

Exhibit 17
(Submitted Under Seal)

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

4 APPLE, INC., a California)
corporation,)

5)
Plaintiff,)

6 vs.)

7 SAMSUNG ELECTRONICS CO., LTD.,)
a Korean business entity;)

8 SAMSUNG ELECTRONICS AMERICA,)
INC., a New York corporation;)

9 SAMSUNG TELECOMMUNICATIONS)
AMERICA LLC, a Delaware limited)
10 liability company,)

11 Defendants.)
_____)

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13
14 ** TRANSCRIPT MARKED CONFIDENTIAL **

15 ** ATTORNEYS' EYES ONLY **

16 DEPOSITION OF STEPHEN GRAY

17 San Francisco, California

18 Tuesday, November 6, 2012
19
20
21
22

23 Reported By:

24 LINDA VACCAREZZA, RPR, CLR, CRP, CSR. NO. 10201

25 JOB NO. 55303

1 Q. Would you look at your declaration
2 at Paragraph 31, please.

3 A. I'm there.

4 Q. Okay. At the end of Paragraph 31
5 in your declaration, you have a Footnote 2 that 04:57
6 says, "I understand that the new version of code
7 for the web browser that does not include the
8 "quintessential test," was released in the Jelly
9 Bean version of Android in July 2012," and then
10 you have a cite to a file [http.grepcode.com](http://grepcode.com) file, 04:57
11 and then it goes on.

12 Do you see that?

13 A. I do.

14 Q. When you're referring to the new
15 version of code for the web browser, are you 04:57
16 referring to `WebView.java` and `WebView`
17 `ScaleGestureDetector`, Exhibits 2 and 5 to this
18 deposition?

19 A. Yes. That's my understanding,
20 yes. 04:58

21 Q. And you say, as I guess we just
22 read in Footnote 2, you understand that that new
23 version of code was released in the Jelly Bean
24 version of Android in July 2012, right?

25 A. Yes. That's what Footnote 2 04:58

1 represents.

2 Q. And is this -- the Jelly Bean
3 version of Android in July 2012 is publicly
4 available Android code, right?

5 A. That's my understanding, yes. 04:58

6 Q. Android 4.1.1.

7 A. 4.1.1__R1, yes.

8 Q. Did you actually examine this
9 public Android 4.1.1, release 1, in connection
10 with preparing this declaration? 04:58

11 A. I did not review that file --
12 those files. I did not review that release of
13 code. No, I did not.

14 Q. Did you review any public releases
15 of Android code, not limiting it to the 4.1.1 in 04:59
16 this footnote, in connection with preparing this
17 declaration?

18 A. I don't recollect reviewing any
19 public versions of the code for the preparation
20 of my declaration. 04:59

21 Q. What's the basis for your
22 understanding that the new version of code for
23 the Samsung web browser was released in public
24 Jelly Bean in July 2012?

25 A. I'm not sure that's my -- I'm not 04:59

1 when I place both fingers on the screen and move
2 them up and down the screen, without changing the
3 distance between my fingers, the view moves in
4 relation to my fingers in both of those
5 instances, yes. 05:25

6 Q. That's what you've previously
7 testified to as described as two finger
8 scrolling, right?

9 A. Yeah. I am just explaining what
10 the action is. But yes, I've referred to that 05:25
11 before as two finger scrolling.

12 Q. In your current opinion about the
13 Galaxy S II T-Mobile model with modified source
14 code, does the fact that it performs what you
15 call two finger scrolling in your view have any 05:26
16 relevance to your non-infringement opinion?

