

Estrich Declaration

Exhibit 9

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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| APPLE INC., A CALIFORNIA CORPORATION, |) | C-11-01846 LHK |
| |) | |
| |) | SAN JOSE, CALIFORNIA |
| PLAINTIFF, |) | |
| |) | AUGUST 15, 2012 |
| VS. |) | |
| |) | VOLUME 9 |
| SAMSUNG ELECTRONICS CO., LTD., A KOREAN BUSINESS ENTITY; SAMSUNG ELECTRONICS AMERICA, INC., A NEW YORK CORPORATION; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, A DELAWARE LIMITED LIABILITY COMPANY, |) | PAGES 2651-2965 |
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| DEFENDANTS. |) | |

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LUCY H. KOH
UNITED STATES DISTRICT JUDGE

APPEARANCES ON NEXT PAGE

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CERTIFICATE NUMBER 9595
IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8074

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1 THE COURT: WE CAN GO A LITTLE BIT
2 LONGER, BUT I DON'T WANT OUR COURT REPORTERS TO
3 HAVE TO GO TWO HOURS STRAIGHT. THEY'VE BEEN GOING
4 SINCE 1:03.

5 MR. JOHNSON: THIS IS A PERFECT PLACE.

6 THE COURT: IS THIS A GOOD PLACE. OKAY.
7 IT'S NOW 2:52. WE'LL TAKE A 15-MINUTE BREAK. SAME
8 ADMONITION, PLEASE KEEP AN OPEN MIND, DON'T DISCUSS
9 THE CASE WITH ANYONE. PLEASE DON'T READ ABOUT THE
10 CASE OR DO ANY RESEARCH. YOU CAN LEAVE YOUR
11 BINDERS ON YOUR CHAIRS, AND WE'LL SEE YOU BACK IN
12 15 MINUTES. THANK YOU.

13 (WHEREUPON, THE FOLLOWING PROCEEDINGS
14 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

15 THE COURT: ALL RIGHT. THANK YOU.

16 (WHEREUPON, A RECESS WAS TAKEN.)

17 (WHEREUPON, THE FOLLOWING PROCEEDINGS
18 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

19 THE COURT: ALL RIGHT. WELCOME BACK,
20 PLEASE TAKE A SEAT.

21 IF YOU WOULD PLEASE BRING OUR JURY BACK.

22 (WHEREUPON, THE FOLLOWING PROCEEDINGS
23 WERE HELD IN THE PRESENCE OF THE JURY:)

24 THE COURT: OKAY. PLEASE TAKE A SEAT.
25 WELCOME BACK.

1 IT IS 3:07. GO AHEAD, PLEASE.

2 MR. JOHNSON: THANK YOU, YOUR HONOR.

3 YOUR HONOR, I'D LIKE TO START BY MOVING
4 IN SDX 3964.15, WHICH IS THE VIDEO WE JUST WATCHED.

5 MS. KREVANS: NO OBJECTION, YOUR HONOR.

6 THE COURT: ALL RIGHT. 3964.015, NOT A,
7 JUST 015.

8 MR. JOHNSON: THE VIDEO.

9 THE COURT: WHAT WAS THE NUMBER FOR THAT?

10 MR. JOHNSON: IT SHOULD BE .015A.

11 THE COURT: IT IS A, OKAY.

12 MR. JOHNSON: YES.

13 THE COURT: THANK YOU. THAT'S ADMITTED.

14 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER
15 3964.015A, HAVING BEEN PREVIOUSLY MARKED
16 FOR IDENTIFICATION, WAS ADMITTED INTO
17 EVIDENCE.)

18 BY MR. JOHNSON:

19 Q PROFESSOR VAN DAM, CAN YOU SHOW US HOW
20 TABLECLOTH MEETS THE NEXT LIMITATION OF CLAIM 19?

21 A SURE. IT'S A VERY SHORT ELEMENT, AND IT SAYS
22 THAT YOU MUST HAVE INSTRUCTIONS FOR DISPLAYING A
23 FIRST PORTION OF AN ELECTRONIC DOCUMENT.

24 IT DOESN'T TELL YOU HOW YOU ARRIVE AT
25 THAT FIRST PORTION. SO LET'S ZOOM IN AGAIN AND NOW

1 WE'LL SEE A BIT OF SCROLLING, AND THEN SOMEWHERE
2 WE'LL STOP AND SAY THAT'S OUR FIRST PORTION AND
3 ANNOTATE IT AS SUCH.

4 Q OKAY. WHAT ABOUT THE NEXT LIMITATION,
5 INSTRUCTIONS FOR TRANSLATING?

6 A SO HERE WE'VE TRANSLATED JUST A LITTLE BIT
7 MORE, SHOWING THAT THERE ARE INSTRUCTIONS FOR
8 TRANSLATING.

9 AND THAT TRANSLATION DIRECTION IS CALLED
10 THE FIRST DIRECTION, THE UPWARD DIRECTION IN THE
11 CASE OF TABLECLOTH AND IN THIS DEMONSTRATION.

12 NOW, WHEN YOU SCROLL, INEVITABLY YOU'RE
13 GOING TO DISPLAY A DIFFERENT PORTION OF THE
14 ELECTRONIC DOCUMENT. AND THAT IS CALLED THE SECOND
15 PORTION IN THE CLAIM LANGUAGE.

16 NOW, I WANT TO POINT OUT THAT THIS
17 DISCUSSION OF FIRST PORTION, SECOND PORTION, AND
18 YOU'LL SOON SEE A THIRD AND FOURTH IS THE PATENT'S
19 WAY OF TEXTUALLY DESCRIBING WHAT YOU'RE GOING TO
20 SEE VISUALLY. IT IS NOT, IN FACT, A SEPARATE
21 DESIGN FEATURE. IT'S A CONSEQUENCE OF THE
22 SCROLLING MOTION.

23 SO WHAT ELSE IS REQUIRED? WELL, BECAUSE
24 YOU'RE SCROLLING, YOU'RE GOING TO SEE A DIFFERENT
25 PORTION, AND, THEREFORE, THE SECOND PORTION WILL BE

1 DIFFERENT FROM THE FIRST PORTION.

2 AND YOU CAN CLEARLY SEE THAT, FOR
3 EXAMPLE, IF YOU LOOK AT THE AMOUNT OF SKY IN THE
4 SECOND PORTION VERSUS THE AMOUNT IN THE FIRST
5 PORTION.

6 SO WE CAN CHECK OFF THAT ENTIRE ELEMENT.

7 Q OKAY. CAN YOU SHOW US HOW TABLECLOTH MEETS
8 THE NEXT LIMITATION OF THE CLAIM.

9 A SURE. SO IN THE CASE WE'RE GOING TO SCROLL,
10 AS WE'VE SEEN BEFORE, UNTIL WE REACH THE EDGE AND
11 THEN SCROLL A LITTLE BIT MORE TO OVER SCROLL, SO GO
12 BEYOND THE EDGE, AT WHICH POINT WE HAVE TO SEE
13 SOMETHING NOT PART OF THE ELECTRONIC DOCUMENT,
14 WHICH THE PATENT CALLS AREA BEYOND THE EDGE.

15 NEXT, AGAIN, INEVITABLY BECAUSE OF THE
16 SCROLLING ACTION, WE'LL SEE YET A DIFFERENT PORTION
17 OF THE ELECTRONIC DOCUMENT CALLED THE THIRD
18 PORTION, AND THE PATENT DESCRIBES THAT, AGAIN,
19 INEVITABLY, THAT THE PORTION HAS TO BE SMALLER THAN
20 THE FIRST PORTION, NOT JUST DIFFERENT, BUT SMALLER.

21 WHY? WELL, BECAUSE WE HAVE TO MAKE ROOM
22 FOR THE AREA BEYOND THE EDGE AND THUS THE RED
23 RECTANGLE IS SMALLER THAN THE ORANGE RECTANGLE.
24 THE IMAGE IS JUST SMALLER.

25 Q AND CAN YOU DESCRIBE FOR US HOW TABLECLOTH

1 MEETS THE NEXT LIMITATION AS DESCRIBED IN CLAIM 34?

2 A SO THE NEXT ELEMENT IS GOING TO BE SHOWN HERE,
3 AND THIS IS SETTING US UP FOR THE SNAP-BACK. WHAT
4 IS THE SNAP-BACK? IT MEANS TRANSLATING IN ANOTHER
5 DIRECTION, A SECOND DIRECTION, HERE THE OPPOSITE
6 DIRECTION GOING DOWNWARD.

7 AND WHAT ARE YOU TRYING TO ACCOMPLISH?
8 WELL, YOU'RE TRYING TO GET RID OF THAT AREA BEYOND
9 THE EDGE, AND WHEN YOU DO, YOU SNAP BACK.

