GREG MARRIOTT*  
*July 26, 2011*

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Original File MARRGR072611WO.TXT

Min-U-Script® with Word Index

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1 UNITED STATES DISTRICT COURT  
 2 NORTHERN DISTRICT OF CALIFORNIA  
 3 SAN JOSE DIVISION  
 4  
 5  
 6 ELAN MICROELECTRONICS  
 7 CORPORATION,  
 8 Plaintiff,  
 9 -vs- No. C-09-01531  
 10 RS (PVT)  
 11 APPLE, INC.,  
 12 Defendant. /  
 13  
 14 DEPOSITION OF GREG MARRIOTT  
 15 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY  
 16 PAGES 1 to 90  
 17 TUESDAY, JULY 26, 2011  
 18  
 19 Reported by: LOUISE MARIE SOUSOURES, CSR NO. 3575  
 20 Certified LiveNote Reporter  
 21  
 22  
 23  
 24  
 25

Page 2

1 A P P E A R A N C E S  
 2  
 3 FOR ELAN MICROSYSTEMS:  
 4 ALSTON & BIRD  
 5 BY: SEAN DeBRUINE,  
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 10 sean.debraine@alston.com  
 11  
 12  
 13 FOR APPLE, INC.:  
 14 WEIL, GOTSHAL & MANGES LLP  
 15 BY: SONAL MEHTA,  
 16 DEREK C. WALTER,  
 17 ATTORNEYS AT LAW  
 18 201 REDWOOD SHORES PARKWAY  
 19 REDWOOD SHORES, CA 94065  
 20 650.802.3000  
 21 sonal.mehta@weil.com  
 22  
 23 THE VIDEOGRAPHER:  
 24 ALINE MAYER, CYRUS PRODUCTIONS  
 25

Page 3

1 I N D E X  
 2  
 3 EXAMINATION BY: PAGE  
 4 MR. DeBRUINE 5  
 5  
 6  
 7  
 8  
 9  
 10 EXHIBITS: PAGE  
 11 1 Document entitled "Identifying 21  
 12 iPod models"  
 13 2 U.S. patent No. 7,495,659 B2 25  
 14 3 Document production Nos. APEL 0337411 43  
 15 to 448  
 16 4 (Withdrawn)  
 17 5 Document production Nos. APEL 0339928 75  
 18 to 932  
 19 6 Document production Nos. APEL 0351386 78  
 20 to 388  
 21 7 Document production No. APEL 0340584 82  
 22  
 23  
 24  
 25

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1 BE IT REMEMBERED that, pursuant to Notice  
 2 of Taking Deposition, commencing at the hour of 9:12  
 3 a.m. thereof, at 275 Middlefield Road, Menlo Park,  
 4 California, before me, LOUISE MARIE SOUSOURES, a  
 5 Certified Shorthand Reporter, the following  
 6 proceedings were had:  
 7 PROCEEDINGS  
 8 THE VIDEOGRAPHER: Good morning. Here marks  
 9 the beginning of the deposition of Greg Marriott in  
 10 the matter of Elan Microelectronics Corporation  
 11 versus Apple, Inc., in the United States District  
 12 Court, Northern District of California, San Jose  
 13 Division, case C09-01531 RS (PVT).  
 14 We're located at 275 Middlefield Road in  
 15 Menlo Park, California, on July 26th, 2011 at  
 16 approximately 9:12.  
 17 My name is Aline Mayer of Cyrus Productions,  
 18 Oakland, California, 510-326-9332, and our court  
 19 reporter is Louise Sousoures of Grossman & Cotter.  
 20 Counsel, please introduce yourselves and  
 21 state whom you represent for the record.  
 22 MR. DeBRUINE: I'm Sean DeBruine of Alston &  
 23 Bird. I represent the plaintiff Elan  
 24 Microelectronics.  
 25 MS. MEHTA: Sonal Mehta of Weil, Gotshal for

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1 Apple and with me is Derek Walter.  
2 THE VIDEOGRAPHER: If there are no  
3 stipulations, the court reporter may swear in the  
4 witness.  
5 --oOo--  
6 GREG MARRIOTT,  
7 having been first duly sworn by the  
8 Certified Shorthand Reporter to tell  
9 the truth, the whole truth, and nothing  
10 but the truth, testified as follows:  
11 EXAMINATION BY MR. DeBRUINE:  
12 Q. Good morning, Mr. Marriott.  
13 Can you please state your full name for the  
14 record?  
15 A. Gregory Barton Marriott.  
16 Q. What is your current address?  
17 A. I live at 58 Lawai Street, Honolulu, Hawaii.  
18 Q. Mr. Marriott, are you currently employed?  
19 A. No.  
20 Q. Can you -- let's stop for a second and let  
21 me go over the basics of depositions.  
22 Have you ever had your deposition taken  
23 before?  
24 A. I have.  
25 Q. How many times?

