

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3 GARMIN LTD., ZEPP HEALTH)
4 CORPORATION, SAMSUNG)
5 ELECTRONICS CO., LTD.,)
6 SAMSUNG ELECTRONICS)
7 AMERICA, INC.,) IPR2024-00006
8 Petitioner,) U.S. Patent No.
9 vs.) 8,588,033 B2
10 SLYDE ANALYTICS, LLC,)
11 Patent Owner.)

12 VIDEOCONFERENCE DEPOSITION OF THOMAS BLACKADAR
13 TAKEN ON BEHALF OF PETITIONER GARMIN LTD.
14 NOVEMBER 6, 2024
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I N D E X

WITNESS: PAGE

THOMAS BLACKADAR

EXAMINATION BY MS. RAW 5

EXAMINATION BY MR. PYMENTO 44

E X H I B I T S

EXHIBIT NUMBER	DESCRIPTION	PAGE
Exhibit 1	8,588,033 Patent	8
Exhibit 2	Declaration	8
Exhibit 3	Publication Number US 2009/0196124 to Mooring	8
Exhibit 4	Exhibit 1007 to the Petition - Translation of Satoshi	9

NOTE: Exhibits were attached to the original transcript.

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AMERICA, INC.,) IPR2024-00006
6)
Petitioner,) U.S. Patent No.
7) 8,588,033 B2
vs.)
8)
SLYDE ANALYTICS, LLC,)
9)
Patent Owner.)

10
11 VIDEOCONFERENCE DEPOSITION OF
12 THOMAS BLACKADAR, produced, sworn, and examined
13 remotely on November 6, 2024, between the hours of
14 9:01 and 10:43 of that day, before Meghan N. Minnick,
15 a Certified Court Reporter, in a certain cause now
16 pending in the United States Patent and Trademark
17 Office, before the Patent Trial and Appeal Board,
18 between GARMIN LTD., ZEPP HEALTH CORPORATION, SAMSUNG
19 ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA,
20 INC., Petitioner vs. SLYDE ANALYTICS, LLC, Patent
21 Owner; on behalf of the Petitioner Garmin Ltd.

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1 IT IS HEREBY STIPULATED AND AGREED by and
2 between counsel for the Petitioner and counsel for the
3 Patent Owner that this deposition may be taken in
4 shorthand by Meghan N. Minnick, RPR, MO CCR #1428, and
5 afterwards transcribed into typewriting; and the
6 signature of the witness is expressly waived.

7 * * * * *

8 (Deposition commenced at 9:01 a.m. CST)

9 THOMAS BLACKADAR,
10 having been first duly sworn and examined on behalf of
11 the Petitioner Garmin Ltd., testifies as follows:

12 MS. RAW: Just for the record, I'll do
13 attorney appearances. So Lydia Raw, from Erise IP for
14 the petitioner, Garmin Limited.

15 MR. PYMENTO: Julian Pymonto with the law
16 firm Fabricant LLP representing Patent Owner
17 Slyde Analytics LLC.

18 EXAMINATION

19 BY MS. RAW:

20 Q. Good morning.

21 A. **Good morning.**

22 Q. Can you please state your name for the
23 record?

24 A. **Thomas Blackadar.**

25 Q. And have you been deposed before

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1 Mr. Blackadar?

2 A. Yes, ma'am.

3 Q. About how many times have you been deposed?

4 A. I believe eight.

5 Q. Okay. How many of those were in the
6 context of an inter partes review?

7 A. Four.

8 Q. And were the other four depositions in the
9 context of litigation?

10 A. Three were litigation, one was the ITC, so
11 that too was litigation. Yeah.

12 Q. Okay. So based on that, I assume you're
13 somewhat familiar with this process, but I'll just go
14 over a few ground rules at the beginning just so we're
15 on the same page. I always like to begin with a
16 reminder that we do have a court reporter today who is
17 taking down what we say, so I'm going to be very
18 careful to not speak over you, and I would ask you to
19 give me the same courtesy so that the court reporter
20 can have a clean record of our conversation today; is
21 that fair?

22 A. Yes, ma'am.

23 Q. And if at any point today I ask a question,
24 you don't understand it, please ask me to rephrase.

25 Can you do that for me?

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5 A. Yes, ma'am.

8	A. No. No reason.
---	-------------------

15 A. That is fair.

18	A. Auburn, New Hampshire.
----	---------------------------

19 Q. Is there anyone in the room with you?

20	A.	No.
----	----	-----

21 Q. Do you have any other programs open on your
22 computer, e-mail, anything like that?

23 A. Let me check, but they -- I do, but I am
24 closing them.

25 888-893-3767 Q. Okay. And do you have any physical copies

1 of any documents with you today?

2 **A. No, ma'am.**

3 Q. All right. I'm going to begin by dropping
4 some documents into chat here. All right. Go ahead
5 and download these as you can.

6 So, first, we have Exhibit 1, so that would
7 be the patent at issue here, the 8,588,033 Patent.

8 **A. Yep.**

9 Q. Today I'll refer to that as the '003
10 Patent. I assume you can understand that that would
11 be referring to this particular patent if I just say
12 the "'033 Patent" later today; is that fair?

13 **A. That is fair. Standard.**

14 Q. All right. I'll also drop into the chat
15 what we'll mark as Exhibit 2. This is the declaration
16 that you have provided in this matter.

17 **A. Okay.**

18 Q. Okay. Just let me know when you have that
19 downloaded, and if you could just confirm that that
20 does look like the declaration you provided in this
21 IPR.

22 **A. Without going through all of it, it does
23 look exactly like what I sent.**

24 Q. Okay. I'm going to add to the chat what
25 will be marked as Exhibit 3. So this is Publication

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1 Number US 2009/0196124 to Mooring.

2 A. Okay.

3 Q. Okay. And then finally, for now, I'll add
4 Exhibit 4, and that is Exhibit 1007 to the petition,
5 and that is the translation of Satoshi.