17 A. I lost the question, sorry.
18 Can you read it back, please, or
19 you can ask again, whichever way you want
20 to do it. 05:26

21 Q. Does the fact that you believe
22 that the Galaxy S II that you examined for your
23 declaration is capable of performing what you
24 call two finger scrolling have any relevance to
25 your non-infringement opinion for that device? 05:26

1 A. I believe that the 915 requires
2 that the -- that a determination be made based
3 upon the number of input points -- based upon the
4 data in the motion of that object regarding
5 touches to the screen; that that is used as a 05:27
6 determiner of whether or not the device is to
7 perform a scroll or a gesture operation. Scroll
8 operation being related to one data in the motion
9 event that talks about one point, and gestures
10 being related to two points or more, two or more 05:27
11 points.

12 So in my view, the fact that the
13 two finger scrolling, two finger scrolling
14 indicates that the device doesn't meet the
15 requirements of the 915 patent. 05:27

16 Q. So it's your opinion that neither
17 the Galaxy S II, Deposition Exhibit 4, nor the
18 Galaxy Tab 10.1, Deposition Exhibit 7, infringes
19 the 915 patent; is that right?

20 A. I believe by virtue of the fact 05:28
21 that it doesn't make a distinction between one
22 point, one touch for scrolling and two or more
23 touches for scaling, that then it doesn't
24 infringe.

25 Q. And that applies to both the Tab 05:28

1 10.1 and the Galaxy S II that you examined for
2 your declaration, right?

3 A. Yes. That does pertain to both
4 the Galaxy S II and the Tab 10.1.

5 Q. Is there anything about the Galaxy 05:28
6 S II, Deposition Exhibit 4, that makes it, in
7 your view, non-infringing for reasons that are
8 not present in the Galaxy Tab running the Android
9 3.1?

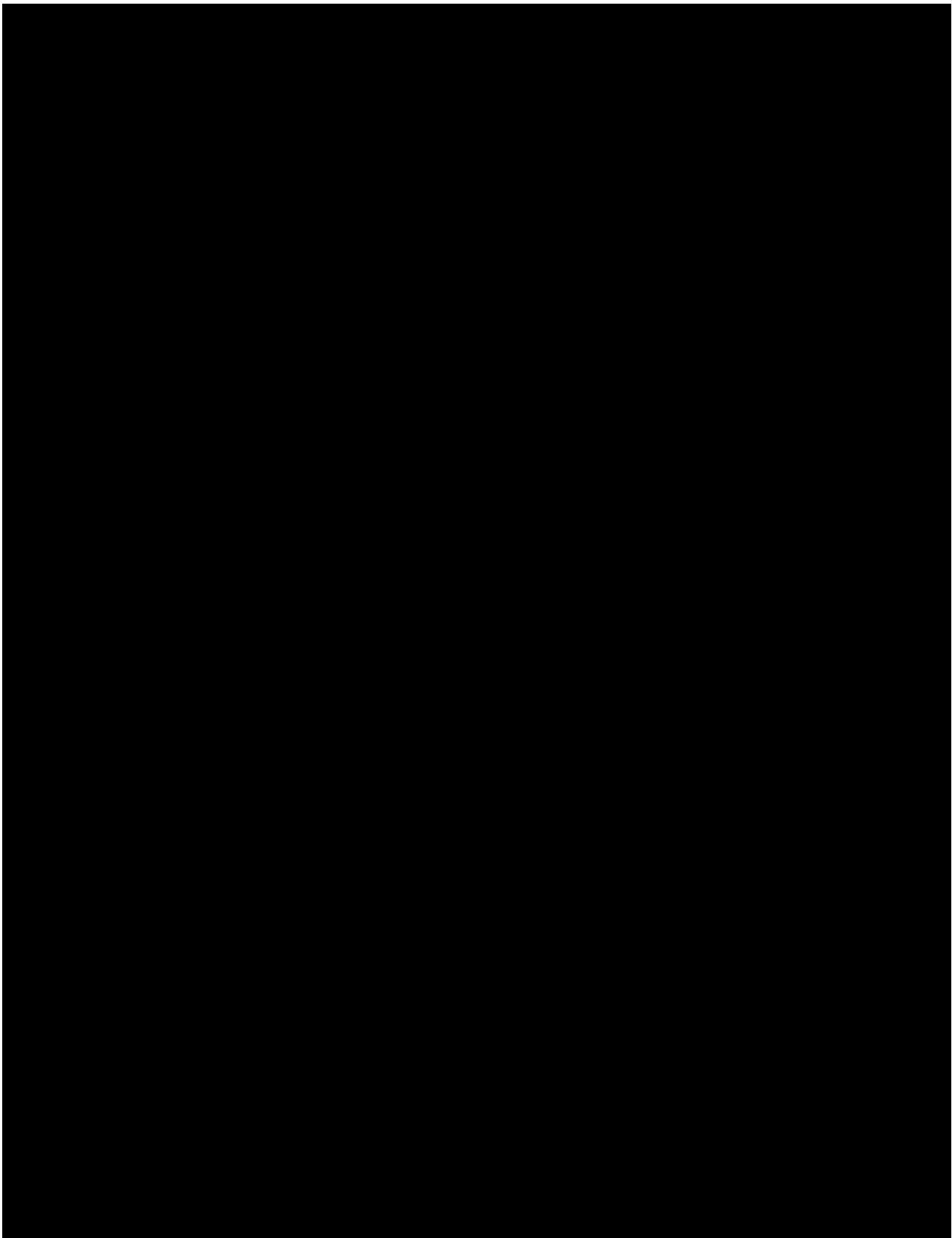
10 A. There is modifications to the 05:29
11 software that operates on the Galaxy S II which
12 are different than what's on Tab 10.1. There's
13 different software. So by virtue of the