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1 A. Three times.  
2 Q. And in what matters did you have your  
3 deposition taken?  
4 A. One was a previous lawsuit involving one of  
5 my other patents at Apple, that was a couple years  
6 ago.  
7 And the two other times were at previous  
8 employers.  
9 Q. Okay. And who were the parties to the  
10 lawsuit involving your other patent at Apple?  
11 A. I don't remember.  
12 Q. You don't remember who the other party was?  
13 A. No. I -- give me -- maybe Burst.  
14 Q. And how many patents do you have?  
15 A. I couldn't tell you. It's about a dozen or  
16 so.  
17 Q. Okay.  
18 A. They're all assigned to Apple.  
19 Q. Okay. The -- what were the other two  
20 lawsuits where you were deposed?  
21 A. I don't even recall.  
22 They were some contractual matters with like  
23 hardware contractors.  
24 Q. Okay. And what companies were you working  
25 for?

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1 A. This was at General Magic.  
2 Q. Okay. Since you've had your deposition  
3 taken before, I'll just go over sort of the procedure  
4 here briefly.  
5 You understand that you're under oath here  
6 to tell the truth just as if you were in court?  
7 A. Yes.  
8 Q. You'll notice, of course, there's no judge  
9 here. From time to time, your -- the other lawyers  
10 here may object to how I ask a question. I may  
11 rephrase the question based on that.  
12 If not, you're free to answer the question  
13 and the objection will be noted and ruled on by the  
14 Court later?  
15 Do you understand that?  
16 A. I do.  
17 Q. Okay. As I think you probably are also  
18 aware, the court reporter will prepare a written  
19 transcript of everything that's said here so it's  
20 important that your answers be verbal.  
21 Nods, shakes of the head, uh-huhs and  
22 huh-uhs are very hard to transcribe on the record.  
23 A. I understand.  
24 Q. Once we're done, you'll be given an  
25 opportunity to review the transcript and make changes

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1 to it.  
2 Do you understand, though, if you do make  
3 changes, I or others in connection with the case will  
4 be able to comment on your changes?  
5 A. Okay.  
6 Q. Are you represented by counsel here today?  
7 A. No.  
8 Q. Okay.  
9 MS. MEHTA: Actually, we should talk about  
10 that. I think I am here representing Mr. Marriott.  
11 If you want us to talk about that offline, we can do  
12 that. We previously told you we're representing  
13 Mr. Marriott.  
14 MR. DeBRUINE: I understand that. Doesn't  
15 seem to be the witness' understanding.  
16 MS. MEHTA: He may be confused. We can talk  
17 about it offline.  
18 MR. DeBRUINE: All right.  
19 BY MR. DeBRUINE:  
20 Q. Mr. Marriott, did you do anything to prepare  
21 for the deposition today?  
22 A. Yes.  
23 Q. What did you do?  
24 A. I reviewed the patent that we're going to  
25 talk about. I had some conversations with Apple's

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1 BY MR. DeBRUINE:  
2 Q. Okay. But at some point, you submitted  
3 something in writing to the attorneys that described  
4 what you believed to be the invention; is that  
5 correct?  
6 MS. MEHTA: I'm going to caution you not to  
7 reveal any communications you had with the attorneys.  
8 You can -- assuming you'll agree it's not a  
9 waiver, I can let him answer yes or no.  
10 MR. DeBRUINE: I'll agree it's not a waiver.  
11 THE WITNESS: Yes.  
12 BY MR. DeBRUINE:  
13 Q. Okay.  
14 A. But in this particular case, I don't know if  
15 it was me who did that.  
16 Q. Okay. So you just assumed that had to have  
17 happened?  
18 A. Well, it's here, so somebody communicated  
19 something. I just don't know if it was necessarily  
20 me who did it in this case or somebody else.  
21 Q. Okay. And I may have asked you this  
22 already, but did you yourself make any effort to  
23 provide any prior art as part of the application  
24 process?  
25 MS. MEHTA: Objection, asked and answered.

