

EXHIBIT H

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 system independent, correct?

2 A That is correct, yes.

3 Q What about this passage do you believe
4 supports your opinion?

5 A This passage also refers to, includes an
6 application module including at least one applet so
7 there is this applet being included within an
8 application module property that is consistent with
9 the Java-like execution environment of applets which
10 I rely on for my definition of "applets."

11 Q Can this notion of inclusion of the applet
12 within the application that you refer to exist
13 outside Java?

14 MR. SHAH: Objection; form.

15 THE WITNESS: Yes. This notion of inclusion is
16 actually a very, very common design, sort of a
17 paradigm where one application serves as a host
18 interpreting another application or a set of
19 application on, if you will, on top. And this is
20 the Java model of execution where the Java codes or
21 Java applications are interpreted by the host
22 application. For example, a browser. It is also
23 consistent with all interpreted language like Ruby
24 or PHP or even AppleScript and JavaScript.

25 Q BY MS. MAROULIS: In the context of the

1 host application can an applet be still system
2 dependent or are you saying it is always system
3 independent?

4 A Typically.

5 The purpose of this inclusion or this
6 framework that I just described is to make the
7 applet OS-independent. I'm certain there is an
8 example or an exceptional case or a scenario where
9 one would build an applet that bypasses that notion
10 so -- it is not universally the case but commonly
11 the case.

12 Q Can you give me an example of such a
13 situation where you would have a host application
14 and still have a system-dependent applet?

15 A Well, one example could be an applet that
16 exploits certain weakness or error or shortcoming of
17 the host application to gain access to the
18 underneath operating system, so in that sense that
19 applet is certainly OS-dependent.

20 In another example, it could be that that
21 applet is designed to take advantage of certain
22 resources of Operating System A and those resources
23 may not be available on Operating System B and in
24 that case too that applet would be dependent on
25 Operating System A and not portable to Operating

1 System B.

2 Q Any other examples?

3 A I can't think of any now.

4 Q Can a Java applet be programmed to be
5 operating-system dependent?

6 A I believe Java applets by design inherently
7 are operating-system independent. The exceptions
8 would be the two I mentioned previously, a security
9 breach of some sort or a lack of resources of some
10 sort on one platform versus another.

11 Q But can someone choose to program an
12 operating dependent, operating-system dependent
13 applet in the Java context?

14 MR. SHAH: Object to form.

15 THE WITNESS: Not specifically using the Java
16 programming language and the associated, the
17 understood to be Java tools for designing and
18 developing applications.

19 Q BY MS. MAROULIS: When you say not strictly
20 using, what is the distinction that you are drawing?

21 A Well, Java is a programming language and
22 the programming language itself, setting aside the
23 environment where the code will execute and the
24 tools that would possibly compile the code, only
25 records or specifies the sequence of instructions

1 AppletViewer which -- which, in essence, allows you
2 to run an applet on -- on it without the need of a
3 browser.

4 Q Are there applet viewers in platforms other
5 than Java?

6 A Yes. Any programming language, language
7 that is interpreted will have a player, so to say,
8 for the interpreter, in essence, would be this host
9 application similar to a browser being a host
10 application for applets that happen to be downloaded
11 off the internet. But every, each and every
12 interpreted language has an interpreter that -- that
13 is necessary to allow the application written in
14 that language to be executed.

15 Q What is the function of the AppletViewer?

16 A The AppletViewer allows you to execute an
17 applet written in -- in Java.

18 Q Okay. Going past Paragraph 29 in this same
19 section, are there other statements or paragraphs in
20 which you disagree with Mr. Cole?

21 MR. SHAH: Take your time and review every part
22 of that document.

23 THE WITNESS: Yes. I believe the argument that
24 silence on the definition of an applet or the lack
25 of reference to operating-system independent is not

1 to me convincing of the fact that an applet
2 necessarily is defined to be operating-system
3 dependent and contrary to that applets are commonly
4 usually assumed to be operating-system independent.

5 Q BY MS. MAROULIS: Is this based on the same
6 rationale that you testified about earlier this
7 morning in support of your own opinion or there is
8 more to it?

9 MR. SHAH: Objection to form.

10 THE WITNESS: Generally, yes. I'm not sure what
11 part of my testimony you are specifically referring
12 to but, yes, the message is consistent that the
13 common understanding of an applet is one that is
14 interpreted.

15 Q BY MS. MAROULIS: Do you agree with Mr.
16 Cole's interpretation of the Kokubo reference?

17 A Yes, I agree with the brief summary of the
18 Kokubo patent and I also agree with the fact that
19 the Kokubo patent does not define or refer to
20 applets, operating-system independence.

21 Q Do you believe that the examiner suggested
22 to the applicant to add the term "applets" to
23 overcome the Kokubo reference?

24 MR. SHAH: Objection; the document speaks for
25 itself.

1 THE WITNESS: That is my understanding, yes.

2 Q BY MS. MAROULIS: In reviewing the
3 extrinsic evidence sources that Mr. Cole cites did
4 you see any sources that you have previously
5 encountered in your day-to-day job as a programming
6 professor, an expert?

7 MR. SHAH: Object to form.

8 THE WITNESS: The one that I would be most
9 familiar with is Python applets. Python is -- has
10 become a popular language and it is used heavily in
11 universities for teaching.

12 Q BY MS. MAROULIS: Do you agree with Mr.
13 Cole's description of Python applets?

14 A I recognize that Python applets are used in
15 the context of Linux or Ubuntu, a particular
16 distribution of Linux. However, Python applets are
17 written in the language Python which is an
18 interpreted language and Python is available for
19 Windows, Python is available for various flavors of
20 Linux, there is even a Python interpreter that would
21 run on a MAC OS, so I believe the conclusion that
22 these applets, these Python applets are specific on
23 Linux or Ubuntu is false.

24 Q So you don't believe that Python apps --
25 pardon me, Python applets are systems dependent in

1 State of California)
2 County of Los Angeles) ss.
3

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