

EXHIBIT II

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 APPLE INC., a California
6 corporation,

7 Plaintiff,

8 vs.

CASE NO. 11-CV-01846-LHK

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

16 Defendants.
17 _____/

18 C O N F I D E N T I A L
19 A T T O R N E Y S ' E Y E S O N L Y
20 O U T S I D E C O U N S E L
21

22 VIDEOTAPED DEPOSITION OF RAVIN BALAKRISHNAN, Ph.D.
23 SAN FRANCISCO, CALIFORNIA
24 TUESDAY, AUGUST 16, 2011
25

26 BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR
27 CSR LICENSE NO. 9830
28 JOB NO. 41176

1 MR. LIEN: Henry Lien, representing Samsung.

2 MR. BRIGGS: Todd Briggs, representing
3 Samsung.

4 MR. AHN: Matthew Ahn, of Morrison &
5 Foerster, on behalf of Apple.

6 THE VIDEOGRAPHER: Will the court reporter
7 please swear in the witness.

8
9 RAVIN BALAKRISHNAN, Ph.D.,
10 having been sworn as a witness,
11 by the Certified Shorthand Reporter,
12 testified as follows:

13
14
15 THE VIDEOGRAPHER: You may proceed.

16
17 EXAMINATION BY MR. JOHNSON

18 MR. JOHNSON: Good morning, Mr. Balakrishnan.

19 Q Have -- you've been deposed before?

20 A Yes, I have.

21 Q Okay. About how many times?

22 A About a half a dozen times, roughly.

23 Q I'll try to ask coherent questions, and if
24 you -- hopefully you'll provide some answers, and
25 if -- to the extent that you don't understand any of

1 MR. MONACH: Object to form; vague.

2 THE WITNESS: To the extent that, very
3 broadly speaking, they are both concerning touch input
4 devices, yes, but the real subject matter of the Elan
5 case was on this algorithm for analyzing the data
6 coming out of the touch, the touch device. Whereas,
7 here, it's more of a user interface issue, at least
8 the three -- well, the current patent, right, we're
9 talking about today here.

10 MR. JOHNSON: Q. In the Elan case, Apple is
11 a defendant; right?

12 A That is correct.

13 [REDACTED]

[REDACTED]

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Q What patents are you substantively involved in with respect to the Motorola cases?

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7

MR. MONACH: Dr. Balakrishnan, we're not involved -- my firm is not involved in the Motorola case, and it may well be that work that -- work that you've done that isn't publicly known, for example, by filing something is confidential and is the work product of the firm representing Apple in that case, so I would caution you not to disclose anything that is not -- has not been made public in that case.

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It's irrelevant to this case, in our view.

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THE WITNESS: Okay. I think your question was what patents, and I believe that is, based on my declaration which I believe, are public. The two patents I've primarily been working on is the -- what's called the '828 patent, and the other one is the '430 patent. The full number, I'd have to look it up.

23

MR. JOHNSON: Yeah.

24

25

Q And, just generally, what do those patents relate to?

1 did zoom in. But whether or not it has to be zoomed
2 in, I need to spend a bit more time making sure
3 whether it has to or not. I have not done that right
4 now on this device.

5 MR. JOHNSON: Okay.

6 THE WITNESS: So, on this device, I went
7 through the -- the preamble. It's clearly a
8 computer-implemented method. It has a device with a
9 touchscreen display. It is displaying right now a
10 first portion of an electronic document. The
11 electronic document here happens to be a photograph or
12 an image, some kind of a picture of something.

13 MR. JOHNSON: Q. Is the electronic doc --
14 what -- what does an "electronic document" mean in the
15 context of this patent?

16 MR. MONACH: Object to form to the extent
17 it's calling for a legal conclusion, but you can give
18 your views on that.

19 THE WITNESS: In the context of this patent,
20 my understanding, having read the patent and the
21 claims, is the electronic document is some visual
22 representation on the screen that has a defined length
23 and a width, as an example, or defined set of
24 boundaries, because they may not have to be a
25 rectangular set of boundaries.

1 MR. JOHNSON: Q. So can it -- it can be
2 anything with a defined length and width?

3 A It could be any visually represented thing
4 with a defined boundary. I'd rather use the word
5 "boundaries," because length and width may connote a
6 rectangular thing. It may not be a rectangle,
7 necessarily.

8 Q Okay. So an electronic document is anything
9 that can be visually represented with a defined
10 boundary?

11 MR. MONACH: Object to the form of the
12 question; object as calling for a legal conclusion.

13 THE WITNESS: In the context of this patent
14 and the claims, reading the patent and the claims, I
15 would say that would be a -- my definition of an
16 electronic document would be something visually
17 representable on the screen that -- that has a defined
18 set of boundaries.

19 MR. JOHNSON: Okay.

20 Q How about the next limitation?

21 A Okay. So, as I said earlier, it's got a
22 first portion of an electronic document. We already
23 went through that.

24 Q And -- and -- I'm sorry.

25 A I'm sorry.

1 Q What does "first portion" mean?

2 MR. MONACH: I'm going to object to the form
3 of the question to the extent it calls for a legal
4 conclusion.

5 THE WITNESS: In -- in this particular
6 example, I would say the first portion is the -- the
7 portion of the image that we see displayed on the
8 screen, which I don't know how to describe this --

9 MR. JOHNSON: Can you zoom in more on the
10 screen, just so we see it better. Yeah, okay. That's
11 good. Thanks.

12 THE WITNESS: Everything, including the
13 yellow blob in the middle and the blue stuff around
14 it.

15 MR. JOHNSON: Q. So it's everything that's
16 shown on the screen is the first portion?

17 A Well, obviously, not this word "Samsung" and
18 things like that.

19 Q Yeah.

20 A The actual display, maybe if I -- without
21 touching it, if I can sort of indicate, you see the
22 bottom boundary there --

23 Q Okay.

24 A -- the top boundary, right boundary, and left
25 boundary?

1 on a smartphone mobile computer, it clearly must have
2 instructions in order to execute those -- those
3 movements and functions that I just demonstrated.

4 So that would cover 19, and Claim 20, when it
5 talks about a storage medium, that -- those
6 instructions, the program that we -- it was executing
7 while I'm manipulating this, would have to be stored
8 on some storage medium, and given that this doesn't
9 appear to be connected to anything else and the medium
10 must be -- wouldn't necessarily have to be inside
11 the -- the device itself, and I say that, again,
12 without having examined the device in great detail,
13 this particular device.

14 MR. JOHNSON: Okay.

15 Q So in your -- in your opinion, the gallery
16 application in -- of Exhibit 20 infringes Claims 1,
17 19, and 20; correct?

18 MR. MONACH: Same objection.

19 THE WITNESS: So, in my opinion, given the
20 short time I've looked at this right now, the time
21 I've had there, I would -- I would say, yes, it
22 infringes.

23 MR. JOHNSON: Q. Can you look at the
24 contacts application --

25 A Sure.

1 Q -- and we'll go through this -- well, let me
2 ask you this: Can you look at the contacts
3 application and tell me whether it's your opinion that
4 the contacts application of Exhibit 20 infringes the
5 claims of the '381 patent?

6 MR. MONACH: Object to form; same objection
7 on asking him a hypothetical question to form an
8 opinion at the -- on the fly at the deposition.

9 THE WITNESS: So, again, I'll preface -- if
10 you give me a minute, first of all, to -- to look at
11 this, but I also preface my upcoming answer by saying
12 that I haven't had a chance to examine this particular
13 phone on my own time, so I'm doing this, again, right
14 here at the deposition, so it's kind of an on-the-fly
15 opinion.

16 Okay. I've looked at it.

17 MR. JOHNSON: Q. In your opinion, does the
18 contacts application of Exhibit 20 infringe the '381
19 patent?

20 MR. MONACH: Same objection to the form;
21 asking for a legal conclusion with minimal time to
22 examine it, the device.

23 THE WITNESS: So based on my brief
24 examination of this right now in the deposition, I
25 would say, yes, it does infringe Claim 1.

1 MR. JOHNSON: Okay.

2 Q Can you walk us through the infringement?

3 A Sure.

4 So let's see on this again.

5 Okay. So what I have here is, again, the
6 Samsung Galaxy -- what appears to be the Samsung
7 Galaxy S smartphone mobile computer, and it has the
8 preamble, again, of Claim 1, a computer-implemented
9 method. It's a mobile computer. It has a computer
10 compromising a device with a touchscreen display and,
11 as you can see, it's a device that's got a touchscreen
12 display that reacts to my touches.

13 So now what I've got here is the -- the
14 so-called contacts application, and what it -- what
15 it's showing me on the screen is a -- displaying a
16 first portion of an electronic document. So this
17 document here consists of a bunch of phones or, you
18 know, contact information of different people, I
19 guess, and their phone numbers and so forth.

20 So, right now, I've got the first portion of
21 that, which, you know, the top here, it's got Bob
22 White, and on the bottom, it's got somebody I just
23 entered, with -- with some random set of letters at
24 the bottom, starting with N. So that's a displaying
25 the first portion of an electronic document element of

1 the claim.

2 The second element is detecting a movement of
3 an object on or near the touchscreen display, and I'm
4 gonna do this in combination with the next element,
5 which says, "In response to detecting the movement,
6 translating the electronic document displayed on the
7 touchscreen display in a first direction to display a
8 second portion of the electronic document, wherein the
9 second portion is different from the first portion."

10 So I'm just gonna do this right now. I'm
11 gonna put my finger down, and that finger would
12 correspond to the object in the claims, and it's gonna
13 detect -- the system's gonna detect the movement of
14 that object with my finger on -- on the touchscreen
15 display. I'm gonna put it down. Oops. I'm sorry. I
16 didn't intend it to activate the -- I'm just gonna go
17 back here.

18 So strike that little portion where it
19 activated. If I put my finger down, it'll lightly
20 move. It -- and I've now moved in one direction,
21 moved my finger in one direction, the document is
22 moved in one direction to display a second portion,
23 and the second portion here, you can see, has a -- the
24 last name at the bottom of the screen -- I don't know
25 if you can see that -- it's now Mary something or the

1 to the elements of the claims of -- Claim 1 of
2 the '381 patent, appear to be the same as the -- those
3 found in the gallery application of these other five
4 phones, five phones that have just been placed in
5 front of me and looked at a few minutes ago. Again, I
6 want to say I haven't studied this in great detail to
7 confirm with 100 percent certainty.

8 MR. JOHNSON: Q. But, as far as you're
9 concerned, the gallery feature operates the same basic
10 way as -- in Exhibit 100 as it does in the Galaxy
11 10.1, for purposes of alleged infringement of the '381
12 patent; right?

13 MR. MONACH: Object to the form of the
14 question, since he hasn't been given an opportunity to
15 compare this with the 10.1 --

16 THE WITNESS: So --

17 MR. MONACH: -- side by side.

18 THE WITNESS: So, I'm sorry, you said against
19 the Galaxy 10.1 tablet, yeah, I would like to look at
20 that in -- in detail before I make that determination.
21 Otherwise, I'd be going by memory.

22 MR. JOHNSON: Q. When's the last time you
23 looked at a Galaxy 10.1?

24 A I might have looked at it yesterday, again,
25 in preparation for the depo, but I certainly looked at

1 it about two or three weeks ago.

2 (Phone marked Balakrishnan Exhibit 101
3 for identification.)

4 MR. JOHNSON: Exhibit 101 is a Galaxy 10.1,
5 so let me ask the question again.

6 Q Looking at Exhibit 100, the Galaxy Tab 7, and
7 comparing the Galaxy 10.1 gallery function, can you
8 tell me whether those gallery applications operate the
9 same way for purposes of alleged infringement of
10 the '381 patent?

11 MR. MONACH: Same objection; lack of
12 foundation; calling for a legal conclusion and a new
13 opinion on devices presented for the first time at the
14 deposition.

15 THE WITNESS: So if you give me a minute to
16 refresh my memory on the 10.1 tablet here.

17 So based -- based on my quick comparison here
18 on -- on the fly, at this deposition, I would say
19 the -- of these two tablets, Exhibit 100 and
20 Exhibit 101, I would say that the base functionality
21 in the gallery application, with regards to elements
22 of Claim 1, appear to be very similar.

23 MR. JOHNSON: Q. Can you look at the
24 contacts application of the Tab 7 and tell me whether
25 the contacts application infringes any claims of

1 the '381 patent?

2 MR. MONACH: Same objection as previously
3 stated.

4 THE WITNESS: So I would say this is the
5 first time I'm looking at this particular contacts
6 application, so you've got to give me a few minutes to
7 study this.

8 So, again, this is the first time I'm looking
9 at this particular style of contacts application,
10 which has a very different look and feel from the
11 other ones on the phones. Given my very quick review
12 here, I would say this contacts application, in terms
13 of scrolling the -- the list of names within the
14 application, would meet the -- would infringe the
15 claims -- the element of the claims of -- of Claim 1
16 of the '381 patent.

17 MR. JOHNSON: Q. Would infringe?

18 A It would infringe, yes.

19 Q Can -- can you walk us through the alleged
20 infringement of the contacts application and using the
21 camera where possible --

22 A Sure.

23 Q -- to show the different limitations of the
24 claim?

25 MR. MONACH: Same objection as previously

1 stated, asking the witness to form a new infringement
2 opinion with a device presented to him for the first
3 time at the deposition.

4 THE WITNESS: Do you know if there's a way to
5 lock the thing from not rotating, because -- anyway,
6 I'm gonna try, if it doesn't keep bouncing around.

7 How are we doing?

8 MR. JOHNSON: If you could just tilt it
9 forward a little bit. That's better. Here, you
10 can --

11 THE WITNESS: You good to go? Okay.

12 To the extent that I'm -- you know, I want to
13 just caveat this by saying I'm doing this live on a
14 device I've just seen a few minutes ago, so I may make
15 some mistakes and maybe do it again.

16 So, first of all, let's walk through to
17 Claim 1. It's a computer implemented method. This is
18 clearly a mobile computer compromising a device with a
19 touchscreen display. This is -- it just shut off.

