

# 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