14 internals and the manner in which the device
15 operates, it is clear to me that -- I mean, in 05:29
16 the analysis of the source code that I've
17 performed, that it does -- it performs the
18 determination -- it performs scaling and

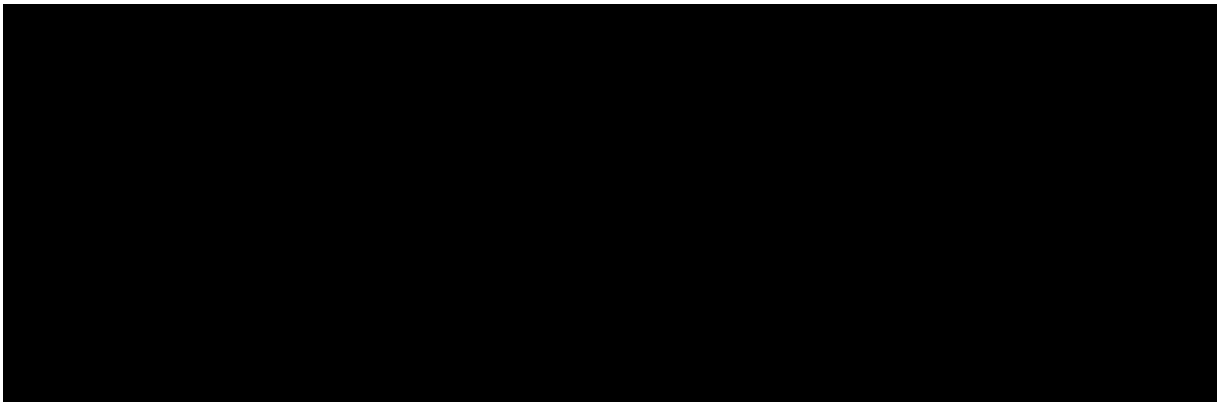
19 scrolling in a much different way or in a
20 fundamentally different way than the predecessor 05:30
21 code. So yes, in addition to the multi-finger
22 scrolling, then there's also different software
23 operating on the S II.

24 Q. Well, when you say "predecessor
25 code," the Galaxy S II never ran Android 3.1, 05:30

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MR. MONACH: We have a signal that we are almost out of time, so it's probably a good time for a break. Again, ten minutes or so.