20 Okay. Let's try this again.

21 It's a device with a touchscreen display that
22 clearly reacts to my -- my touching the display, so it
23 has the preamble of the claim. It says here, in the
24 first part of the claim, it says, "Displaying a first
25 portion of an electronic document," and in this

1 contact application, I would say the electronic
2 document is this list of -- of items, list of names
3 that you see on the left-hand side of the -- of the
4 screen here.

5 MR. JOHNSON: Q. So it's -- it's the -- the
6 column of the names? Can you -- can you just point to
7 what you're talking about?

8 A Sure.

9 Q You should touch the screen before.

10 A Okay. Let's try this again.

11 So the electronic document in this particular
12 instantiation would be the list of -- of names that
13 you see with these letter headings or letter dividers
14 in between the names. It would be the -- so, you
15 know, what you see in, kind of, this box here,
16 starting -- it keeps going off to -- I'm sorry. It
17 keeps shutting off.

18 MR. MONACH: Sorry to interrupt here, but
19 while you're fiddling with that, I just have a
20 continuing objection to this series of questions.

21 THE WITNESS: Okay. All right. Let's try
22 this again. Hopefully, it doesn't go to sleep.

23 So it has -- you know, the list I just marked
24 out there, that would be the electronic --

25 MR. JOHNSON: Q. So an electronic document

1 can be something that's smaller than what you see on
2 the screen, because it meets your definition of
3 visually represented on the screen with a defined --
4 defined set of boundaries?

5 MR. MONACH: Objection; calling for a legal
6 conclusion.

7 THE WITNESS: I would say an electronic
8 document doesn't have to fill the entire screen.

9 MR. JOHNSON: Okay.

10 THE WITNESS: Yes, and it's gone asleep
11 again, so let's try this one more time. Okay.

12 All right. So it is live. So we've got the
13 electronic document. Now, the next element of the
14 claim says "Detecting a movement of an object on or
15 near the touchscreen display," and I -- I'm gonna put
16 my finger down, which would correspond to the object
17 in the -- in the claims, and it detects a movement of
18 my object on or near the touchscreen display and
19 clearly reacts to that.

20 The next element says "In response to
21 detecting the movement, translating the electronic
22 document displayed on the touchscreen display in a
23 first direction to display a second portion of the
24 electronic document, wherein the second portion is
25 different from the first portion."

1 So let's see if I can show this. I've got my
2 finger on the screen, my object on the screen. The
3 first portion is this part of the document that, let's
4 say, starts with Chris Thomas at the top, and at the
5 bottom it has the word "QWERTY," that I just entered.
6 I'm gonna -- I'm gonna move my -- move my finger, and
7 so in response to my -- my finger, it's gonna
8 translate the electronic document to display --
9 translate in a first direction, in one direction here,
10 to display a second portion, which is different from
11 the first portion.

12 So, now, the second portion now, as you see,
13 on the top, has Billy Smith, and the bottom has
14 Michael Myers on the -- on the list of the information
15 on the document. So it's clearly different from that
16 first portion that we saw earlier that had different
17 names on the top and bottom.

18 Now -- now, I'm gonna keep going here to the
19 next element. It says "In response to an edge of the
20 electronic document being reached while translating
21 the electronic document in the first direction, while
22 the object is still detected on or near the
23 touchscreen display, displaying an area beyond the
24 edge of a document and displaying a third portion of
25 the electronic document, wherein the third portion is

1 if I zoom in on the image, and if I move the image,
2 then -- if I -- at 45 degrees, for example, you know,
3 you see my finger has moved 45 degrees?

4 A Roughly.

5 Q -- or approximately; right?

6 A Sure.

7 Q And then that's a first direction; right?

8 MR. MONACH: Objection; form.

9 MR. JOHNSON: Q. I want you to assume that's
10 the first direction.

11 A Okay. Sure.

12 Q Okay. And then if I move the image down from
13 there at 45 degrees, right, have -- in both of those
14 actions, has my finger moved the same direction?

15 MR. MONACH: Objection to the form of the
16 question; vague; calling for a legal conclusion.

17 THE WITNESS: In the compound two-dimensional
18 case, it is moving in two dimensions. It, in one
19 case, moved in some amount of the X, in some amount of
20 the Y. In the other case you moved a different amount
21 of the X, a different amount of the Y, depending on
22 what your components of the direction are. If you're
23 only interested in one axis, then maybe it was the
24 same. I'd have -- I'd have to determine exactly what
25 your paths were. But if you're talking about the

1 two-dimensional movement, then it appears you took two
2 different vectors --

3 MR. JOHNSON: Yeah.

4 Q For purposes --

5 A -- in these images.

6 Q For purposes of the claims of the '381
7 patent, these are -- these are two different
8 directions; right?

9 MR. MONACH: Objection; calling for a legal
10 conclusion.

11 THE WITNESS: For purposes of the claims,
12 these -- the two-dimensional directions that you
13 took -- that you just showed appear to be different.

14 MR. JOHNSON: Right.

15 Q Just so, since you're the actor today, can --
16 can you -- can you --

17 A I hope I'm not acting.

18 Q -- show us on the screen -- or, at least,
19 you're -- you're the hand model.

20 Can -- if you could just put the -- show on
21 the screen the two -- the -- the -- just what I just
22 did.

23 So put -- put your finger on the screen on
24 the zoomed-in image, and if you move it up at
25 45 degrees --

1 A Like, up here?

2 Q Yeah.

3 A Okay.

4 Q And then if you move it down 45 degrees,
5 right, those are not the same direction; right?

6 MR. MONACH: Objection to the form of
7 questions for the reasons previously stated.

8 THE WITNESS: So, as I said, in the
9 two-dimensional space, if I'm concerned with both the
10 X and Y axes, taking both components of movement, then
11 it would be different. However, if I'm only
12 interested in one of the components, say, for example,
13 the X axis, I'd have to look at the data. It may be
14 both moving in the same direction in the X axis, for
15 example.

16 MR. JOHNSON: Q. For purposes of the claims
17 of the '381 patent, they're not the same direction;
18 are they?

19 MR. MONACH: Objection to the form of the
20 question; calling for a legal conclusion.

21 THE WITNESS: So the claim doesn't say
22 whether the direction is two dimensional, three
23 dimensional, one dimensional, so it would be
24 determined -- would depend a little bit on whether you
25 want to constrain the direction to be only a

1 particular axis. If the claim is interpreted broadly
2 to mean any number of axes of movement, then it would
3 not be the same. If it's interpreted more narrowly to
4 say I'm only interested in X axis movement, for
5 example, then it can be the same.

6 MR. JOHNSON: Q. Well, what's your
7 definition of "first direction," under the claims of
8 the '381 patent?

9 A Reading it in terms of the plain language,
10 which is the way I've -- I've interpreted the claims
11 so far, I would take this to be -- could be more than
12 one -- one dimension.

13 Q So under the definition -- under the
14 definition of "first direction" that you just gave for
15 the '381 patent, were those two finger movements the
16 same direction?

17 A They would be the same direction, if you take
18 the two-dimensional components into account, yes.

19 Q So they would be a first direction?

20 A So, no, I'm sorry. Can I go back? I -- I
21 misstated that.

22 They would be -- they would not be the same
23 direction if I took the two-dimensional components
24 into account. But if I only looked at one-dimensional
25 component of the movement, they might be the same.

1 I'd have to look whether the X axis is the same thing.

2 Q Is there -- do you think there's an ambiguity
3 in terms of what "first direction" means in the plain
4 language meaning of that term for the '381 patent?

5 MR. MONACH: Object to the form of the
6 question; vague; incomplete hypothetical; calling for
7 a legal conclusion.

8 THE WITNESS: From a plain reading of this
9 and just taking a high-level view of it, the -- it
10 would appear to encompass all -- all components of the
11 direction, dimensions of the direction, but I could
12 imagine somebody, you know, saying I only want it
13 constrained to X axis, for example.

14 MR. JOHNSON: Yeah, I'm talking about a
15 person of ordinary skill in the art.

16 Q What would a person of ordinary skill in the
17 art understand "first direction" to mean in the '381
18 patent?

19 MR. MONACH: Object to the -- object to the
20 form of the question, but you can give your
21 understanding.

22 THE WITNESS: So as I'm reading this, the
23 claims in conjunction with the patent, I would say it
24 includes the -- the -- the two-dimensional components.

25 MR. JOHNSON: Okay.

1 Q So if I go back to the claim language, the
2 third element says "In response to detecting a
3 movement translating the electronic document displayed
4 on the touchscreen display in a first direction to
5 display a second portion of the electronic document,"
6 so can you show me what that is in the Galaxy S 4G?

7 A So -- so displayed in the touchscreen in a
8 first direction.

9 So if I go -- so let me zoom this one again.
10 If I go this way, see that. Let me do this again. So
11 it's a first direction, for example.

12 Q Okay.

13 A And it displays a second portion of the
14 document.

15 Q And then, the next element says "In response
16 to an edge of the electronic document being reached
17 while translating the electronic document in the first
18 direction."

19 So that means you have to reach the edge
20 using the same first direction?

21 A That's right.

22 MR. MONACH: Object to the form.

23 THE WITNESS: I'm sorry. I should have
24 waited.

25 MR. JOHNSON: So --

1 document being reached while translating the
2 electronic document in the first direction"?

3 A So same zoomed-in image, I'm going here. I
4 moved in the first direction, and I continue moving in
5 that same direction, I see the edge, and then it
6 continues.

7 So it's detected the edge. Movement is still
8 happening the same first direction and displays an
9 area beyond the edge, which is in black, past the --
10 past the edge of the document, and then displays a
11 third portion of the electronic document, which is
12 what you see in the screen, which is smaller than the
13 first portion that we saw earlier.

14 Q Okay. So when I -- when you moved to the
15 edge of the document by moving your finger over, I saw
16 the image move up a little bit.

17 MR. MONACH: Object to the form of the
18 question.

19 MR. JOHNSON: Q. And so my question is:
20 When you move your finger across and the image moves
21 up or down, is that the same first direction?

22 MR. MONACH: Object.

23 MR. JOHNSON: Q. Do you understand my
24 question?

25 MR. MONACH: Object to the form of question;

1 assuming facts not in evidence. Object to the extent
2 it calls for a legal conclusion.

3 THE WITNESS: So --

4 MR. JOHNSON: Q. So let me -- let me ask it
5 a different way.

6 A Can I release this?

7 Q Yeah, you can release that. This is not --
8 this is not intended to be torture.

9 Is there -- is the only way to infringe this,
10 the claims of the '381 patent, for the -- for the
11 movement of the image and the object to be in a
12 perfectly straight line?

13 MR. MONACH: Object to the form of the
14 question as calling for a legal conclusion; incomplete
15 hypothetical.

16 THE WITNESS: No, I don't think it has to be
17 a perfectly straight line.

18 MR. JOHNSON: Q. You would agree that the
19 first movement that you took when you translated the
20 document to -- to display a second portion of an
21 electronic document, and then when you moved to the --
22 to the edge of the document, your -- your finger
23 didn't move exactly a straight line; right?

24 MR. MONACH: Objection; form. Objection;
25 vague.

1 THE WITNESS: To the extent that a -- a --
2 you know, was my finger exactly on a straight line, I
3 don't think that's humanly possible --

4 MR. JOHNSON: Right.

5 THE WITNESS: -- unless you constrain my
6 finger with some physical gadgetry that would hold it.
7 I don't think that you can do that --

8 MR. JOHNSON: Q. So my question is --

9 MR. MONACH: Please don't interrupt him.

10 MR. JOHNSON: Sorry about that.

11 Q My question is: Where do you draw the
12 boundaries around what constitutes the same first
13 direction? How do you do that?

14 Because, as you just said, you can't have a
15 perfectly straight line, unless your finger is
16 physically constrained to something that -- that makes
17 that happen. So what's -- what constitutes the
18 difference between moving in the same first direction
19 the way you did it, versus the way I did it with a
20 45-degree arc?

21 MR. MONACH: Hang on.

22 Object to the form of the question. Object
23 to the extent you're calling for a legal conclusion.

24 THE WITNESS: So --

25 MR. JOHNSON: Q. So my question is: A

1 person of ordinary skill in the art would not know how
2 to differentiate between drawing the perfectly
3 straight line with a finger in one direction -- in the
4 first direction, versus drawing approximately a
5 straight line.

6 MR. MONACH: Is that a question?

7 Object to -- object to form.

8 THE WITNESS: Are you talking from a -- so
9 I'm not sure I completely understand the question.

10 MR. JOHNSON: I'm talking from a user
11 standpoint.

12 Q Someone wants to try and avoid using this
13 particular claim by saying I'm not gonna use my object
14 to -- to -- to move, in this case, the photo in a
15 first direction. How do I go about avoiding that?

16 MR. MONACH: Object to the form of the
17 question as vague and calling for a legal conclusion.
18 Objection to the extent it calls for a narrative about
19 all the possible ways one might avoid infringing.

20 THE WITNESS: So I think that's -- it would
21 have to be a first direction that the other one --
22 the -- the second first direction and the first first
23 direction in these claims would have to be the same
24 general direction as a user would perceive it to be.

25 I -- I don't think it has to be exactly on a

1 mathematical equivalent straight line, but, to me, if
2 you go, you know, obviously different directions, like
3 you did on the -- the two 45s in very different
4 two-dimensional directions, most users would be able
5 to say that's a -- you know, I've got to change
6 direction along the way.

7 MR. JOHNSON: Okay.

8 Q How about a slight arc? Is that sufficient?

9 MR. MONACH: Same objection; also vague.

10 THE WITNESS: A slight arc. So if you're
11 saying my direction is -- is the contours of the arc,
12 so one, kind of, doing this and continue along the
13 same -- I don't know how you continue in an arc.

14 Eventually you will loop back, but wait. Let
15 me -- that would be -- you know, if your direction is
16 now a two-dimensional direction, yes, it would be the
17 same direction.

18 Or if I was on the 45 angle and continued in
19 this similar 45 and didn't make a sharp turn, then it
20 would be the same dir- -- same first direction.

21 MR. JOHNSON: Q. And what if I -- what if I
22 did an angle that was, you know, ten degrees in one
23 direction and ten degrees in the other direction?