10 NOW, ADDITIONALLY, BECAUSE YOU'RE LOOKING
11 AT YET A DIFFERENT PORTION OF THE ELECTRONIC
12 DOCUMENT, YOU'RE GOING TO SEE A FOURTH PORTION AND
13 THE PATENT REQUIRES THAT IT BE DIFFERENT FROM WHERE
14 YOU STARTED THE ANALYSIS.

15 AND JUST TO REMIND YOU, WE HAVE --
16 WHOOPS -- A COMBINATION OF TWO IMAGES IN THE FIRST
17 PORTION OVER HERE AND A SINGLE IMAGE ON THE RIGHT
18 AS OUR FOURTH PORTION.

19 AND THAT COMPLETES THE LAST ELEMENT, AND
20 SO WE'VE SHOWN THAT ALL OF THE ELEMENTS OF CLAIM 19
21 ARE FOUND IN TABLECLOTH.

22 MR. JOHNSON: YOUR HONOR, WE ASK THAT SDX
23 3964.026 THROUGH 38, THAT THOSE SLIDES THAT
24 PROFESSOR VAN DAM JUST REFERRED TO BE ADMITTED.

25 MS. KREVANS: NO OBJECTION.

1 THE COURT: I'M SORRY. GIVE ME THAT
2 BATES RANGE AGAIN.

3 MR. JOHNSON: IT'S 3964.026 THROUGH .038.

4 THE COURT: OKAY. AND NO ONE WILL BE
5 ABLE TO GET ANY DEMONSTRATIVES ADMITTED IN THEIR
6 REBUTTAL CASES BECAUSE THIS IS FAR EXCEEDING ALL
7 THE EXHIBIT LIMITS. OKAY?

8 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBERS
9 3964.026 - .038, HAVING BEEN PREVIOUSLY
10 MARKED FOR IDENTIFICATION, WERE ADMITTED
11 INTO EVIDENCE.)

12 BY MR. JOHNSON:

13 Q PROFESSOR VAN DAM, WHEN IS YOUR UNDERSTANDING
14 OF WHEN TABLECLOTH WAS CREATED?

15 A IT WAS CREATED, AS DR. FORLINES TESTIFIED, BY
16 HIS COLLEAGUE AT MITSUBISHI ELECTRIC RESEARCH LAB
17 DURING THE HOLIDAY WINTER VACATION, AND IT WAS THUS
18 AVAILABLE EARLY IN JANUARY, MID-JANUARY IT WAS
19 SHOWN TO THE PUBLIC AT THE NEW SCHOOL FOR SOCIAL
20 RESEARCH, AND I UNDERSTAND FROM HIS TESTIMONY THAT
21 ONE OF THE ATTENDEES WAS SENATOR KERREY.

22 Q WHAT YEAR WAS THAT?

23 A THAT WAS 2005.

24 Q OKAY. LET'S TURN OUR ATTENTION TO LAUNCHTILE.
25 NOW, CAN YOU TAKE US THROUGH A DISCUSSION

1 OF HOW LAUNCHTILE MEETS EACH AND EVERY LIMITATION
2 OF CLAIM 19?

3 A I WILL. HERE WE SEE THE DEVICE THAT
4 DR. BEDERSON DEMONSTRATED ALREADY. IT'S AN ARRAY
5 OF 36 TILES, EACH OF WHICH IS MEANT, IN THIS
6 PROTOTYPE, EVENTUAL TO LAUNCH AN APPLICATION.

7 AND, AGAIN, THE FIRST THING WE HAVE TO DO
8 IS IDENTIFY WHAT OUR ELECTRONIC DOCUMENT IS GOING
9 TO BE.

10 BY THE COURT'S CONSTRUCTION, IT CAN BE
11 ANYTHING THAT HAS A DIGITAL REPRESENTATION. I
12 COULD PICK A SINGLE TILE. I COULD PICK TWO, FOUR,
13 EIGHT OR THE ENTIRE SET OF TILES.

14 FOR THE PURPOSES OF MY INVALIDITY
15 ANALYSIS, I PICKED TWO ADJACENT ZONES. I'LL ZOOM
16 IN TO MAKE THOSE SHOW UP.

17 AND THE TWO ZONES I'LL PICK ARE THE
18 LEFT-MOST ONES.

19 SO THERE IT IS. IT'S KIND OF SMALL, SO
20 LET ME GO IN A LITTLE BIT. AND TO ILLUSTRATE WHAT
21 I MEAN BY THE ELECTRONIC DOCUMENT, I'M GOING TO
22 SHOW YOU A SCHEMATIC OF THOSE TWO ZONES OF FOUR
23 TILES EACH, TOGETHER, AS YOU CAN THINK OF THEM AS
24 TWO PHOTOGRAPHS OR EIGHT PHOTOGRAPHS. IT'S OUR
25 ELECTRONIC DOCUMENT, AND THAT'S HOW WE'RE GOING TO

1 DO OUR ANALYSIS. WE'RE GOING TO START IN THE LEFT
2 ZONE, THE LEFT-MOST PART OVER HERE, AND WE'RE GOING
3 TO SEE THE DOCUMENTS SCROLL IN THE LEFT DIRECTION.

4 EVENTUALLY WE'RE GOING TO COME TO THE
5 EDGE OVER HERE.

6 Q WHY DOES THE AREA BEYOND THE EDGE?

7 A WELL, HERE IT IS ANYTHING THAT IS NOT PART OF
8 THE ELECTRONIC DOCUMENT, SO IT'S WHATEVER LIES
9 OUTSIDE THAT WHITE BOX DESIGNATING THE ELECTRONIC
10 DOCUMENT.

11 Q HAVE YOU PREPARED A VIDEO THAT DESCRIBES HOW
12 THIS PARTICULAR DEVICE MEETS THE LIMITATIONS?

13 A I HAVE, YES.

14 Q AND CAN YOU EXPLAIN WHAT WE SEE?

15 A SO --

16 Q AND WE'RE LOOKING AT 3964.043 AT THIS POINT.

17 A WE START OFF BY HAVING ONLY A PORTION IN VIEW,
18 JUST AS IN THE CASE OF TABLECLOTH. MOTION IN
19 LIMINE ELECTRONIC DOCUMENTS ARE TOO MUCH TO BE SEEN
20 IN THEIR ENTIRETY IN WHATEVER DISPLAY YOU USE,
21 WHETHER IT'S A SMARTPHONE OR EVEN A VERY LARGE
22 INTERACTIVE WHITE BOARD.

23 SO THIS IS THE AMOUNT THAT WE CAN SEE ON
24 THIS LITTLE HANDHELD DEVICE, AND EVENTUALLY WE'RE
25 GOING TO SCROLL TO THE LEFT UNTIL WE -- SORRY. MY

1 TELLS YOU HOW LONG I'VE BEEN DOING THIS. VARIOUS
2 ASSEMBLY LEVEL LANGUAGES, A VARIETY OF DIFFERENT
3 COMPUTING LANGUAGES.

4 Q AND, SIR, YOU'RE HERE AS SAMSUNG'S TECHNICAL
5 EXPERT ON THE '915 AND '163 PATENTS; IS THAT
6 CORRECT?

7 A THAT'S CORRECT.

8 Q HAVE YOU WORKED BEFORE AS A TECHNICAL EXPERT
9 IN YOUR CAREER?

10 A I HAVE.

11 MR. DEFRANCO: YOUR HONOR, AT THIS POINT
12 WE WOULD OFFER MR. GRAY AS AN EXPERT IN SOFTWARE
13 PROGRAMMING AND USER INTERFACE.

14 THE COURT: ANY OBJECTION?

15 MR. JACOBS: NO OBJECTION.

16 THE COURT: SO CERTIFIED.

17 BY MR. DEFRANCO:

18 Q BRIEFLY, SIR, WOULD YOU GIVE US SOME EXAMPLES
19 OF SOME OF THE MATERIALS THAT YOU LOOKED AT IN YOUR
20 WORK IN THIS CASE?

21 A I REVIEWED THE PATENTS; I REVIEWED THE FILE
22 HISTORY, AND WHAT BY "FILE HISTORY" WHAT I MEAN IS
23 THE COMMUNICATION BETWEEN THE PATENT OFFICE AND THE
24 APPLICANT WHEN THEY'RE GETTING THEIR PATENT
25 APPROVED.

1 I'VE STUDIED THE REPORTS OF THE EXPERTS
2 IN THIS MATTER, I'VE STUDIED DEPOSITIONS AND A
3 VARIETY OF OTHER DOCUMENTS THAT ARE RELATED TO THE
4 MATTER.

5 Q OKAY. WE'RE GOING TO TAKE THE PATENTS ONE AT
6 A TIME STARTING WITH THE '915. WE'RE GOING TO USE
7 SOME SLIDES, DEMONSTRATIVES AS HAS BEEN DONE IN THE
8 CASE.

