

Exhibit 61

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

4 APPLE INC., a California Case No.
corporation,

5 11-cv-01846-LHK

6 Plaintiff,

7 v.

8 SAMSUNG ELECTRONICS CO.,
9 LTD., a Korean business
entity; SAMSUNG ELECTRONICS
10 AMERICA, INC., a New York
corporation; SAMSUNG
11 TELECOMMUNICATIONS AMERICA,
LLC, a Delaware limited
liability company,

12 Defendants.

13 C O N F I D E N T I A L
14 A T T O R N E Y S ' E Y E S O N L Y
15 O U T S I D E C O U N S E L

16 VIDEOTAPED DEPOSITION

17 BENJAMIN B. BEDERSON, Ph.D.

18 Washington, D.C.

19 Saturday, September 17, 2011

20 9:30 a.m.

21
22 Job No. 41965

23
24 Reporter: Linda S. Kinkade, RDR, CRR, RMR, CSR

25 Videographer: Conway Barker

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4
5 The following is the videotaped deposition
6 of BENJAMIN B. BEDERSON, Ph.D. held at the offices
7 of:
8
9
10 Morrison & Foerster
11 2000 Pennsylvania Avenue, N.W.
12 Washington, DC 20005
13
14
15
16 Taken pursuant to applicable Rules of Civil
17 Procedure, before Linda S. Kinkade, Registered
18 Diplomat Reporter, Certified Realtime Reporter,
19 Registered Professional Reporter, Registered Merit
20 Reporter, Certified Shorthand Reporter (CA), and
21 Notary Public, in and for the District of Columbia.
22
23
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1 APPEARANCES:
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1 VIDEOGRAPHER: The court reporter is
2 Linda Kinkade. The video camera operator is
3 Conway Barker, both in association with TSG.
4 Would you please swear in the witness and
5 we can begin.
6
7 BENJAMIN BEDERSON, Ph.D.
8 Being first duly sworn, testified as
9 follows:
10 EXAMINATION
11 BY MR. JACOBS:
12 Q. Good morning, Dr. Bederson.
13 A. Good morning.
14 Q. Have you had your deposition taken
15 before?
16 A. Yes, I have.
17 Q. In what context?
18 A. A few different contexts.
19 Q. So you've had your deposition taken
20 several times?
21 A. Yes.
22 Q. In any other patent cases?
23 A. Yes.
24 Q. What do you recall? Which cases?
25 A. I was a fact witness for one case that

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1 PROCEEDINGS
2 VIDEOGRAPHER: This is the beginning
3 of tape 1 in the deposition of Benjamin Bederson
4 in the matter of Apple, Incorporated versus
5 Samsung Electronics Company, Limited, et al., in
6 the United States District Court for the
7 Northern District of California, San Jose
8 Division, case number 11-CV-01846-LHK.
9 This deposition is being held at
10 Morrison & Foerster, 2000 Pennsylvania Avenue,
11 northwest, Washington, D.C. on September 17th,
12 2011 at approximately 9:36.
13 Would counsel please identify yourselves and
14 state whom you represent.
15 MR. JACOBS: Michael Jacobs,
16 Morrison & Foerster, for plaintiff Apple.
17 MR. HUANG: Eric Huang of Quinn
18 Emanuel for the witness and Samsung. With me is
19 Aaron Kaufman, also with Quinn Emanuel.
20 MR. JACOBS: And with me is Matt Ahn.
21 Do you want to put your voices on video?
22 MR. KAUFMAN: Aaron Kaufman, Quinn
23 Emanuel.
24 MR. AHN: And Matthew Ahn, Morrison &
25 Forester.