24 I'm trying to understand where the metes and
25 bounds are, where the boundaries are for what

1 infringes, versus what doesn't; and so at what point
2 is it the same first direction and at what point is it
3 not the same direction? Because you said my -- my
4 example of going 45 degrees up and 45 degrees down is
5 not the same direction.

6 So, you know, going at ten degrees up and ten
7 degrees down, is that the same first direction? I
8 mean, I can't draw a straight line with a ruler, so it
9 all looks pretty straight to me, but at what point do
10 you avoid the claim and at what point are you covered
11 by the claim?

12 MR. MONACH: Object to the --

13 MR. JOHNSON: So let -- let me ask it a
14 little bit more specifically.

15 Q At -- tell me -- when -- when you said it has
16 to be the same general direction, what exactly do you
17 mean by that?

18 MR. MONACH: Objection to the extent that
19 you're asking for a legal conclusion. Objection to
20 the extent it's an incomplete hypothetical and you're
21 asking him to form a new opinion here at the
22 deposition.

23 But if you have a -- have you -- you can
24 answer.

25 THE WITNESS: So I haven't, you know,

1 explored this particular question in great detail
2 in -- in thinking about this, because, to me, reading
3 this, as one skilled in the art, it says first
4 direction and another first direction, it would be the
5 direction -- same general direction that a user would
6 generally consider to be a first direction of the same
7 direction; whereas, if it's something that -- you
8 know, I think a straight line from a mathematical
9 definition or a unfavoring first direction from a
10 mathematical -- a direction from a mathematical
11 definition, and then what one skilled in the art or
12 average user would say, yeah, that's in the same
13 direction.

14 So if you're asking me is there an exact
15 mathematical number at which it is no longer one, I
16 don't think I could give you that answer.

17 MR. JOHNSON: Okay.

18 Q What about -- let me -- can we have that
19 phone, please. Thank you.

20 Can you try and get this for me?

21 Okay. So you said this is not the same first
22 direction; right?

23 A Can you do that again?

24 Q That direction is not the same as that
25 direction --

1 MR. MONACH: Objection to the form of the
2 question.

3 MR. JOHNSON: Q. -- right?

4 MR. MONACH: Calling for a legal conclusion.

5 THE WITNESS: If I was a -- as I said
6 earlier, if I'm considering the full two-dimensional
7 movement and not just the X axis component, then --
8 then it is two different directions that a user would
9 perceive it as.

10 MR. JOHNSON: Q. I'm -- all I'm asking is,
11 is it the same first direction for purposes of
12 the '381 patent and how the term "first direction" is
13 used in that?

14 MR. MONACH: Objection; asked and answered.
15 Objection; calling for a legal conclusion and a new
16 opinion with an incomplete hypothetical.

17 THE WITNESS: So to the extent that you --
18 you -- the movement you did was -- from my eyes, it's
19 exact -- it's a different two-dimensional direction.

20 MR. JOHNSON: Okay.

21 THE WITNESS: It is different.

22 MR. JOHNSON: Okay.

23 Q Is -- is this arc the same direction? So if
24 I break it into two --

25 A You didn't pause.

1 Q Let me do it again.

2 So that is the first step of the first
3 direction. This is the second step.

4 Is that the same first direction?

5 MR. MONACH: Same objection as to the
6 previous question.

7 THE WITNESS: So, conceptually, if you're
8 moving in an arc, and assuming you went on the same
9 arc, and you didn't -- when you broke there, you --
10 you were still following the same arc, I would say it
11 is the same first direction.

12 MR. JOHNSON: Q. It is?

13 A Yes.

14 Q Okay. So what if I changed -- what if I
15 break the arc? So if I start this, this way with --
16 and that's the first step, and then I change the angle
17 of the arc, I either go up or I go down at a different
18 angle, so I break the arc?

19 A So it's no longer --

20 MR. MONACH: Same objection.

21 Go ahead.

22 THE WITNESS: I'm sorry.

23 A -- if you're no longer on the same arc, you
24 have -- you have broken the arc, as you -- as you've
25 said, then it would not be the same direction.

1 MR. JOHNSON: Okay.

2 Q And if I move my finger -- you would agree
3 that in moving my finger -- and I can see the image
4 moving up and down -- I mean, generally speaking,
5 there are gonna be components within the movement of a
6 finger that have a vertical component to it, as well
7 as sort of the horizontal component; right? So it's
8 moving up and down.

9 MR. MONACH: Object to the form of the
10 question.

11 MR. JOHNSON: Q. So is that -- is that the
12 same direction, even though it's -- it's bouncing up
13 and down when I move it?

14 MR. MONACH: Same objection.

15 THE WITNESS: Well, I wouldn't say that's
16 bouncing up and down. I saw it moving primarily to
17 the right. I actually could not see it bounce, but
18 I'll take your word that it's moving maybe a little
19 bit up and down. You could exaggerate it a little
20 bit, if you wanted it to, but -- but now you're
21 clearly moving it in a jaggy way, so that's --

22 MR. JOHNSON: Q. So is that the same first
23 direction?

24 A Well, I'm seeing your hand move in a zigzag,
25 so, to me, that's -- I think it's a very contrived way

1 of doing it.

2 Q No, I'm trying to -- I'm -- I'm purposely
3 contriving it to -- to understand if that's the same
4 first direction. So if I move it in a -- in a jagged
5 sort of way --

6 MR. MONACH: Hang on a second.

7 MR. JOHNSON: Q. -- is that the first --
8 with -- let me start over.

9 Q If I move my finger in a jagged way, like
10 this, does that meet the elements of the claim in
11 the '381 patent for first direction?

12 MR. MONACH: Objection; calling for a legal
13 conclusion; vague; incomplete hypothetical.

14 THE WITNESS: So I'm thinking here -- I
15 haven't considered this in detail before. Now you're
16 showing me this for the first time, and I'm thinking
17 out loud here, to some extent.

18 Similar to the arc, where it's a
19 two-dimensional movement, but it follows a pattern,
20 it's following that arc, and I said that it would be a
21 first direction if you continue along the same arc.
22 In this case, you've got a rhythmic -- I think you did
23 a rhythmic jagged movement, where you kind of went up
24 and down, up and down, in a same kind of sawtooth. I
25 would say that is the same direction, if you continue

1 along the same rhythmic two dimension --
2 two-dimensional sawtooth or jaggy, whatever you want
3 to call it, which is different from the original --
4 sorry -- the earlier one where you did a big movement
5 in one direction and another big movement in a
6 different -- very different two-dimensional direction.
7 I would think one of ordinary skill in the art would
8 say that's a different two-dimensional direction.

9 MR. JOHNSON: Okay.

10 Q So, then, let me -- let me go back to that,
11 then, and ask you this: If I -- if I do two saw
12 teeth, up, down, up, down, is that the same first
13 direction --

14 MR. MONACH: Objection; vague and --

15 MR. JOHNSON: Q. -- because it's rhythmic?

16 MR. MONACH: Objection; vague and ambiguous;
17 incomplete hypothetical; calling for a legal
18 conclusion and a new opinion at the deposition.

19 THE WITNESS: Again, I haven't thought about
20 it in detail. You know, I'm thinking about this for
21 the first time here. I would say to the extent that
22 it's repetitive, and you're -- you're going in the
23 same direction, it would be the same first direction.

24 MR. JOHNSON: Okay.

25 Q So repetitive in the same direction,

1 rhythmic, generally the same direction, those all meet
2 the limitations of the '381 patent for first
3 direction, as far as you're concerned; right?

4 MR. MONACH: Same objection.

5 THE WITNESS: Again, thinking on the fly
6 here, you know, haven't -- haven't delved into this in
7 great detail, yes, I would say yes.

8 MR. JOHNSON: Okay.

9 Q So let's -- let's keep going through the --
10 the claim --

11 A Sorry. I can't remember where we were.

12 Q -- limitations.

13 We were -- we were just about to do display
14 in an area beyond the edge of a document.

15 A Okay. So let's assume I've done some of the
16 earlier stuff, and I've now -- I've pulled this, and
17 I've gone in one direction in a -- in the same
18 direction, same first direction. I've now -- I'm now
19 showing an area beyond the document.

20 Q That's the black?

21 A It is the black beyond the blackened dots
22 there. It says, "Displays the area beyond the edge of
23 the document," and then it displays -- well, currently
24 displays a third portion of the electronic document,
25 which is what you see to the right of the -- the area

1 beyond the edge, and that is clearly smaller than the
2 first portion which took up more of the screen.

3 And then, now, that last element of the
4 claims --

5 Q Okay. Before you get there, what -- what is
6 "displaying an area beyond the edge of the document"
7 mean?

8 MR. MONACH: Object to form. Object to the
9 extent it calls for a legal conclusion.

10 You can give your understanding.

11 THE WITNESS: My understanding is, in the
12 context of this patent and the claims, it's -- I've
13 got the edge of the document. I've reached the edge,
14 and I'm gonna show something, some -- some amount of
15 visuals beyond that edge. Displaying an area.

16 MR. JOHNSON: Q. What do you mean you're
17 going to show some amount of visuals beyond the edge?

18 A So, for example, the black space, that black
19 area. It could be a white area. It could be some --
20 some visual that's not part of the document.

21 Q So it could be anything that's visual, as
22 long as it's not part of the document?

23 MR. MONACH: Object to the form of the
24 question. Object to the extent it's vague and calls
25 for a legal conclusion.

1 not going to answer it.

2 Q Have you ever -- have you ever heard of the
3 term?

4 A I believe I have. It's not something that I
5 use regularly.

6 Q Okay. Have you ever heard of the term
7 "organic LED displays"?

8 A I have heard the term, yes.

9 Q Okay. And what -- what is that?

10 A It -- again, I haven't, for purposes of
11 preparation for this, I haven't thought about that in
12 detail to give you a clear answer, so I'm not -- I'm
13 not gonna give you an answer that's detailed. I would
14 say that's a different form of -- of display --

15 Q Okay.

16 A -- than some of the others out there.

17 Q So to -- to meet the elements of the claims
18 in the '381 patent that refer to display in an area
19 beyond the edge of the document, does the display need
20 to actively show something beyond the edge of the
21 document?

22 MR. MONACH: Objection; vague. Objection to
23 the extent it calls for a legal conclusion.

24 THE WITNESS: I'm not sure what you mean by
25 "actively needs to show." It says the -- the claim

1 element says "displaying an area," so it would have to
2 display an area. I'm not sure how it could happen
3 without --

4 MR. JOHNSON: Okay.

5 THE WITNESS: -- the device actually doing
6 it.

7 MR. JOHNSON: Q. Exhibit 21 that's in front
8 of you, the Galaxy S 4G, I think it's off right now,
9 right, so is -- is that display -- strike that.

10 Is that device displaying anything on the --
11 on the screen?

12 MR. MONACH: Object to the form of the
13 question; vague. Object to the extent it's asking for
14 a legal conclusion and a new opinion.

15 THE WITNESS: I haven't thought about this
16 in -- in any detail. Just thinking on the fly here,
17 the display doesn't appear to be powered on, and as a
18 result, the active part of the display doesn't appear
19 to be showing anything.

20 MR. JOHNSON: All right.

21 Q So when it's off, when it's not displaying
22 anything, it's not -- strike that. It's not
23 displaying anything, so let me ask it a different way.

24 When the -- when the screen is turned off,
25 it's not displaying anything; right?

1 MR. MONACH: Same objection.

2 THE WITNESS: When the screen is turned off,
3 the screen portion is not displaying anything. Beyond
4 the screen, there are hard -- you know, hard is the --
5 I guess personally -- permanently or somewhat
6 permanently etched lettering that says "T-Mobile" and
7 "Samsung" on it. You could argue that that's a
8 display on the phone, but it's not, you know --

9 MR. JOHNSON: Q. I'm talking about the
10 screen.

11 A -- the -- the actual active part of the
12 screen, it's not displaying anything, no.

13 Q Okay. So if you go to -- back to your
14 example, where you were demonstrating infringement of
15 the photograph in the gallery.

16 A Uh-huh.

17 Q Can you go back to that for me. Okay.

18 And if you go to the portion where you
19 believe that you're displaying an area beyond the edge
20 of the document --

21 A Like once --

22 Q That's the black --

23 A Yeah.

24 Q -- edge on the left-hand side of the screen.

25 You don't know how the Samsung products

1 actually operate and where that black boundary comes
2 from; do you?

3 A Are you saying where the black boundary comes
4 from and whether it's sending instructions illuminate
5 or not illuminate those pixels?

6 Q Right.

7 A It would have to send the instructions to say
8 illuminate or not illuminate or illuminate with a
9 particular color.

10 Q So what is it doing? Is it telling you to
11 illuminate or not illuminate? What does the code do
12 there?

13 MR. MONACH: Objection; lack of foundation.

14 MR. JOHNSON: Q. And if you don't know, you
15 can say you don't know.

16 A I -- I have not looked at the code that does
17 that, so I cannot answer that question.

18 Q So if -- if the LED -- if there are LEDs that
19 are turned off in that leftmost edge there, right,
20 there -- it's not displaying an area beyond the edge
21 of the document; is it?

22 MR. MONACH: Object to the form of the
23 question. Object to the extent it calls for a legal
24 conclusion and a new opinion.

25 THE WITNESS: So I haven't thought about this

1 MR. MONACH: Object to form.

2 MR. JOHNSON: Q. Or maybe not below it.

3 A Yeah, there is stuff above the F and below
4 the T, yes.

5 Q Okay. So all I was asking was, you can have
6 an electronic document that has an internal boundary
7 within a screen; right?

8 MR. MONACH: Object to the form of the
9 question as vague. Objection; calls for a legal
10 conclusion.

11 THE WITNESS: So I -- I'm not -- again, I'm
12 still not sure what you mean by "internal." It --

13 MR. JOHNSON: I'm --

14 THE WITNESS: Are you saying that this is the
15 boundary of the electronic document?

16 MR. JOHNSON: Yeah.

17 Q I just meant that that's internal because
18 it's -- it's located within the middle of the screen?

19 A So in that -- that boundary doesn't match the
20 edge of the screen --

21 Q Exactly.

22 A -- is what you're -- is that what you're
23 saying?

24 Q Exactly.

25 A Sure, the boundary of the document doesn't

1 have to align with the screen.