6 A. Very good.

7 Q. Okay. All right. If you could please
8 begin by opening your declaration. That's where we'll
9 start.

10 A. Okay.

11 Q. Okay. About how much time did you spend
12 preparing or reviewing this declaration?

13 A. Somewhere between five to six weeks.

14 Q. Okay. Do you have an approximation of how
15 many hours you spent working on the declaration over
16 those five to six weeks?

17 A. I would estimate between 70 to 100 hours.
18 I think that's just -- yeah. Somewhere in that area.

19 Q. And how much time did you spend preparing
20 for this deposition, specifically?

21 A. Probably about eight hours. It has been a
22 long time since the declaration.

23 Q. Sure. In connection with this IPR
24 proceeding, have you communicated with anyone other
25 than attorneys about it?

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1 **A. No.**

2 **Q. Okay. Do you believe that you considered**
3 **any materials in drafting this declaration that aren't**
4 **specifically cited somewhere in the declaration?**

5 MR. PYMENTO: Objection, form.

6 **THE WITNESS: Pardon, Julian?**

7 MR. PYMENTO: That was just an objection to
8 form.

9 **THE WITNESS: Oh, okay.**

10 **A. Please repeat the question.**

11 **Q. (By Ms. Raw) Yeah, I was just wondering if**
12 **there were any materials that you considered when**
13 **drafting this declaration that aren't cited somewhere**
14 **in the declaration.**

15 **A. I don't know of any. I can't -- I didn't**
16 **cite anything that I didn't put into the declaration,**
17 **but there is just -- as you can see through my career**
18 **and the resume or in the declaration part, I've been**
19 **around a while. So...**

20 **Q. Fair. But nothing in particular comes to**
21 **mind right now as something you looked up but didn't**
22 **cite?**

23 **A. No. No.**

24 **Q. Can you go, please, to Paragraph 7 of your**
25 **declaration?**

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1 **A. Yes.**

2 **Q. Okay. I see that in Paragraph 7 you refer**
3 **to some work in 1998 for a French watch company called**
4 **Nike, ISA. Do you see that?**

5 **A. There were two companies, Nike and ISA --**

6 **Q. Thank you for that clarification.**
7 **(Stenographer clarification.)**

8 **Q. (By Ms. Raw) So ISA being I-A-S-A [sic].**

9 **A. ISA was the watch company and Nike is who**
10 **they are. I'm not sure what I said after that, but**
11 **something like that.**

12 **Q. And do you recall the names of any products**
13 **that came out of that 1998 project?**

14 **A. There were no direct products that came out**
15 **of that. It was a complete investigation in adding**
16 **wireless technology to a mechanical watch.**

17 **Q. How did you come to work on this watch**
18 **project with Nike and ISA in 1998?**

19 **A. In the products that I was developing at my**
20 **company, FitSense Technology, we had approached Nike**
21 **and I partnered up with them in a speed-distance**
22 **monitor, and they were, you know -- we had a very good**
23 **low-power wireless communications channel that allowed**
24 **for long battery life, and we were radio experts, and**
25 **so they brought us along as part of that piece of --**

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1 **component of the system design.**

2 Q. In Paragraph 7, it uses the phrase "a
3 classic watch with LCD display." Can you explain what
4 that means?

5 A. Basically it was a mechanical watch with a
6 small LCD display on there -- not uncommon with the
7 state of the art back in '98 -- and the LCD display
8 would display the speed and distance traveled.

9 Q. Okay. Then going to Paragraph 8, the next
10 paragraph of your declaration, it refers to a product
11 that was released in December 2000. Do you see that?

12 A. Yes.

13 Q. What was the name of that product?

14 A. That was -- in December 2000 we had changed
15 the name to the FS-1, FitSense-1, our first product.

16 Q. Did that product still have physical watch
17 hands or --

18 A. No.

19 Q. -- digital?

20 A. No, it was a custom-tailored LCD. It
21 wasn't a dot matrix. It had some dot matrix
22 capability for the time and stuff, but mostly icon
23 driven, so it wasn't matrix driven.

24 Q. Okay. Were there any screens on that
25 product that had digital watch hands?

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1 A. **No.**

2 Q. Like outward?

3 A. **No. Not necessary for our target market.**

4 Q. Okay. Did that product have an operating
5 system?

6 A. **No. Bare metal.**

7 Q. In Paragraph 10, we've now moved forward in
8 time. You're talking about 2004 products with Nike.
9 Do you recall the names of the products that you
10 worked on at that time?

11 A. Well, the Nike Plus product, which
12 consisted of basically our speed-distance monitor and
13 our radio protocol; and then adapters for the iPods
14 for -- to go into the Apple iPods; a USB receiver --
15 again, Bluetooth was not around at this point in time,
16 as far as low-power Bluetooth -- and we did that with
17 Nike and Logitech; and then we did several watch
18 products for Nike. They took care of the industrial
19 design and we did the firmware inside of those, all
20 bare metal.

21 Q. Do you recall the name of any of those
22 final watches or their --

23 A. I do not. I could go down to my basement
24 and grab some, but I don't know the names of them.

25 The --
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1 Q. That's all right. If you don't remember --

2 A. Yeah, the only one that actually became a
3 product was the small USB light band -- watchband Nike
4 Plus had released so that runners did not have to have
5 the iPod with them.

6 Q. So you mentioned working with the iPods in
7 relation to this product too. Are you generally
8 familiar with whether those iPods had an operating
9 system?

10 MR. PYMENTO: Objection, form.

11 A. I -- at that point in time, I do not know
12 the exact operating system that Tony Fadell had put in
13 there. I do know that one of my engineers actually
14 did a block of code, firmware, for the iPod to do some
15 of the decoding in all the secret handshakes that we
16 do, but I don't know what else they had beyond that.
17 And we were -- again, we did not have to tie into an
18 operating system. So I guess I don't know how to
19 better answer that than I'm not sure what type of
20 operating system they had then.

