

Exhibit 46

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 APPLE INC., a California
6 corporation,

7 Plaintiff,

8 vs.

CASE NO. 11-cv-01846-LHK

9 SAMSUNG ELECTRONICS CO.,
10 LTD., a Korean business
11 entity; SAMSUNG ELECTRONICS
12 AMERICA, INC., a New York
13 corporation; SAMSUNG
14 TELECOMMUNICATIONS AMERICA,
15 LLC, a Delaware limited
16 liability company,
17 Defendants.

18 _____/

19 C O N F I D E N T I A L
20 A T T O R N E Y S E Y E S O N L Y

21 VIDEOTAPED DEPOSITION OF MARK BUCKLEY
22 SAN FRANCISCO, CALIFORNIA
23 THURSDAY, FEBRUARY 23, 2012

24 BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR
25 CSR LICENSE NO. 9830
JOB NO. 46609

1 him spell that -- from Litinomics. 10:06

2 MR. PINSONNEAULT: It's 10:06

3 P-I-N-S-O-N-N-E-A-U-L-T. 10:06

4 MR. OLSON: And Erik Olson from Morrison & 10:06

5 Foerster on behalf of Apple and the witness. 10:06

6 MR. HEYISON: Michael Heyison from 10:06

7 WilmerHale, representing Apple. With us is Terry 10:06

8 Musika from -- 10:06

9 MR. MUSIKA: Invotex. 10:06

10 THE VIDEOGRAPHER: Will the court reporter 10:06

11 please swear in the witness. 10:06

12 10:06

13 MARK BUCKLEY, 10:06

14 having been sworn as a witness 10:06

15 by the Certified Shorthand Reporter, 10:06

16 testified as follows: 09:40

17 09:40

18 MR. OLSON: I just realized something, 10:06

19 Anthony. I apologize, and I didn't mean to interrupt 10:06

20 the start of the deposition. Has Litinomics cleared 10:07

21 on the protective order? 10:07

22 MR. ALDEN: Mr. Pinsonneault has, yes. 10:07

23 MR. OLSON: All right. And when was the 10:07

24 disclosure? 10:07

25 MR. ALDEN: It was last year. 10:07

1 Q When was this document created? 14:38

2 A In January of this year. 14:38

3 Q Was it created for the purposes of this 14:38
4 litigation? 14:38

5 A No. 14:38

6 Q What is this document? 14:38

7 A It's the GAAP Line of Business Report for 14:38
8 licensing. 14:38

9 Q What does licensing mean in this context? 14:38

10 A This would refer to -- I touched on it 14:38
11 earlier, but the Google, Yahoo and Microsoft Bing 14:39
12 search-related revenue. 14:39

13 Q And if you'll explain to me, when you say 14:39
14 Google, Yahoo and Microsoft rev -- search-related 14:39
15 revenue, how does Apple derive revenue from Google, 14:39
16 Yahoo and Microsoft searches? 14:39

17 MR. OLSON: Objection; beyond the scope. 14:39

18 THE WITNESS: So I only have a high-level 14:39
19 understanding of this, but for search related -- when 14:39
20 an iPhone that's used -- I'll use an iPhone user 14:39
21 example. An iPhone -- and he gets on and he does a 14:40
22 search using Google's browser. And I'm not sure where 14:40
23 within the -- where -- where in the browser, whether 14:40
24 it's part of the app or whether it's the -- in the 14:40
25 browser -- every time that there's a search done 14:40

1 there, I don't know how Google tracks it, but we get 14:40
2 paid a portion of that. I think it's -- I believe 14:40
3 it's a portion of what Google is getting paid from 14:40
4 their -- let me step back on that one. 14:40

5 I don't know all the details. I have several 14:40
6 reports on them that break out the allocation for 14:40
7 where we're getting -- the revenue that we are 14:40
8 receiving, what's driving that, whether that's a Mac 14:40
9 search, a PC search, an iPad search, an iPod Touch 14:40
10 search, an iPhone search. That's what these reports 14:40
11 from Google, from Yahoo and from Microsoft represent. 14:40