9 THIS IS THE '915 PATENT. CAN YOU REMIND
10 US IN A SENTENCE WHAT THE '915 PATENT IS ABOUT?

11 A SO THE '915 IS THE SCROLL WITH ONE FINGER,
12 ZOOM WITH TWO FINGERS. THAT'S THE '915.

13 Q AND THE FILING DATE OF THAT PATENT, SIR?

14 A THAT PATENT WAS FILED ON JANUARY 7TH, 2007.

15 Q AND THIS IS THE PATENT IN WHICH APPLE IS
16 ASSERTING CLAIM 8; IS THAT CORRECT?

17 A THAT'S CORRECT, CLAIM 8.

18 Q ALL RIGHT. LET'S -- YOU DESCRIBED WHAT THE
19 PATENT IS ABOUT GENERALLY. IS THAT WHAT'S DEPICTED
20 HERE?

21 A EXACTLY. THERE'S A LITTLE ANIMATION THAT
22 COMES FROM THE PATENT ITSELF. ON THE LEFT-HAND
23 SIDE WE SEE A SCROLL OPERATION, ONE FINGER MOVING
24 THE, THE IMAGE ACROSS THE SCREEN THE VIEW OF THE
25 IMAGE ACROSS THE SCREEN.

1 IT DOESN'T SEEM TO BE PERFORMING.
2 THERE'S A LITTLE BUG HERE IT LOOKS LIKE. THERE WE
3 GO.

4 SO THAT'S THE SCROLLING OPERATION, SINGLE
5 FINGER SCROLLING OPERATION.

6 ON THE RIGHT-HAND SIDE IS WHAT'S REFERRED
7 TO AS THE GESTURE OPERATION. THE GESTURE
8 OPERATION, FOR EXAMPLE, IS A MULTIPOINT GESTURE
9 OPERATION AND ALLOWS, FOR EXAMPLE, SCALE IN AND OUT
10 FOR A PARTICULAR OBJECT. SO THAT'S THE MULTIPOINT
11 GESTURE OPERATION.

12 Q OKAY. AND WE ARE, WE'RE GOING TO TALK A BIT
13 ABOUT CLAIM 8. JUST IN A SENTENCE, TELL US WHAT
14 YOU, WHAT PRIOR ART YOU LOOKED AT?

15 A SO THE PRIOR ART THAT YOU SEE HERE ON THE
16 LEFT-HAND SIDE OF THE SCREEN, THE BLUE BACKGROUND
17 IS THE PRIOR ART I INTEND TO TALK ABOUT TODAY. ALL
18 OF THAT ART WAS FILED SOMETIME PRIOR TO THE
19 APPLICATION IN JANUARY 2007 OF THE '915 PATENT.

20 Q AND YOUR UNDERSTANDING WAS ANY OF THAT ART
21 BEFORE THE PATENT OFFICE DURING PROSECUTION OF WHAT
22 BECAME THE '915 PATENT?

23 A I DON'T BELIEVE SO, NO.

24 Q OKAY. LET'S START WITH DIAMONDTOUCH RUNNING
25 FRACTAL ZOOM, OKAY? DOES THAT MAKE SENSE?

1 A SURE.

2 Q I'D LIKE TO WALK THROUGH THE CLAIM ELEMENTS.

3 BY THE WAY, WERE YOU IN THE COURTROOM
4 WHEN THESE FACT WITNESSES TESTIFIED, MR. BOGUE AND
5 MR. FORLINES?

6 A YES, I WAS.

7 Q OKAY. IN A SENTENCE -- I THINK WE'VE HEARD A
8 BIT ABOUT THE SYSTEM, ENOUGH SO THAT WE CAN JUST GO
9 TO THE CLAIM AND COMPARE IT TO THE DEVICE ITSELF.

10 ARE YOU WITH ME?

11 A SURE.

12 Q WHY DON'T WE WALK THROUGH THAT ONE LIMITATION
13 IN THE CLAIM AT A TIME AND YOU CAN TELL US WHERE IN
14 THE CLAIM IT'S FOUND.

15 A SO CLAIM 8 REQUIRES MANUFACTURE READABLE
16 STORAGE, AND, AGAIN, THAT'S MEMORY THAT CONTAINS
17 INSTRUCTIONS THAT CAUSE THE COMPUTER, IN THIS CASE
18 THE DIAMONDTOUCH SYSTEM, TO PERFORM ITS OPERATIONS.

19 ONE OF THOSE OPERATIONS IS RECEIVING USER
20 INPUT IN THE FORM -- I SHOULD SAY RECEIVING USER
21 INPUT ON A TOUCH SENSITIVE DISPLAY THAT IS
22 INTEGRATED WITH THE DATA PROCESSING SYSTEM.

23 SO AS THE PREVIOUS WITNESS SPOKE ABOUT,
24 THAT'S THE WAY THAT THE DIAMONDTOUCH SYSTEM WORKS.
25 IT'S A COMPUTER SYSTEM THAT HAS A TOUCH SENSITIVE

1 DISPLAY THAT ALLOWS FOR CAPTURING OF THE INPUT
2 POINTS.

3 Q LET'S GO TO THE NEXT LIMITATION, CREATING AN
4 EVENT OBJECT. CAN YOU DESCRIBE THAT FOR US,
5 PLEASE, WHERE IT'S IN THE REFERENCE, SIR?

6 A SURE. SO CREATING AN EVENT OBJECT IN THE DT,
7 THE DIAMONDTOUCH SYSTEM IS SHOWN, IS ILLUSTRATED BY
8 THIS PIECE OF CODE. THIS PIECE OF CODE IDENTIFIES
9 AN OBJECT KNOWN AS THE DTLIBINPUTTFRAME. THAT
10 STANDS FOR DIAMONDTOUCH LIBRARY INPUT TOUCH FRAME.

11 AND WHAT IT CONTAINS IS THE TOUCH
12 INFORMATION THAT WHEN THE USERS TOUCH THE SCREEN,
13 THIS IS THE OBJECT THAT CONTAINS THAT INFORMATION.

14 THE DTLIBINPUTTFRAME EVENT OBJECT
15 INCLUDES, FOR EXAMPLE, INFORMATION LIKE THE NUMBER
16 OF TOUCHES THAT THE USER HAD ON THE SCREEN, WHERE
17 THE TOUCHES STARTED AND WHERE THEY ENDED. THAT'S
18 THE REFERENCE THERE AT THE XY POSITION, AND TIME
19 REFERENCES TO CERTAIN ASPECTS OF THOSE, OF THAT
20 TOUCH.

21 SO THAT'S THE ELEMENT. THAT'S THE
22 OBJECT.

23 Q OKAY. LET'S GO TO THE NEXT ELEMENT, SIR.
24 COULD YOU PLEASE DESCRIBE FOR US WHERE THAT IS?

25 A SO THE NEXT ELEMENT IS DETERMINING WHETHER OR

1 NOT WE HAVE DONE A, USE A -- OR INTENDING TO DO A
2 SCROLL OR A GESTURE OPERATION BY DISTINGUISHING
3 BETWEEN A SINGLE INPUT POINT WHICH IS TOUCHED ON
4 THE INPUT DISPLAY OR MULTIPLE INPUT POINTS.

5 IF IT IS A SINGLE INPUT POINT, IT'S A
6 SCROLL OPERATION. IF IT'S MULTIPLE INPUT POINTS,
7 WE'RE TALKING ABOUT A GESTURE IN THE WAY IT'S
8 REFERRED TO IN THE '915 PATENT, AND THE GESTURE
9 WOULD BE, FOR EXAMPLE, A SCALING OPERATION.

10 SO, SO THERE'S ONE FINGER FOR SCROLL, TWO
11 FINGERS FOR GESTURES, AND THAT'S THE DISTINGUISHING
12 ASPECT HERE. SO THAT CLAIM IS MET.

13 Q OKAY.

14 A I'M SORRY. I SHOULD MENTION, THE SPLASH
15 SCREEN THAT'S SHOWN HERE, THE SPLASH SCREEN THAT IS
16 UP THERE INDICATES THE ACTUAL MANNER IN WHICH THE
17 DEVICES OPERATE.

18 Q OKAY. LET'S GO TO THE NEXT LIMITATION,
19 PLEASE.

20 A SO THE NEXT LIMITATION HAS TO DO WITH ISSUING
21 A SCROLL OR GESTURE CALL BASED ON INVOKING THE
22 SCROLL OR GESTURE OPERATION. AGAIN, THIS IS A
23 FRAGMENT OF CODE. THIS IS FROM A, A PIECE OF CODE
24 CALLED THE FRACTAL ZOOM APP, WHICH IS AN
25 APPLICATION THAT WAS REFERRED TO THE OTHER DAY WHEN

1 DR. FORLINES TALKED ABOUT THE DEVICE.

2 THE FRACTAL ZOOM, THIS PARTICULAR METHOD
3 IS ONE CALLED TOUCH DETECTED. THE TOUCH DETECTED
4 METHOD DOES PROCESSING, BUT BY THE TIME IT GETS
5 HERE, IT DETERMINES WHETHER OR NOT THE M CURRENT
6 MODE IS EQUAL TO MODE ZOOM OR M CURRENT MODE IS
7 EQUAL TO MODE PAN.