21 Q. (By Ms. Raw) Are you familiar with any of
22 the iPod models that were released later, after 2004?

23 A. Well, the mini -- iPod Mini, because we had
24 to work with that, but after that, no. That was

25 the --

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1 Q. Okay.

2 A. That was the last one we designed.

3 Q. Have you ever had any familiarity with the
4 iPod Nano line?

5 A. That was -- I'm sorry, yes. The iPod Nano
6 and the iPod Mini were the ones that we had designed.
7 They were the ones with that big, huge rod connector.

8 Q. What about the later iPod Nanos? So
9 eventually there was one that was more square-like.
10 Are you familiar with that at all?

11 A. The square one we worked with, but when
12 they got smaller than that, no. That was when Nike
13 and Apple started parting ways.

14 Q. What about -- so there was an iPod Nano.
15 It was Generation 6. It actually was a square but
16 also had an LCD screen. Are you familiar with that?

17 A. That was -- yes --

18 MR. PYMENTO: Objection, form.

19 A. Yes, ma'am.

20 Q. (By Ms. Raw) Okay. Do you know whether
21 that one had an operating system?

22 A. At that point in time, we were not
23 providing code. We had already given Apple the code
24 base, and so they just kept bringing it along. So no,
25 we didn't -- we were just happy when they sent us the

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1 little square box and say, "How does this work for
2 you?" So that was really our interaction at that
3 point in time. We were...

4 Q. Okay. So -- and please correct me. I
5 don't want to put words in your mouth, but it sounded
6 like you were saying you don't necessarily know what
7 operating system the iPod Nano, like, Gen 6 had or
8 didn't have, but it wasn't something your team was
9 working with?

10 A. No.

11 MR. PYMENTO: Objection, form.

12 A. No. We weren't working directly with an OS
13 that Apple might have been working on. Do have
14 suspicions as to how they did it and what they were
15 doing, but I do not know.

16 Q. (By Ms. Raw) Okay. And just so the
17 record's clear, do you know one way the other whether
18 the iPod Nanos that Apple was working on had an
19 operating system?

20 MR. PYMENTO: Objection, form.

21 A. I do not know.

22 Q. (By Ms. Raw) Okay. So in Paragraph 10, it
23 refers, in the second sentence, to the project taking
24 place over about two years. So would that have been
25 about 2004 to 2006 time frame or did the project go

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1 longer than that?

2 A. No. 2006 was our last involvement with
3 Apple and Nike.

4 Q. Okay.

5 A. Yeah.

6 Q. Have you worked on any watch products since
7 2006?

8 A. We worked on some that did not make it to
9 market. I don't know if that counts, but those were
10 just internal ones, looking at what we could do. So
11 the answer is none.

12 Q. Okay. Can you provide your best estimate
13 of the approximate years you were working on those
14 further watches you referred to, even if they didn't
15 make it to market?

16 A. Up through about 2012.

17 Q. Did you ever, in any of those additional
18 watch products, consider using an operating system in
19 them?

20 A. Actually, let's go back into the early
21 2000s. We did a complete review of TinyOS, which I
22 have mentioned in the declaration, because the
23 engineer came and said, "Look, I don't have to do all
24 this other work if I go to that," and I said, "Well,
25 prove it to me." and we couldn't do it in our budget,

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1 our time frame, and our battery life using TinyOS
2 without having to do a complete custom version of
3 TinyOS.

4 Q. In the entire time you were working on any
5 sort of watch-related projects, did you consider using
6 an operating system other than TinyOS?

7 A. TinyOS is based off of Linux, and that was,
8 you know -- basically we looked at -- we were a Linux
9 house prior to forming FitSense, and we looked at what
10 we could do with that. Certainly looked at the Wind
11 River pSOS. Other real-time operating systems just
12 too big for us.

13 Q. Okay. In Paragraph 12 of your declaration,
14 I see that you're referring to some wireless fitness
15 equipment. What sort of equipment are you referring
16 to there?

17 A. We basically did strength machines. All of
18 the -- if you walk into your gym, your Planet Fitness,
19 you take a look, there's ellipticals, there's all the
20 cardio equipment, and then you also have the strength
21 equipment. The strength machines that we enabled,
22 FitLinxx had enabled, and so, therefore, they could
23 report and track everybody's gym workouts and then
24 provide them reports and all of this activity.

25 FitLinxx had been in business since '94 -- '93, '94.

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1 Q. Okay. And in Paragraph 12, there's a kind
2 of partial fragment partially through the paragraph.
3 It just says "using WinCE computers." Do you know
4 what that would be referring to?

5 A. Yeah, WinCE was Microsoft's operating
6 system for doing effectively real-time-type
7 communication, had its own operating system based off
8 of Microsoft's, but it was already pared down, and so
9 you could get a host of WinCE different types of
10 computers made by third parties, you package them up
11 and go.

12 Yeah, the period should be replaced with a
13 comma. Sorry.

14 Q. Okay. Thanks for that clarification. We
15 just weren't sure how to read it.

16 Did you ever consider using WinCE operating
17 system in a watch?

18 A. No. That was too big. Well, considered it
19 and rejected it.

20 Q. Would you consider any of the watches that
21 you worked on a smart watch?

22 A. No, but they were intelligent.

23 Q. Okay. Are you familiar with any smart
24 watches that existed, you know, between 2000 and 2010?

25 A. I would say fairly familiar with what I

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1 would call the Timex smart watch, maybe one of the
2 first ones that actually was commercially available.
3 And it's not a smart watch by today's standards,
4 but -- and, in fact, it won't work on today's world
5 because it worked off of a -- the old CRT screens,
6 which had a raster signal, and they encoded and
7 decoded that, and that's how they communicated with
8 it.

9 So very familiar with that. And again,
10 you're able to write your little widgets for that, and
11 I think that was one of the first ones that came out,
12 and that was in the late '90s.