2 Q So you can have -- you can have the edge of
3 the boundary be something other than the edge of the
4 screen?

5 MR. MONACH: Objection; vague.

6 MR. JOHNSON: I think we're saying the same
7 thing. I'm just -- I'm really bad with trying to --

8 A I want to make sure I say the right thing
9 with my understanding of what you're saying, too.

10 Q So all I'm saying is, under your view of an
11 electronic document, an electronic document can have a
12 boundary that is internal to the screen or, you know,
13 doesn't have to be at the edge of the screen --

14 MR. MONACH: Objection; form.

15 MR. JOHNSON: Q. -- right?

16 MR. MONACH: Objection; calling for a legal
17 conclusion; asked and answered.

18 You can do it again.

19 THE WITNESS: So as I answered earlier, and
20 my opinion is that the boundary of the electronic
21 document, in this case, this -- this edge is one
22 boundary of it, does not have to match the edge of the
23 screen, yes.

24 MR. JOHNSON: Okay.

25 Q So just, during the lunch, I had the guys

1 just print up a sheet of paper with some squares on it
2 for me. So if you imagine, sir, that the -- the
3 quadrants that are labeled 1 to 36 on here are the
4 entire -- that's this -- that's the screen of the
5 display.

6 A So the whole -- the big rectangular is the
7 screen?

8 Q Right.

9 A Okay.

10 Q So you can have an electronic document that
11 consists of smaller grids within the screen; right?

12 MR. MONACH: Object to the form of the
13 question; calling for a legal conclusion; incomplete
14 hypothetical; asking for a new opinion.

15 THE WITNESS: It would depend on what one
16 considers to be the electronic document. It could be
17 one of these, let me call it sub rectangles that you
18 can label with numbers. It could be some combination
19 of them. It --

20 MR. JOHNSON: Right.

21 THE WITNESS: -- really depends on -- depends
22 on how, you know, you want to put the boundary around
23 it.

24 MR. JOHNSON: Q. So you could draw a
25 boundary, hypothetically, around squares 15, 16, 17,

1 18, 21 and 22, 23 and 24?

2 A Say -- sorry. 15, 16, 17, 18, 21?

3 Q 22, 23, and 24.

4 A So kind of like this?

5 Q Yeah, go ahead and draw it.

6 MR. MONACH: Object to the -- object to the
7 form of the question as vague and ambiguous;
8 incomplete hypothetical.

9 MR. JOHNSON: Q. Make it a little more
10 noticeable for me.

11 A We've got black lines around it.

12 Q Yeah, okay.

13 So that could be an electronic document;
14 right?

15 A Depend --

16 MR. MONACH: Same objection.

17 THE WITNESS: Sorry. I jumped in there.

18 Depending on the context, depending on the
19 application, it could be.

20 MR. JOHNSON: Okay.

21 THE WITNESS: Or some other collection.

22 MR. JOHNSON: Q. It's not limited to that;
23 right?

24 A I would not say it's limited.

25 Q So it could be also a -- a six-by-six grid or

1 a two-by-two grid?

2 MR. MONACH: Same --

3 MR. JOHNSON: Q. -- or even a three-by-three
4 grid, I guess --

5 MR. MONACH: Same objection.

6 MR. JOHNSON: Q. -- right?

7 MR. MONACH: Vague and ambiguous; incomplete
8 hypothetical.

9 THE WITNESS: Again, it would depend on the
10 def- -- you know, how -- whoever is being the
11 application, what they consider to be the document --
12 to be the extent of the document, yes.

13 MR. JOHNSON: Q. Under your view, though, it
14 could be those, those grids; right?

15 MR. MONACH: Objection; same objection as
16 before. Also, misstates the prior testimony.

17 THE WITNESS: Depending on the context, it --
18 it could take on different forms.

19 MR. JOHNSON: Okay.

20 Q Does the grid need to be a rectangle?

21 MR. MONACH: Same objection.

22 MR. JOHNSON: Strike it. Let me ask it
23 again.

24 Q Does -- would the grid need to be a rectangle
25 in order for it to be an electronic document?

1 MR. MONACH: Same objection.

2 THE WITNESS: Well, I think the electronic
3 document doesn't have to be anything to do with the
4 grid. It --

5 MR. JOHNSON: Okay.

6 THE WITNESS: -- it's any visual thing with
7 defined boundaries --

8 MR. JOHNSON: So -- so it --

9 THE WITNESS: -- by my definition of it.

10 MR. JOHNSON: Q. Could -- if you -- if you
11 drew lines around squares one, two, and eight, for
12 example --

13 A One, two, and eight. So this kind of, I
14 guess, inverted L?

15 Q Yeah.

16 Could that be an electronic document?

17 MR. MONACH: Objection; vague; incomplete
18 hypothetical; calling for a legal conclusion and a new
19 opinion.

20 THE WITNESS: So to the extent that I haven't
21 considered this, this style of odd-shaped documents
22 prior to coming here today, just thinking on the fly
23 here, a -- based on my understanding of, you know,
24 boundaries, that wouldn't -- would satisfy the notion
25 of a boundary, again, depending on the context of the

1 not to answer, unless he relied on a fact that was
2 communicated by counsel in forming his opinion here.

3 THE WITNESS: In forming my opinion for the
4 declaration, I did not rely on any such information.

5 MR. JOHNSON: Did you rely on any
6 conception -- strike that.

7 Q In your opinion, what is the appropriate
8 conception dates for -- if you have one -- for the
9 asserted claims of the '381 patent?

10 MR. MONACH: Object to the question as asking
11 for a legal conclusion; may lack foundation; and is
12 posing an incomplete hypothetical for which there may
13 or may not be an adequate foundation.

14 THE WITNESS: In my opinion, just reading
15 the -- this document and -- I would -- I would come up
16 with a January 7th, 2007, date.

17 MR. JOHNSON: And is there -- do you have any
18 reason to believe -- strike that.

19 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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10 MR. JOHNSON: Q. Or, have you done any
11 re- -- did you review any of the professional
12 applications that are listed here on the front of
13 the '381 patent?

14 A I looked at one of the professional
15 applications.

16 Q Which one?

17 A I can't recall exactly which one. The
18 numbers skip -- skip my mind.

19 Q Why did you look at it?

20 A It was part of just understanding the -- the
21 providence of the patent, so to speak.

22 Q Did it list other inventors besides
23 Mr. Ordning?

24 A It might have, yes.

25 Q Were you curious as to why those other

1 Q Do you know, is -- is LaunchTile a zoomable
2 user interface?

3 A Going purely from memory, I believe there was
4 some elements that -- that allows -- that allowed for
5 zooming to different levels to see more or less
6 content, but I'm going purely from memory.

7 (Phone marked Balakirshnan Exhibit 114
8 for identification.)

9 MR. JOHNSON: Okay. I actually want to mark,
10 as Exhibit 114, a device that we have that is an iPAQ
11 that is running LaunchTiles on it, and I want to ask
12 you a few questions about it.

13 A Okay.

14 Q So I'm gonna ask my colleague to come around
15 over by you, just so he can put the device over there
16 and he can operate it while I ask you questions about
17 it, since I don't have four hands.

18 A Okay.

19 MR. MONACH: I'll object to the -- to the
20 extent there was a question, I'll object to the
21 question or assertion as vague and assuming facts not
22 in evidence that the device is running LaunchTiles.

23 THE VIDEOGRAPHER: Please stand there. It
24 might be better, and hold it like that.

25 MR. JOHNSON: Just put that on the back for

1 me so we don't forget.

2 THE WITNESS: So you're gonna hold it? Okay.

3 MR. JOHNSON: Q. So you can -- you can take
4 a look at it and, frankly, play around with it, if you
5 want --

6 A Okay.

7 Q -- to familiarize yourself with it, just to
8 tell me if you recognize it as LaunchTile.

9 Have you ever played with LaunchTile before?

10 A I played with it very briefly a long time
11 ago, and then I looked at it briefly again -- was it
12 last week -- last week in the Netherlands, when this
13 came up.

14 Q And how did it come up in the Netherlands?

15 A I believe a similar device -- I don't know,
16 maybe it's the same one, but it was either produced by
17 Samsung or somehow the -- the Apple lawyers had a copy
18 of it, and LaunchTiles was allegedly loaded on it, and
19 they -- they looked at some of the potential
20 functionalities. I did not spend much time on it.

21 Q Okay. What was your impression of it?

22 MR. MONACH: Objection; vague.

23 THE WITNESS: It -- it does what it does.

24 It -- I don't know what you mean what my impression
25 is.

1 MR. JOHNSON: All right.

2 Q Well, take a look at it and just see if that
3 looks like the LaunchTile that you remember.

4 MR. MONACH: Objection; vague; lack of
5 foundation; lack of authentication. I also object
6 this is beyond the scope of his declaration in the
7 pending PI motion.

8 THE WITNESS: So it does appear to be the
9 launch -- you know, a version of the LaunchTile
10 application that I've seen in various forms in the
11 past. I haven't verified that it is actually
12 LaunchTiles.

13 MR. JOHNSON: Q. When is the first time you
14 saw LaunchTiles?

15 A LaunchTiles?

16 It was -- I'm going by a vague memory here,
17 it was probably either at the conference, the CHI
18 Conference of that year, in, I think, 2005. I might
19 have gone to the talk, or I saw it -- or I saw a video
20 of it subsequently. Typically when I go back to my
21 university after a conference, we -- we review some of
22 the papers --

23 Q Are those --

24 A -- so I might have seen the video of it
25 later.

1 Q Okay.

2 A I can't remember when is the first time I
3 played with it. Somebody, one of my students, may
4 have downloaded it, and I checked it out.

5 Q Are the -- are the presentations made at the
6 CHI Conference videotaped?

7 A The presentations of -- they're sometimes
8 videotaped. I don't think they're necessarily all
9 videotaped. I've seen them being videotaped on
10 occasion.

11 Q Do you know whether Dr. Peterson's
12 presentation was videotaped?

13 MR. MONACH: Object to the form.

14 THE WITNESS: That particular presentation at
15 the conference?

16 MR. JOHNSON: Yeah.

17 THE WITNESS: I do not know either way.

18 MR. JOHNSON: Q. Do you know whether he made
19 the presentation or was it somebody else? Do you
20 remember?

21 A I can't tell, as I can't remember whether I
22 attended the presentation or not.

23 Q Okay. So if you can, let me ask you to hand
24 it back to -- to Henry, and I just want to ask you a
25 few questions about some of the -- some of the -- the

1 features of LaunchTiles.

2 So -- well -- and you can -- yeah. You can
3 just -- I just want to make sure we can see it, as the
4 glare from the light is pretty bad.

5 So there -- there -- there -- in the example
6 that we've -- we've pulled up in front of you, which
7 has a 2x2 grid, is the -- is the LaunchTiles example
8 that you see there that's running on the iPAQ device a
9 computer-implemented method?

10 I'm just -- I'm just gonna go through the
11 claims of the '381 patent.

12 A Okay. Let's keep it in front of me.

13 Q I'm not trying to trick you or anything. I
14 just wanna -- I just -- I'm gonna follow along, so if
15 you want to follow along, that's fine.

16 So the question is: In the 2x2 grid that --
17 that we have in LaunchTiles in front of you, does the
18 -- running on the iPAQ device, does that perform on a
19 computer-implemented method?

20 MR. MONACH: Object to the form of the
21 question. I'll object to this whole line of
22 questioning as calling for a legal conclusion; asking
23 the witness to form an -- a new opinion on a topic he
24 has not opined upon at the deposition with incomplete
25 information or opportunity to examine the device of a

1 product, but you can answer.

2 MR. JOHNSON: You can have a running
3 objection on that, just to try and cut though this.

4 THE WITNESS: So I haven't examined this in
5 any great detail, but just looking at this right now,
6 it's -- certainly is an application that's running on
7 a computer-implemented -- or a computer -- so it is a
8 computer-implemented method.

9 MR. JOHNSON: Okay.

10 Q And does LaunchTiles running on iPAQ, does
11 that meet the limitation of a device with a
12 touchscreen display?

13 MR. MONACH: Same objection.

14 THE WITNESS: It's not clear, to me, this is
15 a touchscreen display. I tried touching it a minute
16 ago, like when I was playing with it, and it didn't
17 react to me, but the -- the pen seems to do the job.

18 Okay, so now it does react, so maybe I was
19 mistaken. Given what he just did, it appears to react
20 to touches, so, sure, it would be a device with a
21 touchscreen display.

22 MR. JOHNSON: Okay.

23 Q So in the -- in the 2x2 grid that we see
24 there running on the iPAQ, does that meet the
25 limitation of displaying a first portion of an

1 electronic document?

2 MR. MONACH: Same objection; lack of
3 foundation; incomplete hypothetical.

4 THE WITNESS: So I would have to study this
5 in detail before answering that question, because I
6 need to understand the context of the content being
7 shown on the -- on the display as to what constitutes
8 an electronic document there, whether it's all four
9 tiles is one document or a single tile is a document.
10 I cannot make that determination, just looking at this
11 on the fly.

12 MR. JOHNSON: Q. So if the -- in this
13 example, assume the 2x2 is an electronic document.

14 A So you're representing to me that you want me
15 to consider --

16 Q I want you to consider the 2x2 is an
17 electronic document?

18 A So just to clarify it, does that mean the --
19 the whole thing is one document. Is that what you're
20 saying to me?

21 Q Right. Right, the 2x2.

22 And so, then, when --

23 A So that's your representation. I'm not
24 necessarily agreeing with that.

25 Q I'm just -- yeah, right.

1 And so, then, displaying a first portion of
2 an electronic document would mean that we scroll
3 slightly to the left.

4 Would you agree, just as we saw in the
5 infringement case, that that's displaying a first
6 portion of an electronic document?

