

DAVID GELERNTER November 5, 2009

Page 233

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT
EASTERN DIVISION OF TEXAS
TYLER DIVISION

-----)
MIRROR WORLDS, LLC)
Plaintiff(s),)
VS) Action No.
) 6:08 CV 88 LED
APPLE, INC.)
Defendant(s).)
-----)
VOLUME II
Pages 233 - 380

VIDEO DEPOSITION OF DAVID GELERNTER

DATE: November 5, 2009

HELD AT

Omni Hotel
155 Temple Street
New Haven, CT

- - -

Reporter: JENNY C. EBNER, RPR/LSR 00030
BRANDON SMITH REPORTING SERVICES, LLC

44 Capitol Avenue
Hartford, CT. 06106
860.549.1850
860.852.4589

Six Landmark Square
Stamford, CT. 06901
203.316.8591
860.852.4589

Merrill Legal Solutions
(800) 869-9132

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

APPEARANCES:

REPRESENTING THE PLAINTIFF:

STROOCK & STROOCK & LEVAN, LLP
180 Maiden Lane
New York, NY 10038-4982
212.806.5984
ran@stroock.com

By: RICHARD H. AN, ESQ.
KENNETH STEIN, ESQ.

REPRESENTING THE DEFENDANT:

WEIL, GOTSHAL & MANGES, LLP
201 Redwood Shores Parkway
Redwood Shores, CA 94065
650.802.3126
steven.cherensky@weil.com
By: STEVEN CHERENSKY, ESQ.

ALSO IN ATTENDANCE:

LISA MARIE SCHULL

INDEX
EXAMINATION

WITNESS NAME	PAGE
DAVID GELERNTER	
Direct By Mr. Cherensy	238

EXHIBITS

Exhibit	Page
Gelernter Exhibit 4 Presented to Witness	243
Gelernter Exhibit 20 Marked for ID	253
Gelernter Exhibit 21 Marked for ID	260
Gelernter Exhibit 22 Marked for ID	262
Gelernter Exhibit 23 Marked for ID	308
Gelernter Exhibit 24 Marked for ID	309
Gelernter Exhibit 25 Marked for ID	342
Gelernter Exhibit 26 Marked for ID	348
Gelernter Exhibit 27 Marked for ID	355
Gelernter Exhibit 28 Marked for ID	364
Gelernter Exhibit 29 Marked for ID	371
Gelernter Exhibit 30 Marked for ID	372

TAPES

TAPES	Page
Videotape Number 1	236
Videotape Number 2	297
Videotape number 3	338

* Exhibits returned with transcript *

1 Lifestream concept could be implemented; isn't
2 that right?

3 MR. AN: Objection; form.

4 THE WITNESS: Again, there is a big
5 difference between a client server
6 architecture and enterprise management
7 system, which implies a client server
8 architecture.

9 As I said -- I said the client
10 server architecture was not inconsistent
11 with our view of this patent. I didn't
12 recall that we stated it explicitly. I
13 stand by exactly what I said, it's not
14 inconsistent with this view, but client
15 server doesn't imply enterprise
16 information systems.

17 BY MR. CHERENSKY:

18 Q Would you agree client server is
19 disclosed -- client server architecture is
20 disclosed in your 227 Patent?

21 A Yes.

22 Q Okay. You said there were differences
23 between the client server architecture and
24 enterprise management architecture. What are the
25 differences between those two concepts, as that

1 term "enterprise information management system"
2 is used in Claim One?

3 MR. AN: Again, your independent
4 understanding separate from
5 communications with counsel.

6 THE WITNESS: Okay. My independent
7 understanding is that an enterprise
8 information management system, insofar
9 as it implies a large number of clients
10 and potentially many servers, and a
11 potentially dynamic architecture in
12 which servers, new servers enter and old
13 ones drop out, new client machines enter
14 and old ones drop out, and as I say,
15 there may be many servers, and there may
16 be many, I should say very many, not
17 order of ten but order of a hundred,
18 hundreds or thousands or more, of
19 clients, implies a completely different
20 kind of system.