12 I have access to those reports, and in there 14:41
13 it shows the percentage breakouts by those products by 14:41
14 which products are being used to do the search. And 14:41
15 then we get paid some portion of that, and that 14:41
16 revenue for that is -- is right here. 14:41

17 MR. ALDEN: Q. Have you provided those 14:41
18 individual reports to counsel? 14:41

19 A I don't recall if I've done it in this case. 14:41

20 Q And just so I'm clear, so it's your 14:41
21 understanding that when someone performs a search on 14:41
22 an iPhone on Google, for example, that a portion of 14:41
23 the revenue that Google makes from that search, 14:41
24 whether advertising revenue or some other, is paid to 14:41
25 Apple? 14:41

1 MR. OLSON: Objection; beyond the scope. 14:41

2 THE WITNESS: What I would say is for a user 14:41

3 that goes into that search bar and does something, we 14:41

4 get paid by Google. I'm not sure of what -- how 14:41

5 Google is getting paid and what they're giving to us. 14:42

6 I just know we get some money from Google for that. 14:42

7 MR. ALDEN: Q. How much money do you get 14:42

8 from -- does Apple get from Google from searches run 14:42

9 on the iPhone? 14:42

10 MR. OLSON: Objection; beyond the scope. 14:42

11 THE WITNESS: I wouldn't know the exact 14:42

12 unless I looked at the document, but it would be in 14:42

13 the tens -- tens of millions a quarter. Sorry. 14:42

14 MR. ALDEN: Q. And same question with 14:42

15 respect to Yahoo? 14:42

16 MR. OLSON: Objection; beyond the scope. 14:42

17 THE WITNESS: It's much smaller, in the 14:42

18 single millions. 14:42

19 And I shouldn't talk to that because 14:42

20 there's -- there's iOS devices that we get paid from 14:42

21 Yahoo, and then there's also a Mac and PC, and the 14:42

22 total of that is in the single-digit millions, I 14:42

23 believe, last time I looked. 14:43

24 MR. ALDEN: Q. And some portion of that 14:43

25 would be attributable to searches run on the iPhone -- 14:43

1 MR. OLSON: Objection -- 14:43

2 MR. ALDEN: Q. -- correct? 14:43

3 MR. OLSON: -- objection; beyond the scope. 14:43

4 THE WITNESS: It would be, along with other 14:43
5 iOS devices. 14:43

6 MR. ALDEN: Right. 14:43

7 Q And how much revenue does Microsoft pay Apple 14:43
8 for searches run on Bing on the iPhone? 14:43

9 MR. OLSON: Objection; beyond the scope. 14:43

10 THE WITNESS: I don't recall, but it's closer 14:43
11 to the Yahoo numbers than the Google numbers. 14:43

12 MR. ALDEN: Q. Does Apple receive revenue -- 14:43
13 search-related revenue from these companies' searches 14:43
14 run on the iPad? 14:43

15 A Yes. 14:43

16 MR. OLSON: Objection; beyond the scope. The 14:43
17 answer is already given. 14:43

18 MR. ALDEN: Q. And I wasn't clear with your 14:43
19 previous answers as to the quantity for the iPhone, 14:43
20 the iPad and the iPad or just for the iPhone? 14:43

21 MR. OLSON: Same objection. 14:44

22 THE WITNESS: So I think I've explained that. 14:44
23 I'll lump it into CPUs and iOS devices. We get money 14:44
24 from each of these three, Microsoft, Yahoo and -- and 14:44
25 Google, for each of those. You asked me about what 14:44