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1 was for -- I was working with Hillcrest Labs
2 that was opposed to Nintendo, and I was an
3 expert witness for Yahoo! against girafa, and I
4 was an expert witness for GemStar and --
5 Q. Which piece of the GemStar litigation
6 was that?
7 A. It was a -- I'm trying to remember the
8 opposition. I don't recall. And there is
9 another one I'm not -- I believe there is one
10 more that I'm not -- one or two more that I'm
11 not remembering right now.
12 Q. Did the work that you did that's
13 reflected in your declaration in this case, the
14 LaunchTile and XNav, did that figure in any of
15 the previous cases that you were involved in?
16 A. No, it did not.
17 Q. In the two -- I think you mentioned
18 two cases in which you were retained as an
19 expert witness, Yahoo! and GemStar. Is that --
20 did I recall what you said correctly?
21 A. Yes.
22 Q. Did you testify at trial in either of
23 those cases?
24 A. In GemStar I testified in an
25 arbitration hearing.

1 engage people that only speak one language to
2 collaboratively work together with
3 machine-translation systems to translate text
4 from one language to another language.

5 Q. In your declaration you talk about a
6 physics-based metaphors for user interface
7 design. Do you recall that? It's at paragraph
8 31.

9 A. I do.

10 Q. So what is the relationship between
11 these physics-based metaphors and LaunchTile?

12 MR. HUANG: Objection to the form of
13 the question.

14 THE WITNESS: The idea of
15 physics-based metaphors is that, if you can
16 build an interactive system, user interface, on
17 a computer that has interaction characteristics
18 that are similar to the way objects behave in
19 the real world, then we expect that they will be
20 easier for a user to predict how they will
21 behave and to use them.

22 So the connection to LaunchTile is that, for
23 example, there may be others, but, for example, if I
24 want to move this piece of paper in the real world,
25 I can use my thumb by pressing down, moving it, and

1 letting go, and it follows my thumb (indicating).

2 And on LaunchTile it moves Zones in the same
3 way. You press down, you drag the Zone with you,
4 and you let go.

5 There are also physics metaphors, things --
6 behaviors -- in the natural world where objects have
7 a natural -- not natural -- the structure of the
8 physical system results in there being a location
9 that they naturally gravitate to. In fact we even
10 use that word, "gravitate," because it's a physics
11 metaphor.

12 So, for example, if I pick this thing up and
13 I let go, gravity is not going to let it get stuck
14 in the middle. It will go to the end. If I move it
15 all the way more and let it go, it naturally goes
16 there. So this object has two natural positions,
17 and that's kind of a basic characteristic of physics
18 (indicating).

19 MR. HUANG: Can we let the record
20 reflect he was demonstrating on part of the
21 table?

22 BY MR. JACOBS:

23 Q. Anything else?

24 A. So, similarly, motivated by those
25 kinds of principles, the snapping feature in

1 LaunchTile is motivated by the idea that, if
2 there are some places that are convenient for
3 the interface to go to, then you should make the
4 interface naturally take you to those places and
5 not let you get stuck in inconvenient places.

6 Q. So you published an article recently,
7 "The Promise of Zoomable User Interfaces."

8 Mark this as the next in order.

9 (Exhibit No. 222 marked for
10 identification.)

11 BY MR. JACOBS:

12 Q. The Promise of Zoomable User
13 Interfaces by Benjamin B. Bederson, 2011, Taylor
14 & Francis. What was this published in?

15 A. This was published in a journal named
16 Behaviour & Information Technology.

17 Q. In 2011?

18 A. Yes.

19 Q. On page 4 you have a discussion of
20 Desert Fog citing Jul and Furnas. Desert Fog
21 labels a phenomena that you describe as allowing
22 users to fly through the space going absolutely
23 anywhere including deep into the spaces between
24 objects. Do you see that?

25 A. No, actually. Sorry. Where are you?

1 Q. It's on the right-hand column of --
2 it's such a vivid image I thought it might just
3 jump from the page. The right-hand column of
4 page 4, second paragraph.