7 MR. MONACH: Same objection.

8 THE WITNESS: So, again, to say, you know, I
9 haven't studied this in detail, in your representation
10 the -- the four tiles, as a whole, would be the
11 entire -- would be the electronic document, it would
12 be a first portion. I would note that as you're -- as
13 it's moving there, the -- the electronic document is
14 translated. However, that blue thing in the middle is
15 not moving, so I don't know if you intended the blue
16 thing, the blue circle in the middle, to be part of
17 the electronic document or not, but that -- that's
18 certainly not moving. That's remaining stationary,
19 and some other representation of a so-called
20 underneath is moving, so it doesn't exactly seem to
21 match up in my -- in my current very quick view of
22 this, relative to the claims.

23 MR. JOHNSON: Q. But scrolling to the left,
24 that displays a first portion of the electronic
25 document, which is the 2x2 grid; right?

1 MR. MONACH: Same objection.

2 THE WITNESS: You mean, before you scrolled
3 or after you scrolled?

4 MR. JOHNSON: Q. I mean, after I've
5 scrolled.

6 A So after you made that little movement?

7 Q Right.

8 A Okay.

9 Q That displays a first portion of an
10 electronic document; doesn't it?

11 MR. MONACH: Same objection and assumes facts
12 not in evidence.

13 THE WITNESS: If you, as you represented
14 earlier, before he scrolled -- if you don't mind going
15 back to before you scrolled, I believe, if I
16 understand you correctly, you represented to me that
17 you wanted me to consider the -- this -- all this
18 content, the four tiles with whatever decorations were
19 around it, the entirety, to be an electronic document.

20 MR. JOHNSON: That's correct.

21 THE WITNESS: That's -- that's my
22 understanding --

23 MR. JOHNSON: That's right.

24 THE WITNESS: -- that you represented to me.
25 I don't necessarily agree with that, because I haven't

1 studied this to determine what would constitute an
2 electronic document and what would not, but given that
3 assumption, the hypothetical assumption, if that's an
4 electronic document, and now you are -- I believe he
5 scrolled or --

6 MR. JOHNSON: Scrolled it slightly to the
7 left.

8 THE WITNESS: -- moved it, I would say that
9 parts of the electronic document have moved, but other
10 parts have not moved. So the blue thing that you just
11 represented to me was part of the electronic document
12 hasn't moved, so that hasn't translated at all.

13 MR. JOHNSON: Q. Does it need to move in
14 order to meet the elements of the claim?

15 MR. MONACH: Objection for the reasons
16 previously stated; vague and ambiguous.

17 THE WITNESS: So I haven't studied this in
18 detail. Just very quickly reading the claims, it says
19 in response to detecting the movement. I'm reading
20 Claim Element 3 here, which I --

21 MR. JOHNSON: Q. Yeah, I'm not there yet.

22 A Okay. So where are you?

23 Q Displaying a first portion of an electronic
24 document.

25 A Okay.

1 Q All he's done is moved it slightly to the
2 left.

3 A Okay. I thought you said the first portion
4 was the -- the earlier, the electronic document before
5 he moved it.

6 Q Let's -- let's start over --

7 A Okay.

8 Q -- okay?

9 I want you to assume for me that the
10 electronic document is the 2x2 grid, the four tiles.

11 A All that content?

12 Q Right.

13 A Including the decorations?

14 Q That's fine.

15 A Okay.

16 Q Yeah, okay.

17 By the way, does that meet your definition of
18 an electronic document, namely -- strike that.

19 Does that meet your definition of an
20 electronic document for the purposes of the '381
21 claim?

22 MR. MONACH: Objection; calling for a legal
23 conclusion; in -- incomplete hypothetical; asking him
24 to make a new opinion without adequate information.

25 THE WITNESS: Done?

1 So as I stated earlier, I haven't studied
2 this in detail enough in matching it up with the
3 claims, so your representation is you wanted me to
4 consider all four tiles as one doc -- in a -- in its
5 combination, as an entirety, as one document.

6 That might be an electronic document
7 vis-à-vis the claims. It might not be. I would have
8 to study that in detail --

9 MR. JOHNSON: Well --

10 THE WITNESS: -- relative to the context of
11 the application. I have not done that detailed
12 analysis yet. So it may be that only each -- each
13 tile is an electronic document in this application. I
14 don't know.

15 MR. JOHNSON: Q. Well, it's visually
16 represented on screen with a defined set of
17 boundaries, right, those 2x2 tiles?

18 MR. MONACH: Object to the form of the
19 question; assumes facts not in evidence; lack of
20 foundation.

21 THE WITNESS: As I said, you -- you're
22 representing to me that you wanted me to consider
23 that. So if you considered those four tiles as one
24 entirety with the defined boundaries, that could be
25 an --

1 MR. JOHNSON: Sir --

2 THE WITNESS: -- electronic document in the
3 con- -- but I have not studied this application in
4 detail enough to determine what the contact of use of
5 this application is. Maybe in this application it
6 might be considering each of these tiles as a separate
7 electronic document. I do not know that.

8 MR. JOHNSON: Q. I'm asking you, does the
9 2x2 tiles that we see currently on the screen, does
10 that meet your definition of "electronic document," as
11 that term is used in the '381 patent?

12 MR. MONACH: Objection; lack of foundation;
13 incomplete hypothetical; asking the witness to draw a
14 legal conclusion and a new opinion for the first time
15 at the deposition with inadequate information.

16 THE WITNESS: And as I believe I already
17 answered, it depends on what the context of use is.

18 So if -- if, indeed, the application
19 considers those four things as one entity and is --
20 has defined boundaries, then that might meet the
21 electronic document definition, as used in the claims,
22 but it -- it might not.

23 It might -- it might be that each of those --
24 each of these tiles or quadrants might be a separate
25 electronic document. I would have to study this in

1 the context of use of this -- of these pieces of tiles
2 in this application to determine that with any
3 certainty.

4 MR. JOHNSON: Q. So you don't know right
5 now, sitting here?

6 A I cannot give you a definitive answer. It
7 could be an electronic document, depending on the
8 context of use.

9 Q So when -- when he slides it slightly to the
10 left, does that display a first portion of an
11 electronic document if you assume that that 2x2 grid
12 is an electronic document?

13 MR. MONACH: Same objection.

14 THE WITNESS: So if we make that assumption
15 that that 2x2 grid in its entirety is an electronic
16 document and after he slid it, that could be a first
17 portion.

18 Now, I would still note that when he moved
19 it, the -- if the electronic document was the
20 entirety, including that blue circle in the middle,
21 when he moved it, the blue circle did not move --

22 Q Are --

23 A -- so not all -- let me finish, please.

24 The -- the blue circle did not move, so the
25 entirety of the document --

1 Q But that --

2 A -- in that example.

3 Q -- that's irrelevant for the claims; isn't
4 it?

5 MR. MONACH: Objection; same objection as
6 previously stated; asking for a legal conclusion with
7 incomplete hypothetical.

8 THE WITNESS: So I have not made that
9 determination. I would have to study that. I have
10 not considered the relevance of whether portions of
11 the document moved together or not, whether that is
12 relevant to the -- to the elements of the claim, so I
13 would reserve a detailed opinion on that until I've
14 had a chance to study --

15 Q I'm asking you for your opinion now.

16 Can you tell me if the location of the blue
17 circle on this is relevant to any portions of the
18 claim limitations?

19 MR. MONACH: Same objections as previously
20 stated. Now it's been asked and answered.

21 THE WITNESS: So, as I said, I -- I cannot
22 tell you right now, without studying this in detail,
23 whether that blue thing, blue circle in the middle,
24 whether that moves with the document or not. Whether
25 that has relevance to this, I would have to study that

1 in detail, and I cannot answer that off the cuff now.

2 MR. JOHNSON: Q. Does LaunchTiles, with this
3 2x2 grid operated on an iPAQ, detect a movement of an
4 object on or near the touchscreen display?

5 A Yes, it does.

6 Q Okay.

7 A He -- he showed me with a finger it does
8 that, and the pen is doing that, as well.

9 Q So the -- an object can be either a finger or
10 a pen or something else; right?

11 A Yes, it -- it could be any -- some object,
12 but it has to be on a touchscreen display.

13 Q The -- when he now scrolls back to the right,
14 does --

15 A He's bouncing around a little bit. So you
16 moved to the left, and then now you've come back to
17 this.

18 Q Moved to the right, yeah.

19 A All right.

20 Q So does the 2x2 LaunchTiles grid operating on
21 the iPAQ describe the next limitation in the claims,
22 which is numbered as three?

23 A So this one's saying in response to detecting
24 the movement translating electronic document displayed
25 in the touchscreen in the first direction to display

1 the second portion?

2 MR. MONACH: Same objection.

3 MR. JOHNSON: Correct.

4 THE WITNESS: So you want me to assume the
5 first portion was after he had moved to the left, and
6 now you move it back, and you're saying that's the
7 second portion of the document?

8 MR. JOHNSON: Right.

9 THE WITNESS: With -- with the same caveats I
10 said earlier about the blue thing moving and whether
11 that's part of the document or not, I'll repeat that
12 as part of my current answer, and, again, I haven't
13 had a chance to explore this in great detail, but
14 given those, the qualifications, I would say it
15 appears to be -- it could be meeting that claim --
16 claim element.

17 MR. JOHNSON: Q. And when the device
18 continues scrolling to the right, beyond the edge,
19 does it meet the fourth limitation of Claim 1 of
20 the '381 patent?

21 MR. MONACH: Same objections as previously
22 stated, and now the question assumes facts not in
23 evidence, as well.

24 THE WITNESS: And you mean the fourth
25 limitation that I've labeled here as four; right?

1 MR. JOHNSON: Right. We're gonna mark your
2 copy of the patent as Exhibit 115.

3 THE WITNESS: Sure. I think it's already
4 110, though.

5 MR. JOHNSON: Okay. Even better.

6 THE WITNESS: It's 110?

7 MR. JOHNSON: No, it's actually --

8 THE WITNESS: Oh, I'm sorry. I'm sorry. I
9 made a mistake.

10 MR. JOHNSON: Let's mark, as Exhibit 115, a
11 copy of your patent with the limitations numbered.

12 (Document marked Balakrishnan Exhibit 115
13 for identification.)

14 THE WITNESS: Okay. So we'll just go with
15 what I've written down here, okay.

16 MR. JOHNSON: Q. So, again, the question is:
17 Does the movement that Mr. Lien just did meet the
18 fourth limitation of the claim?

19 MR. MONACH: Same objection as previously
20 stated.

21 THE WITNESS: Again, with the same
22 qualifications about the blue circle in the middle not
23 moving, and if that was part of the document, then it
24 doesn't move appropriately. And, again, with the same
25 qualifications I made earlier, that I haven't had a

1 chance to look at this in detail. Just sitting here
2 right now, an off-the-cuff view of this, I would say
3 it appears to meet -- meet the fourth limitation.

4 MR. JOHNSON: Okay.

5 Q Does LaunchTiles in the 2x2 grid operating on
6 the iPAQ meet the fifth limitation of Claim 1?

7 MR. MONACH: Same objection as previously
8 stated; assumes facts not in evidence, as well.

9 THE WITNESS: Can you do that again, please?

10 Again, given -- well, something else
11 happened. So, again, given the qualifications I did
12 earlier -- I said earlier about the circle in the
13 middle, the blue circle, and also the fact that I
14 haven't looked at this in any detail, in this quick
15 view of this -- of this application running here, I
16 would say it appears to meet the -- the fifth element.

17 MR. JOHNSON: Q. Does it meet the sixth
18 element of Claim 1 of the '381 patent?

19 MR. MONACH: Same objection.

20 THE WITNESS: Can you show me the first
21 portion again?

22 Okay. Now the second portion. Third
23 portion.

24 I would say, in addition to the
25 qualifications I've given earlier, that it doesn't

1 necessarily meet this sixth element, because the third
2 portion here that he's showing me, it's bouncing
3 around a little bit, but the size of that appears to
4 be -- it could be the same as the first portion that
5 he showed me earlier, because the first portion was
6 translated off to the left-hand side with a border on
7 this side. Now he's on this side, with a similar
8 border on the other side. So it -- it may be the same
9 size, that third portion may be the same size as the
10 first portion.

11 MR. JOHNSON: Q. But he could -- he could do
12 it in a way where the third portion is smaller than
13 the first portion; right?

14 MR. MONACH: Same objection.

15 MR. JOHNSON: Q. And meet that -- meets the
16 sixth claim limitation; right?

17 A Well, maybe -- maybe he can show me that.

18 Q Sure.

19 A Show me your first portion. Let's see your
20 first portion. Okay.

21 Second portion. Okay. Third portion. It's
22 very hard to tell. It's bouncing around. I'd have to
23 measure it. It could be. It -- it may not be. It's
24 clearly smaller necessarily, because the other one is
25 also not full screen. It moved off to the other

1 side --

2 MR. JOHNSON: And can you do --

3 THE WITNESS: -- so there was --

4 MR. JOHNSON: -- it again that's more
5 pronounced.

6 Q So let's -- let's look at the first, second,
7 third portions again.

8 A Okay. That's your first portion. So second
9 portion is in the center.

10 It appears, in this case, he's moved it a bit
11 more, and it --

12 MR. MONACH: Same objection.

13 THE WITNESS: -- it potentially could --
14 could infringe -- sorry -- it could not infringe --

15 MR. JOHNSON: Meet the limitation.

16 THE WITNESS: -- meet the limitation of
17 Claim 6, again with the qualifications that I -- I
18 just went through with the circle in the middle and
19 the fact that I haven't studied this in any great
20 detail.

21 MR. JOHNSON: Q. It would meet the sixth
22 limitation of Claim 1; right?

23 MR. MONACH: Same objection; asked and
24 answered.

25 MR. JOHNSON: Q. You said Claim 6, and I

1 think you misspoke.

2 A I meant to say the sixth limitation.

3 Q Okay.

4 A I'm sorry.

5 Q And when he lifts the stylus or his finger,
6 does it meet the seventh limitation of Claim 1?

7 MR. MONACH: Same objection.

8 THE WITNESS: In this case, it's back to the
9 original document, which was, and I would say, to go
10 back, when you -- when you displayed the first portion
11 of the electronic document, that already included a
12 movement, which the claims doesn't talk about.