8 BASED UPON THAT, THE SYSTEM PERFORMS
9 DIFFERENT OPERATIONS, ONE THAT CREATES A SCALING
10 FACTOR, THE OTHER ONE DOES NOT CREATE A SCALING
11 FACTOR.

12 BUT IN ANY EVENT, THE RESPONSE IS TO --
13 THE RESPONSE IS TO REPAINT THE SCREEN BASED UPON
14 THE OPERATIONS WHICH ARE DEFINED IN THE TOUCH
15 DETECTIVE.

16 Q OKAY. THE LAST LIMITATION, SIR, PLEASE?

17 A THE LAST LIMITATION IS ACTUALLY HOW THE SCREEN
18 IS ALTERED BY VIRTUE OF THE FACT THAT THE USER HAS
19 DONE IT. SO HERE YOU SEE THE SCROLL THAT'S BEING
20 OPERATED ON, SCROLL UP AND SCROLL DOWN, SO THAT
21 CLAIM LIMITATION IS MET.

22 Q OKAY. AND THEN WE TAKE YOU TO?

23 A AND HERE'S THE TWO FINGER GESTURE. WE'RE
24 ZOOMING IN AND THEN A TWO FINGER GESTURE WHILE
25 WE'RE -- ACTUALLY, IT'S THE OPPOSITE, ZOOMING OUT

1 AND ZOOMING IN. SO THAT LIMITATION IS ALSO MET.

2 Q AND THAT LIMITATION FOR THE RECORD IS
3 RESPONDING TO AT LEAST ONE GESTURE CALL. DO YOU
4 SEE THAT, SIR?

5 A THAT'S CORRECT.

6 Q ALL RIGHT. LET'S TURN TO THE SECOND REFERENCE
7 YOU ANALYZED. WOULD YOU GIVE US A SENTENCE OR TWO
8 ABOUT THE NOMURA REFERENCE, PLEASE, SIR?

9 A SO THE NOMURA REFERENCE IS A JAPANESE PATENT.
10 IT WAS FILED NOVEMBER OF 1998. AND THE PATENT
11 TALKS ABOUT AN ELECTRONIC OR PORTABLE INFORMATION
12 DEVICE, A PORTABLE DEVICE THAT IS USED FOR A MAP
13 APPLICATION.

14 AND ONE OF THE -- SEVERAL OF THE
15 FUNCTIONS THAT ARE PERFORMED IN THE MAP APPLICATION
16 RELATE TO ENLARGEMENT, WHICH IS SCALING, REDUCTION,
17 WHICH IS ALSO SCALING, AND THEN SCROLLING.

18 SO IT'S A, A PATENT APPLICATION THAT
19 IDENTIFIES A MAPPING APPLICATION AND AN E-BOOK, AN
20 ACTUAL DEVICE, THAT PERFORMS THOSE OPERATIONS.

21 Q SIR, IS THAT IN THE BINDER IN FRONT OF YOU AS
22 EXHIBIT DX 550?

23 A DX 550, YES, THAT'S THE REFERENCE I'M
24 REFERRING TO.

25 MR. DEFRANCO: YOUR HONOR, WE WOULD MOVE

1 FOR ADMISSION OF EXHIBIT DX 550, THE NOMURA
2 PREFERENCE.

3 MR. JACOBS: OBJECTION, YOUR HONOR.
4 REFERENCE TO COUNSEL'S CHARACTERIZATION OF IT AS A
5 PATH. IT'S AN UNEXAMINED PATENT APPLICATION.

6 MR. DEFRANCO: THAT'S CORRECT, YOUR
7 HONOR, IT'S AN UNEXAMINED PATENT APPLICATION FOR
8 THE RECORD.

9 THE COURT: IT'S ADMITTED.

10 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER
11 550, HAVING BEEN PREVIOUSLY MARKED FOR
12 IDENTIFICATION, WAS ADMITTED INTO
13 EVIDENCE.)

14 BY MR. DEFRANCO:

15 Q LET'S DO THE SAME THING, MR. GRAY. LET'S WALK
16 THROUGH THE LIMITATIONS IN THE CLAIM AND IF YOU
17 COULD COMPARE THEM TO THE DISCLOSURE IN THE NOMURA
18 REFERENCE. ARE YOU WITH ME?

19 A I'M WITH YOU. SO, AGAIN, THIS IS A LITTLE
20 DEMONSTRATION. HERE IS THE SCROLL, THE SINGLE
21 FINGER SCROLL, AN ANIMATION THAT SHOWS MOVING THE
22 MAP ACROSS THE ELECTRONIC BOOK. AND THEN THE OTHER
23 ONE WAS A PINCH.

24 Q NO NEED TO RUSH YOU. LET'S START WITH THE
25 CLAIM ELEMENTS. OKAY.

1 A FAIR ENOUGH. SO THE FIRST PART OF CLAIM 8 IS
2 AGAIN THE MANUFACTURE READABLE STORAGE MEDIUM.
3 FIGURE 2 FROM THE PATENT SHOWS AN INSTRUCTION
4 STORAGE MEDIUM THERE, THAT'S THE BOX THAT I'VE
5 HIGHLIGHTED IN YELLOW. THAT FEEDS THE PROCESSING
6 UNIT, AND THE INFORMATION STORAGE MEDIUM CONTAINS
7 DATA AND INSTRUCTIONS WHICH ARE USED BY THE E-BOOK
8 IN PERFORMANCE OF ITS APPLICATION. SO THAT CLAIM
9 ELEMENT IS MET.

10 THE FINGER MOVEMENT DETECTOR, WHICH IS
11 NUMBER -- WHICH IS ELEMENT 10 OF FIGURE 2, SHOWS --
12 IS THE RECEIVER OF THE INPUTS FROM THE TOUCH
13 SENSITIVE SCREEN THAT THE USER OPERATING ON, ON THE
14 DEVICE.

15 SO THE FINGER MOVEMENT DETECTOR CREATES A
16 FINGER MOVEMENT HISTORY. THAT HISTORY IS --
17 RECORDS WHAT THE MOVEMENTS WERE ON THE SCREEN.

18 Q AND THAT --

19 A SO THAT LIMITATION IS ALSO MET.

20 Q THAT MEETS THE RECEIVING A USER INPUT
21 LIMITATION?

22 A CORRECT.

23 Q OKAY. LET'S TURN TO THE NEXT LIMITATION,
24 WHICH IS CREATING AN EVENT OBJECT IN RESPONSE TO
25 THE USER INPUT.

1 WHERE IS THAT IN NOMURA, SIR?

2 A SO AS I JUST MENTIONED, THE UNIT THAT RECEIVES
3 THE USER INPUTS STORES THAT INFORMATION IN THE
4 MOVEMENT HISTORY, AND THE MOVEMENT HISTORY, A
5 FINGER MOVEMENT HISTORY IN NOMURA IS THE '915'S
6 VERSION OF THE EVENT OBJECT.

7 Q OKAY. HOW ABOUT THE NEXT LIMITATION,
8 DETERMINING WHETHER AN EVENT OBJECT INVOKES A
9 SCROLL OR GESTURE ELEMENT?

10 A SO ELEMENT 30, THE OPERATING CONTENTS
11 DETERMINATION UNIT, IS WHAT MAKES A DETERMINATION
12 AS -- USING THE FINGER HISTORY TO DETERMINE WHETHER
13 OR NOT -- WHAT KIND OF MOTION IS BEING PROSCRIBED,
14 WHETHER IT IS A SCROLL OR A GESTURE OPERATION.

15 SO YOU CAN SEE HERE THE GESTURE OPERATION
16 MOVES ONE FINGER, THE UNIT DETERMINES THAT A MAP
17 SCROLLING OPERATION IS INPUT, AND THEN USING TWO
18 FINGERS, IT SHOWS THAT IT WAS, IT WAS EITHER DOING
19 A SCALE, A SCALE IN OR A SCALE OUT.

20 Q OKAY.

21 A SO USING TWO FINGERS TO PERFORM.

22 Q ALL RIGHT. CAN WE GO TO THE NEXT LIMITATION,
23 SIR?

24 A SO THE, THE MAP OPERATIONS PROCESSING UNIT
25 CONTAINS A SERIES OF ELEMENTS AS WELL. THE

1 REQUIREMENT -- OR THE CLAIM ELEMENT HERE SAYS
2 ISSUING AT LEAST ONE SCROLL OR GESTURE CALL BASED
3 ON INVOKING THE SCROLL OR GESTURE OPERATION.