06:03

THE VIDEOGRAPHER: This marks the end of Volume 1, Disk 1 in the deposition of Stephen Gray. Time is 6:03 p.m. We are off the record.

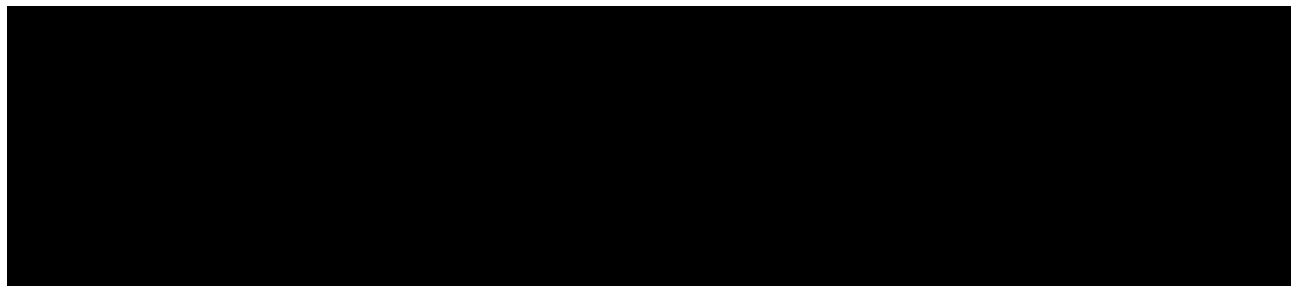
(Recess taken from 6:03 p.m. to 6:14 p.m.)

06:14

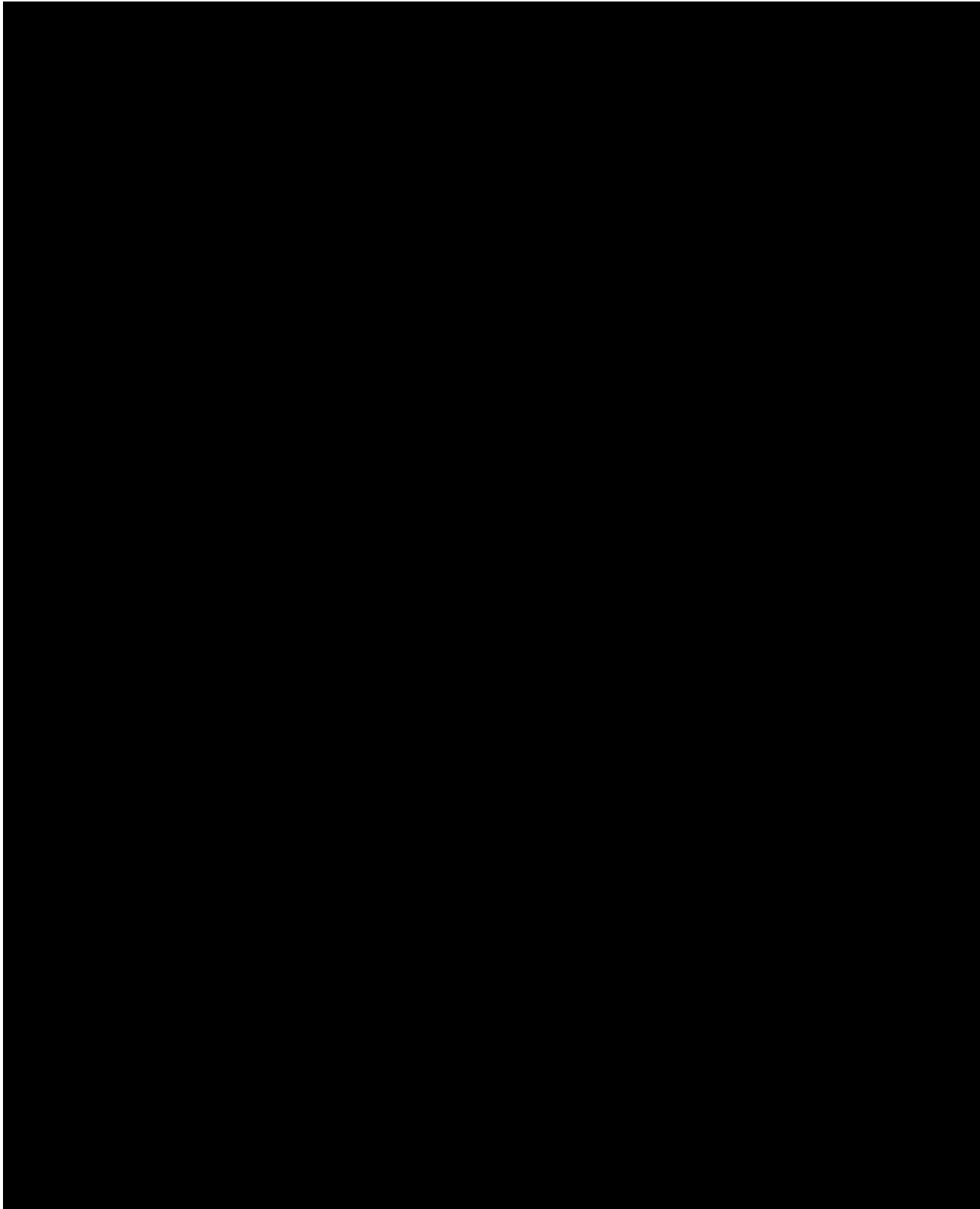
THE VIDEOGRAPHER: This marks the beginning of Volume 1, Disk 2 in the deposition of Stephen Gray. Time is 6:14 p.m. and we are on the record.

