

1 Q. Mr. Farrugia, will you please tell the jury where you  
2 worked from 1999 to 2002?

3 A. At Gemplus.

4 Q. Gemplus was a company that worked in hardware, software,  
5 and they developed certain things in the mobile phone space,  
6 correct?

7 A. Yes, sir.

8 Q. And you were a director at Gemplus, weren't you?

9 A. Yes, sir.

10 Q. Do you have a general understanding of what Mr. Racz's  
11 invention is?

12 A. No, sir.

13 Q. When I took your deposition in July, that was not the  
14 first time you had given sworn testimony, correct?

15 A. Yes, sir.

16 Q. In fact, you told me -- that was in July 2012. At that  
17 point, you told me you had had your deposition taken one  
18 previous time, correct?

19 A. Yes, sir.

20 Q. Mr. Farrugia, the actual truth is you've had your  
21 deposition taken several times before I did; isn't that  
22 right?

23 A. I'm sorry, sir?

24 Q. When I took your deposition in July of 2014, it's not  
25 true that you'd had your deposition taken just once before,

1 is it?

2 A. I have no recollection beside the one we took together.

3 Q. In fact, Mr. Farrugia, going back even four years ago,  
4 you testified under oath that you had previously even then  
5 had your deposition taken five previous times, correct?

6 A. I don't have any recollection. Sorry.

7 MR. CALDWELL: Mr. Mortensen, can we pull up  
8 Plaintiff's December 8th, 2010 deposition, starting at Page  
9 9, Line 21, starting -- is that Page 9, Line 21? Okay. I'm  
10 sorry, the top of that page, actually. I'm sorry. Look  
11 through 2 through 4.

12 Q. (By Mr. Caldwell) In 2010, you were asked to estimate  
13 the number of times you had had your deposition taken prior  
14 to that time in 2010, and then you said five times, didn't  
15 you?

16 A. This is what document says.

17 Q. So, Mr. Farrugia, it's not that you had your deposition  
18 taken one prior time, you've had it taken at least six times  
19 prior to when I took your deposition, correct?

20 A. I don't have any recollection.

21 Q. But that's what's what you've testified under oath?

22 A. Yes, sir.

23 Q. And some of those were with Gemplus, weren't they?

24 A. I don't have any recollection, sir.

25 Q. Sir, we won't able to see what you said under oath if

1 you were deposed while you were at Gemplus, will we?

2 A. I don't know, sir.

3 Q. I'd like to talk a little bit about the circumstances of  
4 you coming to Apple, Mr. Farrugia. You agree that you worked  
5 at Gemplus from 1988 to 2002, correct?

6 A. Yes, sir.

7 Q. You left Gemplus in 2002?

8 A. Yes, sir.

9 Q. Am I correct that you said you left and went to a  
10 company called JetEye?

11 A. Yes, sir.

12 Q. And then a company called Young Generation?

13 A. Yes, sir.

14 Q. So was Young Generation your most recent previous  
15 employer prior to Apple?

16 A. Yes, sir.

17 Q. But it's actually true that you quit Gemplus job and you  
18 find an opportunity at Apple, correct?

19 A. I don't understand the question.

20 Q. I'm not trying to misquote you. I'd like to show you  
21 what you said under oath.

22 A. Uh-huh.

23 MR. CALDWELL: Mr. Mortensen, will you pull up Mr.  
24 Farrugia's December 8, 2010 deposition, on Page 16 at Lines  
25 15 to 17?

1 Q. (By Mr. Caldwell) In 2010, under oath, you were asked  
2 what caused you to come to Apple?

3 And you testified: Because I quit Gemplus job and I  
4 find an opportunity at Apple.

5 Correct?

6 A. Yes, sir.

7 Q. Is that true?

8 A. Yes, sir.

9 Q. Is it actually true that Gemplus was your most recent  
10 previous employer prior to Apple?

11 A. No, it was Young Generation.

12 MR. CALDWELL: Mr. Mortensen, in that same  
13 deposition will you go to Page 18, Lines 5 through 9?

14 Q. (By Mr. Caldwell) You were under oath for all these  
15 depositions, correct, sir?

16 A. Yes, sir.

17 Q. And in 2010, that was closer in time to when you started  
18 at Apple, right?

19 A. Yes, sir.

20 Q. In 2010, under oath, Mr. Farrugia, you testified: And  
21 was your experience with your most recent previous employer  
22 prior to Apple --

23 You said: Which mean Gemplus?

24 Question: Yes.

25 Answer: Which is correct.

1           That's how you testified, isn't it, sir?

2   A.    Yes, sir.

3   Q.    Mr. Farrugia, which time under oath were you telling the  
4   truth?

5   A.    Both are the truth. I was not employed by Young  
6   Generation. I was helping a friend. My last employer was  
7   Gemplus.

8   Q.    So you were still in the employ of Gemplus?

9   A.    My last employer was Gemplus. And when I was at Young  
10   Generation, I was helping a friend, which was not my  
11   employer.