21 The system -- a system that is
22 merely an ordinary client server system
23 for a dozen nodes or a normal sort of
24 work group environment would break
25 potentially instantly in an enterprise

1 environment and would require a
2 completely different approach to making
3 the system work.

4 I don't think we were in a position
5 to assert, when we wrote this patent --
6 well, we didn't write it -- when the
7 patent was written under our auspices or
8 whatever -- I don't think we were in a
9 position even to assert that it was
10 possible to have implementation for an
11 enterprise management system.

12 BY MR. CHERENSKY:

13 Q Is an enterprise information management
14 system a type of client server architecture?

15 A I am trying -- why does that strike me
16 as wrong? Type? Is it a type -- is an
17 enterprise management system a type of client
18 server architecture?

19 Like -- I don't know -- it's like saying
20 is a refrigerator a type of freon. No. It
21 includes freon. I mean an enterprise management
22 system includes a client server architecture.
23 But it's a whole apparatus. It's a big lot of
24 machinery that is not implied by client server
25 architecture.

1 Q How many -- you said a large number of
2 clients -- strike that.

3 You said that a client -- strike that.

4 You said that enterprise information
5 management system includes a large number of
6 clients. What is the number of clients at which,
7 in your opinion, the system would have to be
8 described as an enterprise information management
9 system rather than a client server architecture?

10 MR. AN: Objection: form.

11 THE WITNESS: Well, one of the
12 privileges we have in computer science
13 is not answering questions like that. I
14 mean, there isn't a particular threshold
15 in it.

16 But as I said, order of hundreds
17 rather than order of tens. I mean, if
18 there was -- if there were a dozen, it
19 would not be an enterprise management
20 system. If there were 200, it would be.

21 By MR. CHERENSKY:

22 Q Can an enterprise information management
23 system consist of a single server with a large
24 number of clients?

25 A Depends.

1 Q So does that mean yes, it can consist of
2 a single server plus a large number of clients?

3 A No. It depends what you mean by a
4 server. I may build a multi-computer server,
5 multi-processor server with 10,000 processors in
6 it. Now, whether you call that a server or
7 10,000 servers depends on your point of view.

8 The ordinary way -- I mean the natural
9 way, intuitive way in which I would support many
10 clients with a single server is by building a
11 multi-computer, using that as a server.

12 That being the default high performance
13 architecture.

14 Q Are there systems -- are there
15 enterprise information management systems that
16 some computer scientists will consider client
17 server architectures and others would not?

18 MR. AN: Objection; form.

19 THE WITNESS: That some computer
20 scientists would consider client server
21 systems.

22 BY MR. CHERENSKY:

23 Q Let me withdraw the question and ask,
24 hopefully, a better one.

25 So, in the spectrum that has client

1 server architectures at one point in the spectrum
2 and an information system -- an enterprise
3 information management system at another point in
4 the spectrum --

5 A It's not a spectrum. Those are not two
6 ends. The enterprise management system is a
7 client server architecture, with added high
8 performance parts or with high performance
9 reimplementations. So it wouldn't be incorrect
10 to refer to an enterprise management system as a
11 of species client service system, but it would be
12 uninformative.

13 That wouldn't be the normal way of --
14 well, depends on context. Ordinarily, I wouldn't
15 speak in those terms. Maybe in some cases I
16 would.

17 Q What are the added high performance
18 parts or high performance implementation features
19 that are in an enterprise information management
20 system but not in a client server architecture?

21 MR. AN: Objection; form.

22 THE WITNESS: Several parts having
23 to do with scalability and having to do
24 with a dynamic name space.

25 Techniques -- when you have an

1 enterprise management system with
2 potentially a large number of clients,
3 all of those clients are contributing to
4 a mainstream, which means that there
5 needs to be a data structure capable of
6 indexing every word and every document
7 produced by every client.

