

Exhibit Y

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPLE, INC., a California corporation,

Plaintiff,

vs.

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,

Defendants.

)
)
)
)
)
)
) Case No.
) 11-CV-01846-LHK

VIDEOTAPED DEPOSITION OF ROGER F. FIDLER

TAKEN ON BEHALF OF THE PLAINTIFF

SEPTEMBER 23, 2011

(Starting time of the deposition: 9:32 a.m.)

Job Number: 41966

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 APPLE, INC., a California)
4 corporation,)
5 Plaintiff,)

6 vs.) Case No.
7) 11-CV-01846-LHK

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

16 VIDEOTAPED DEPOSITION OF ROGER F. FIDLER,
17 produced, sworn and examined on September 23, 2011,
18 between the hours of nine o'clock in the forenoon and
19 eight o'clock in the evening of that day, at the
20 offices of Midwest Litigation Services, 401 Locust
21 Street, Suite 204, Columbia, Missouri 65201, before
22 William L. DeVries, a Certified Court Reporter (MO),
23 Certified Shorthand Reporter (IL), Registered
24 Diplomat Reporter, Certified Realtime Reporter, and a
25 Notary Public within and for the State of Missouri, in
a certain cause now pending in the United States
District Court, Northern District of California,
between APPLE, INC., a California corporation,
Plaintiff, vs. 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,
Defendants; on behalf of the Plaintiff.

A P P E A R A N C E S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

For the Plaintiff:

Ms. Jennifer Lee Taylor
Morrison & Foerster
425 Market Street
San Francisco, California 94105

For the Defendants:

Mr. Michael T. Zeller
Quinn Emanuel Urquhart & Sullivan
865 South Figueroa Street,
Los Angeles, California 90017

Mr. Michael D. Sadowitz
Quinn Emanuel Urquhart & Sullivan
51 Madison Avenue, 22nd Floor
New York, New York 10010

Also present:

Mr. John Niehaus, Videographer

Court Reporter:
William L. DeVries, RDR/CRR
Missouri CCR #566
Illinois CSR #084-003893

1 lab. They opened the lab shortly after we opened our
2 lab. The -- Paramount opened a lab on the opposite
3 side of our office. So we had Paramount, Apple. And
4 US West had a -- a small office there where the people
5 that were working with us on communications were
6 located.

7 Q. Was this all on one floor?

8 A. All on the same floor. US West, I'm not
9 sure if they were on the same floor or not. I think
10 they were on another floor.

11 Q. What's Paramount?

12 A. Paramount Motion Pictures. They were
13 looking at how to do entertainment and videos and very
14 interested in the tablet for being able to distribute
15 videos and multimedia.

16 Q. In your -- or what was -- you said it was
17 an Apple Media Lab; is that correct?

18 A. It was the Apple Media Lab. They had a
19 couple people who had been locally hired that I've
20 mentioned, Dennis Dube.

21 Q. Could you spell that?

22 A. D-U-B-E, the last name. Dennis is first
23 name. Joe Pezzilo I think is how it was --
24 P-E-Z-Z-I-L-O I think is the spelling. Yeah, I'm not
25 sure about the spelling, but those are the two names I

1 remember.

2 There were -- there were at least two other
3 people that were in the lab on a fairly regular basis,
4 but -- and we -- at that point we were working with
5 them on the development of -- of newspaper content for
6 the Apple Newton, and it was just as the Apple Newton
7 was being developed and they were getting ready to
8 launch the Apple Newton, '92, '93.

9 Q. Is that when it launched?

10 A. '93 I think is when it -- when it launched.

11 Q. So you said a couple -- you used the phrase
12 a couple of local hires?

13 A. Well, Dennis and -- and Joe both lived in
14 Boulder and were hired by Apple.

15 Q. Uh-huh.

16 A. And they had a -- a couple other people. I
17 don't know if they were local hires or they were hired
18 from Apple. You know, we weren't really involved in
19 their staff situation. But they would come to our lab
20 and meet with us occasionally. We would go to their
21 lab and talk to them about the Apple Newton. But they
22 were right adjacent to our lab.

23 Q. Do you know if they were working on
24 anything else other than newspaper content for the
25 Apple Newton?

1 A. Well, they were working on content for the
2 Newton, but to my knowledge they were most interested
3 in getting news content for the Newton. I think that
4 was their mandate from Apple.