13 So you already had a movement there. Given
14 that, and given all the caveats -- sorry -- the
15 qualifications that I have made with regards to
16 this -- this demonstration, the circle not moving, the
17 fact that I have not looked at this in any great
18 detail, it -- it appears that it could meet that --
19 that -- that -- sorry -- element 7 of Claim 1, again,
20 with the qualification again that -- that the first
21 portion of this case already included a movement,
22 which this -- this claim doesn't appear to talk about.

23 MR. JOHNSON: Q. Well, the -- the first
24 portion in your infringement reads "also included the
25 zoom-in movement"; right?

1 MR. MONACH: Objection; misstates the prior
2 testimony.

3 THE WITNESS: I didn't talk about zooming at
4 all.

5 MR. JOHNSON: But it included it. I know you
6 didn't talk about it.

7 Q But it included it; right?

8 MR. MONACH: Objection; misstates the prior
9 testimony; vague and ambiguous.

10 THE WITNESS: No, the zoom happened, and then
11 I'm -- I've -- I've got the document up there --

12 MR. JOHNSON: Well, I know the --

13 THE WITNESS: -- and I'm not holding my
14 finger down in a zoomed mode waiting for that -- the
15 next movement to appear. I've zoomed it in. I could
16 leave the device. Start it up again. It's already
17 zoomed in, and then I start implementing the claims of
18 the patent.

19 MR. JOHNSON: But that's my point.

20 Q You've already zoomed in on it for the
21 infringement read; right?

22 MR. MONACH: Objection; misstates the prior
23 testimony, with respect to various portions of his
24 prior testimony.

25 MR. JOHNSON: I'm sure you have it. It's on

1 the videotape.

2 THE WITNESS: In the gallery application, a
3 zooming occurred way before the elements of the claim
4 were started out. In the contacts list application,
5 there was no zooming happening.

6 MR. JOHNSON: Q. Way -- way before?
7 Where -- where are we getting "way before" from?

8 A Before I started going through the claims --

9 Q Okay. Does --

10 A -- as I said before; whereas, here, he -- he
11 has to keep his finger on that, on the first portion.
12 In other words, it would bounce back into the center
13 of the screen.

14 Q The fact that he kept his finger or the
15 stylus on the device, does that -- is that relevant to
16 any of the claim language we just looked at? Same
17 objection as previously stated to the whole line of
18 questioning here.

19 A I don't know. It might be. I haven't -- as
20 I said, multiple times with regard to this
21 application, I have not studied it in detail, and --
22 and I'm giving an off-the-cuff analysis here looking
23 at a live demo, and I have not had the opportunity to
24 opine on this in any detail.

25 MR. JOHNSON: Yeah.

1 THE WITNESS: So it might be; it might not
2 be. I don't know.

3 MR. JOHNSON: Q. Take a look at Claim 1 and
4 tell me, in your opinion, does the fact that he kept
5 his finger or the stylus on the screen avoid any
6 limitation of Claim 1?

7 MR. MONACH: Objection; calling for a legal
8 conclusion; incomplete hypothetical; asking the
9 witness to form a new opinion based on inadequate time
10 to study.

11 THE WITNESS: So as I just testified earlier,
12 the fact that he keeps his finger on there may or may
13 not impact Claim 1. I have not had the time to study
14 that in detail and to consider that. That's something
15 I'm being told right now on the fly, and I don't think
16 I can make an informed enough decision or opinion on
17 it just on the fly here. So I'm gonna have to reserve
18 my answer to be a fully qualified opinion after I've
19 had a chance to consider that issue --

20 MR. JOHNSON: I'm --

21 THE WITNESS: -- relative to these claims.

22 MR. JOHNSON: You've read this patent several
23 times.

24 Q I'm asking you to take a look at Claim 1 and
25 tell me, does the fact that he kept his finger or the

1 stylus on the screen avoid infringement or invalidity
2 of this claim, and if so, tell me what the language is
3 that you're relying on.

4 MR. MONACH: Same objection; now it's more
5 vague and compound; asked and answered.

6 THE WITNESS: So I -- I'm going to give you
7 the same answer I just gave. This is a new -- a new
8 element that is being shown to me for the first time
9 here. I haven't had time to study this, and I don't
10 think I can give you a detailed opinion on whether or
11 not it might infringe -- sorry -- it might -- not
12 infringe, it might meet the claim, it might not meet
13 the claim. I have -- I need to have time to study
14 that, and I cannot do that on the fly.

15 MR. JOHNSON: Take a look at Claim 2.

16 Q Does the 2x2 grid in LaunchTile operating on
17 the iPAQ meet the limitation described in Claim 2?

18 MR. MONACH: Same objection as previously
19 stated with the questions about 1; lacking in
20 foundation, given his prior testimony about Claim 1.

21 MR. JOHNSON: Counsel, I really suggest you
22 just keep a running objection, but you're really
23 interfering with the examination, at this point.

24 THE WITNESS: So with regards to Claim 2, I'm
25 looking at this again, my qualifications of -- of what

1 is the electronic document here, from my earlier
2 answers, it's not clear that -- whether that blue
3 circle in the middle is part of the document or not,
4 or, again, I'm looking at this on the flight here,
5 haven't had the time to study it.

6 It is -- I haven't had time to determine if
7 the magnification changes, as he moves it around or
8 not. It might be. It might not be.

9 At, you know, first glance, it looks like it
10 hasn't changed, but I haven't had time to -- to study
11 this in detail, so I cannot give a definitive answer
12 as to whether the magnification of the electronic
13 document, to the extent that's even an electronic
14 document in this application, remains the same.

15 MR. JOHNSON: Okay. Does -- what's -- what's
16 the exhibit number on the back of that?

17 MR. LIEN: 114.

18 MR. JOHNSON: Okay.

19 Q Does Exhibit 114 meet the limitations of
20 Claim 3?

21 MR. MONACH: Same objection as stated in
22 response to the previous question.

23 THE WITNESS: To the extent that -- my
24 understanding is Claim 3 is a dependent claim on
25 Claim 1, so to the extent that Claim 1 is met, which

1 I'm not agreeing whether it does or not, based on my
2 earlier testimony. That said, the -- the portion of
3 the Claim 3, which says the movement of the objects on
4 a touchscreen display, that would be met, yes.

5 MR. JOHNSON: Q. And the limitation of
6 Claim 4 would also be met; right?

7 A With regards to whether the object being a
8 finger, if you can do that again, just so I can see
9 it.

10 Yes, it appears that a finger would affect
11 that kind of movement.

12 Q And does Exhibit 114 meet the limitations of
13 Claim 5?

14 MR. MONACH: Same objection.

15 THE WITNESS: When you say "Exhibit 114," you
16 mean the device with the application running on it?

17 MR. JOHNSON: That's correct.

18 THE WITNESS: Okay.

19 Again, given the -- the same qualifications
20 I've given with my earlier answers with regards to
21 whether it meets Claim 1, and Claim 5 is a dependent
22 claim in Claim 1.

23 Given those qualifications, which I'd like to
24 incorporate in this current answer, I would say, given
25 those qualifications, yes, his first direction is one

1 of a vertical/horizontal or diagonal, so it would meet
2 -- would meet the limitations of Claim 5.

3 MR. JOHNSON: Q. Does it meet the
4 limitations of Claim 7?

5 MR. MONACH: Same objection.

6 THE WITNESS: I don't think I can answer that
7 without knowing what the content of that -- of
8 those -- of that document is. It's not clear to me
9 whether that's a collection of lines of text, whether
10 it's an image, like you said JPEG or something along
11 those lines --

12 MR. JOHNSON: Is --

13 THE WITNESS: -- or a collection of images.
14 I cannot answer that without exploring the -- that
15 document in much greater detail.

16 MR. JOHNSON: Q. Is it -- is it a digital
17 image?

18 MR. MONACH: Objection; same objection to the
19 reasons previously stated; asked and answered.

20 THE WITNESS: So as I just said, I cannot
21 determine if it's a digital image. It may be an
22 image. It may be several images concatenated
23 together. It may be some web pages. It may be lines
24 of text. I -- I cannot make that determination just
25 from a quick look at it.

1 MR. JOHNSON: Q. So is a web page not an
2 electronic document?

3 MR. MONACH: Same objection; vague and
4 ambiguous.

5 THE WITNESS: So Claim 7 says the electronic
6 document is a digital image, so it's -- it's trying
7 to -- my understanding is it's trying to give a more
8 specific instance of what an electronic document is,
9 in that -- in that example, in that claim.

10 MR. JOHNSON: Right.

11 Q Using your -- what is the -- what is the -- I
12 already asked you this. I mean, using your
13 definition -- strike that.

14 Using the definition of a person of ordinary
15 skill in the art would understand a digital image to
16 mean, does Exhibit 114 meet the limitations of
17 Claim 7?

18 MR. MONACH: Same objections as previously
19 stated.

20 THE WITNESS: And I think I've already
21 answered that.

22 I -- without knowing more information about
23 what that -- those four tiles are that you have
24 represented to be the electronic document, is that a
25 single image? Is it multiple images? Is it some

1 text?

2 MR. JOHNSON: Well, take a look --

3 THE WITNESS: I can't tell from -- this could
4 be four images that are concatenated together to form
5 one document.

6 MR. JOHNSON: Q. So would that not meet the
7 limitation? If it's a concatenated series of images,
8 does that avoid Claim 7?

9 MR. MONACH: Same objection.

10 THE WITNESS: I don't know. I haven't
11 considered that scenario. It says here the electronic
12 document is a digital image. It doesn't talk about a
13 concatenated set of images.

14 MR. JOHNSON: Okay.

15 THE WITNESS: And so I would have to study
16 that scenario in detail before answering that
17 question.

18 MR. JOHNSON: Q. Does a concatenated series
19 of images satisfy the definition of a digital image as
20 it's used in the '381 patent?

21 MR. MONACH: Same objection; asked and
22 answered.

23 THE WITNESS: I would say, again, to my --
24 similar answer to what I just gave, it -- it would
25 depend on the application. If the application

1 considered that -- sorry -- I think you asked whether
2 it's a digital image.

3 I would say a concatenation would be a series
4 of a bunch of digital images combined together. Now,
5 if that combination is treated by the application as a
6 single image, then maybe it is. It would depend on
7 the context. So I do not know enough about the
8 context of this application and how it's treating any
9 potential concatenation of images to answer that
10 question in -- in -- with any certainty, at this
11 point.

12 MR. JOHNSON: I heard you earlier say that
13 the claim language of the '381 patent is simple and
14 straightforward.

15 Q So are you telling me that looking at this
16 screen that we see here in Exhibit 114, and what we
17 see on it, you can't tell me whether that is a digital
18 image?

19 MR. MONACH: Object to the form of the
20 question.

21 THE WITNESS: That's not what I said. I said
22 I can't tell that's one digital image or four digital
23 images concatenated together, so it has nothing to do
24 with whether the -- the language. The claim is
25 straightforward. The claim states "a digital image."

1 It doesn't talk about concatenation of digital images
2 or combination of digital images, which this may or
3 may not be. I'm not able to tell that on the
4 application. Nothing to do with the language of the
5 patent.

6 MR. JOHNSON: Q. Does Exhibit 114 meet the
7 limitations of Claim 9?

8 MR. MONACH: Same objection.

9 THE WITNESS: To the extent that if you say
10 the whole of four images can constitute the electronic
11 document, I would say, given this particular set of
12 content there, there appears to be a list of -- if you
13 don't mind, phone list and an inbox, which has a list
14 of items there.

15 So that --

16 MR. JOHNSON: Zoom in.

17 THE WITNESS: -- the electronic document
18 includes a list of items, which is what Claim 9 says.
19 It doesn't necessarily mean the whole document is a
20 list.

21 MR. JOHNSON: Q. Does it meet the
22 limitations of Claim 10?

23 MR. MONACH: Same objection.

24 THE WITNESS: Based on what he showed me
25 earlier, and given the qualifications I've already

1 made regarding Claim 1, I would say it meets Claim 10,
2 yes.

3 MR. JOHNSON: Q. Does it meet the
4 limitations of Claim 13?

5 MR. MONACH: Same objection as stated with
6 respect to the other claims.

7 THE WITNESS: From what I've seen so far, it
8 appears that it would not meet Claim 13, because what
9 I've seen of the area beyond the edge of the document,
10 as shown to me by your colleague here, is not one of
11 these colors. It seems to be a compound set of
12 content there.

13 MR. JOHNSON: Q. So the edge of the document
14 is -- is not black, gray, a solid color, or white?

15 A No, he's --

16 MR. MONACH: Object to the form of the
17 question.

18 THE WITNESS: -- he's showing me all of this
19 other content that has a bunch of other extra stuff
20 there, beyond the -- beyond the edge of the document.

21 MR. JOHNSON: Q. So the fact that part of
22 the edge of the document, beyond the edge of the
23 document includes black, gray, solid color, or white
24 that -- that doesn't meet that limitation?

25 MR. MONACH: Object to the form of the

1 question for the reasons previously stated, and also
2 now misstates the evidence.

3 THE WITNESS: I think he's showing me the --
4 the area beyond the edge includes some other stuff
5 that is not just black, gray, solid color, or white.
6 It has all kinds of other colors there.

7 MR. JOHNSON: Q. But the -- the area beyond
8 the edge includes a solid color. In this case, light
9 blue --

10 A Do you mind if I --

11 Q -- right, in the e-mail example?

12 MR. MONACH: Same objection.

13 THE WITNESS: It --

14 MR. MONACH: Assumes facts not in evidence.

15 THE WITNESS: To me, I'm looking at the area
16 beyond the edge. It's -- the interactive area is way
17 beyond. It has a vertical bar there, but then there's
18 also more stuff beyond it. So it's not -- the whole
19 area is not one of those four things, as in Claim 13.