06:15

BY MR. MONACH:



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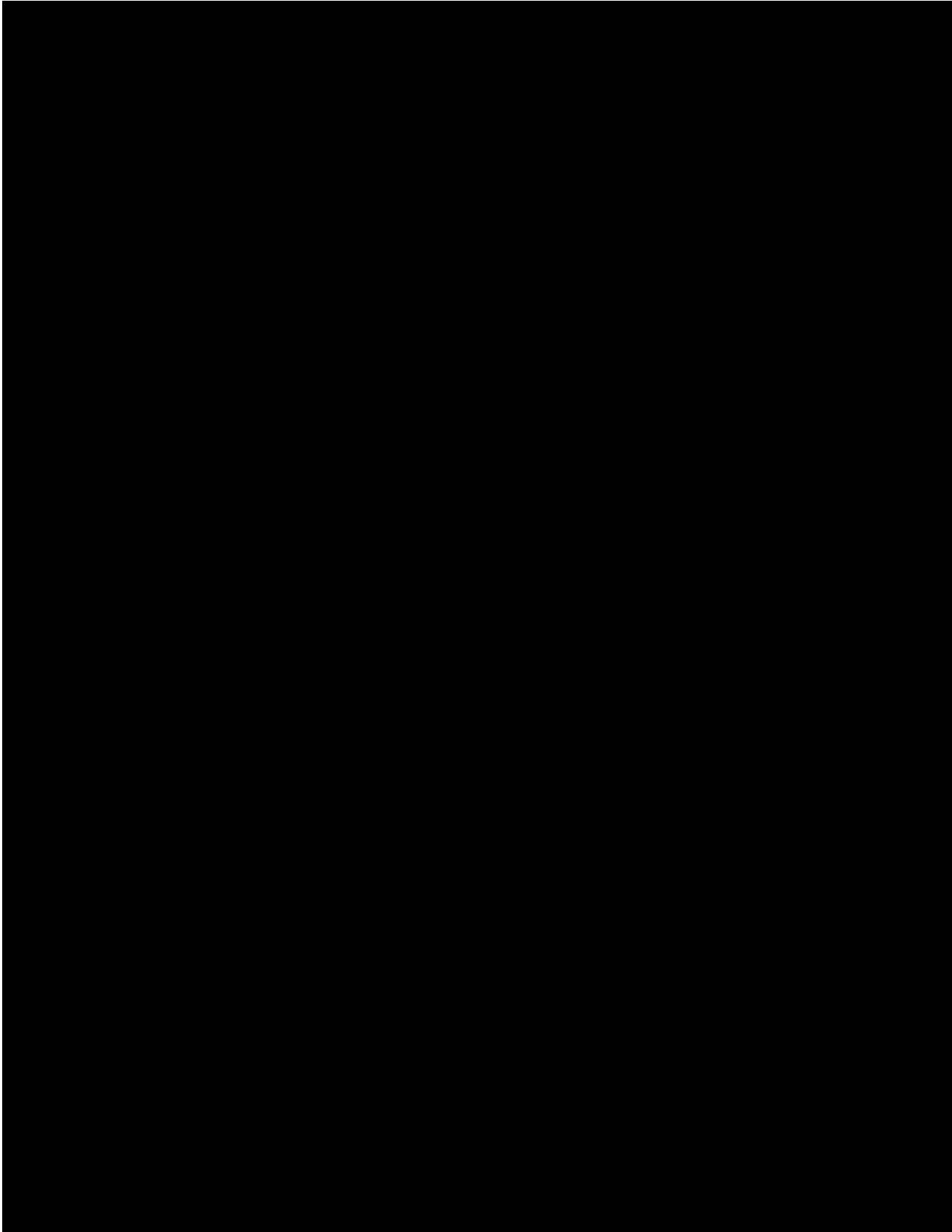