12   Q.    Do you agree that you quit the Gemplus job to find an  
13   opportunity at Apple?

14   A.    Yes, sir.

15   Q.    Do you recall telling us earlier you did not have much  
16   experience in digital content security when you started at  
17   Apple?

18   A.    Yes, sir.

19   Q.    Nevertheless, you applied for a job as director of  
20   digital rights management, specifically to help provide  
21   protection for content, correct?

22   A.    Yes, sir.

23   Q.    Mr. Farrugia, does it make any sense to you that Apple  
24   would hire somebody with no digital content protection  
25   experience to create the new position of director of digital

1 rights management?

2 A. Yes, sir.

3 Q. In 2005, it was hard to find somebody with that kind of  
4 experience, wasn't it?

5 A. I believe so.

6 Q. And, in fact, Apple wanted to hire you specifically  
7 because of the skill set you could bring from your Gemplus  
8 days, didn't it?

9 A. No, sir.

10 Q. Mr. Farrugia, do you think Apple recognized you had any  
11 special acumen or skill set that interested them?

12 A. Yes, sir.

13 Q. And that skill set was an expert in making digital  
14 content protected, correct?

15 A. No, sir.

16 Q. That wasn't the skill set -- the special acumen or skill  
17 set that interested Apple?

18 A. They under -- they understand my skill in security.

19 Q. Okay. Mr. Farrugia, my particular question is: Was the  
20 special acumen or skill set that interested Apple, the fact  
21 that you were expert in making digital content protected?

22 A. I don't know. I cannot answer this question, sir.

23 MR. CALDWELL: Mr. Mortensen, will you pull up Mr.  
24 Farrugia's December 8th, 2010 deposition, starting at Page  
25 17, Line 16? Thank you.

1 Q. (By Mr. Caldwell) Back in 2010, before this case was  
2 pending, is when you gave this deposition, correct, sir?

3 A. I don't understand the question. I was reading.

4 Q. Mr. Farrugia, Smartflash's case was not pending against  
5 Apple when you gave this testimony in 2010, correct?

6 A. Yes, sir.

7 Q. That's correct. I just want to make sure the  
8 yes-sirs -- there -- there's no ambiguity. Am I correct?

9 A. Could you -- I don't understand the question. I don't  
10 understand the question.

11 Q. Fair enough. Mr. Farrugia, is it true that Smartflash's  
12 case against Apple was not pending when you gave this sworn  
13 testimony in 2010?

14 A. I don't recall that, sorry.

15 Q. Do you accept my representation that this lawsuit wasn't  
16 filed until 2013?

17 A. Yes, sir.

18 Q. So the lawsuit was not pending when you testified in  
19 2010, was it?

20 A. Yes, sir.

21 Q. It was or was not?

22 A. It wasn't.

23 Q. And, Mr. Farrugia, you were asked under oath in 2010:

24 Do you think that Apple recognized that you had any  
25 special acumen or skill set that interested them?

1           You answered: Correct.

2           Do you see that?

3   A.    Yes, sir.

4   Q.    And then you were asked: And what would that skill set  
5   or acumen be?

6           You said, security.

7           Correct?

8   A.    Yes, sir.

9   Q.    And then they asked you to define that: And when you  
10   say security, what do you mean?

11           And you referred to yourself as an expert in making  
12   digital content protected.

13           Did I read that right, sir?

14   A.    Yes, sir.

15   Q.    And you got that experience at Gemplus, didn't you?

16   A.    No, sir.

17           MR. CALDWELL: Okay. Mr. Mortensen, let's just  
18   pick up where we were on Page 18, please?

19   Q.    (By Mr. Caldwell) So you remember we just read the part  
20   that said protected?

21   A.    Yes, sir.

22   Q.    All right. What -- what came next?

23           MR. CALDWELL: Mr. Mortensen, can you pull up 2  
24   through 9?

25   Q.    (By Mr. Caldwell) Immediately after that question, Mr.



1 Farrugia, in 2010, before this lawsuit was pending, you were  
2 asked: And did you have previous experience in making  
3 digital content protected?

4 And you said: This is correct.

5 And was that experience with your most recent previous  
6 employer prior to Apple?

7 Which mean Gemplus.

8 And you said that was correct?

9 A. Yes, sir.

10 Q. Mr. Farrugia, have you personally made any effort to  
11 ensure that Apple is respecting the patent rights of Mr.  
12 Racz?

13 A. No, sir.

14 MR. CALDWELL: Pass the witness.

15 THE COURT: Cross-examination.

16 You may proceed, Ms. Fukuda.

17 MS. FUKUDA: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. FUKUDA:

20 Q. Good afternoon, Mr. Farrugia.

21 A. Good afternoon.

22 Q. Mr. Farrugia, where were you born?

23 A. In France.

24 Q. And is French your first language?

25 A. Yes.