

EXHIBIT 3

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

RED BEND LTD., and RED BEND
SOFTWARE INC.,

Plaintiffs,

vs.

No. 09-cv-11813-DPW

GOOGLE INC.,

Defendant.

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*** CONFIDENTIAL, ATTORNEYS' EYES ONLY ***

DEPOSITION OF MARTIN G. WALKER, Ph.D.

March 9, 2010

Reported by:
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CSR No. 9897

1 the meaning in the context of this patent.

2 Q. Okay. So let's just now talk for a moment
3 about Windows executable files. Would a Windows
4 executable file contain symbolic code?

5 A. Let's see. To be -- I think you mean --
6 you're referring to a Windows executable file --
7 Windows PE executable file format --

8 Q. Yes.

9 A. -- is that right?

10 Q. Yes.

11 A. I haven't considered that before. Let
12 me -- notes, my notes. There is some parts of the
13 Windows PE file format that I actually -- that I
14 didn't completely investigate, but of the parts that
15 did, there's text and data and the resources and the
16 reloc section that would not be symbolic.

17 Q. That would not be symbolic?

18 A. Would not be symbolic.

19 Q. So there are portions of the Windows PE
20 format, though, that would be symbolic?

21 A. I don't know.

22 Q. So on your notes on the next page, MW 3,
23 at the bottom, there's a heading that says, "PE
24 (portable executable) file format." Do you see
25 that?

1 A. Yes.

2 Q. And about three lines later, four lines
3 later, there's something that says, "symbol table
4 info." Can you explain what that is?

5 A. Yeah, that was -- this is actually done a
6 little bit before this previous page, but the
7 previous page, the symbol table info had to do with
8 this reloc section, R-E-L-O-C section, that at the
9 end of the day Courgette used to identify the -- all
10 of the absolute addresses.

11 Q. Okay. So in your investigation of the
12 Windows portable executable file format, you
13 determined that, in fact, there is a symbol table in
14 that file format, correct?

15 A. It was more a list of addresses as opposed
16 to a symbol table.

17 Q. In your notes you call it a symbol table,
18 though, correct?

19 A. Yeah, that was -- that -- that was when I
20 was trying to figure out what it was, then the page
21 02 became sort of my bible for the PE file format.

22 Q. So what do you mean by "symbolic code" in
23 your declaration? What are the characteristics of
24 symbolic code as you use that term in your
25 declaration?

1 A. Symbolic -- symbolic code, as I use the
2 term, had to do with representation of the objects
3 in the program through the use of symbols, that
4 the -- whereas the executable files referred to
5 addresses or other -- whereas the executable files
6 referred to addresses or used direct references,
7 there is symbols used in level of indirection or a
8 layer of abstraction, or symbolic code would use a
9 layer of abstraction.

10 Q. Well, ex -- so executable code also uses a
11 layer of abstraction on occasion, correct?

12 A. I don't know what you mean by that.

13 Q. Well, let me ask you what you meant by
14 "representation of objects through the use of
15 symbols." Can you give an example of that?

16 A. So the representation of objects that
17 instead of having a direct reference to something,
18 an executable -- an executable -- an executable
19 object doesn't -- has all of the references
20 presumably resolved, that is, that you don't -- that
21 it refers to an address. The instruction refers to
22 an address as opposed to refers to go off to look
23 something -- well, that's not quite right, but it
24 basically refers to -- directly refers to the
25 address or as opposed to some more abstract

1 representation.

2 Q. Is a relative address, in your view, an
3 address or a more abstract representation?

4 A. Relative address is part of an
5 instruction, so that's something that can be
6 executed directly. So --

7 Q. So would a relative address be symbolic,
8 in your view, or no?

9 A. No.

10 Q. What about the name of a register; would
11 that be symbolic or an address?

12 A. Well, the -- you know, these -- so the
13 name of a register -- there's a one-to-one
14 correspondence between the name to the register --
15 name of a register and the code that references that
16 register, the bits in the code that reference that
17 register. So that's not symbolic then. That's just
18 replacement.

19 Q. So in the Windows portable executable file
20 format, what is the symbol table info that you're
21 referring to on MW 3?

22 A. When I'm looking at this, my -- that it
23 was referring -- my memory is that it's referring
24 off to the reloc table as a part of the -- as a part
25 of the sections.

1 Q. And sitting here today, do you have -- can
2 you say with certainty that the Windows portable
3 executable file format does not include symbolic
4 code, as you use that term in your declaration?

5 A. I can't say definitively. I mean, the
6 parts of it that I looked at were not symbolic.
7 There might be other parts that are.

8 Q. Sorry. Other parts that are?

9 A. I said there might be other parts that
10 could be.

11 Q. If a Windows file -- Windows executable
12 file did have symbolic code in it and that -- that
13 file could not be an old data table as that term is
14 used in the claims of the asserted patent; is that
15 correct?

16 A. Can you try the question again? I --

17 Q. If a Windows executable file did include
18 symbolic code in it, such a file could not be an old
19 data table as that term is used in the claims of the
20 asserted patent?

21 A. Let's see. So the difficulty that I'm
22 having is that there's a -- that the
23 representation -- the question is, is it -- if it
24 had some small insignificant component of symbolic
25 information that was just treated as pure data, not

1 there's a distinction -- let's see. So there's --
2 he refers to them -- he refers to object files
3 differently than object code, but for the purposes
4 of what's disclosed here, I don't see the relevance
5 of the distinction.

6 MR. WILLIAMS: Q. Okay. Well, what does
7 he disclose is in the content of an object file in
8 the section that we're referring to now?

9 A. "Object files contain a series of defined
10 records, each one containing specific items such as
11 object code for a routine, the name of a routine,
12 external reference from one routine to another, or
13 comments."

14 Q. Would such an object file as described
15 there be executable?

16 A. This file would not be executable until a
17 linker touched it and loaded it into memory.

18 Q. When you say "a linker touched it," what
19 do you mean? What would the linker do?

20 A. Resolve -- one of the things, resolve
21 the -- well, let's see. I don't know what it would
22 do in every case, but at least it would resolve some
23 external references.

24 Q. All right.

25 A. Address issues with relocatable code.