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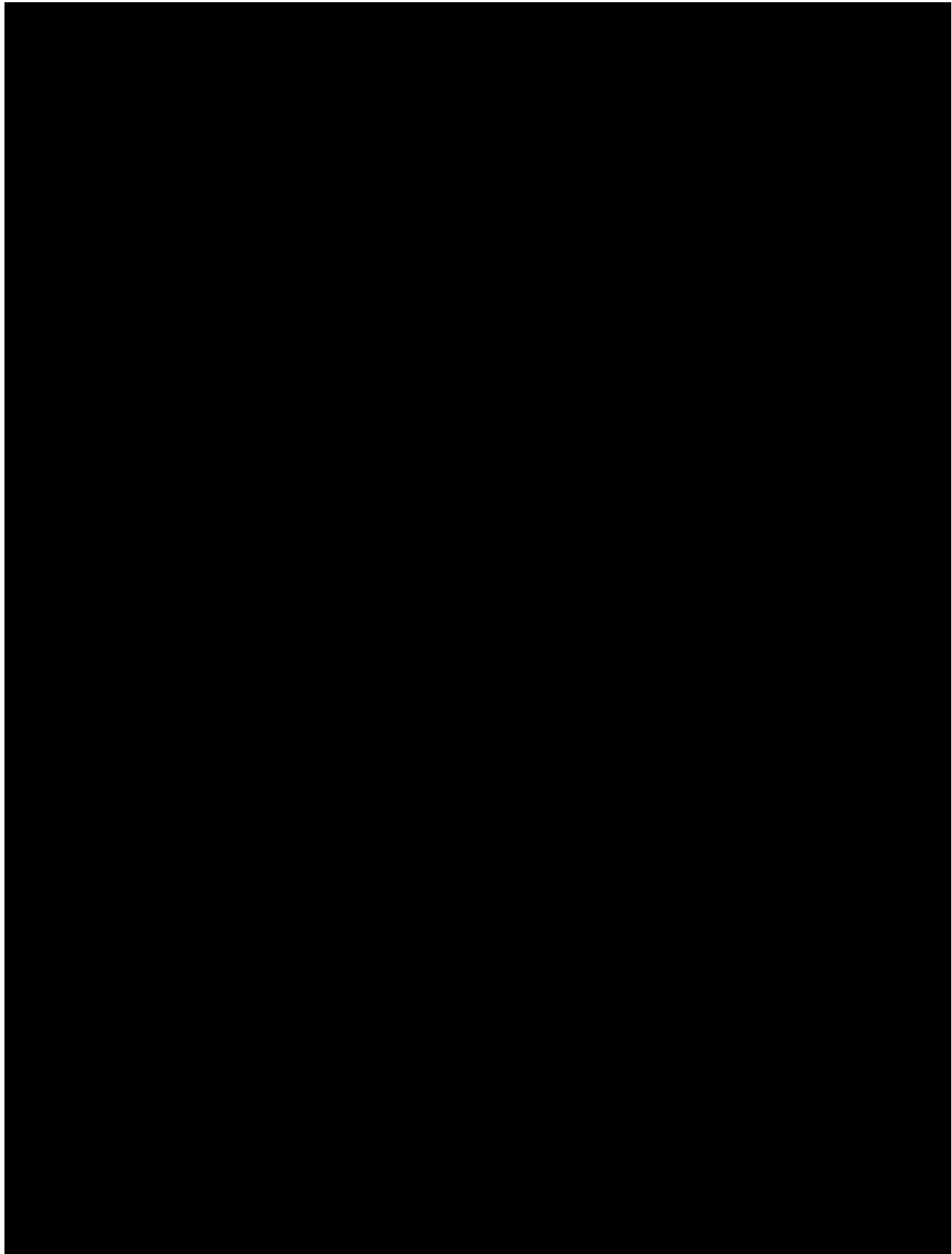
A. So it looks to me that at Line