13 Q. And is that the Timex watch you're
14 referring to? I believe it's Paragraph 55 of your
15 declaration.

16 A. Yeah. Yes.

17 Q. With respect to that Timex watch in
18 Paragraph 55, you call it an "application-like
19 environment"?

20 A. The widget, yes. The cards as defined
21 here, third-party people could actually develop for
22 it. And that's what I kind of say, "Okay, now the
23 watches have been opened up a little bit."

24 Q. Okay.

25 A. Yeah.

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1 Q. Did that Timex watch use an operating
2 system?

3 A. It was a custom one from Timex, such that
4 they were able to draft up an API. And yeah, I don't
5 know the details of that operating system. We never
6 developed a widget for that, but we were in
7 discussions about bringing in our speed-distance
8 monitor with Timex proper and also trying to get them
9 to license our product.

10 Q. Are you familiar with any smart watches put
11 out by Microsoft in the 2000 to 2010 time frame?

12 A. I am not.

13 Q. Have you ever heard of a Microsoft SPOT?

14 A. No, I have not.

15 Q. Are you familiar with any LG smart watches
16 from 2000 to 2010?

17 A. I would answer that not that familiar with
18 them, but I had heard of them.

19 Q. Okay. Did you know anything about how LG's
20 smart watches in 2002 --

21 A. I would not.

22 Q. -- worked?

23 A. I do not.

24 THE WITNESS: I'm sorry. Don't step on her
25 and don't use head gestures because it's very hard to

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1 **stenograph. Apologies.**

2 THE STENOGRAPHER: That's all right.

3 Q. (By Ms. Raw) What about any smart watch
4 put out by Sony Ericsson in 2000 to 2010?

5 A. Oh, Sony. I was thinking Seiko. Sorry
6 about that.

7 No, I can't think of one that -- I was
8 thinking of Sony mostly as the MP3 people.

9 Q. Okay. And what about IBM? Are you
10 familiar with anything IBM did regarding smart watches
11 in 2000 to 2010?

12 A. Just what I read in all the background
13 literature from this.

14 Q. Okay. Can you please go to Paragraph 45 of
15 your declaration?

16 A. Okay.

17 Q. All right. In Paragraph 45, it's a line at
18 the bottom of Page 16, there's a reference to using
19 bare-metal-embedded code. Do you see that?

20 A. Yes.

21 Q. Can you describe what you mean by
22 bare-metal-embedded code as you use that term here?

23 A. Bare metal means that there is no
24 prescribed operating system per se, and so, therefore,
25 all of the resources are managed basically in the C

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1 code. It can be very well structured to resemble a
2 bit of an operating system because you can have it all
3 interrupt driven, you can do threads, you can do a few
4 things, but what it does is it keeps the resources
5 down.

6 Our first watch was an 8-bit
7 microcontroller, which -- back in 1998, '99, but we
8 were able to make it last for a year using our
9 bare-metal code, so you weren't changing or charging.
10 And so from the watches that we knew that we were
11 working with, with Nike and the like, they were all
12 bare metal at that point in time.

13 Q. Okay. Why is referencing -- recommending
14 using bare-metal-embedded code relevant to your
15 analysis?

16 MR. PYMENTO: Objection, form.

17 A. Can you define "analysis" for me or
18 whatever --

19 Q. (By Ms. Raw) I can rephrase. Yeah. Thank
20 you. If you ever need me to rephrase a question, I am
21 always happy to do that to make it more clear.

22 A. Yeah.

23 Q. So in Paragraph 45, I see that you note
24 that wearable devices in 2010 were programmed
25 primarily using bare-metal-embedded code, and I'm just

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1 wondering why you believe that statement or how you
2 believe that statement impacts your analysis here in
3 this part of your report?

4 MR. PYMENTO: Objection, form.

5 A. Okay. My analysis report based on the
6 filing date, 2010, what was around, what was available
7 at that time. I had been working with Suunto and
8 other companies out there that I knew did not have
9 operating systems. They were starting to move towards
10 a smart watch, but they were mostly direct functional,
11 similar to what I had done.

12 You could start seeing some of the stuff
13 that Fitbit was doing, some of the other people. All
14 of that, it was bare metal. You're using an at-null
15 [ph] control. You're not going to go put an operating
16 system on top of that without adding component cost
17 and complexity.

18 It's one thing to add a small LCD dot
19 matrix driver chip, but then to be able to have the
20 memory and everything else needed to support that, you
21 really do start adding more resources and more
22 components. And at that point in time, people weren't
23 used to spending, oh, the \$250, \$300 for a smart watch
24 to do that.

25 And at that point in time, 2010, if we

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1 remember, that was the first year that mobile phones
2 obtained Bluetooth low energy, and so that was the
3 first time that you could actually start interacting
4 with your mobile device, your phone, and any sensors
5 you have. So that's why I'm looking at that saying
6 that you didn't have the capability to do everything.

7 Q. What were some of the reasons why people
8 were wanting to move towards operating systems in the
9 future in these smart watches?

10 MR. PYMENTO: Objection, form.

11 A. Okay. The -- the -- okay. There's several
12 events that happened. One was the advent of ARM
13 processors starting to become low enough power. Our
14 work with Nordic resulted in lower power, higher
15 processing throughput with their nRF series chips and
16 such.

17 And so now you're starting to get the
18 capabilities -- the ability for, essentially, software
19 engineers who were spoiled by the Android and the iOS
20 systems because it's much easier to do a graphics
21 package on there, swap things around and do that. And
22 so there was a drive back then in 2010.

23 I believe Apple was first by bringing their
24 iOS into a wearable platform, trimming out all the
25 stuff that they didn't need. But again, that didn't

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1 result into a product until they had the iWatch. They
2 didn't bring out any products until they did the
3 iWatch, and so it was tailored to that.

4 And the people at Google -- I say tech
5 visionaries. Most of the people there are really
6 smart. They said, "Okay. Great. Let's do a
7 dedicated wear iOS," and so that's when they started
8 doing that, and that was released in 2012. And so
9 that was the first thing that would actually enable
10 developers to go develop with the Google kits. They
11 always provided hardware and stuff so that people
12 could start developing apps with a full-blown
13 operating system.

