EXHIBIT D

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 1              UNITED STATES DISTRICT COURT

 2            NORTHERN DISTRICT OF CALIFORNIA

 3                  SAN JOSE DIVISION

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 5  APPLE INC., a California        )
    corporation,                    )
 6                                  )
                    Plaintiff,      )
 7                                  )
           vs.                      )
 8                                  )No. 11-CV-01846LHK
    SAMSUNG ELECTRONICS CO., LTD.,  )
 9  a Korean entity; SAMSUNG        )
    ELECTRONICS AMERICA, INC., a    )
10  New York corporation; SAMSUNG   )
    TELECOMMUNICATIONS AMERICA, LLC, )
11  a Delaware limited liability    )
    Company,                        )
12                                  )
                    Defendants.     )
13  ---------------------------------x

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17     VIDEOTAPED DEPOSITION OF TONY GIVARGIS, PH.D.

18                Los Angeles, California

19              Tuesday, December 6, 2011

20

21      HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

22

23  Reported by:

24  SUSAN A. SULLIVAN, CSR #3522, RPR, CRR

25  JOB NO. 44330
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1   MR. SHAH: Ali Shah, WilmerHale, for the witness

2   and representing Apple.

3   THE VIDEOGRAPHER: Thank you.

4   And will the reporter now swear or affirm

5   the witness.

6

7   TONY GIVARGIS, PH.D.,

8   called as a witness, having been duly sworn by

9   the court reporter, was examined and testified

10   as follows:

11

12   EXAMINATION

13   BY MS. MAROULIS:

14   Q   Good morning, Mr. Givargis. How are you

15   today?

16   A   Good, thank you.

17   Q   My name is Victoria Maroulis and I will be

18   asking you some questions today.

19   Have you ever been deposed before?

20   A   No.

21   Q   In that case let me briefly run you through

22   the rules of the deposition.

23   First of all, do you understand that you

24   are testifying today like you would be in a court of

25   law under oath even though we're sitting in a

1 operating-system independent?

2   A   This passage does not make reference to

3 operating-system independent. However, the

4 association between an applet and an application

5 module, together with the claim language and the

6 prosecution, the file history, does suggest to me

7 that the applet requires the application module as

8 a, sort of as a context, and that relationship is

9 what one would expect from Java applets or Java-like

10 applets, that interpreted.

11   Q   Setting aside the claim language and

12 prosecution history, is it correct that there's

13 nothing in this particular passage that indicates

14 operating-system independence?

15   A   Nothing in the passage mentions anything

16 about being operating-system independent, yes.

17   Q   Let's take a look at the claim language.

18 For example, Claim 1 in Column 7, do you see that?

19   A   Yes.

20   Q   The relevant limitation is "Generating a

21 music background play object, wherein the music

22 background play object includes an application

23 module including at least one applet."

24   Is there any mention of operating-system

25 independence here?

1   A   No.

2   Q   Is there anything in this claim that you

3 see that supports your notion of operating-system

4 independence?

5   A   What I see in this sentence, passage, is,

6 again, the association between an applet running or

7 an applet that is within an application module and

8 that association to me suggests a Java-like

9 interpreted environment.

10   Q   Did you review the testimony of the

11 inventor of this patent?

12   A   Yes. I reviewed a subset of it.

13   Q   Did you see that the inventor who was

14 developing this technology was working with system-

15 dependent applets?

16   A   That is correct, yes.

17   Q   Which system-dependent applets was he

18 working with, to your understanding?

19   MR. SHAH: If you need to see any documents to

20 refresh your recollection, you can ask.

21   THE WITNESS: Yes. I think this one I can

22 answer without the document, but it was a Qualcomm

23 chipset.

24   Q   BY MS. MAROULIS: Do you disagree that the

25 technology he was working on is described by Claim

1   1?

2   MR. SHAH: Object to the extent it calls for a

3   legal conclusion.

4   THE WITNESS: I have not formed that position

5   yet.

6   Q   BY MS. MAROULIS: Do you understand that he

7   was asked during deposition about the embodiments of

8   the patent?

9   MR. SHAH: Same objection.

10   THE WITNESS: Yes. I'm not sure exactly what he

11   was asked.

12   Q   BY MS. MAROULIS: If the technology that he

13   was working on embodies this claim would you agree

14   with me that the claim includes applets that are

15   also system dependent?

16   MR. SHAH: Same objection.

17   THE WITNESS: Based on -- I recognize that the

18   inventor was working with a system that was

19   OS-dependent, specifically the Qualcom chipset.

20   However, that use of the term "applet" within that

21   context was unusual or it was not consistent with

22   the common understanding of the term "applet" at the

23   time and the '711 patent does not make that

24   distinction clear.

25   Q   BY MS. MAROULIS: If the '711 patent does

1 not make a distinction clear between system

2 dependent and system independent, do you agree then

3 that includes both?

4   MR. SHAH: Objection to form.

5   THE WITNESS: It could include, it could be

6 both, but the common understanding again would be

7 that it is consistent with applets as being

8 OS-independent, as being the more likely case.

9   Q   BY MS. MAROULIS: It is more likely but it

10 is not exclusively so, correct?

11   MR. SHAH: Objection; mischaracterizes his

12 testimony.

13   THE WITNESS: If I were to read this or if

14 somebody who would be familiar with the area were to

15 read this in 2005 it would be assumed or it would be

16 understood for an applet to be an OS-independent

17 applet.

18   Q   BY MS. MAROULIS: Would a person reading

19 this in 2005 be aware of applets in other language

20 environments?

21   A   Yes.

22   MS. MAROULIS: Okay. We can take a five-minute

23 break.

24   THE WITNESS: Thank you.

25   THE VIDEOGRAPHER: The time is 9:54 a.m. and we

1   State of California   )
)   ss.
2   County of Los Angeles   )

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4   I, SUSAN A. SULLIVAN, CALIFORNIA CSR No.

5   3522, RPR, CRR, do hereby certify:

6   That prior to being examined TONY GIVARGIS,

7   PH.D., the witness named in the foregoing

8   deposition, was, before the commencement of the

9   deposition, duly administered an oath in accordance

10 with C.C.P. Section 2094;

11   That the said deposition was taken before

12 me at the time and place therein set forth, and was

13 taken down by me in shorthand and thereafter

14 transcribed into typewriting under my direction and

15 supervision; that the said deposition is a true and

16 correct record of the testimony given by the

17 witness;

18   I further certify that I am neither counsel

19 for, nor in any way related to any party to said

20 action, nor in any way interested in the outcome

21 thereof.

22   IN WITNESS WHEREOF, I have subscribed my

23 name on this 6th day of December, 2011.

24   _____

25   SUSAN A. SULLIVAN