06:19

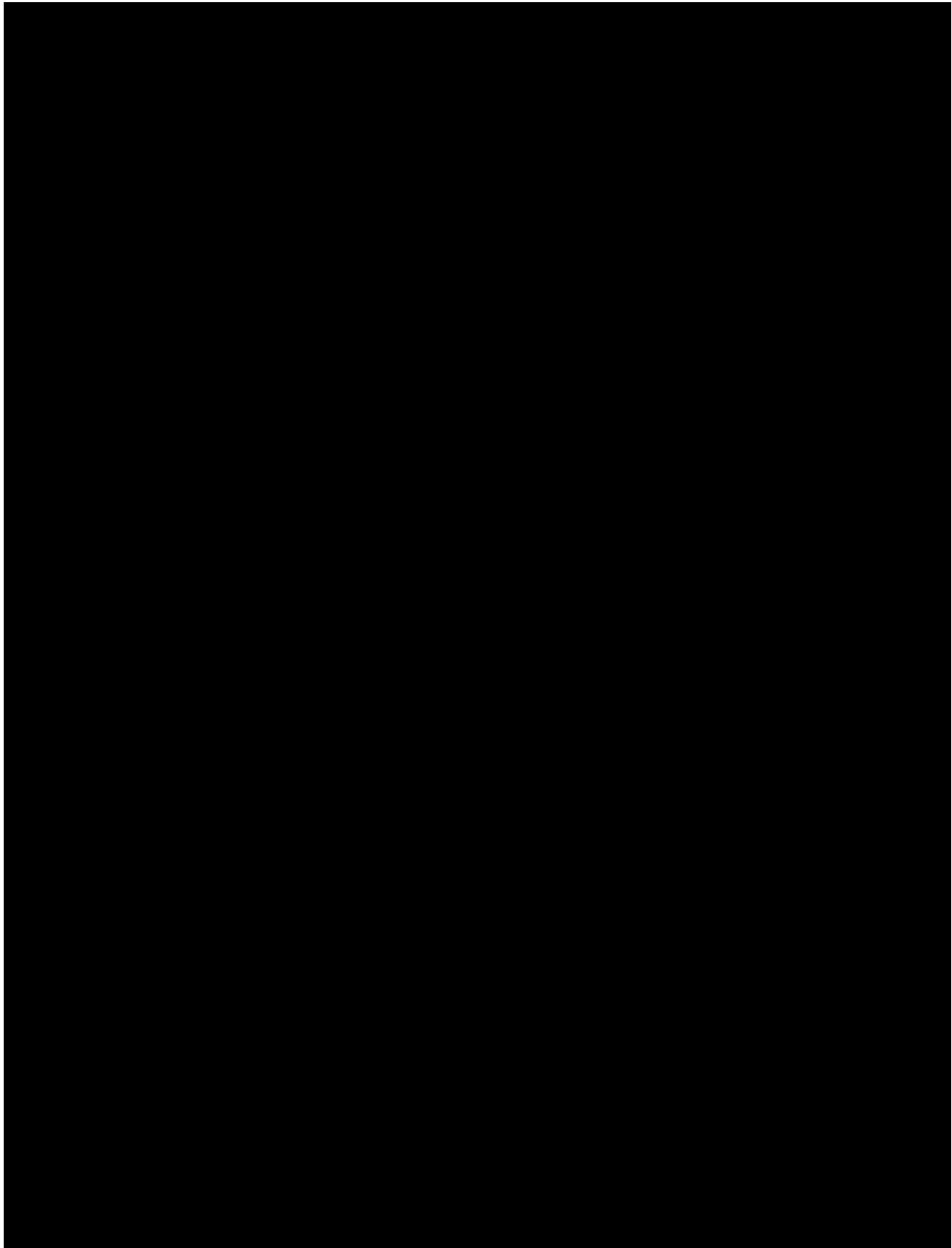
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1 to one bit of testimony you gave earlier today.