14 And they structured their code such that it
15 was sort of an a la carte menu. I want these
16 functions, these functions, these functions. I don't
17 need these other ones, and now I'm going to go do my
18 own custom thing over here. And so that's -- that I
19 don't -- I am not as familiar with the Apple wear
20 operating system, such as I am more so with the Google
21 platform.

22 Q. Okay.

23 A. And, I'm sorry, I should just be quiet, but
24 the enabling factor was essentially Moore's Law. The
25 processors were getting more memory. Memory was much

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1 cheaper and processing speed was doubling,
2 quadrupling, and a lot of the other hard problems were
3 there, and so that enabled people to start putting
4 more into a microcontroller without having to have it
5 completely exhaust power. And people weren't used to
6 changing batteries in watches at that point in time.
7 People weren't used to charging their watches at that
8 time.

9 Q. You referred in your answer to Moore's Law.
10 Can you remind me exactly what Moore's Law is?

11 A. Every year the transistors get smaller
12 and -- yeah, and it just keeps going, and now they're
13 trying to re-prove Ohm's Law's still inactive, but
14 they're now going 3D.

15 Q. Yeah. So just generally, you know, is
16 it -- isn't it true that computing devices, year after
17 year, they tend to have better processing power?

18 A. Yes.

19 Q. Yeah, and similarly, you know, over time,
20 computing devices tend to have more memory in a
21 smaller package, that just over time that tends to be
22 the trend?

23 MR. PYMENTO: Objection, form.

24 A. But -- yes.

25 Q. (By Ms. Raw) Going back to Paragraph 45 of

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1 your declaration, at the top of Page 17, the first
2 full sentence, it refers to: "These devices ran
3 multi-threaded software," referring to the mobile
4 devices discussed right above.

5 What was the relevance to you of mobile
6 devices being able to run multi-threaded software?

7 A. The amount of memory that it takes, the
8 amount of software stack that's available, interrupts,
9 and context switching between those, and that's
10 basically the biggest thing. And having the
11 multi-threaded and the memory just enables a lot of
12 different components. Not that it hadn't been
13 available, Palm had their own OS, little PalmPilot,
14 and that was simplified, but it still wasn't a Palm
15 OS. They didn't publish anything other than the API
16 to create their own app.

17 Q. So is multi-threaded software a benefit of
18 an operating system over bare-metal-embedded code?

19 A. I'll give you a slightly longer answer. If
20 what you want to do is to be able to have a broad code
21 base, yes, it is an advantage over that. It is more
22 flexible. A bare-metal OS does require a little bit
23 more expertise from the software developer. They have
24 to be able to not only program it, but also figure out
25 the timing.

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1 **So a multi-threaded operating system has**
2 **been more geared to programmers who don't want to get**
3 **down and understand what the registers, what the**
4 **timing, what the interrupt is. That's taking care of**
5 **them by the OS.**

6 Q. Still in Paragraph 45 just a couple
7 sentences later, you have a sentence that says: "For
8 example, the largest component of power consumption in
9 wearable devices is external communications."

10 Do you see that line?

11 A. **I do.**

12 Q. What are you referring to by "external
13 communications"?

14 A. **This would be a WiFi or even plugging a**
15 **cable into your watch to communicate. That's actually**
16 **almost more power than a radio consumption.**

17 Q. Okay.

18 A. **There needs to be a lot of care whenever**
19 **you communicate externally to another device.**

20 Q. Are there any claim requirements in the
21 '033 Patent claims that require external
22 communications?

23 MR. PYMENT0: Objection, form.

24 A. **I don't remember any. If we want to go up,**
25 **I could pick that up and look, but I don't believe**

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1 that there are any that require external
2 communications.

3 Q. (By Ms. Raw) Still in Paragraph 45, the
4 next full sentence starts by saying: "Compressing
5 data structures, the use of RAM, flash memory, and
6 static memory are all considerations for wristwatches
7 but were not large concerns of the mobile device
8 development environments at that time."

9 Do you see that sentence?

10 A. Yes.

11 Q. Why is it your position that mobile devices
12 wouldn't be concerned about compressing data
13 structures or different memories?

14 A. Because they would put in larger memory
15 chips to companionize with the central processor that
16 typically has a small amount of flash available, a
17 small amount of dynamic RAM. And with two external
18 chips, you're able to actually get a lot more, but in
19 a small watch device, two chips out of the 29 chip --
20 29IC device is significant, especially because of the
21 power it takes to write to flash, write to RAM.

22 Those are huge power concerns, and so
23 managing that is more -- for the wristwatches, you
24 don't have to manage it, you can put it into the
25 multi-threads and let it age itself out. You don't

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1 even have to come back around and garbage collect it.

2 Q. Okay. Can you please open Exhibit 1? So
3 that's the '033 Patent.

4 A. Done.

5 Q. All right. So at the beginning of the
6 patent, the first column, do you see that there's a
7 section with the heading "State of the Art"?

8 A. Yes, I did see it previously. There it is.
9 Okay. I got it.

10 Q. Have you reviewed any of the references
11 that are included in that "State of the Art" section?
12 So, for example, there are a few patent numbers in the
13 paragraph at the bottom of Column 1, going to
14 Column 2?

15 A. I did not review those.

16 Q. Okay.

17 A. Not to my recollection. And those were
18 just patent applications, correct?

19 Q. Yes. Looks to be.

20 Okay. All right. Can you flip to the
21 claims of the '033 Patent, please?

22 A. I'm at Claim 1.

23 Q. Do you have an opinion on what was novel
24 about the invention claimed in the '033 Patent?

25 **MR. PYMENTO: Objection, form**
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1 A. The -- one of the things I found, and one
2 of the reasons I took on the case, is because I -- at
3 that point in time I had known all about mechanical
4 watches displaying their gears and stuff, and that was
5 always neat, and my dad even had one back in the late
6 '70s. But I went through my memory, my knowledge of
7 the different pieces in the smart watch world and I
8 had not believed that anybody had done a full
9 mechanical simulation of a watch and being able to
10 display it.