5 Q. Do you know why they were doing this in
6 Boulder, Colorado?

7 A. Well, they opened the lab after we opened
8 our lab, and I think it was, you know, because we were
9 there. They opened their lab to work with us. There
10 was no other reason for them to be in that location.

11 Q. Did anyone tell you that's why they opened
12 their lab?

13 A. I suspect at some point in the conversation
14 they mentioned that the -- well, in fact, I knew when
15 they -- when they opened the lab that they were
16 opening it because we were there and they wanted to
17 work with Knight-Ridder on developing content for the
18 Newton. So yes, they did -- they did tell us that it
19 was intentional.

20 Q. Can you -- do you remember any -- what
21 period of time were you working with the folks at
22 Apple Media Lab to develop the content?

23 A. It would have been probably beginning in --
24 I would suspect in 1993. We opened our lab in August,
25 September of -- of '92, and wasn't very long after

1 that that they opened their lab adjacent to us. And
2 Paramount opened its lab also in '93.

3 Q. Do you know how long the Apple Lab stayed
4 open?

5 A. I think they shut down shortly after
6 Knight-Ridder shut down our lab, that all of -- all of
7 the people who had been working with us in that
8 building shut down their laboratories soon after we
9 left.

10 Q. Other than discussing content for the
11 Newton with them --

12 A. Uh-huh.

13 Q. -- do you remember any other discussions
14 you had with them?

15 MR. ZELLER: The question --

16 A. Well, we --

17 MR. ZELLER: The question is vague at this
18 point --

19 THE WITNESS: Uh-huh.

20 MR. ZELLER: -- as to -- he's already
21 testified about some discussions he had with -- with
22 Apple -- Apple people. So I think the question is
23 vague and confusing at this point.

24 THE WITNESS: Uh-huh.

25 Q. (By Ms. Taylor) Go ahead.

1 A. So they visited our lab quite often. We
2 had lunches together. They were intrigued by my
3 vision of the tablet, and I may be mistaken, but I'm
4 fairly confident that Dennis Dube who was heading up
5 the lab was the person who actually recommended the
6 videographer that we ended up using because he was --
7 he had -- he was native to Boulder and had been there
8 for some time. As far as I know, he's still living in
9 Boulder.

10 So yes, we -- we had lots of discussions
11 about the validity of the -- my vision of the tablet
12 and when that might happen and -- and my view as that
13 the Newton was just the beginning of what was coming.

14 Q. When you say you had discussions about the
15 validity of my vision of the tablet --

16 A. Uh-huh.

17 Q. -- what do you mean when you say my vision
18 of the tablet?

19 A. Well, the idea of a magazine-sized tablet,
20 it would be lightweight, easy to carry, that
21 newspapers could use to do more visually rich
22 presentation.

23 With the Newton, all that we could do at
24 that time was just text, and it was small -- it was so
25 small that all you could really do was one column of

1 text.

2 Q. When you say just text, you mean just
3 display text; you don't mean send a text message?

4 A. No. It was just -- you know, it would
5 display the stories on the -- on the screen.

6 Q. Life has evolved. Text has another meaning
7 now.

8 A. Uh-huh. Uh-huh. No, we also had Newton
9 poetry at that time when -- it was handwriting
10 recognition if you recall on the Newton. And so the
11 joke at the time was that the handwriting recognition,
12 whatever you wrote, it would -- it would create its
13 own poetry too. That all -- it was quite humorous.

14 Q. I think you used the phrase they were
15 intrigued by your vision of the tablet. What -- what
16 made you say that or what makes you think that?

17 A. Well, because I think Dennis came from a
18 newspaper background, was equally concerned about the
19 digital transformation of newspapers, and so was eager
20 to know as much as he could about what we were doing.

21 As I said earlier, we had no interest in
22 building hardware, and if -- if I was able to
23 stimulate Apple to move more quickly to build tablets,
24 I would have been very happy.

25 Q. Do you think you did?

1 A. I don't know. No way to know for sure.
2 Obviously the -- with the videos being widely
3 circulated and -- and as many conferences as I spoke
4 at and the fact that one of our members of our team
5 went to work for Apple after we shut down the lab, I
6 have to believe that people at Apple knew about the
7 work I was doing.