5 A. Yes, I see this.

6 Q. So just to maybe start a little bit
7 earlier, different zoomable user interfaces have
8 also had various navigation mechanisms, which
9 are ways for users to move through the space.
10 Again, there is a trade-off between flexibility
11 and usability. Some interfaces allow users to
12 fly through the space going absolutely anywhere,
13 including deep into the spaces between objects,
14 resulting in some researchers labeling this
15 phenomenon Desert Fog, Jul and Furnas. Then you
16 say, very few other applications let a user
17 navigate beyond the actual content.

18 Can you explain the contrast you were
19 drawing there between ZUIs and other applications?

20 MR. HUANG: Objection to the form.

21 THE WITNESS: Sure. So if we continue
22 reading this paragraph, it describes this idea
23 of not letting you navigate between the actual
24 content. I believe it says, almost every
25 document browser and editor limits navigation to

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1 the available content with the notable exception
2 of Microsoft Excel's scroll bar arrows, Apple
3 numbers, and Google -- I'm sorry -- with the
4 notable exception of Microsoft Excel's scroll
5 bar arrows. Apple numbers and Google
6 spreadsheet, on the other hand, do limit
7 navigation. On the other hand, some interfaces
8 allow you only to click on objects to zoom into
9 them and click on a zoom out button to zoom out,
10 making it impossible to get lost, but also
11 giving less control over exactly where you look.
12 So the point of this paragraph was to
13 describe that there are some applications that let
14 the user navigate in space possibly -- navigating
15 can be simple scrolling or it could be this kind of
16 zooming navigation, which is a little bit more
17 uncommon, or it could be 3-D navigation in a 3-D
18 world.
19 Sorry. I was describing that sometimes you
20 can navigate to a place where there is no content.
21 If there is no content, then you're kind of in a
22 place that essentially -- typically -- represented
23 with an empty screen. And that was a concern
24 because that would make a user feel disoriented
25 since there is nothing on the screen.

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1 absolutely anywhere this phenomenon labeled
2 Desert Fog, correct?
3 MR. HUANG: Objection to the form of
4 the question.
5 THE WITNESS: No. This was -- there
6 was no date here that specified that -- when the
7 idea of constraining ZUIs to content happened.
8 So this paragraph does not imply that, as of
9 2011, there were no mechanisms to constrain
10 ZUIs.
11 In fact that last sentence explains ZUIs
12 that do constrain you to content, where it says,
13 on the other hand, some interfaces allow you
14 only to click on objects to zoom into them,
15 which means we must be talking about zooming
16 interfaces, and click on a zoom button to zoom
17 out making it impossible to get lost.
18 So there is nothing here about when there
19 were interfaces that -- zooming interfaces --
20 that did or did not stop you from getting lost.
21 BY MR. JACOBS:
22 Q. And on page 5, under "Applications,"
23 you refer to a chart, Table 1, shows a selection
24 of zoomable application, only true ZUIs are
25 shown. It captures a range of what people have

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1 And I said that it was more common for
2 applications to stop a user from navigating to a
3 place where there was no content, although it
4 occurred, both in widespread applications like Excel
5 and in many ZUIs, in at least those.
6 Q. So the basic contrast you were drawing
7 was between those ZUIs that are flexible but
8 haven't addressed this problem of getting lost
9 in Desert Fog, and most applications which do
10 constrain you to the space that's filled by
11 content. Is that -- am I capturing the essence
12 of your paragraph correctly?
13 MR. HUANG: Objection to the form of
14 the question.
15 THE WITNESS: The paragraph said --
16 well, it didn't say "most." It said there were
17 few applications that let you move to a place
18 where there is no content, although I did
19 describe some, and many constrained you to
20 navigating only within available, visible
21 content.
22 BY MR. JACOBS:
23 Q. And that -- but you were describing
24 that, as of 2011, there remains this problem in
25 ZUIs of flying through the space going