4 SO WE CAN SEE HERE THAT ELEMENT 48, THE
5 SCROLL PROCESSING UNIT, IS ACTUALLY THE UNIT THAT
6 MAKES -- THAT IS FED BY THE OPERATING CONTENTS OF
7 THE DETERMINATION UNIT, AND THEN CREATES THE --
8 PERFORMS WHAT NEEDS TO BE DONE IN TERMS OF A
9 SCROLL.

10 Q OKAY. ALL RIGHT. AND THE NEXT LIMITATION,
11 SIR, WOULD YOU TAKE US THROUGH THAT?

12 A CAN WE GO BACK A SLIDE. THERE'S A COUPLE OF
13 OTHER UNITS ON HERE, TOO, THAT AREN'T HIGHLIGHTED,
14 BUT THE COMPRESSION PROCESSING UNIT 42 AND
15 COMPRESSION PROCESSING UNIT 44 ARE THE UNITS THAT
16 PERFORM THE SCROLLING OPERATION, YEAH, THE
17 SCROLLING -- I'M SORRY, THE SCALING OPERATION. I
18 MISSPOKE.

19 SO, YEAH, SO THAT LIMITATION HAS BEEN
20 MET.

21 Q OKAY. GREAT. LET'S TURN TO THE NEXT ONE,
22 SIR. CAN YOU TAKE US THROUGH THAT LIMITATION,
23 PLEASE?

24 A SO BASED UPON WHAT THE MAP OPERATIONS
25 PROCESSING UNIT HAS DONE, THE IMAGE GENERATION UNIT

1 RECEIVES THAT, THAT INPUT AND PERFORMS -- SENDS IT
2 TO THE DISPLAY UNIT, WHICH THEN UPDATES THE DISPLAY
3 ON THE E-BOOK ITSELF.

4 Q OKAY. I THINK THERE'S A LITTLE MOTION.

5 A SO THERE'S A SCROLL BAR THAT SHOWS, THAT
6 DEMONSTRATES THE SCROLL OPERATION. SO THAT
7 LIMITATION IS MET.

8 Q OKAY. AND LET'S FINISH THE LAST SLIDE WITH
9 RESPECT TO NOMURA.

10 A SO, AGAIN, SIMILARLY TO THE WAY THAT THE
11 SCROLL OPERATION WAS, WAS MET, THE SYSTEM ALSO
12 RESPONDS TO A GESTURE CALL BY PASSING THE
13 INFORMATION TO THE IMAGE GENERATION UNIT WHICH GOES
14 TO THE DISPLAY UNIT WHICH UPDATES THE E-BOOK.

15 Q OKAY. NOW, IN YOUR OPINION, SIR, WITH
16 RESPECT -- ARE ALL THE LIMITATIONS OF CLAIM 8 OF
17 THE 195 -- '915 PATENT FOUND IN NOMURA?

18 A YES, THEY ARE.

19 Q AND WHAT DOES THAT LEAD YOU TO CONCLUDE?

20 A WHAT THAT MEANS IS BY VIRTUE OF THE FACT THAT
21 ALL OF THE CLAIM LIMITATIONS ARE COVERED BY NOMURA,
22 OR THAT IT ANTICIPATES OR RENDERS OBVIOUS, OR
23 INVALIDATES, RATHER, THE '915 PATENT BY WHAT'S
24 REFERRED TO AS ANTICIPATION, MEANING THAT ONE
25 SOURCE ENCOMPASSES ALL OF THE CLAIM ELEMENTS.

1 Q AND WHAT CONCLUSION, SIR, JUST TO MAKE SURE I
2 DIDN'T MISS IT, WHAT WAS YOUR CONCLUSION WITH
3 RESPECT TO DIAMONDTOUCH RUNNING FRACTAL ZOOM
4 COMPARED TO CLAIM 8 OF THE '915 PATENT?

5 A LIKE NOMURA, DIAMONDTOUCH COVERS ALL OF THE
6 CLAIM ELEMENTS OF CLAIM 8, AND, THEREFORE,
7 INVALIDATES CLAIM 8 AS WELL.

8 Q I JUST WANT TO SPEND A MOMENT ON A THIRD
9 REFERENCE, IF I HAVE SUCCESS BRINGING IT UP HERE
10 HERE.

11 JUST A SENTENCE OR TWO, SIR, ABOUT WHAT
12 THE HAN SYSTEM WAS?

13 A SURE. JEFFERSON HAN WAS A RESEARCH SCIENTIST
14 AT NEW YORK UNIVERSITY AND HE CREATED A DEVICE, NOT
15 ENTIRELY DISSIMILAR FROM THE DIAMONDTOUCH SYSTEM,
16 BUT IT'S A USER INTERFACE, LARGE SCALE USER
17 INTERFACE THAT RESPONDS TO TOUCH INPUT. AND
18 THERE'S A, A FILM HERE THAT SHOWS EXACTLY WHAT THAT
19 SYSTEM DOES.

20 Q OKAY. AND I THINK JUST TO BRING IT BACK TO
21 MIND, LET'S SHOW A VERY SHORT PORTION OF THE HAN
22 VIDEO.

23 CAN YOU PUT THAT UP, PLEASE.

24 (WHEREUPON, A VIDEOTAPE WAS PLAYED IN
25 OPEN COURT OFF THE RECORD.)

1 MR. DEFRANCO: OKAY.

2 THE COURT: WHAT'S THE NUMBER ON THAT
3 VIDEO, PLEASE?

4 MR. DEFRANCO: YOUR HONOR, WE WOULD OFFER
5 THAT INTO EVIDENCE. THAT IS GOING TO BE EXHIBIT DX
6 556.

7 THE COURT: ALL RIGHT. THAT'LL BE
8 PENDING THE STIPULATION. OKAY. SO IT'S NOT
9 ADMITTED RIGHT NOW UNLESS THERE'S A STIPULATION ON
10 THE VIDEO. SO I'LL HOLD THAT.

11 MR. DEFRANCO: YES, YOUR HONOR.

12 THE COURT: GO AHEAD, PLEASE.

13 BY MR. DEFRANCO:

14 Q BRIEFLY, CAN YOU WALK THROUGH CLAIM 8 OF THE
15 '915 PATENT WITH RESPECT TO THE HAN VIDEO, SIR?

16 A SO THE HAN DEMONSTRATION SHOWS A MACHINE
17 READABLE -- A COMPUTER THAT HAS INSTRUCTIONS IN IT
18 THAT PERFORM VARIOUS OPERATIONS. IT'S SHOWN IT
19 RECEIVES INPUTS, AS YOU CAN SEE WHEN HE WAS
20 DEMONSTRATING THE SYSTEM, IT RECEIVES INPUTS IN THE
21 FORM OF SINGLE INPUT SCROLLS, MULTI INPUT ZOOMING
22 OPERATIONS. IT CREATES -- IT DETERMINES WHETHER OR
23 NOT THE EVENT OBJECT INVOKES A SCROLL BECAUSE IT
24 RECORDS THOSE EVENTS IN AN EVENT OBJECT. IT
25 DETERMINES BY DISTINGUISHING WHETHER IT'S A SINGLE

1 POINT OR MULTIPOINT.

2 IT THEN ISSUES A SCROLL OR GESTURE CALL
3 BASED ON THE DETERMINATION IT MADE AND THEN UPDATES
4 THE SCREEN TO REFLECT WHAT THE USER HAD DONE WITH
5 THE SINGLE OR MULTITOUCH INPUTS.

6 Q OKAY. LET'S TALK ABOUT NON-INFRINGEMENT,
7 INFRINGEMENT ISSUES FOR JUST A MOMENT.

8 CAN YOU TELL US WHAT CLAIM ELEMENT D IS
9 ABOUT AGAIN IN THIS CLAIM.

10 A SO CLAIM ELEMENT D HAS TO DO WITH DETERMINING
11 WHETHER THE EVENT OBJECT INVOKES A SCROLL BY
12 DISTINGUISH -- OR A GESTURE BY DISTINGUISHING
13 BETWEEN ONE POINT OR MULTIPOINT.

14 AND IT'S -- THE EVENT OBJECT IS --
15 INVOKES THE SCROLL OR GESTURE OPERATION. THERE'S
16 AN INVOCATION OF THE SCROLL OR GESTURE OPERATION BY
17 THE EVENT OBJECT.