11 I also believe that prior to, you know,
12 2008, 2009, as I was looking for LCD displays and
13 stuff like that, I had used a Cholesteric display once
14 in my life, way too slow to do anything reasonable in
15 real-time, but the resolutions weren't there. I don't
16 believe that E-paper would have been a solution at
17 that point in time for a watch.

18 I was talking with the people over at MIT,
19 but these are people that went through my mind to say,
20 "Wow. These guys knew that they could get the
21 resolution to do that," and were the first ones, I
22 thought, to actually go put the mechanical display
23 into a smart watch that could do other things.

24 Q. Okay. Would you agree that by 2010,
25 digital watch hands, like a digital hour and minute

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1 hand, that's something that already existed?

2 MR. PYMENTO: Objection, form.

3 A. I don't believe that it could have existed
4 at that point in time, a digital -- you know,
5 basically emulating the watch hands on a display.
6 Very slow movement. And did I know of any? Casio
7 might have had one.

8 Q. (By Ms. Raw) Would you agree that nothing
9 in the '033 claims specifically requires the use of
10 bare-metal-embedded code?

11 MR. PYMENTO: Objection, form.

12 A. No, and I -- as I stated, basically I
13 believe that at that point in time, 2010, with the
14 advent of the ARM, the other processors, that it could
15 have gone to a TinyOS or some other small OS. It
16 would need something like that to handle the contact
17 switching of the different cards and different display
18 types to give you the -- you know, basically pop up
19 and get all of the edges of the display and everything
20 else.

21 So I didn't let that stop me from doing
22 that. I didn't think that it was bare metal at that
23 point in time because it would be awfully hard to go
24 ahead and do that, but I also didn't believe that that
25 watch could last for a year on a normal watch battery,

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1 which was one of my bigger metrics at that time, and
2 still a little bit grounded in my thinking is, is that
3 when you have to recharge a watch, it's broken during
4 the time you're recharging it.

5 Q. And I just want to make sure I'm completely
6 clear on your answer. So when I asked whether you
7 agree that the '033 claims do not require
8 bare-metal-embedded code, you began by saying "no."
9 So no, you would not agree, and then continued with
10 your explanation. Was that accurate or do you want to
11 clear that up?

12 MR. PYMENTO: Same objection.

13 A. That's not accurate.

14 Q. (By Ms. Raw) Okay.

15 A. That's not accurate. I came back in saying
16 that there was no reason for it to have bare metal at
17 that time.

18 Q. Okay. Thank you for clarifying. I just
19 wanted to make sure our record was clear on that.

20 A. Thank you.

21 Q. Would you agree that the '033 Patent claims
22 don't require a specific amount of memory in the claim
23 device?

24 MR. PYMENTO: Objection, form.

25 A. Please repeat the question.

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1 Q. (By Ms. Raw) Yeah. Would you agree that
2 the '033 Patent claims do not require a specific
3 amount of memory to be present in the claim device?

4 MR. PYMENTO: Same objection.

5 A. They do not require -- they do not specify
6 how much memory is needed in order to do their
7 mechanical simulation.

8 Q. (By Ms. Raw) Okay. Would you agree that
9 the '033 Patent claims do not specify the amount of
10 processing power that's required?

11 MR. PYMENTO: Objection, form.

12 A. They do not specify -- I'm also going
13 through the rest of the patent body in my mind, the
14 spec, because they don't jump into you're going to
15 need this much, you're going to have to allocate that.
16 They leave that up to the designer and the inventor
17 and the software people to figure that out.

18 Q. (By Ms. Raw) Would you agree that the '033
19 Patent claims don't require a specialized LCD screen?

20 MR. PYMENTO: Objection, form.

21 A. Can you please specify what you mean by
22 "specialized LCD"?

23 Q. (By Ms. Raw) Yeah. By specialized LCD
24 screen, I just mean they don't require a, you know, a
25 new LCD screen to be invented to go specifically with

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1 the elements of this invention.

2 MR. PYMENTO: Same objection.

3 A. The -- further on up in the spec and in
4 their description of the invention, they go into great
5 lengths as to putting an accelerometer in there side
6 by side so that they could emulate watch movements
7 flexing and different components that you couldn't
8 really do with a mechanical watch without making it
9 very, very expensive.

10 So they limited -- right? There are a lot
11 of different types of LCD screens, but they have
12 limited reading it as somebody interested in, "Oh, how
13 would I do that, how would I design it?" I would look
14 at that and say, "Okay. I need to have speed. I need
15 to have pixel resolution, both for the touch screen as
16 well as the contrast of the LCD."

17 Now, do I -- at that point in time the OLED
18 was starting to make a noise. Still wasn't quite
19 ready at that point in time for a watch, but it was
20 starting to get into the televisions and such. You
21 could see that starting to happen.

22 And so they were specialized? No, but
23 there had to be a certain refresh rate for an engineer
24 and everything else, so it's like I have to go and
25 talk to LCD manufacturers and say, "How can you do

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1 this? What speeds can I get?" You wouldn't be able
2 to buy one off the shelf, you would have to have one
3 designed for you off of off-the-shelf components.

4 So I'm dodging your -- does it require a
5 specialized? No, but you're going to have to do some
6 engineering to implement the resolutions that they
7 were asking for in the simulation.

8 Q. (By Ms. Raw) Are any particular simulation
9 resolutions required by the claims of the '033 Patent?

10 MR. PYMENTO: Objection, form.

11 A. Let me just -- I don't see any of them, and
12 all I've been through is Claim 9, but it refreshed me
13 enough.

14 Q. Okay.

15 A. Just being somebody who has written patents
16 and stuff, it does not specify in the claims, and it
17 would be -- I wouldn't specify it in the claims of my
18 patent either, as it would narrow down the patent, or
19 it would allow somebody to do a knockoff that looked
20 like crap and then say, "No, I didn't do that. My
21 resolution is half of what you said." So they don't
22 specify.