1 percentage of the -- of -- or what was the dollar 14:44

2 amount for Google for the iPhone. And that, I 14:44

3 mentioned, I believe it's in the tens of millions. 14:44

4 When I talk about Yahoo, all devices, CPUs 14:44

5 and the iOS devices, that, I believe, is in the 14:44

6 single-digit millions per quarter. 14:44

7 The Bing -- Microsoft Bing for all products, 14:44

8 CPUs and iOS devices, I'm not sure. It's going to be 14:44

9 kind of in a general area around the Yahoo numbers. 14:44

10 MR. ALDEN: Q. Is it possible to break out 14:45

11 the numbers by business line with respect to Yahoo and 14:45

12 Microsoft? 14:45

13 MR. OLSON: Objection; vague; beyond the 14:45

14 scope. 14:45

15 MR. ALDEN: Q. So, for example, could you 14:45

16 determine how much of the Yahoo revenue paid with 14:45

17 respect to iOS devices related to the iPhone as 14:45

18 opposed to the iPad? 14:45

19 MR. OLSON: Same objection. 14:45

20 THE WITNESS: So these reports I was 14:45

21 mentioning to you, we receive them from Microsoft, 14:45

22 Yahoo and Google. In their -- the way that they break 14:45

23 it out is what I could share with you. We don't have 14:45

24 that information. 14:45

25 So I do know for Google, I believe they break 14:45

1 it out from one category being PC or Mac, one category 14:45
2 being iPhone, and then I -- there should be an iPad 1 14:45
3 and an iPod 1. 14:45

4 Now, of all the history where we've been 14:45
5 getting search revenue here, I don't believe the 14:45
6 breakouts have always been consistent. That's Google. 14:45
7 But they do provide us a report, and that -- that 14:46
8 report would allow someone to break it out a bit. 14:46

9 MR. ALDEN: Q. How much does Google pay 14:46
10 Apple for searches run on the iPad? 14:46

11 MR. OLSON: Objection; beyond the scope. 14:46

12 THE WITNESS: I don't know what the total -- 14:46
13 total is. 14:46

14 MR. ALDEN: Q. Tens of millions? 14:46

15 A I can't answer -- 14:46

16 MR. OLSON: Same objection. 14:46

17 THE WITNESS: Yeah. 14:46

18 MR. OLSON: Same objection. 14:46

19 Sorry. 14:46

20 THE WITNESS: I can't answer that. I have 14:46
21 probably noticed the iPhone a little bit more from 14:46
22 that report, and so that's why it stands out to me a 14:46
23 little bit more. iPad I -- I can't tell you 14:46
24 definitively without looking at the document. 14:46

25 MR. ALDEN: Q. And what is included on the 14:46

1 THE VIDEOGRAPHER: We are back on the record. 14:47

2 The time is 2:56 p.m. 14:56

3 Here marks the beginning of videotape No. 3 14:56

4 in the deposition of Mark Buckley. 14:56

5 MR. ALDEN: Q. Welcome back, Mr. Buckley. 14:56

6 A Thank you. 14:56

7 Q You appreciate you're still under oath? 14:56

8 A Yes, I do. 14:56

9 MR. ALDEN: I'd like to mark as Exhibit 8 a 14:56

10 document Bates numbered APLNDC-Y0000051620. 14:56

11 (Document marked Buckley Exhibit 8 14:56

12 for identification.) 14:57

13 THE WITNESS: Thanks. 14:57

14 MR. ALDEN: Q. Mr. Buckley, are you familiar 14:57

15 with this document? 14:57

16 A I am. 14:57

17 Q And what is it? 14:57

18 A It is the GAAP Line of Business Report for 14:57

19 mobile advertising. 14:57

20 Q When you say "mobile advertising," what do 14:57

21 you mean? 14:57

22 A For iOS devices, we have -- we have a 14:57

23 business where we work with companies that want to 14:57

24 advertise on the -- on the phone within apps, and this 14:57

25 is where we -- we track that business. 14:57

1 Q Just digging into that a little bit, other 14:57
2 companies want to advertise on apps that are in the 14:57
3 App Store; is that correct? 14:57