20 MR. JOHNSON: Q. Does Exhibit 114 meet the
21 limitations in Claim 14?

22 MR. MONACH: Same objection as previously
23 stated to this line of questioning.

24 THE WITNESS: And that's an even trickier
25 one, because I'd have to look very carefully at the

1 content of this stuff that's bouncing around on the
2 edge there and -- to determine if that actually is.
3 So, for example, the bottom here -- whether -- whether
4 that content is actually different, I'd have to study
5 it carefully. To the extent that it is different,
6 then I would say, yes, it meets it. It would really
7 depend on what that content is.

8 MR. JOHNSON: Q. Does claim -- does
9 Exhibit 114 meet the limitations in Claim 16?

10 MR. MONACH: Same objections.

11 THE WITNESS: Can you do that first
12 direction, second direction, and lift it up again,
13 please. If you don't mind, I'll look at it. Whoops.

14 MR. LIEN: Sorry.

15 THE WITNESS: Or maybe I can play with it, if
16 you don't mind. I'm having trouble looking at this
17 thing. Yeah, okay.

18 Do that again. It would appear to be, again,
19 with all the caveats of -- all of the qualifications
20 I've already made with regards to Claim 1, I would say
21 it appears to be, this particular example, there might
22 be an elastic connection there or elastic look to
23 that.

24 MR. JOHNSON: Q. Does Exhibit 114 meet the
25 claim limitations described in Claim 19 of the '381

1 patent?

2 MR. MONACH: Same objection as previously
3 stated.

4 THE WITNESS: Again, the same qualifications
5 with regards to Claim 1 in whether this device meets
6 that or not. To the extent that this is running a
7 computer program, like in the Samsung phones, it
8 clearly has one or more programs running, and then,
9 therefore, it would meet Claim 19, again given my
10 qualifications of Claim 1.

11 MR. JOHNSON: Q. And does Exhibit 114 meet
12 Claim 1?

13 MR. MONACH: Same objection.

14 THE WITNESS: And my, kind of, similar
15 answer, taking all my -- my qualifications with
16 regards to Claim 1, you would have to have some kind
17 of storage media, so it would meet Claim 20, with the
18 same set of qualifications for all of the different
19 elements.

20 MR. JOHNSON: Okay. Let me show you another
21 example --

22 THE WITNESS: I also want to say, just for
23 the -- I'm sorry to interrupt you.

24 MR. JOHNSON: He'll have the opportunity to
25 ask you a question.

1 MR. MONACH: You can finish -- you can finish
2 your answer. Go ahead.

3 MR. JOHNSON: There's -- there's no question.

4 MR. MONACH: There -- there was a question.
5 The witness was still speaking, and he's allowed to
6 speak, and if you want to move to strike it, you can
7 move to strike it, but he can -- he's free to go
8 ahead.

9 THE WITNESS: I'll pass.

10 MR. JOHNSON: Okay.

11 Q The -- the -- I'd like for you now to assume
12 that the electronic document consists of a grid that's
13 actually 2x4 tiles.

14 A I'm not seeing that here. I'm seeing 2x2.

15 Q So that's the four right there.

16 A Right.

17 Q Do you see what I'm talking about?

18 A So I'm seeing four, and earlier he zoomed out
19 to some much larger number of tiles.

20 Q It's the -- it should be 2x4.

21 A So two --

22 Q So two --

23 A Okay.

24 Q It's back to -- it's back to the -- the grid,
25 2x4.

1 So he's --

2 A You're talking about this grid?

3 Q Yeah.

4 A Okay.

5 Q So there are two pages, so to speak. It's
6 two --

7 A So this --

8 Q -- in the vertical direction and four in the
9 horizontal direction; okay?

10 A The -- the document consists of these eight
11 tiles --

12 Q Correct.

13 A -- is your representation.

14 Q Right.

15 A Okay.

16 MR. MONACH: Objection; assumes facts not in
17 evidence in addition to --

18 MR. JOHNSON: Q. So I'd like for you to --

19 MR. MONACH: -- what's been previously
20 stated.

21 MR. JOHNSON: Q. I'd like for you to assume
22 that's the electronic document, the 2x4 tiles, and I'm
23 gonna have him run through again the -- the claim
24 language and see whether you agree with it or not,
25 okay?

1 So assuming the -- the -- the electronic
2 document is 2x4 tiles, and if we start on the left
3 portion, I want you to assume for me that that's a
4 first portion of the electronic document; understand?

5 A So these four tiles of the eight tiles is the
6 first portion.

7 Q Right.

8 A Okay.

9 MR. MONACH: Same objection as --

10 MR. JOHNSON: Then if --

11 MR. MONACH: -- previously stated, and
12 further objection, assumes facts not in evidence.

13 MR. JOHNSON: So we display a first portion
14 of an electronic document. He's detected a movement
15 of an object on or near the touchscreen display.

16 Q Now, the next limitation, which is Claim 3 --
17 sorry -- limitation No. 3 in Claim 1, when he scrolls
18 left, does that meet the third limitation in Claim 1?

19 MR. MONACH: Same objection.

20 THE WITNESS: So when he scrolled left there,
21 I would say, given your assumption that you've asked
22 me to take, I have not determined whether that's an
23 electronic document or not.

24 Given that hypothetical, he is moving to the
25 left, I would again, as I said earlier in the earlier

1 round of answers and questions, the blue circle there
2 that appears to be part of the document initially is
3 not moving, so the translation of the document seems
4 to be partial in this case or when the blue stuff is
5 not moving in a -- and a lighter blue happened to move
6 instead.

7 Given those difficulties or qualifications to
8 the movement there, I would say, apart from that,
9 it -- it does appear to display a second portion that
10 is different from the first portion.

11 MR. JOHNSON: Q. And when he scrolls left
12 beyond the edge, does it meet the fourth limitation?

13 MR. MONACH: Same objection, and now it
14 assumes facts not in evidence.

15 THE WITNESS: I have not seen the edge of a
16 document being reached while translating. So you told
17 me the document was the eight -- eight-item grid.

18 MR. JOHNSON: Right.

19 THE WITNESS: I have not seen the edge being
20 reached.

21 MR. JOHNSON: Q. Now the edge is reached;
22 right?

23 THE WITNESS: Can you --

24 MR. MONACH: Same objection.

25 THE WITNESS: Can you show me that again?

1 So you're talking about that edge is reached?
2 Which edge? I've lost track of where we are on the
3 document. They all look -- the tiles all look the
4 same.

5 MR. JOHNSON: I was trying to keep him quiet,
6 so you weren't having two people ask you the
7 questions, but, okay.

8 MR. LIEN: Reboot.

9 MR. JOHNSON: Yeah. Get the other one. Let
10 me ask about the other one.

11 MR. LIEN: It's good.

12 MR. JOHNSON: Okay. So let's -- let's go
13 back to what we were looking at.

14 Q So assume for me that the -- the --

15 A One of the problems I'm having here is you
16 tilt it over that way for the camera, and maybe we can
17 both sit in a different way so I can see this
18 properly. Okay. That's better for me.

19 MR. JOHNSON: What if you go that way a
20 little bit, and then let him zoom in, and then --

21 MR. LIEN: Okay.

22 THE WITNESS: That's better, yes, thank you.

23 MR. JOHNSON: Q. You're the one that
24 matters.

25 A But you need to get it on camera too; right?

1 Okay. So where are we now? We -- is this
2 the first two tiles of the eight-tile document?

3 Q Right.

4 A So there's four more tiles, kind of, out
5 here.

6 Q That's right.

7 A That's your representation. Okay, given your
8 representation --

9 Q It's like we zoom --

10 A -- now that's the first movement?

11 Q Right.

12 A Okay.

13 MR. MONACH: Same objection.

14 THE WITNESS: Okay. Now --

15 MR. JOHNSON: Q. That's the second portion?

16 A This is the second portion, okay. And now
17 that's the edge that you're saying we reach?

18 Q Right, that's the edge.

19 A So that's the end of the eight tiles; right?

20 Q That's right.

21 A Okay.

22 Q And now we're scrolling beyond the edge, and
23 then when he lifts the object, it bounces back.

24 A Can I ask you to do that again please, right
25 from the start, if you don't mind. Okay. Right.

1 Okay. Yes.

2 MR. MONACH: Same objections.

3 MR. JOHNSON: So --

4 MR. MONACH: Assumes facts not in evidence,
5 as well.

6 MR. JOHNSON: Q. Would you agree that
7 Exhibit 114 meets the limitations of Claim 1 of
8 the '381 patent?

9 MR. MONACH: Same objection.

10 THE WITNESS: All elements of the claim?

11 MR. JOHNSON: Yeah, under the scenario that
12 we just showed you.

13 THE WITNESS: So, again, back to my earlier
14 answers, first of all, I haven't had a chance to study
15 this, the representation you had of the eight -- eight
16 tiles being one document as a whole, that's your
17 representation. Given that hypothetical, I would also
18 say, as I said earlier, the blue circle in the middle,
19 which you represented the whole thing was a document,
20 that does not appear to move when you -- when you
21 translate the document.

22 So, as a result, I would say, given those
23 qualifications, the -- the entirety of these claims
24 are not met. But if you assume, if those things are
25 not present, if the blue thing wasn't there, and

1 the -- or it moved along with it as a document, it --
2 it appears to meet the claims.

3 MR. JOHNSON: Q. Well, which limitation is
4 not met in Claim 1 because of the presence of the blue
5 dot?

6 MR. MONACH: Same objection.

7 THE WITNESS: So, for example, claim --
8 sorry -- element three of Claim 1, it says "In
9 response to detecting the movement translating the
10 electronic document." If the blue dot is part of the
11 electronic document, as I believe I was made to
12 understand in the hypothetical, that would -- part of
13 the document would have to translate it as not -- it's
14 not moving, that blue dot remains stationary through
15 all the reactions -- sorry -- all the intersections
16 that your colleague just did.

17 So Claim 3 -- sorry -- element three of
18 Claim 1. Element four, again, the -- it says, "While
19 translating the electronic document in the first
20 direction," also would not be met, if the blue thing
21 as part of the document is not being translated.

22 Again, element seven has the same problem,
23 translating the electronic document, the blue portion,
24 only a part of the document is moving. The entire
25 thing is not moving.

1 MR. JOHNSON: Okay.

2 Q And what if the electronic document is
3 defined as -- as what you see on the screen or the 2x4
4 tiles without the blue dot?

5 MR. MONACH: Same objection.

6 MR. JOHNSON: Q. Does your analysis change?

7 MR. MONACH: Same objection; vague and
8 ambiguous, as well.

9 THE WITNESS: I would have to think carefully
10 about that. I haven't considered that in detail. So
11 on the fly here, it may or may not. I -- I would have
12 to reserve that --

13 MR. JOHNSON: Q. You don't know?

14 A -- that detailed analysis until I've had a
15 chance to look at that.

16 Q Okay. Okay.

17 If you could look at the subsequent claims
18 that we've looked at earlier, 2, 3, 4, 5, 7, 9, 10,
19 13, 14, 16, and just tell me whether those limitations
20 are met by the 2x4 grid, as the electronic document
21 with -- in Exhibit 114.

22 MR. MONACH: Same objections.

23 THE WITNESS: So with regard to Claim 2, let
24 me quickly look at this again, first portion, second
25 portion. So Claim 2 was with regard to the

1 magnification. Again, similar to the same answer I
2 gave -- to the answer I gave earlier when you went
3 over to Claim 2, I would have to determine for sure
4 whether that was indeed of the same magnification, but
5 if it is, then it would be met. Again, given all the
6 caveats that I -- sorry -- all of the qualifications
7 that I just made with regards to Claim 1 not being
8 met, and Claim 1 is incorporated in Claim 2.

9 Claim 3 is -- the movement is on the
10 touchscreen display, but since it's incorporated in
11 Claim 1, if Claim 1 has -- is not met, for the reasons
12 I just gave you, then it would not be met. But if
13 Claim 1 is met, Claim 3 would be met.

14 Q How about Claim 4?

15 A Claim 4 --

16 MR. MONACH: Same objection.

17 THE WITNESS: -- is the same. I have the
18 same answer as Claim 3, really.

19 If Claim 1 is met, which, as I've said
20 earlier, it may or may not be met, the object could be
21 a finger, and your colleague has demonstrated that.
22 So I think that would be met, if Claim 1 is met.

23 What is the next claim? Five?

24 MR. JOHNSON: Five.

25 THE WITNESS: Again, as in my previous

1 answers, Claim 5 is dependent on Claim 1, and given
2 all of the qualifications I've made with regards to
3 whether Claim 1 is met, if Claim 1 is met, then
4 Claim 5 would be met as the first direction, is one of
5 these three vertical, horizontal, or diagonal
6 directions.

7 MR. JOHNSON: Q. How about Claim 7?

8 A Claim 7, I'm gonna give the same answer I
9 gave earlier when you went over this. It's not clear
10 to me that -- whether that electronic document
11 consisting of, as you, yourself, said, 2x4 grid
12 of -- of images is whether that concatenation of
13 images is a digital image or not, or whether that's
14 eight different images or something else. So I can't
15 say for sure until I've studied this in more detail.

16 Q How about Claim 9?

17 MR. MONACH: Same objection.

18 THE WITNESS: Claim 9, I would have to look
19 at that very quickly again, just to see. So this is
20 still part of the eight -- eight items, okay.

21 Claim 9, given the qualifications with
22 regards to Claim 1, and as I've said, Claim 1 may or
23 may not be met, depending on some of the issues there
24 that I've already discussed, and since Claim 9 is
25 dependent on Claim 1, if Claim 1 is met, then, in this

1 example, if that is indeed the electronic document, it
2 appears that it has, at least in some -- some parts of
3 that document, has a list of documents that would be
4 met.

5 MR. JOHNSON: Q. How about Claim 10?

6 MR. MONACH: Same objection.

7 THE WITNESS: Claim 10, again, I would say it
8 depends on Claim 1, as is clear there, and given all
9 the qualifications I've made with regards to whether
10 Claim 1 is met, would apply here, and if Claim 1 is
11 met, there -- the second direction of movement could
12 be -- I mean, it's possible that it's often the first
13 direction.