23 Q. Okay. Would you agree that in 2010 it was
24 possible to implement the microcontroller limitations
25 of the '033 Patent claims using microcontrollers that

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1 were already available?

2 **A. Yes.**

3 MR. PYMENTO: Objection, form.

4 Q. (By Ms. Raw) Okay.

5 **A. Yes.**

6 Q. Would you agree that in 2010 it was
7 possible to implement the '033 microcontroller
8 limitations on a microcontroller suitable for use on a
9 watch that was already available?

10 MR. PYMENTO: Objection, form.

11 **A. Ask that again because I think you**
12 **qualified it once too much.**

13 Q. (By Ms. Raw) Yes. It's possible. Thanks.
14 Happy to clarify. Let me take another shot at it.

15 Would you agree that in 2010 it was
16 possible to implement the microcontroller limitations
17 in the '033 Patent claims on an already available
18 microcontroller that was suitable for use in a watch?

19 **A. Yes.**

20 MR. PYMENTO: Objection, form.

21 **A. Yes.**

22 MS. RAW: Okay. It's been about an hour.
23 Let's take a ten-minute break, please.

24 (Recess.)

25 Q. (By Ms. Raw) Can you please turn to

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1 Paragraph 57 of your declaration? Just let me know
2 when you're there.

3 **A. 4, 5, 6, 7.**

4 Q. Okay. So in Paragraph 57 of your
5 declaration, there's a block quote, and then after
6 that, the first full sentence reads: "Further, in my
7 opinion, a POSITA would have understood that Satoshi
8 moved components of its Java applet to the internet
9 when his Java applet needed more memory."

10 Do you see that?

11 **A. Yes.**

12 Q. What disclosures in Satoshi are you relying
13 on for this conclusion?

14 **A. I'm believing I'm using his words almost**
15 **exactly. When he needed resources in order to do a**
16 **function, he had to swap that out. So I believe that**
17 **that's almost directly out of Satoshi.**

18 Q. Yeah. So Satoshi, I believe, is Exhibit 4,
19 if you want to open it, but if you could point me to
20 the particular paragraph you're referring to.

21 **A. He starts off -- I'm just going through it**
22 **linearly, Paragraph 5.**

23 Q. Okay.

24 **A. And he points out that his limitations of**
25 **-- he's limited to integer arithmetic functions. So**

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1 he's basically going in and saying that Java is
2 limited to integer math and, therefore, he has to do
3 more integer math than you would have to do if you had
4 full resources of the mobile phones. Okay?

5 And then you go to Paragraph 6 -- no.
6 Okay. And you go to 8, "Java applets are downloaded
7 from content, for example, a server connected to a
8 mobile phone, phone storage, so unused Java applets
9 can be deleted and must be re-downloaded when a
10 deleted Java applet is used."

11 So it really is in Paragraph 8 that says,
12 you know, I'm going to have to delete one to get more
13 memory, more resources, and if I need it again, I will
14 go and re-download it and, effectively, obsolete the
15 other one.

16 Q. Okay. So in the portion of Paragraph 8
17 that you just referred to, do you read it as referring
18 to downloading or deleting an entire Java applet? Or
19 do you read it as having something to do with putting
20 components of a Java applet on the internet when a
21 Java applet needs more memory?

22 A. I interpret it as the latter because Java
23 is made up of object modules that can run
24 independently or in concert with the main application.

25 Q. Okay. And Paragraph 8, do you see that

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1 that's in a section described with the heading
2 "Problems to Be Solved By the Invention"?

3 **A. Yes. And we can continue on down to see**
4 **how he actually solved them, if we'd like to.**

5 Q. Sure. So I guess my question is, just in
6 Paragraph 8, do you read that as referring to
7 something that was necessarily part of the invention?
8 Or do you read that as maybe being -- describing just
9 some background material?

10 MR. PYMENTO: Objection, form.

11 **A. I believe it is a problem he had to solve**
12 **in order to get his simulations to run on a mobile**
13 **phone.**

14 Q. (By Ms. Raw) Okay. Where do you see in
15 Satoshi that they disclose how this Java applet
16 problem referred to in Paragraph 8 was solved?

17 **A. I'm going to -- I'm on Paragraph 38 right**
18 **now.**

19 Q. Okay.

20 **A. And here's where I started -- from 38 on**
21 **down is where I started drawing the conclusion that he**
22 **would stop an applet if he didn't need it anymore**
23 **because that's how he constructed his architecture, or**
24 **that he used as a browser in conjunction with the Java**
25 **applet, the browser is then again, at this point in**

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1 time, was another means of communicating with the
2 central server.

3 Paragraph 41 he makes the suggestion as
4 well that there is an interaction between the Java
5 applet and the server.

6 Q. So are you referring to there's a line in
7 the last paragraph of -- in 41, that third paragraph
8 that starts "in addition," I'm looking at where it
9 says: "Along with storing the Java applet or the like
10 downloaded from a server via the internet"?

11 A. Yes. Yeah.

12 Q. So what about that disclosure suggests to
13 you that there are components of the Java applet being
14 stored on the internet for the purpose of more memory?

15 A. I'm going to make you go backwards in time
16 to Paragraph 29. I'm taking all of this in body and
17 saying, "How do I design something like this, such
18 that I can make it all work and keep" -- and again,
19 I'm also looking at it as part of what a watch is.

20 And so he talks about using GIFs and PNGs
21 stored in VRAM, which is video RAM for the display
22 memory. And he admitted priorly that one of the
23 problems is, is the Java apps are not given super
24 priority over what a phone does. They are in the
25 background mode, per se.

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1 And then if you look at 39 above, he also
2 describes using other storage for his world that's no
3 longer -- that's not in the Java app, per se, but it's
4 something that the Java app may want to download to
5 make it customized, in my opinion.