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1 THE WITNESS: Yeah, I did not.  
2 BY MR. DeBRUINE:  
3 Q. Okay. Did you provide, for example, any  
4 documents describing how the previous touch wheel  
5 product operated?  
6 MS. MEHTA: Objection, vague, foundation.  
7 THE WITNESS: I don't believe I did. I  
8 don't remember.  
9 BY MR. DeBRUINE:  
10 Q. At any time when you were in the iPod group,  
11 did you discuss or experiment with allowing more than  
12 one finger to contact the touch wheel?  
13 A. I don't recall having any conversations like  
14 that.  
15 Q. Do you recall any conversations about that  
16 with regard to the iPod touch product?  
17 A. No. Our team wasn't involved in developing  
18 that product.  
19 Q. What team was involved in developing the  
20 iPod touch?  
21 MS. MEHTA: Objection, foundation.  
22 THE WITNESS: I don't know. It just wasn't  
23 ours. It shipped with the name iPod, but it's a  
24 whole different product family, so ...  
25 MR. DeBRUINE: 5.

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1 (Exhibit No. 5 was marked.)  
2 BY MR. DeBRUINE:  
3 Q. Mr. Marriott, you've been handed what's been  
4 marked as Exhibit 5, it's a document that bears  
5 production number APEL 0339928 through 9932. It  
6 appears to be a forwarded e-mail from Jim Dumont and  
7 you're listed as one of the recipients; is that  
8 correct?  
9 A. That's correct.  
10 Q. And this appears to be -- well, the subject  
11 of the forwarded e-mail is ASU posting request.  
12 Do you know what that means?  
13 A. Yes. ASU is Apple software update.  
14 Q. And what's an Apple software update?  
15 A. That's the process by which software can be  
16 pushed out to customers.  
17 So on their Mac, there will be a menu item  
18 called software update and it will go check to see if  
19 there's any updates available for any software they  
20 have on their machine.  
21 So a posting request for ASU is a request to  
22 make software available via that mechanism to  
23 customers.  
24 Q. And this particular request has to do with  
25 updated iPod software, correct?

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1 A. Yeah, the name on the request is iPod  
2 software 3.0.1 updater.  
3 Q. Okay. Was the iPod software 3.0.1 released  
4 in connection with any particular product or group of  
5 products, iPod products?  
6 A. I'm sure it was, but I couldn't tell you  
7 which ones.  
8 Q. Okay. On the third page, 9930, there's a  
9 discussion in the first two paragraphs of the iPod  
10 3.0 software and below that iPod software 2.2 and  
11 1.1.  
12 Do you see that?  
13 A. Yes.  
14 Q. Does that refresh your recollection as to  
15 what version the iPod 3.0 software was?  
16 A. No, but if I read through this whole thing,  
17 I might be able to figure it out.  
18 Q. Okay. The second note says "iPod software  
19 2.2 and iPod software 1.1 should not be used with  
20 iPod with chick wheel"?  
21 A. Yes.  
22 Q. Does that indicate to you those versions  
23 came before the click wheel?  
24 A. Yes.  
25 MS. MEHTA: Objection, foundation.

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1 26, 2011 deposition of GREG MARRIOTT was  
2 adjourned.)

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5

6 GREG MARRIOTT

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1 I, LOUISE MARIE SOUSOURES, duly authorized to  
2 administer oaths pursuant to Section 2093(b) of the  
3 California Code of Civil Procedure, do hereby  
4 certify: That the witness in the foregoing deposition  
5 was by me duly sworn to testify the truth in the  
6 within-entitled cause; that said deposition was taken  
7 at the time and place therein cited; that the  
8 testimony of the said witness was reported by me and  
9 was hereafter transcribed under my direction into  
10 typewriting; that the foregoing is a complete and  
11 accurate record of said testimony; and that the  
12 witness was given an opportunity to read and correct  
13 said deposition and to subscribe the same.

14 Should the signature of the witness not be  
15 affixed to the deposition, the witness shall not have  
16 availed himself or herself of the opportunity to sign  
17 or the signature has been waived.

18 I further certify that I am not of counsel,  
19 nor attorney for any of the parties in the foregoing  
20 deposition and caption named, nor in any way  
21 interested in the outcome of the cause named in said  
22 caption.

23 DATE: 8-4-2011

24

25 \_\_\_\_\_  
LOUISE MARIE SOUSOURES, CSR 3575