18 Q WHAT IS YOUR UNDERSTANDING OF THE DEFINITION
19 OF INVOKE AS IT'S TO BE USED IN THIS CASE?

20 A SO INVOKE, AS I UNDERSTAND IT, HAS COME TO
21 MEAN TO CAUSE, AND I UNDERSTAND THAT'S THE COURT'S
22 CONSTRUCTION FOR THE TERM "INVOKE."

23 Q OKAY. AND --

24 MR. JACOBS: YOUR HONOR, THAT'S AN
25 INCOMPLETE RECITATION OF THE COURT'S CLAIM

1 CONSTRUCTION.

2 THE COURT: OVERRULED. YOU'LL HAVE A
3 CHANCE ON CROSS.

4 GO AHEAD.

5 BY MR. DEFRANCO:

6 Q OKAY. IN YOUR OPINION, DO THE ACCUSED
7 PRODUCTS HAVE THAT FEATURE, SIR?

8 A NO. THE ACCUSED PRODUCTS, I THINK THERE'S A
9 SLIDE ON THIS, BUT THE ACCUSED PRODUCTS OPERATE
10 MORE ALONG THE LINES LIKE THIS.

11 WE HEARD THE OTHER DAY DR. SINGH TALK
12 ABOUT THE WEB VIEW OBJECT AND THAT THE WEB VIEW
13 OBJECT RELIED -- USES THE DATA THAT IS STORED IN
14 THE MOTION EVENT OBJECT TO MAKE A DETERMINATION AS
15 TO WHETHER ONE TOUCH OR MULTIPLE TOUCHES HAD
16 OCCURRED.

17 AND IF ONE USES -- IT TAKES A DIFFERENT
18 PATH THROUGH THE CODE, IN ORDER TO SEE IF ONE TOUCH
19 OR MULTITOUCH HAD BEEN USED.

20 THE POINT IS THAT THE MOTION EVENT OBJECT
21 IS NOT THE CAUSER OF THIS DETERMINATION AS TO
22 WHETHER OR NOT ONE TOUCH OR MULTIPLE TOUCHES HAVE
23 OCCURRED.

24 THE MOTION OF THAT OBJECT THAT CONTAINS
25 THE DATA, WHICH IS THEN USED BY THE WEB VIEW OBJECT

1 IN ORDER TO MAKE THE DETERMINATION.

2 Q OKAY. AND THEN THERE'S BEEN SOME TALK ABOUT
3 TWO FINGER SCROLLING. WOULD YOU TELL US WHAT
4 YOU'VE CONCLUDED WITH RESPECT TO TWO-FINGER
5 SCROLLING IN SOME OF THE SAMSUNG PRODUCTS THAT YOU
6 ANALYZED?

7 A SO ON SOME OF THE SAMSUNG PRODUCTS THAT I HAD
8 THE OPPORTUNITY, THAT I'VE ANALYZED, WHICH ARE THE
9 ACCUSED PRODUCTS IN THIS MATTER, THE PRODUCTS DO
10 PERFORM MULTIPOINT SCROLLING, IN OTHER WORDS, BEING
11 ABLE TO SCROLL A DEVICE USING MULTIPLE POINTS.

12 AGAIN, THE PATENT CALLS FOR
13 DISTINGUISHING BETWEEN A MULTIPOINT SCROLL AND A
14 SINGLE -- I MEAN, A MULTIPOINT SCALE AND A SINGLE
15 POINT SCROLL.

16 WHAT I WAS ABLE -- WHAT I'VE OBSERVED IS
17 THAT SOME OF THE DEVICES DO PERFORM MULTIPOINT
18 SCROLLING WHICH, AGAIN, IS CONTRARY TO THE WAY THE
19 PATENT, THE WAY THE PATENT CLAIMS OPERATE.

20 Q OKAY. LET'S SHIFT GEARS NOW AND LET'S TALK
21 ABOUT THE '163 PATENT, OKAY?

22 A SURE.

23 Q I WANT TO MOVE AHEAD A LITTLE BIT. I KNOW
24 THIS IS INTRODUCTORY SLIDE. YOU'VE GOT THE SAME
25 PRIOR ART?

1 A AGAIN, SAME PRIOR ART, YES, TO THE RIGHT.

2 Q THERE'S BEEN QUITE A BIT OF DISCUSSION OF
3 LAUNCHTILE IN THIS CASE. I THINK WE'VE HEARD
4 ENOUGH ABOUT THAT. SO WHY DON'T WE GO STRAIGHT TO
5 THE ASSERTED CLAIM IN THE '163 PATENT. THAT'S
6 CLAIM 50, IS THAT RIGHT, SIR?

7 A CLAIM 50 IS THE ASSERTED CLAIM IN THE '163
8 PATENT.

9 Q WHY DON'T WE DO THIS. WHY DON'T WE -- LET'S
10 START WITH THE FIRST ELEMENT AND I WILL MOVE
11 THROUGH THE SLIDES AS YOU DESCRIBE WHERE YOU
12 BELIEVE THE ELEMENT AT ISSUE IS FOUND IN CLAIM 50.
13 ARE YOU WITH ME?

14 A OKAY. SO THE FIRST ELEMENT IS OF -- DESCRIBES
15 A PORTABLE ELECTRONIC DEVICE WHICH THE LAUNCHTILE
16 SYSTEM RUNNING ON THIS HEWLETT-PACKARD IPAQ
17 HANDHELD UNIT PERFORMS. IT'S A CROSS -- IT'S WITH
18 A PROCESSOR, A TOUCH SENSITIVE SCREEN, MEMORY, AND
19 A SERIES OF PROGRAMS AND THOSE PROGRAMS CONTAIN
20 INSTRUCTIONS WHICH ALLOW THE PROGRAM TO DO WHAT
21 IT'S SUPPOSED TO DO. SO THAT CLAIM ELEMENT IS MET.

22 SO THE SECOND PART OF CLAIM 50 SAYS
23 DISPLAYING AT LEAST A PORTION OF A STRUCTURED
24 ELECTRONIC DOCUMENT.

25 WHAT'S REFERRED TO THERE, IN LAUNCHTILE,

1 THE STRUCTURED ELECTRONIC DOCUMENT IS WHAT
2 DR. BEDERSON REFERRED TO AS THE INTERACTIVE ZOOM
3 SPACE. THAT INTERACTIVE ZOOM SPACE IS THAT
4 COLLECTION OF 36 TILES THAT DR. BEDERSON TALKED
5 ABOUT, AND THOSE 36 TILES ARE AN INTERACTIVE ZOOM
6 SPACE THAT IS THE STRUCTURED ELECTRONIC DOCUMENT OF
7 THE REQUIREMENT.

8 IF YOU SEE HERE, WHAT IT ALLOWS IS FOR
9 THE IDENTIFICATION OF A FIRST BOX IN THAT -- IN A
10 PLURALITY OF BOXES OF CONTENT.

11 Q OKAY. AND THE NEXT LIMITATION, SIR?

12 A SO THE -- THE PATENT REQUIRES THAT THE SYSTEM
13 BE ABLE TO DETECT A FIRST GESTURE AT THE LOCATION
14 DISPLAYED ON THE -- AT A LOCATION DISPLAYED ON THE
15 STRUCTURED ELECTRONIC DOCUMENT FOR DETERMINING A
16 FIRST BOX IN THE PLURALITY OF BOXES LOCATED AT THAT
17 LOCATION.

18 SO, IN OTHER WORDS, AS YOU CAN SEE HERE,
19 THE USER IS ABOUT TO SELECT AN AREA WITHIN THAT BOX
20 OF FOUR, BECAUSE THAT'S THE WAY THAT THE LAUNCHTILE
21 IS ORGANIZED IS A SERIES OF QUAD TILES, OR
22 TWO-BY-TWO ELEMENTS, AND WHEN THAT HAPPENS, THE
23 STRUCTURED ELECTRONIC DOCUMENT, OR THE INTERACTIVE
24 ZOOM SPACE, IS TRANSLATED AND ENLARGED, AND WE'LL
25 SEE THAT IN THE NEXT CLAIM ELEMENT. THIS MEANS

1 THIS ONE HAS BEEN MET.

2 SO HERE WE SEE THE STRUCTURED ELECTRONIC
3 DOCUMENT, THE INTERACTIVE ZOOM SPACE IS NOW
4 TRANSLATED, MEANING SCROLLED, AND ENLARGED OR
5 CENTERED, CENTERED AND ENLARGED SO THAT WE ENLARGE
6 THAT, THAT FIRST BOX OF CONTENT WITHIN THAT
7 STRUCTURED ELECTRONIC DOCUMENT.

8 AND THAT'S WHAT'S SHOWN HERE. THE
9 FOUR -- THAT QUAD TILE, THOSE FOUR TILES, ARE NOW
10 SELECTED AND ENLARGED. SO THAT CLAIM ELEMENT IS
11 MET.