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1 been using zooming for and makes apparent the
2 range of approaches that people have taken with
3 regard to layout, flexibility and navigation.
4 You go on to say, it is also clear that
5 the essential problem of getting lost in Desert
6 Fog has not been consistently avoided.
7 Furthermore, it's clear there is no consistency
8 in the mechanisms that are used to navigate
9 through space.
10 Do you see that?
11 A. I do.
12 Q. So as of 2011 did you regard the
13 essential problem of getting lost in Desert Fog
14 as a -- as something that was still apparent in
15 zoomable user interfaces available on the market
16 today?
17 MR. HUANG: Objection to the form of
18 the question.
19 THE WITNESS: I think this paragraph
20 states that, as of 2011, some zoomable
21 interfaces had that problem, that a user could
22 get lost in Desert Fog, but it -- so...
23 BY MR. JACOBS:
24 Q. And how do you -- looking at your
25 chart, how do you read the chart to identify

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1 whether the Desert Fog problem has been
2 addressed in a particular ZUI?
3 MR. HUANG: Objection to the form.
4 THE WITNESS: There is not anything in
5 this chart that explicitly addresses which of
6 these applications prevent getting lost in
7 Desert Fog or not.
8 BY MR. JACOBS:
9 Q. So if you look at the more modern,
10 maybe the second page of Table 1 -- let me back
11 up.
12 Is it the case, then, that the educated --
13 maybe sort of your peers in the field -- would
14 understand from this chart which ones still had
15 the Desert Fog problem?
16 MR. HUANG: Objection to the form.
17 THE WITNESS: I don't think there is
18 anything in this chart that labels these
19 different applications as preventing Desert Fog
20 or not, so a peer might analyze and come up with
21 their own interpretation of it, but I don't
22 think it's represented in this chart.
23 BY MR. JACOBS:
24 Q. So if you look at the ZUIs that you
25 listed as from 2008 on, do you have a

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1 However, I don't think each of these
2 applications is described in this paper anywhere
3 else, so looking at this paper now, I think a reader
4 might be able to use some of their knowledge about
5 the way navigation works that is not described in
6 this paper and possibly infer which of these
7 applications enabled a user to get lost in Desert
8 Fog or not. But as I read this now, I don't think
9 it is actually clear, so I would say that was a --
10 that sentence could have been written better.
11 BY MR. JACOBS:
12 Q. So if you're presenting this paper at
13 a conference and somebody raises his hand at the
14 back of the room and says, Bederson, why is it
15 so clear, can you defend this statement in your
16 paper that it is clear that this problem of
17 getting lost in Desert Fog has not been
18 consistently avoided, what would your answer be?
19 MR. HUANG: Objection to the form of
20 the question.
21 THE WITNESS: Well, I think this table
22 does not make it clear by itself. I would have
23 to look at the rest of the paper to see if I
24 made any further clarification of that, and I
25 don't recall if I did or not.

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1 categorization in your own mind of which of
2 those represent the Desert Fog problem?
3 A. No, I do not.
4 Q. So I guess I have to just press you a
5 little bit because your article says it's
6 apparent from this chart or it is clear that the
7 essential problem of getting lost in Desert Fog
8 has not been consistently avoided. Do you see
9 that?
10 MR. HUANG: Objection to the form.
11 BY MR. JACOBS:
12 Q. I guess I should ask you, why is it
13 clear from -- why is it clear that the essential
14 problem of getting lost in Desert Fog has not
15 been consistently avoided?
16 A. So just to be clear, the way I read
17 this paragraph in question, the first paragraph
18 of section 2.3, is it describes Table 1. The
19 first part of the paragraph explicitly refers to
20 Table 1. And then this sentence does not
21 explicitly refer to Table 1. It just says, it
22 is also clear that the essential problem of
23 getting lost in Desert Fog has not been
24 consistently avoided. So the connection in that
25 sentence to Table 1 is ambiguous.