8 In all fairness, that was at the time when
9 Sculley was the CEO and Steve Jobs didn't return
10 until, what, 1997 I believe it was.

11 Q. After Knight-Ridder closed, have you had
12 any communications with anyone at Apple?

13 A. No. We've tried, but...

14 Q. When did you try?

15 A. Well, when I went to Kent State we tried to
16 see if Apple would be interested in helping fund our
17 research and development work, but were unsuccessful.
18 We had -- Adobe funded our research.

19 Q. Did you have anyone else fund it while you
20 were at Kent State?

21 A. I'm sorry?

22 Q. Did anyone else fund your research at Kent
23 State?

24 A. Los Angeles Times.

25 Q. Anyone else?

1 Q. And -- and if that was happening, that's
2 separate from what you're doing?

3 A. Yeah, absolutely.

4 Q. Okay. Other than what you've described
5 that may be happening --

6 A. Uh-huh.

7 Q. -- are you aware of any other possible
8 connections between Samsung and the Reynolds?

9 A. That's all I'm aware of.

10 Q. If you'll go to Exhibit H of your
11 declaration, it is the article with the picture of
12 you.

13 A. Uh-huh. Uh-huh.

14 Q. I think this is Forbes ASAP.

15 A. Uh-huh.

16 Q. Second page --

17 A. Uh-huh.

18 Q. -- first column --

19 A. Uh-huh.

20 Q. -- halfway down --

21 A. Uh-huh.

22 Q. -- just below where it says "Telecosm." On
23 the left side it says, "Down the hall is an Apple
24 Computer media center which is developing graphical
25 forms of AppleLink, the company's on-line network."

1 Do you see that.

2 A. Uh-huh.

3 MR. ZELLER: I'm sorry. We're on
4 Exhibit 8. What paragraph is that again?

5 A. Right. They're talking -- the Apple Media
6 Lab.

7 MR. ZELLER: Thank you.

8 Q. (By Ms. Taylor) Is that the media lab you
9 were describing earlier?

10 A. Yes, that's what I'm referring to. I think
11 George Gilder didn't fully understand it. And yes, he
12 was -- we were looking at ways to deliver content to
13 the Newtons. He doesn't mention the Newton, but that
14 was the -- that was our main focus at that time.

15 AppleLink I believe by that time -- I
16 worked with AppleLink and I had close relation with
17 Apple early on because I licensed the AppleLink
18 technology in 1994 to launch what I called Presslink
19 as a global intranet for the newspaper industry to
20 deliver graphics and photos.

21 So -- but I think by the time he wrote this
22 article, I think he was mistaken that AppleLink was --
23 had already been sold, and that was the basis for AOL
24 to be able to launch a similar system.

25 So I think what he was referring to here

1 is -- is that to provide a way to deliver content
2 on-line to the -- the Newton, which he doesn't
3 mention.

4 Q. I'll have to admit I'm a little bit
5 confused. Is it -- is -- is the potential error that
6 he's -- the timing, like AppleLink --

7 A. Uh-huh.

8 Q. -- had already been sold to some third
9 party by the time this article was written?

10 A. If my memory serves me correctly, AppleLink
11 had already been sold by that time.

12 Q. At some point when this Apple Computer
13 media center was in Boulder --

14 A. Uh-huh.

15 Q. -- do you know if it was working on what
16 he's described in this article?

17 A. I don't think he accurately described it.

18 Q. Okay.

19 A. And it may be that they did not want to
20 tell him what they were working on at that point, but
21 that's my personal speculation.

22 Q. The last -- we'll go to paragraph ten of
23 your declaration. Go to the front. Paragraph ten,
24 page four. By the way, tell me if you want to take a
25 break because you've been sitting there a long time

1 since we watched a video.

2 A. Paragraph ten?

3 Q. Paragraph ten.

4 A. Uh-huh.

5 Q. The last sentence, paragraphs ten says IDL
6 worked with Apple on news content --

7 A. Uh-huh.

8 Q. -- for Apple's Newton product --

9 A. Uh-huh.

10 Q. -- until IDL shut down in 1995.

11 A. Uh-huh.

12 Q. Can you tell me what that means?

13 A. That's what I had just said, that we -- our
14 involvement with them -- with Apple was specifically
15 about delivering news content to the Apple Newton
16 during -- from about 1993 to 1995.