2 And I'll paraphrase it, because I don't have the
3 exact quote in front of me. And if you think
4 I've mischaracterized your prior testimony,
5 please correct me.

06:48

6 My recollection is that when I
7 asked To you look at the observed behavior of the
8 Galaxy Tab 10.1 that we have here as an exhibit,
9 and the Galaxy S II, Deposition Exhibit 4, you
10 said that from the perspective of the user with
11 respect to one finger scrolling, two finger
12 scaling, and what you've called two finger
13 scrolling, that they were roughly the same, or
14 words to that effect of the user.

06:48

15 Do you recall that?

06:49

16 A. I do.

17 Q. So my follow-up question, sir, is
18 you didn't say they were the same. You said they
19 were roughly the same. Does the observed
20 behavior or behavior to the user on those three
21 categories differ in any way that is relevant to
22 infringement or non-infringement of Claim 8 of
23 the 915 patent?

06:49

24 A. My observation is that the
25 differences that I referred to between the

06:49

1 observed behavior of the Tab and the observed
2 behavior of the phone with respect to the
3 gestures or the two finger scroll, so on, are not
4 materially different. They are -- they are
5 different in around the edges, but they are not 06:49
6 fundamentally different. They would be observed
7 similarly.

8 Q. Are they different in any way that
9 you think is relevant to determining infringement
10 or non-infringement of the 915 patent? 06:50

11 A. No.

12 Q. Thank you. That's all I have.

13 MR. BRIGGS: I would just like to
14 designate the transcript attorneys' eyes
15 only. The entire transcript. 06:50

16 THE VIDEOGRAPHER: This marks the
17 end of Volume 1, Disk 2, and concludes
18 today's deposition of Stephen Gray. Time
19 is 6:50 p.m. and we are off the record.

20 (Discussion was held off the 06:51
21 record.)

22 MR. MONACH: Go back on the
23 record.

24 After the close of the deposition,
25 counsel have agreed that Quinn Emanuel 06:51

C E R T I F I C A T E

STATE OF CALIFORNIA)

)

COUNTY OF SAN FRANCISCO)

I, LINDA VACCAREZZA, a Certified Shorthand Reporter for the State of California, do hereby certify:

That STEPHEN GRAY, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of November 2012.

LINDA VACCAREZZA, CSR. NO. 10201