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1 BY MR. JACOBS:
2 Q. Just as you look at some of the
3 applications, the ZUIs that are listed on the
4 table, do you regard the Apple iPhone, year
5 2007, but the iPhone you're referring to, I
6 guess, is the 2010 version of it, do you regard
7 that as having resolved the problem of getting
8 lost in Desert Fog?
9 A. So in this particular -- in this table
10 I'm to read, the thing that comes closest to the
11 Desert Fog issue is the right-most column that
12 talks about navigation mechanism for zooming,
13 and for the Apple iPhone it says, tap to zoom
14 in, physical button to zoom out.
15 So I think it's probably referring to the
16 home screen application icons where you tap on one
17 of those application icons and it has a zooming
18 transition. It zooms in to launch the application
19 icon and you can press the hardware button at the
20 bottom of the device to zoom out.
21 So at least in that case it solves -- that
22 interface solves the Desert Fog problem as
23 described. So this is a case where, with some
24 external knowledge, you could interpret this to
25 understand that, but it was not explicit in this --

1 not fully explicit in this table.

2 MR. JACOBS: Could you just give us
3 like three minutes to make sure -- oh, actually,
4 we need to go one more demo, right? We figured
5 out how to move the blue highlighter in XNav.
6 And so if we can get you over by the video to
7 just demonstrate that mode, that would be great.

8 THE WITNESS: Okay.

9 VIDEOGRAPHER: Off the record at 4:37.
10 (Brief interruption.)

11 VIDEOGRAPHER: Back on the record at
12 4:39.

13 BY MR. JACOBS:

14 Q. Dr. Bederson, we've given you again
15 the Sony Vaio with the XNav on it that we were
16 demonstrating earlier in the deposition, and
17 we've now learned how to move the blue
18 highlighter into the center of the screen and
19 illustrate the case where the blue highlighter
20 is between -- it ends up between email headers
21 when the stylus or the finger is lifted from the
22 screen; is that correct?

23 A. Yes.

24 Q. Can you demonstrate that for us?

25 A. Actually right now that highlight is

1 at the bottom of the screen. Would you like me
2 to move it to the middle of the screen?

3 Q. Yes, please.

4 A. So now the highlight is in the middle
5 of the screen. If I drag -- tap and then drag
6 the email list so that the two emails both
7 overlap the highlight and I let go, then the
8 emails will snap so that one of them ends up
9 being completely underneath the highlight.

10 Q. In this demonstration, which is the
11 device that you had loaded with the -- with
12 XNav, what are the -- what are the email headers
13 populated with? Is it a notional screen of
14 email headers or were there actual emails that
15 were received on an email client on this device?

16 MR. HUANG: Objection to the form of
17 the question.

18 THE WITNESS: So these email headers
19 in this XNav software were stored as images of
20 the headers on the disc and they were loaded off
21 of a disc. So they were essentially
22 precalculated as email headers. They did come
23 from actual emails.

24 BY MR. JACOBS:

25 Q. But if one were to -- just to

1 underline the point, if one were to click on or
2 otherwise seek to get the underlying text of the
3 email on this device, the device does not have
4 the full email underneath the header, correct?

5 MR. HUANG: Objection to the form of
6 the question.

7 THE WITNESS: If you tap on one of
8 these email, I believe -- so, I guess, if you
9 press this button, it opens up a special kind of
10 menu, and, if you press the plus button, then it
11 will open up a representation of an email.

12 BY MR. JACOBS:

13 Q. Is that the same email for every
14 header?

15 A. Yes, it is.

16 Q. So it's kind of a -- this is really a
17 prototype of what it could -- what this device
18 could do if you figured out how to get an email
19 client to create images for each header, store
20 them in the database, and link them to the
21 underlying message, correct?

22 A. I think you just proposed a possible
23 architecture for implementing an email system.
24 So what I would say is this is a prototype that
25 demonstrates how email can work in this

1 environment.