17 Q. But what did you really do on a day-to-day
18 basis?

19 A. We were looking about -- at how we would
20 get the feeds of -- of news from newspapers --

21 Q. Uh-huh.

22 A. -- and to be able to deliver them to the
23 device and what the content might look like when it's
24 on the Apple Newton.

25 Q. And how were you talking about getting the

1 feeds to the device?

2 A. The -- again, remembering this is before or
3 just as the -- the web was developing, trying to
4 figure out the most efficient way to get it to them.
5 And as I recall -- again, it's a while -- that nothing
6 specific came out of that -- those discussions or we
7 didn't actually end up producing something that they
8 could use because even by the time we shut down in
9 1995, it was apparent that the Apple Newton was not
10 going to be a successful product. And I think 1996 is
11 when the Apple Lab finally shut down.

12 Q. The next sentence, which is the first
13 sentence in paragraph eleven --

14 A. Uh-huh.

15 Q. -- says during the time IDL and Apple
16 collaborated --

17 A. Uh-huh.

18 Q. -- Apple personnel were exposed to my
19 tablet ideas and prototypes.

20 A. Uh-huh.

21 Q. Do you see that sentence?

22 A. Yes, uh-huh.

23 Q. What -- what is -- what was that
24 collaboration?

25 A. We had a conference room in our lab where

1 we would meet and talk about -- we certainly talked
2 about the Newton, but we were talking about at what
3 point can we expect to see a tablet, and I would show
4 the prototypes that we had.

5 Again, we were not trying to keep our
6 tablet idea secret because we wanted companies to
7 build a tablet device. So I was probably certainly
8 encouraging them to pursue a larger magazine-sized
9 device for displaying newspaper content.

10 And we showed them some of our early ideas
11 for -- or our ideas for how news could be presented on
12 a tablet. When we produced our video, they saw our
13 video that we produced, the 1994 video.

14 Q. Exhibit L.

15 A. At -- at the -- what?

16 Q. Exhibit L.

17 A. Oh.

18 Q. That's the -- that's how we identified the
19 1994 video, Exhibit L.

20 A. Right. Right. 1994 video in our lab. And
21 so in collaboration -- that may be a bit strong, but
22 we -- you know, I would pick their brains for what
23 they knew and -- and what we might learn about how
24 tablets might evolve and how news might be presented
25 on those devices.

1 So it was a very congenial, relaxed -- we
2 would go to lunch together. We would have -- so there
3 was -- it was -- it was not a formal arrangement with
4 them.

5 Q. When you were working with them on the news
6 content --

7 A. Uh-huh.

8 Q. -- as referenced in the previous
9 paragraph --

10 A. Uh-huh.

11 Q. -- did you have a contract in place with
12 them?

13 A. There was no contract.

14 Q. Did one company pay the other company?

15 A. No. We received no money from Apple.

16 Q. Was --

17 A. And we -- and -- and they received no money
18 from us.

19 Q. Was -- was there a formal relationship
20 between the companies?

21 A. No. There was no -- there was no NDA
22 between us. At least -- let me correct that. No NDA
23 that I recall that we actually signed.

24 Q. So how did it come to be that you were
25 working with them on news content for the Apple's

1 Newton product?

2 A. Because that was -- my understanding was
3 that that was their main reason for existing in
4 Boulder, Colorado was to learn about how -- you have
5 to understand, the Newton was originally set up to be
6 a personal digital assistant.

7 And so its original focus was more on
8 maintaining your calendar, maintaining your phone
9 list, all the basic information, plus being able to
10 take notes and -- and have that translated into
11 machine-readable text.

12 At the time that they opened the lab in
13 Boulder, they were beginning to think about what kinds
14 of more dynamic information we could provide that
15 would make the Newton more valuable to people.

16 And so our discussions were more general
17 and exploring what the issues would be, what
18 newspapers would have to do if they wanted to
19 contribute content, much the same that later they had
20 to learn how to do -- to provide to e-readers.

21 Very similar situation. But to my
22 knowledge, we were not able to get any newspapers to
23 deliver content to them. We could simulate content to
24 them, but we actually did not have a newspaper working
25 with them.