4 MR. OLSON: Objection; beyond the scope. 14:57

5 THE WITNESS: Yes, that's accurate. These 14:57
6 would be apps that were already purchased by consumers 14:58
7 because without that app, you wouldn't have a consumer 14:58
8 who would have a chance to review that advertisement, 14:58
9 so... 14:58

10 MR. ALDEN: Q. So a company would come to 14:58
11 Apple and say, I would like to advertise on Angry 14:58
12 Birds? 14:58

13 A That's something -- 14:58

14 MR. OLSON: Objection; beyond the scope. 14:58

15 Sorry. 14:58

16 MR. ALDEN: Q. And you would then negotiate 14:58
17 with the company that would like to advertise a price 14:58
18 for advertising on that app; is that correct? 14:58

19 MR. OLSON: Same objection. 14:58

20 THE WITNESS: I don't know all the terms that 14:58
21 we have with our advertising partners, but there is 14:58
22 a -- I think there is a minimum fixed amount of 14:58
23 advertising you -- you would need to do with Apple. I 14:58
24 don't know the terms of the displays and how -- how 14:58
25 the -- how the dollars are being tracked. 14:59

1 I do know that we would pay a portion of 14:59
2 that -- those advertising dollars to our developers, 14:59
3 and then we would keep a portion as well. 14:59

4 MR. ALDEN: Q. And what iOS devices are 14:59
5 covered by this report? 14:59

6 A I believe it would be the iPhone, the iPad 14:59
7 and the iPod Touch. 14:59

8 Q And does Apple track model advertising 14:59
9 revenue per device? 14:59

10 MR. OLSON: Objection; vague. 14:59

11 THE WITNESS: I don't know on a per device -- 14:59
12 per user device or per iPhone versus iPad versus iPod 14:59
13 Touch? 15:00

14 MR. ALDEN: The latter. 15:00

15 THE WITNESS: Actually, I don't know the 15:00
16 answer to either, but I don't know what they can 15:00
17 track. I've seen some reporting, but I don't -- I 15:00
18 don't know exactly. 15:00

19 MR. ALDEN: And I think you mentioned apps as 15:00
20 one, I guess, for the record, medium that an 15:00
21 advertiser could advertise on. 15:00

22 Q What are some other ones? 15:00

23 MR. OLSON: Objection; beyond the scope. 15:00

24 THE WITNESS: I think it's -- yeah, I think 15:00
25 it is the only way you can do it, but I haven't asked 15:00

1 that question before from the team, but... 15:00

2 MR. ALDEN: Q. And I take it that this 15:00

3 document was created in the ordinary course of Apple's 15:00

4 business and not for this litigation; is that correct? 15:00

5 A That's correct. 15:00

6 Q That was created in January of this year? 15:00

7 A That's correct. 15:00

8 Q What does the Total Revenue line item 15:00

9 encompass? 15:00

10 A It should encompass the revenue related to 15:00

11 both what the advertisers are -- are -- are putting in 15:01

12 as well as which is going to also be the split between 15:01

13 what we're paying the -- paying the -- the app 15:01

14 developers, and this is the portion for us. 15:01

15 Q So where is the portion paid to the app 15:01

16 developers reported? 15:01

17 A I believe it's contrary revenue, so against 15:01

18 the revenue number. So this would be net of after 15:01

19 we've paid them out. I believe that's how it's 15:01

20 tracked. 15:01

21 Q I'm so sorry. I may not have understood what 15:01

22 you said. 15:01

23 But where would I find the total amount 15:01

24 received or gross amount received by Apple? 15:01

25 A Not on this report. If it's how I believe it 15:01

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CERTIFICATE OF REPORTER

I, ANDREA M. IGNACIO HOWARD, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken in shorthand by me, a Certified Shorthand Reporter of the State of California, and was thereafter transcribed into typewriting, and that the foregoing transcript constitutes a full, true and correct report of said deposition and of the proceedings which took place;

That I am a disinterested person to the said action.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of February 2012.

ANDREA M. IGNACIO HOWARD, RPR, CCRR, CLR, CSR No. 9830