12 Q AND THE NEXT LIMITATION, SIR?

13 A SO THE NEXT LIMITATION, THIS IS AN IMPORTANT
14 ONE, THE NEXT LIMITATION IS AFTER THE FIRST BOX IS
15 ENLARGED, DETECTING A SECOND BOX WHICH IS NOT THAT
16 FIRST BOX.

17 AND THAT SECOND GESTURE NOW, YOU CAN SEE
18 IT BEING DONE HERE, THE USER IS SELECTING THAT
19 SECOND BOX OTHER THAN THE FIRST BOX.

20 AND SO THE -- ONCE THE FIRST BOX HAS BEEN
21 ENLARGED, NOW I'M SELECTING A SECOND BOX, WHICH IS
22 THIS UPPER LEFT-HAND QUADRANT HERE. SO THAT
23 ELEMENT IS MET.

24 Q OKAY. AND THEN FINALLY THE LAST LIMITATION,
25 SIR?

1 FUNCTIONS TO THE LAUNCHTILE SYSTEM.

2 SO IT TOO INVALIDATES.

3 Q ALL RIGHT. I'D LIKE TO MOVE ON TO ANOTHER
4 REFERENCE NOW, AND WE HAVE A -- I'VE ASKED THAT A
5 SUMMARY SLIDE BE PREPARED. THIS IS THE AGNETTA
6 PATENT. IT'S THE '632 PATENT. DO YOU SEE THAT
7 PATENT IN YOUR BINDER THERE, SIR? YOU SHOULD HAVE
8 AS EXHIBIT 561 SOME DOCUMENTATION RELATING TO
9 AGNETTA. DO YOU SEE THAT?

10 A I DO.

11 Q AND THERE'S A -- IS THERE A PROVISIONAL
12 APPLICATION IN THE FRONT OF EXHIBIT 561 AND IT'S
13 THE '632 PATENT ITSELF IN THE BACK?

14 A THERE IS A PROVISIONAL APPLICATION, YES.

15 MR. DEFRANCO: YOUR HONOR, WE WOULD MOVE
16 FOR EXHIBIT DX 561 INTO THE RECORD.

17 MR. JACOBS: NO OBJECTION, YOUR HONOR.

18 THE COURT: ALL RIGHT. IT'S ADMITTED.

19 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER
20 561, HAVING BEEN PREVIOUSLY MARKED FOR
21 IDENTIFICATION, WAS ADMITTED INTO
22 EVIDENCE.)

23 MR. DEFRANCO: OKAY. WHAT YOU WANT TO DO
24 SIR, RATHER THAN WALKING THROUGH -- BY THE WAY, IS
25 THIS SOMEWHAT -- IN THE CONSTRUCT OF WHAT'S SHOWN

1 IN THIS PATENT, IS IT SIMILAR SOMEWHAT TO
2 LAUNCHTILE?

3 A IT IS SIMILAR TO LAUNCHTILE. THE -- THIS
4 CONFIGURATION --

5 Q AND LET ME JUST JUMP IN --

6 A SURE.

7 Q -- IN THE INTEREST OF TIME. WHAT I'VE DONE
8 HERE IS WE PUT THE CLAIMS SIDE BY SIDE WITH ONE
9 FIGURE FROM THAT PATENT, AND RATHER THAN TAKE YOU
10 THROUGH EACH ELEMENT ONE SLIDE AT A TIME, COULD YOU
11 JUST DESCRIBE FOR US GENERALLY WHERE IN YOUR
12 OPINION THE LIMITATIONS IN CLAIM 50 OF THE '163
13 PATENT ARE FOUND IN THE AGNETTA REFERENCE, SIR?

14 A SURE. SO THE AGNETTA REFERENCE AGAIN IS
15 DIRECTED TO A PORTABLE ELECTRONIC DOCUMENT WITH
16 MEMORY AND PROCESSORS AND COMPUTER INSTRUCTIONS.
17 SO 50A AND 50B ARE MET.

18 50C IS MET BECAUSE WHAT IT DOES --
19 BECAUSE THE STRUCTURED ELECTRONIC DOCUMENT WAS
20 SIMILAR TO LAUNCHTILE IS WHAT IS REFERRED TO HERE
21 AS A TILE SPACE WHICH, AGAIN, PROVIDES INSIGHT INTO
22 THE INFORMATION AND CONTENT THAT IS ON THE
23 PARTICULAR ELECTRONIC DEVICE.

24 THE USER CAN SELECT ANY OF THOSE TILES.
25 ONCE THOSE TILES -- ANY TILE THAT IS SELECTED IS

1 ENLARGED AND CENTERED, SO THAT MEANS THAT CLAIM 50D
2 AND E ARE MET, AND F FOR THAT MATTER.

3 AND IN ADDITION, ONCE THAT -- ONCE THE
4 TILE HAS BEEN ENLARGED AND CENTERED, THE ADJACENT
5 TILES AROUND IT ARE AVAILABLE, THE USER THEN HAS
6 THE OPPORTUNITY TO SELECT THOSE ADJACENT TILES,
7 WHICH THAT TILE WILL NOW BE CENTERED AND ENLARGED
8 AS WELL. SO MUCH LIKE LAUNCHTILE, THE AGNETTA
9 PATENT PERFORMS THE SAME OPERATIONS AND SAME
10 FUNCTIONS.

11 Q AND WHAT IS YOUR YOUR OPINION OF THE VALIDITY
12 OF CLAIM 50 OF THE '163 PATENT IN VIEW OF THE
13 AGNETTA REFERENCE, SIR?

14 A I BELIEVE THE AGNETTA REFERENCE INVALIDATES
15 CLAIM 50 BECAUSE IT MEETS ALL THE CLAIM
16 LIMITATIONS.

17 Q WE HAVE ONE MORE TO DO, THE ROBBINS PATENT.
18 IT SHOULD BE IN YOUR BINDER AGAIN. IT'S '349
19 PATENT. DO YOU SEE THAT THERE, SIR? IT'S EXHIBIT
20 DX 1081.

21 AND, RYAN, WHILE WE'RE DOING THAT, CAN
22 YOU PLEASE PUT UP THE SUMMARY SLIDE FOR THAT
23 REFERENCE.

24 A I DO. I SEE EXHIBIT 1081 AND IT IS THE '349
25 OR ROBBINS PATENT.

1 Q IS THAT THE ROBBINS PATENT THAT YOU ANALYZED
2 IN YOUR WORK IN THIS CASE?

3 A IT IS.

4 MR. DEFRANCO: YOUR HONOR, WE WOULD MOVE
5 EXHIBIT DX 1081 INTO EVIDENCE, PLEASE.

6 THE COURT: ANY OBJECTION?

7 MR. JACOBS: IS THAT THE PATENT?

8 THE COURT: YES, IT IS.

9 MR. JACOBS: NO OBJECTION.

10 THE COURT: IT'S ADMITTED.

11 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER
12 1081, HAVING BEEN PREVIOUSLY MARKED FOR
13 IDENTIFICATION, WAS ADMITTED INTO
14 EVIDENCE.)

15 THE COURT: GO AHEAD, PLEASE.

16 BY MR. DEFRANCO:

17 Q MR. GRAY, ONE MORE TIME. WE'RE ALMOST DONE.
18 WOULD YOU PLEASE DO THE SAME. TAKE US THROUGH EACH
19 ELEMENT IN CLAIM 50 OF THE '163 PATENT AND TELL US
20 WHERE IN YOUR OPINION THAT IS FOUND IN THE ROBBINS
21 '349 PRIOR ART PATENT.

22 A SO THE ROBBINS PATENT, AGAIN, IS A ZOOM
23 PATENT. IT IS DIRECTED TO PORTABLE ELECTRONIC
24 DEVICES. AGAIN, THERE'S A MAP APPLICATION
25 UNDERNEATH IT. THE ROBBINS PATENT AGAIN BEING

1 DIRECTED TO A PORTABLE ELECTRONIC DOCUMENT HAS
2 PROCESSOR AND A TOUCHSCREEN AND A VARIETY -- AND
3 MEMORY AND INSTRUCTIONS THAT PERFORM VARIOUS
4 OPERATIONS.

5 IN THIS PARTICULAR CASE, WHAT HAPPENS IS,
6 IN THIS EXAMPLE THAT'S SHOWN HERE, THE SCREEN IS
7 DIVIDED INTO THREE-BY-THREE MATRIX THAT OVERLAPS,
8 AND WE'LL TALK A LITTLE BIT ABOUT WHY THAT
9 OVERLAPS.

10 THE USER THEN CAN SELECT ANY OF THOSE
11 SEGMENTS AND THOSE SEGMENTS THEN BECOME CENTERED
12 AND ENLARGED ON THE DISPLAY SCREEN.