1 We did attempt to work with The Daily
2 Camera, which is the local newspaper in Boulder,
3 Colorado which Knight-Ridder owned, and I do recall
4 meetings with Dennis Dube, Barrie Hartman, who is the
5 editor and later the publisher of the -- of the
6 newspaper and I would sit down and we would talk about
7 the future and how perhaps we could experiment with
8 content from the daily news -- or I mean the -- The
9 Daily Camera to simulate what we could do with the
10 Apple Newton.

11 At the same time, by the way, I was also
12 working -- or looking at the -- the GO Tablet that was
13 developed by GO Corporation and meeting with people
14 from GO and from Slate, a company that was based in
15 Arizona that was developing content for the GO Tablet,
16 which was in fact a letter-sized black and white
17 display.

18 And they launched that also in -- I think
19 they began it in 1992, but it was finally launched in
20 1993. So ...

21 Q. How did you first meet the people at the
22 Apple Computer Media Lab?

23 A. I honestly don't recall of how that
24 occurred, but I -- I remember meeting with Dennis
25 Dube, who headed the lab at that time, and -- when he

1 indicated he'd like to set up the Apple Media Lab
2 adjacent to our lab and collaborate with me.

3 Q. Was Dennis Dube -- is it a V or a B?

4 A. B, Dennis Dube.

5 Q. B, okay. Was Dennis Dube an employee of
6 Apple before the Apple Media Lab was set up as far as
7 you know?

8 A. I don't know.

9 Q. But you recall meeting with him before the
10 media lab was set up?

11 A. Right.

12 Q. And did he ask if -- if you would help them
13 with what they were planning to do?

14 MR. ZELLER: I think the question is vague.

15 A. I -- I don't recall exactly what he asked
16 me at that point.

17 Q. (By Ms. Taylor) You identified two
18 people --

19 A. Uh-huh.

20 Q. -- who worked at the Apple Media Lab.

21 A. Uh-huh.

22 Q. Mr. Dube and --

23 A. Joe Pezzilo.

24 Q. Pezzilo.

25 A. Uh-huh.

1 Q. Do you recall any other names as the day
2 has gone on?

3 A. Not at this point.

4 Q. Do you know how many more people there
5 were?

6 A. Only -- if memory serves me, I think there
7 were four people at the lab, but that's just my
8 memory. I have no specific information to corroborate
9 that.

10 Q. Did the collaboration that you had, that
11 you reference in paragraph eleven, go beyond working
12 with Apple and news content for Apple's Newton
13 product?

14 A. Apple what?

15 Q. Apple's Newton product.

16 MR. ZELLER: This is -- this is asked and
17 answered. It's also vague.

18 A. At that time the Apple Newton was the only
19 thing we were focused on.

20 MS. TAYLOR: Okay. I've been told we're
21 just about out of time, so let's take a break.

22 VIDEOGRAPHER: We're going off the record
23 at approximately 4:14 p.m.

24 (WHEREIN, a recess was taken.)

25 VIDEOGRAPHER: We're back on the record on

1 that's confidential?

2 A. To my knowledge, nothing I discussed today
3 was confidential.

4 MS. TAYLOR: Okay. I think I'm done. So
5 we'll go off the record.

6 MR. ZELLER: I may have one question. Let
7 me see one second. No, I was incorrect. I have no
8 further questions for you.

9 VIDEOGRAPHER: Signature?

10 MR. ZELLER: We have -- we have a
11 stipulation.

12 VIDEOGRAPHER: We're going off the record
13 at approximately 7:52 p.m.

14 (WHEREIN, the deposition was concluded at
15 7:52 p.m.)

16

17

18

19

20

21

22

23

24

25

1 STATE OF)

2)

3 COUNTY OF)

4

I, ROGER F. FIDLER, do hereby certify:

5 That I have read the foregoing deposition;

6 That I have made such changes in form and/or
substance to the within deposition as might be
necessary to render the same true and correct;

7 That having made such changes thereon, I hereby
subscribe my name to the deposition.

8 I declare under penalty of perjury that the
foregoing is true and correct.

9

10

ROGER F. FIDLER

11

12 Executed this 24th day of September,

13 2011.

14

15

16 Notary Public:

17 My Commission Expires:

18

19

20

21

22

23

24

25