8 Now, techniques that will work for a
9 period of N months with ten clients will
10 fail in much less than N months if there
11 are a hundred clients.

12 You need different kinds of
13 implementations to deal with the sheer
14 volume of stuff generated by large
15 numbers of users.

16 There is also the issue of nodes
17 dropping in and out, in addition to the
18 nature of the server. Well, nodes
19 dropping in and out in an enterprise
20 management system, I hire somebody new
21 and I buy them a computer, and I plug it
22 in.

23 That computer was unknown to the
24 system previously. It's got to make
25 itself known to the other computers in

1 the system and has to identify itself.

2 It has to establish a tag and fall
3 in with the communication protocol; the
4 system has to update its tables.

5 Likewise, if I throw out some old
6 computers and buy some new ones because
7 the enterprise management is large
8 numbers of people, therefore, more
9 dynamic -- large numbers of people -- I
10 should say large numbers of clients.

11 It's also the case that -- well,
12 this could be a separate problem or this
13 could be the same problem, depending how
14 you look at it.

15 You need new strategies to deal with
16 indexing enormous amounts of
17 information.

18 Now, this may imply a fundamentally
19 different approach to the server.

20 Ordinarily a rational approach would
21 be to say, I am not going to have a
22 one-processor server. I will have a
23 multi-node or multi-processor or
24 multi-computer server.

25 That implies that I need to rewrite

1 my code -- I need to rewrite the
2 program, so instead of running on only
3 one computer, it runs on a lot of
4 computers simultaneously.

5 That brings all sorts of issues
6 having to do with how great a structure
7 is set up and how things are identified
8 and a lot of stuff implied in the move
9 from conventional small volume server to
10 multi-computer, multi-node, high volume
11 server.

12 BY MR. CHERENSKY:

13 Q Dr. Gelernter, were you employed at
14 Mirror Worlds Technologies in 2001? That's the
15 date -- the year the 999 Patent was filed?

16 A I was certainly associated with them.
17 There was a period in which -- there was a period
18 in which I was an unpaid associate. Although,
19 actually, I think I had a title. It wasn't a
20 paying position, but there was a title.

21 Then there was a period in which I was
22 paid, with a different title. I certainly -- I
23 certainly was associated with them. And I am
24 pretty sure that I had a title, that my title was
25 Chief Scientist.

1 STATE OF CONNECTICUT

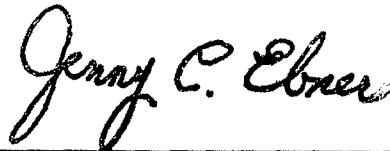
2 I, JENNY C. EBNER, a Registered
3 Professional Reporter/Commissioner within and for
4 the State of Connecticut, do hereby certify that
5 pursuant to Notice I took the deposition of DAVID
6 GELERNTER, on November 5, 2009, at the Omni
7 Hotel, 155 Temple Street, New Haven, CT.

8 I further certify that the above named
9 deponent was by me first duly sworn to testify to
10 the truth and nothing but the truth concerning
11 his knowledge in the matter of the case of MIRROR
12 WORLDS, LLC VS APPLE, INC., now pending in the
13 United States District Court District of
14 Connecticut of Eastern Division of Texas, Tyler
15 Division.

16 I further certify that the within
17 testimony was taken by me stenographically and
18 reduced to typewritten form under my direction by
19 means of COMPUTER ASSISTED TRANSCRIPTION; and I
20 further certify that said deposition is a true
21 record of the testimony given by said witness.

22 I further certify that I am neither
23 counsel for, related to, nor employed by any of
24 the parties to the action in which this
25 deposition was taken; and further, that I am not
a relative or employee of any attorney or counsel
employed by the parties hereto, nor financially
or otherwise interested in the outcome of the
action.

WITNESS my hand and seal this 9th day of
November, 2009.



Jenny C. Ebner, R.P.R., L.S.R.
Commissioner

23

24

My Commission expires: August 31, 2010
License Registration Number: 00030

25