13 IF YOU NOTICE ON THE -- IF YOU TAKE THE
14 UPPER RIGHT-HAND SEGMENT, THERE'S A SMALL RECTANGLE
15 TO THE LEFT-HAND SIDE OF THAT SEGMENT. THE
16 SELECTION OF THAT SEGMENT NOW ALLOWS THE, THE USER
17 INTERFACE TO MOVE TO THE ADJACENT SEGMENT AND HAVE
18 THAT BE CENTERED AND ENLARGED AS WELL.

19 SO THE PATENT MEETS THE LIMITATIONS OF
20 THE FIRST PART OF 50A AND B BECAUSE IT IS A
21 STRUCTURED -- IT'S A PORTABLE ELECTRONIC DEVICE.
22 IT ALLOWS FOR THE ENLARGEMENT OF THE DOCUMENTS,
23 THAT'S 50C. IT ALLOWS FOR SELECTION OF THE SECOND,
24 A SECOND SPACE, AND THEN THE ENLARGEMENT AND
25 CENTERING OF THAT. SO IT MEETS ALL THE LIMITATIONS

1 OF THE CLAIM AS WELL.

2 Q AND, IN YOUR VIEW, IS CLAIM 50 INVALID IN VIEW
3 OF THIS REFERENCE?

4 A AGAIN, ROBBINS AS WELL, THIS CLAIM COVERS ALL
5 OF THE CLAIM LIMITATIONS OF '163, CLAIM 50, AND
6 CONSEQUENTLY IS -- INVALIDATES IT AS WELL.

7 Q SHIFTING GEARS BRIEFLY TO INFRINGEMENT,
8 NON-INFRINGEMENT ISSUE, YOU'VE HEARD THE TERM
9 "SUBSTANTIALLY CENTERED." IS THAT CORRECT?

10 A RIGHT. ONE OF THE CLAIM ELEMENTS HERE, 50F,
11 FOR EXAMPLE, REFERS TO SOMETHING BEING
12 SUBSTANTIALLY CENTERED.

13 Q AND WHAT IS YOUR VIEW ON THAT, SIR?

14 A IN MY OPINION, THE TERM "SUBSTANTIALLY
15 CENTERED" IS AN AMBIGUOUS TERM. I -- PART OF WHAT
16 A PATENT DOES IS PROVIDE INFORMATION TO AN ENGINEER
17 TO ALLOW THEM TO UNDERSTAND THE SCOPE OF THE PATENT
18 SO THAT THEY CAN AVOID INFRINGING THE PATENT.

19 I DON'T KNOW WHEN SOMETHING IS
20 SUBSTANTIALLY CENTER. I KNOW WHEN SOMETHING IS
21 FULLY CENTERED OR NOT CENTERED, BUT "SUBSTANTIALLY
22 CENTERED" IS AMBIGUOUS.

23 HOW WOULD A PATENT -- HOW WOULD AN
24 ENGINEER UNDERSTAND HOW TO MAKE SOMETHING
25 SUBSTANTIALLY CENTERED OR NOT? SO IN MY OPINION,

1 "SUBSTANTIALLY CENTERED" IS AN AMBIGUOUS TERM.

2 Q AND, FINALLY, SIR, WITH RESPECT TO ELEMENT E,
3 DETERMINING A FIRST BOX IN THE PLURALITY OF BOXES
4 AT THE LOCATION OF THE FIRST GESTURE, CAN YOU GIVE
5 US YOUR OPINION AS IT RELATES TO INFRINGEMENT ON
6 THAT ELEMENT?

7 A AGAIN, 50E TALKS ABOUT IDENTIFYING A BOX IN
8 PLURALITY OF BOXES AT THE LOCATION OF THE FIRST
9 GESTURE.

10 WHAT THAT SEEMS TO INTEND, AT LEAST THE
11 WAY I READ THIS CLAIM THE FIRST TIME I READ IT, WAS
12 THAT THERE ARE A PLURALITY OF BOXES.

13 IF YOU THINK ABOUT NESTED BOXES WHERE
14 THERE ARE MULTIPLE BOXES THAT ARE NESTED AND THE
15 USER SELECTS A BOX OR A SPACE, SOME LOCATION WITHIN
16 THAT NESTED BOX, WHAT HAPPENS IS THE SYSTEM WOULD
17 THEN NEED TO DETERMINE WHICH ONE OF THOSE NESTED
18 BOXES THE USER WAS ACTUALLY INTENDING TO HAVE
19 CENTERED AND ENLARGED.

20 SIMILARLY TO THE WAY LAUNCHTILE WORKS.
21 IF YOU RECALL LAUNCHTILE, YOU CAN SELECT ANY ONE OF
22 THE FOUR IN THE QUAD TILES AND THAT WHOLE QUAD TILE
23 GETS ENLARGED AND CENTERED.

24 AGAIN, I'M NOT SEEING ANY EVIDENCE AT ALL
25 SUPPLIED, OR ANYTHING IN ANY OF THE REPORTS THAT

1 INDICATE HOW THE ACCUSED PRODUCTS MEET THE
2 LIMITATION OF SELECTING A -- SOMETHING IN A
3 PLURALITY OF BOXES. SO, AGAIN, I'M NOT SEEING IT.

4 MR. DEFRANCO: MY TIME IS UP. THANK YOU,
5 SIR.

6 THE COURT: ALL RIGHT. THE TIME IS NOW
7 4:20. GO AHEAD, PLEASE, WITH ANY CROSS.

8 **CROSS-EXAMINATION**

9 BY MR. JACOBS:

10 Q GOOD AFTERNOON, MR. GRAY.

11 A GOOD AFTERNOON.

12 Q NOW, YOUR TESTIMONY ON THE SUBJECT OF
13 INVALIDITY WAS PREMISED ON THE IDEA OF
14 ANTICIPATION; CORRECT, SIR?

15 A THAT'S CORRECT.

16 Q AND ANTICIPATION IS ALL YOU SPOKE TO; CORRECT?

17 A THAT'S CORRECT.

18 Q AND ANTICIPATION REQUIRES THAT EVERY ELEMENT,
19 THE JURY HAS HEARD THIS MANTRA, EVERY ELEMENT OF
20 THE CLAIM BE PRESENT IN THE PROPOSED INVALIDATING
21 REFERENCE; CORRECT, SIR?

22 A THAT'S CORRECT.

23 Q AND SO IF THE JURY --

24 A WELL, WITH A POSSIBLE EXCEPTION THERE. IT IS
25 EITHER -- IT IS EITHER COVERED OR IS INHERENTLY IN

1 THE REFERENCE.

2 Q AND SO IF THE JURY FINDS THAT IN -- WHEN IT
3 COMES TO INVALIDITY, IF ANY ELEMENT OF THE CLAIM IS
4 NOT PRESENT IN THE PROPOSED INVALIDATING REFERENCE,
5 THEN YOUR OPINION SHOULD BE REJECTED; CORRECT, SIR?

6 A AGAIN, WITH THE PROVISIO THAT IF IT IS AN
7 ELEMENT THAT IS INHERENT OR IMPLIED, THAT'S MY
8 UNDERSTANDING.

9 Q OTHERWISE YOU AGREE WITH ME, YOUR OPINION
10 RISES AND FALLS ON THE IDEA OF -- THERE'S NO CLOSE
11 HERE, YOU EITHER GOT IT, EVERY ELEMENT IS PRESENT,
12 OR YOU DON'T. CORRECT, SIR?

13 A EITHER EVERY ELEMENT IS PRESENT OR IT IS
14 INHERENT AS IS REQUIRED.

15 Q NOW, I LISTENED CAREFULLY TO THE ANSWER TO THE
16 QUESTION ABOUT YOUR ROLE IN LITIGATION SUPPORT OVER
17 THE LAST COUPLE YEARS, AND YOU SAID YOU SPENT SOME
18 TIME DOING LITIGATION SUPPORT.

19 WHAT DID YOU MEAN BY "SOME TIME," SIR?

20 A WELL, ACTUALLY SINCE, STARTING IN 1984, I DID
21 SOME LITIGATION SUPPORT, AND THROUGHOUT MY CAREER
22 AS AN ENGINEER, I PERIODICALLY DID LITIGATION
23 SUPPORT ASSIGNMENTS. SO IT'S BEEN OVER A LONG
24 TIME, SINCE 1984.

25 Q BUT OVER THE LAST COUPLE OF YEARS, ALMOST ALL

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CERTIFICATE OF REPORTERS

WE, THE UNDERSIGNED OFFICIAL COURT REPORTERS OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND CORRECT TRANSCRIPT OF OUR SHORTHAND NOTES TAKEN AS SUCH OFFICIAL COURT REPORTERS OF THE PROCEEDINGS HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED TRANSCRIPTION TO THE BEST OF OUR ABILITY.

/S/

LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

/S/

IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8074

DATED: AUGUST 15, 2012