6 Q. So let me maybe ask a more specific
7 question. So in your declaration in Paragraph 57, you
8 refer to Satoshi moving components of the Java applet
9 to the internet. Do you see any disclosures of
10 Satoshi of a component that is on Satoshi's device,
11 mobile phone, and is being moved to the internet?

12 A. I don't see -- I've only gone through half
13 of the thing. Basically, I'm just going to come back
14 to Figure 1, and Figure 1 could imply that the
15 images -- all the other places were up on the web. I
16 definitely see references to getting the information
17 from the storage region, from the internet, or from
18 the VRAM in order to go do the -- to push things into
19 the VRAM, but I don't see in the first half of the
20 patent explicitly talking to, you know, pushing things
21 up to the internet.

22 I may have actually just -- being one who
23 worked with lots of different devices, if he did not
24 do that, he would end up -- each simulation would have
25 to start over from scratch and be customized

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1 Q. Okay.

2 A. Because if he did not push the data up
3 there, it would definitely frustrate the end user,
4 which may have, or there may be something further down
5 in there. I can take a look and pull it right out.
6 I'm not sure whether I actually pulled it out of the
7 patent or just assumed from Figure 1 that he had to go
8 both ways and he was trying to solve the problem of
9 having to push the whole applet up there.

10 I don't see him pushing that up there, but
11 I see him pushing up to the browser the images, the
12 pixels, the color of the arms and the gears and such
13 like that. All of the customizable stuff can be put
14 into storage. He does not particularly -- and only in
15 a few instances he says that's where the app would get
16 them from. I don't think he actually explains how
17 they get there.

18 Q. Okay.

19 MS. RAW: No further questions.

20 THE WITNESS: Are we done?

21 MR. PYMENTO: Let's take maybe a
22 five-minute break. I think I got a couple of
23 questions. That's it.

24 (Recess.)

25 EXAMINATION

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1 BY MR. PYMENTO:

2 Q. Welcome back. Do you remember earlier
3 discussing Paragraph 8 of Satoshi?

4 A. I do.

5 Q. And just for the record, what was your
6 understanding of Paragraph 8 of Satoshi?

7 A. Let me bring that back up. Okay. It was
8 basically, they are talking about, you know,
9 implementing the computer function of changing colors,
10 right? And so basically my recollection, and this is
11 part of guiding me, is that they -- the color and the
12 scheme and the image data are stored in the storing
13 means, as in Figure 1, on the computer as index images
14 by overriding the color data. Palace and other ones.
15 So it was a means of being able to retrieve and
16 develop their indexes so that they could actually
17 change colors fairly easy with a Java app by having
18 tables and such.

19 Q. And does Paragraph 8 describe any problems
20 with the Java applet in Satoshi's system?

21 A. It does not. The claim itself does not.

22 Q. No. I'm referring to Paragraph 8 of
23 Satoshi.

24 A. Oh. I was looking at Claim 8. I'm sorry.

25 Q. I'll just start from the top, then, since

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1 there was a misunderstanding.

2 A. Okay. Please.

3 Q. What was your understanding of Paragraph 8
4 of Satoshi?

5 A. Okay. Basically he's pointing out an issue
6 with Java applets and with mobile phone storage. Its
7 capacity is a problem, so he does define that as an
8 issue, and basically unused Java applets are deleted
9 and must be re-downloaded when a deleted applet is
10 used, and therefore, he knows that this is an issue.

11 And, you know, he also knows that people
12 are being billed for that, and so the Java applet, you
13 know, must be downloaded for each use for a prescribed
14 period of time, and that was sort of defining that and
15 saying, "I'm solving all of those problems." And he's
16 setting the groundwork for a high-content data volume,
17 and his patent goes on to try to reduce the high
18 content in his simulation, which is part of his
19 claims.

20 Q. And would you please turn to Paragraph 38
21 of Satoshi?

22 A. I'm there.

23 Q. And what does the title directly above the
24 Paragraph Number 38 say?

25 A. "Description of the Preferred Embodiments."

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1 Q. And do you see where it says in
2 Paragraph 38, "In addition, the mobile phone 1 can
3 execute, for example, Java applets, and the rotating
4 body image display program of this Embodiment can be
5 downloaded onto the mobile phone 1 as a Java applet (a
6 program that can be executed on multiple platforms and
7 has a relatively low storage capacity) over the
8 internet and can be executed on the mobile phone 1"?

9 A. Yes.

10 Q. Do you also see the following sentence
11 which states: "Moreover, the Java applet executed on
12 the mobile phone 1 is an embedded Java applet with
13 limited function, which is incapable of using floating
14 point arithmetic, trigonometric function calculations,
15 or the like directly"?

16 A. Yes.

17 Q. Is it your understanding based on this
18 disclosure that the preferred embodiments presented by
19 Satoshi still had the limitation of low storage
20 capacity and limited functions for the Java applet it
21 describes?

22 MS. RAW: Objection, form, leading.

23 A. Yes.

24 Q. (By Mr. Pymento) And do you recall
25 discussing with Counsel whether Satoshi disclosed

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1 storing Java applet on the internet when more memory
2 was required?

3 A. I do remember that conversation. That was
4 one of the reasons I put that into the declaration.

5 Q. And could you describe what would happen to
6 the system of Satoshi if it did not store components
7 of a Java applet on the internet when more memory was
8 needed?

9 A. There would -- there would be a disruption.
10 If you did not store it there, the possibility of a
11 complete restart of the app and restart of all of the
12 work that had been done on the simulation prior to
13 that, and that the app would probably crash because of
14 the parameters put up by the iOS or Android OS or
15 something at that time.

16 MR. PYMENTO: No further questions.

17 MS. RAW: No further questions.

18 THE STENOGRAPHER: What kind of transcript
19 would you like?

20 MS. RAW: E-Tran.

21 (WHEREIN, the deposition was concluded at
22 10:43 a.m. CST)

23

24

25



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