14 MR. JOHNSON: Q. So it would be met?

15 MR. MONACH: Same objection.

16 THE WITNESS: It would be met if Claim 1 is
17 met with all my qualifications I've already discussed.

18 MR. JOHNSON: Q. How about Claim 13?

19 MR. MONACH: Same objection.

20 THE WITNESS: Claim 13, again, back to my
21 answer to the same question earlier with regards to
22 the smaller electronic document, I would say it
23 probably is not met, because the area beyond the edge
24 is -- seems to be much more compound than simply a
25 black, gray, solid color, or white, and also it

1 comprehends Claim 1, so Claim 1, I would give it all
2 of the same qualifications I did earlier.

3 MR. JOHNSON: Q. So a compound color beyond
4 the edge of the document would not meet Claim 13?

5 MR. MONACH: Same objection; vague.

6 THE WITNESS: A compound set of visuals, like
7 I'm seeing there, I would say it does not meet
8 Claim 13, because here it says black, gray, a solid
9 color, which I would read to mean one color or not a
10 variety of different colors appearing at the same
11 time, or white.

12 MR. JOHNSON: Okay.

13 Q How about Claim 14?

14 MR. MONACH: Same objection.

15 THE WITNESS: To the extent that the area
16 beyond the edge is some other content that one
17 could -- could determine to be visually distinct, it
18 would be met if Claim 1 is met, which it's not clear,
19 given all of the qualifications I've already -- I've
20 already --

21 MR. JOHNSON: Q. How about --

22 A -- discussed in this deposition.

23 Q Sorry.

24 How about Claim 16?

25 MR. MONACH: Same objection.

1 THE WITNESS: Can you do that for me again,
2 please.

3 So Claim 16, again, it depends on Claim 1.
4 So to the extent that Claim 1 is or isn't met would --
5 would impact Claim 16, but the portion of Claim 16
6 that talks about the elastically attached, that --
7 that appears to be demonstrated in this application.
8 As to whether the whole claim is met would depend on
9 Claim 1, as I've discussed.

10 MR. JOHNSON: Q. Are the limitations in
11 Claim 19 met by Exhibit 114 running LaunchTiles on the
12 iPAQ?

13 MR. MONACH: Same objection.

14 THE WITNESS: I haven't had a chance to study
15 this in great detail, but given that it -- given the
16 functionality I've seen here with the same set of
17 qualifications I've already done with Claim 1, where
18 the language is repeated, just the instructions and
19 the number of the -- the one or more programs stored
20 and executed, that would have to -- that would be met,
21 but the -- the other portions that correspond to a
22 language in Claim 1 may or may not be met, depending
23 on my -- depending on the qualifications I just talked
24 about.

25 MR. JOHNSON: Q. And how about Claim 20?

1 Would that be met by Exhibit 114?

2 MR. MONACH: Same objection.

3 THE WITNESS: Claim 20, again, similar to my
4 answer for Claim 19, it has all the language of
5 Claim 1, and that would have the same qualifications
6 that I've already discussed, or the portion about the
7 instructions being stored in a computer storage
8 medium, I think that would have to -- that would be
9 present on that device.

10 MR. JOHNSON: Okay. We need to take a quick
11 break to change the videotape.

12 MR. AHN: Could we get a total time, too?

13 Thanks.

14 THE VIDEOGRAPHER: This is the end of Disk
15 No. 4, Volume I.

16 We are off the record at 6:15 p.m.

17 (Recess taken.)

18 THE VIDEOGRAPHER: This is the beginning of
19 Disk No. 5, Volume I.

20 We are back on the record at 6:25 p.m.

21 You may proceed.

22 MR. JOHNSON: Q. So I'd like for you to go
23 to Exhibit 14, the LaunchTile application, and
24 particularly the e-mail application. When you click
25 on that, you'll see a list of names right on the

1 left-hand side, and I'd like for you to assume that
2 that's the electronic document similar to what we
3 looked at in the Samsung devices, and I'm gonna ask
4 you: Based on what Henry is doing here with respect
5 to LaunchTiles -- just move it forward, so the glare's
6 not -- just tilt it. Tilt it forward.

7 Does the e-mail application of LaunchTiles on
8 Exhibit 114 meet the limitations of Claim 1?

9 MR. MONACH: Objection; calls for a legal
10 conclusion; asks the witness to come up with a new
11 opinion unrelated to his declaration at the
12 deposition; incomplete hypothetical; vague and
13 ambiguous.

14 MR. JOHNSON: So I'll have -- Henry, if you
15 can go through the first portion, second portion,
16 third portion, fourth portion.

17 THE WITNESS: So where are you now? You seem
18 to just be moving.

19 MR. LIEN: So this is third portion right
20 here.

21 THE WITNESS: Can -- can you go back?
22 What do you mean by first portion, second
23 portion?

24 MR. LIEN: Yeah, so first portion, second
25 portion, third portion, fourth portion.

1 THE WITNESS: Can you do that again, please?

2 MR. LIEN: So first portion, second portion,
3 third portion, fourth portion.

4 THE WITNESS: Some other thing happened.

5 MR. JOHNSON: Do it once more. Try and tilt
6 it forward, Henry, because the glare is --

7 MR. LIEN: Okay.

8 MR. JOHNSON: Yeah, there you go. Much
9 better.

10 MR. LIEN: So first portion, second portion,
11 third portion, fourth portion.

12 THE WITNESS: Okay. So to the extent that
13 I'm seeing this for the first time, I haven't seen
14 that application at all before, so I'm -- I'm giving
15 this opinion on the fly here, I haven't considered it,
16 and it's not a detailed thing I've considered, so I'm
17 looking here. It appears to meet the
18 computer-implemented method preamble.

19 It appears, giving your representation, that
20 that's a list, and it displays the first portion. It
21 meets the first element. To the extent that it
22 detects a movement, it may meet the second element.

23 With the third element, it appears to meet
24 that. The fourth element, I do not see that being
25 met, because I'm not seeing an edge of the electronic

1 document being met.

2 MR. JOHNSON: Q. Look at the -- look at the
3 bottom where there's spacing there.

4 A So he's saying Kathryn Thompson is the last
5 one.

6 MR. JOHNSON: Right.

7 THE WITNESS: Can you keep moving up? Can
8 you go down?

9 MR. LIEN: Which way?

10 THE WITNESS: Do you mind if I try this
11 myself, because I'm having trouble looking at this.

12 MR. JOHNSON: That's fine. Yeah.

13 THE WITNESS: Okay. First portion.

14 So I would say the -- in response to the edge
15 being -- so coming here -- in response to the edge of
16 the document being reached while translating the first
17 direction, it displays an area beyond the edge of
18 document, if the document is a list. It displays a
19 third portion that's smaller, so that meets element
20 six, but when I release my -- release the pen and
21 my -- or my finger, I would assume the finger works
22 the same way, it doesn't appear to -- it does not
23 appear to translate in the second direction until the
24 area beyond the edge of the electronic document is no
25 longer displayed.

1 So I'm not getting element seven in this.

2 MR. JOHNSON: Q. But -- so it -- it has
3 elements one through six, but you have an issue with
4 element seven not being present --

5 MR. MONACH: Same objection.

6 MR. JOHNSON: Q. -- is that right?

7 MR. MONACH: Same objection; misstates the
8 prior testimony.

9 MR. JOHNSON: I'm -- I'm just trying to
10 understand.

11 THE WITNESS: So based on my very quick
12 first-time view of this, haven't studied it in detail,
13 repeating all the things I just said about this, very
14 quickly here I'm not getting element seven.

15 MR. JOHNSON: Okay.

16 THE WITNESS: It appears to meet elements one
17 to six, but I'm not getting element seven.

18 MR. JOHNSON: Q. So I think you may be
19 scrolling too far beyond the list. So if you go back
20 to the list, and you get to the bottom, and you scroll
21 up so it displays the portion beyond the edge, and
22 then you release it.

23 A I'm not getting it. I've got past Kathryn,
24 with just one pixel, and it's not --

25 MR. LIEN: Can I?

1 MR. JOHNSON: Tilt it, Henry. Yep.

2 Q See that?

3 A Keep going.

4 Q Doesn't that meet claim limitation seven?

5 MR. MONACH: Same -- same objection.

6 THE WITNESS: I think I would have to study
7 that in detail. It's not clear to me that I -- it
8 definitely meets the edge -- reaches the edge. When I
9 know that I reached the edge because I've gone -- I've
10 already explored that list further, but just looking
11 at that and maybe there's something beyond that, I
12 don't know. It's only when it goes much further that
13 it clearly tells me that I've reached the edge. So,
14 again, I would caveat this by saying I have to study
15 this in detail --

16 MR. MONACH: Sorry.

17 THE WITNESS: -- before making that
18 determination.

19 MR. MONACH: Sorry.

20 Mr. Videographer, are we at seven hours? Two
21 minutes? Okay.

22 MR. JOHNSON: Okay.

23 Q Can you tell me if this meets the limitations
24 of Claims 19 and 20?

25 MR. MONACH: Same objection.

1 THE WITNESS: So to the extent that if it
2 meets the elements of Claim 1, which I've just
3 discussed it may not, if it didn't meet Claim 1, then
4 a lot of the language in Claim 19 is not met or the
5 portion that talks about one or more programs with
6 instructions in Claim 19, that, I think, would be met.

7 MR. JOHNSON: Q. And what about Claim 20?

8 MR. MONACH: Same objection.

9 THE WITNESS: Same kind of answer with
10 Claim 20. To the extent that the elements of Claim 20
11 that regard -- relate to Claim 1, they may not be met,
12 as I've just discussed with Claim 1, but the portion
13 about a readable storage medium having stored their
14 instructions, which executed that portion, would be
15 met.

16 MR. JOHNSON: Q. Is the -- what we've seen
17 in Exhibit 114, LaunchTiles with the iPAQ, the best
18 piece of prior art you've seen for the '381 patent
19 claims?

20 MR. MONACH: Object to the form of the
21 question. Objection; asking the witness to form a
22 legal conclusion with an incomplete hypothetical;
23 asking him to come up with a new opinion on the fly.

24 THE WITNESS: So I don't think I can answer
25 with any degree of certainty, as I've discussed

1 repeatedly during this deposition, I have not studied
2 all of the prior art in any detail. I have not done
3 an invalidity or validity analysis, so it is certainly
4 one piece of prior art that I'm seeing in detail
5 today. Whether -- how that compares to other pieces
6 of prior art, I would have to do that analysis.

7 MR. JOHNSON: Q. Is that better than the
8 prior art that was cited during the reexamination?

9 MR. MONACH: Same objection; assumes facts
10 not in evidence that it's prior art.

11 THE WITNESS: I -- as I said earlier, I
12 haven't studied the -- the -- the prior art that was
13 cited during the reexam in detail to form a validity
14 or invalidity detailed opinion, so I cannot make that
15 comparison right now.

16 I would also say that it's not clear to me
17 that this -- this application shown to me today is
18 actual prior art. I know the paper is prior art, the
19 CHI 2005 paper. The application itself, I -- I don't
20 know whether that's prior art or whether it was
21 written subsequent to the date of the patent.

22 MR. JOHNSON: Q. Based on the -- the prior
23 art that you've looked at --

24 MR. MONACH: We're at seven hours -- we're --
25 we're done.

1 MR. JOHNSON: Are you leaving at this point?

2 MR. MONACH: We're -- you've had your seven
3 hours. This -- this deposition is over. You had lots
4 of time to ask him about his opinions. You've spent
5 hours and hours doing it, seven hours, including
6 repetitive questioning. We told you we're -- we've
7 told you in advance that these are seven-hour
8 depositions. We haven't agreed to a longer time.

9 MR. JOHNSON: So are you --

10 MR. MONACH: The deposition is over.

11 MR. JOHNSON: So you're not gonna let me ask
12 any more questions?

13 MR. MONACH: Correct.

14 MR. JOHNSON: Okay. Well, we're gonna keep
15 the deposition open, and I can't think of any part of
16 the deposition that should be designated confidential.
17 You know, at the very outset, you designated this
18 confidential, and it's putting us at great prejudice
19 in doing so, and you know that, and so I ask that you
20 right now dedesignate the transcript confidential, and
21 if you want to take the time to designate portions of
22 it confidential between now and tomorrow morning,
23 that's fine, but, you know, our opposition is due, and
24 there shouldn't be hardly any part of this transcript
25 that's designated confidential.

1 MR. MONACH: Well, I disagree that you're at
2 any prejudice. The interim protective order says what
3 it says. You chose to ask him about ITC proceedings
4 and other parties' proceedings, for example, and
5 there's no requirement on us to do it overnight.

6 I mean, you can use the transcript or not use
7 it, as you see fit. I'm not saying we're going to
8 designate or dedesignate after your filing date or
9 before your filing date. Take it under advisement.

10 MR. JOHNSON: Well, when can I get the
11 transcript dedesignated from you?

12 MR. MONACH: I don't know the answer to that
13 question. I'm not gonna make a commitment to you on
14 the record here today.

15 MR. JOHNSON: How about -- how about -- how
16 about within two days?

17 MR. MONACH: I just told you I'm not gonna --
18 I'm not gonna negotiate about it or make a commitment
19 to you on the record here.

20 MR. JOHNSON: Well, that's just completely
21 unacceptable, so we'll have to take it up as we see
22 fit.

23 Thank you. The deposition is still open from
24 our standpoint, and we'll go from there. Thank you.

25 MR. MONACH: All right. From our -- from our

1 perspective, no surprise, I suspect, the deposition is
2 over.

3 THE VIDEOGRAPHER: This is the end of today's
4 deposition.

5 We are off the record at 6:37 p.m.

6 The master disk will be held by TSG.

7 (WHEREUPON, the deposition ended at
8 6:37 p.m.)

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1 CERTIFICATE OF REPORTER

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3
4
5 I, ANDREA M. IGNACIO HOWARD, hereby certify
6 that the witness in the foregoing deposition was by me
7 duly sworn to tell the truth, the whole truth, and
8 nothing but the truth in the within-entitled cause;
9

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

17 That I am a disinterested person to the said
18 action.
19

20 IN WITNESS WHEREOF, I have hereunto set my
21 hand this 17th day of August, 2011.
22

23 

24 ANDREA M. IGNACIO HOWARD, RPR, CCRR, CLR, CSR No. 9830
25