2 Q. With a prepopulated database of images
3 representing email headers and a single email
4 text, correct?

5 MR. HUANG: Objection to the form.

6 THE WITNESS: I would say with a
7 hard-coded set of email headers and a single
8 content of email.

9 BY MR. JACOBS:

10 Q. Thank you.

11 MR. JACOBS: Let's go off the record
12 again.

13 VIDEOGRAPHER: Off the record at 4:43.
14 (Proceedings recessed.)

15 VIDEOGRAPHER: Back on the record at
16 4:45.

17 BY MR. JACOBS:

18 Q. So a couple other devices were given
19 to us by Quinn Emanuel, counsel for Samsung, and
20 I want to just check with you if you know
21 anything about the providence of those devices
22 and the appearance that one sees when one opens
23 them up.

24 So we have this iPAQ here that we
25 received, and we've taken a picture of the

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1 that device or a different device.
2 MR. HUANG: We can represent that that
3 is the device that Professor Bederson provided
4 to us.
5 BY MR. JACOBS:
6 Q. And did you load -- were you the
7 person who loaded XNav on it?
8 A. I think I was at some point in the
9 past but not for the purposes of this
10 litigation.
11 Q. So actually you anticipated where I
12 was going. Was this something that you had on
13 the shelf in your -- in a section for LaunchTile
14 that happened to have had LaunchTile loaded on
15 it from the 2004 or 2005 period?
16 A. It was in a box with stuff, not just
17 for LaunchTile.
18 Q. But it --
19 A. And I pulled it out and it had
20 LaunchTile on it already -- XNav already on it.
21 Q. It had XNav on it. And, therefore, to
22 the best of your recollection, the XNav that's
23 on it actually dates back from the development
24 and Microsoft's interaction period that we were
25 discussing today, correct?

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1 CERTIFICATE OF SHORTHAND REPORTER
2 NOTARY PUBLIC
3
4 I, Linda S. Kinkade, RDR, CRR, RMR, CSR,
5 the notarial officer before whom the foregoing
6 proceedings were taken, do hereby certify that the
7 foregoing transcript is a true and correct record of
8 the proceedings; that said proceedings were taken by
9 me stenographically, to the best of my ability, and
10 thereafter reduced to typewriting; and that I am
11 neither counsel for or related to, nor employed by
12 any of the parties to this case and have no
13 interest, financial or otherwise, in its outcome.
14 IN WITNESS WHEREOF, I have hereunto set my
15 hand and affixed my notarial seal this 17th day of
16 September 2011.
17
18 _____
19 Linda S. Kinkade
20
21 NOTARY PUBLIC IN AND FOR
22 THE DISTRICT OF COLUMBIA
23 My commission expires: July 14, 2012
24
25

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1 A. Correct.
2 MR. JACOBS: I think we're done.
3 Thank you.
4 MR. HUANG: Thank you.
5 THE WITNESS: Thank you.
6 VIDEOGRAPHER: This concludes the
7 deposition of Dr. Bederson. Off the record at
8 4:57 and it consists of five tapes.
9 (Proceedings concluded.)
10
11 //
12 (Signature having not been waived, the
13 deposition of BENJAMIN B. BEDERSON, Ph.D.
14 concluded at 4:57 p.m.)
15
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1 ACKNOWLEDGMENT OF DEPONENT
2
3 I, BENJAMIN B. BEDERSON, Ph.D., do hereby
4 acknowledge that I have read and examined the
5 foregoing testimony, and the same is a true, correct
6 and complete transcription of the testimony given by
7 me, with the exception of the noted corrections, if
8 any, appearing on the attached errata sheet signed
9 by me, to the best of my knowledge and belief.
10
11 _____
12 (Date) (Signature)
13
14
15
16
17 Subscribed and sworn to before me this ____
18 day of _____, 20__.
19 My commission expires _____.
20 Notary Public _____
21
22
23
24
25