

Deposition Transcript

Case Number: IPR2023-00268

Date: October 23, 2024

In the matter of:

DK Crown Holdings Inc. v Diogenes Limited

Olaf Vancura

**CERTIFIED
COPY**

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

DK CROWN HOLDINGS INC.	)	
(FORMERLY DRAFTKINGS	)	
INC.), A DELAWARE	)	Case IPR2023-00268
CORPORATION,	)	U.S. Patent 11,200,779
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
DIOGENES LIMITED, PATENT	)	
OWNER.	)	
	)	

DEPOSITION OF EXPERT FOR DIOGENES LIMITED
OLAF VANCURA
LAS VEGAS, NEVADA
WEDNESDAY, OCTOBER 23, 2024

Reported By: Carre Lewis, CCR No. 497, RPR
Steno Job No. 1238946

1 DEPOSITION OF OLAF VANCURA,
2 taken at 3960 Howard Hughes Parkway, Suite 500,
3 Las Vegas, Nevada, on Wednesday, October 23, 2024,
4 at 9:00 a.m., before Carre Lewis, Certified Court
5 Reporter, in and for the State of Nevada.

6

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I N D E X

WITNESS: OLAF VANCURA, PH.D.

EXAMINATION

PAGE

By Mr. Wilson

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By Mr. Juren

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E X H I B I T S

NUMBER		PAGE
Exhibit 1	United States Patent Application Publication No. US 2012/0052935	35
Paper 14	Paper 14	41
Paper 20	Paper 20	45
Exhibit 1001	United States Patent No. U.S. 11,200,779 B2	65
Exhibit 1006	United States Patent Application Publication U.S. 2012/0309489 A1	93
Exhibit 2001	Declaration of Olaf Vancura, Ph.D. in Support of Patent Owner's Preliminary Response	8
Exhibit 2007	Declaration of Olaf Vancura, Ph.D. in Support of Patent Owner's Response	9

INFORMATION TO BE SUPPLIED
(Documents or information.)

Page Line

(None.)

WITNESS INSTRUCTED NOT TO ANSWER

Page Line

(None.)

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LAS VEGAS, NEVADA;
WEDNESDAY, OCTOBER 23, 2024;
9:00 A.M.
-oOo-
THE REPORTER: Please state appearances for
the record and then I will swear in the witness.
MR. WILSON: Andrew Wilson, with Baker
Botts LLP, for petitioner DraftKings. I'm joined by
Zoom by Jamie Lynn and Michael Kachmarik, also with
Baker Botts, for petitioner DraftKings.
MR. JUREN: Matthew Juren, from Stevens
Juren PLLC, on behalf of patent owner Diogenes.
Also representing Olaf Vancura, the deponent today.
MS. CYNADER: Zarya Cynader, Gilbert's LLP,
for the patent owner, Diogenes, and I'm joined by
Zoom by Tim Gilbert, also of Gilbert's LLP.
MR. WRIGHT: Andrew Wright, from Bruster
PLLC, district court counsel for patent owner.
Whereupon --
OLAF VANCURA,
having been first duly sworn to testify to the
truth, was examined and testified as follows:
EXAMINATION
BY MR. WILSON:
Q. Good morning, Dr. Vancura. Can you please

1 state your name for the record.

2 A. Olaf Vancura.

3 Q. What's your current occupation?

4 A. Consultant.

5 Q. Are you taking any medications today or
6 otherwise under the influence of anything that would
7 affect your ability to testify truthfully?

8 A. No.

9 Q. You understand that you are here today to
10 provide testimony as to an inter partes review
11 proceeding?

12 A. Yes.

13 Q. And you understand that this proceeding is
14 referred to as case IPR2023-00268?

15 A. Yes.

16 Q. And the proceeding relates to U.S. Patent
17 No. 11,200,779, correct?

18 A. Yes.

19 Q. You understand the patent owner in this
20 proceeding is an entity named Diogenes Limited or
21 Colossus (IOM) Limited; is that correct?

22 A. Yes.

23 Q. You understand that Diogenes Limited or
24 Colossus (IOM) Limited have asserted this patent,
25 the '779 Patent, against petitioner DraftKings in

1 district court litigation?

2 A. I understand that's true.

3 Q. Do you have any financial interest in
4 Diogenes Limited or Colossus (IOM) Limited?

5 A. No.

6 Q. Do you have any financial interest in the
7 outcome of this litigation?

8 A. No.

9 Q. Do you know anyone with any financial
10 interest in either this proceeding or Diogenes or
11 Colossus?

12 MR. JUREN: Objection. Form.

13 THE WITNESS: Not to my knowledge.

14 BY MR. WILSON:

15 Q. You submitted a number of declarations in
16 this proceeding, did you not?

17 A. Yes.

18 Q. First declaration in support of patent
19 owner's preliminary response?

20 A. Yes.

21 (Exhibit 2001 presented.)

22 BY MR. WILSON:

23 Q. I'm going to hand you what's already been
24 marked as Exhibit 2001 in this proceeding. And if
25 you could flip through that, and as you thumb

1 through it, go to the last page.

2 Do you see your signature on the last page?

3 A. Yes.

4 Q. Does this appear to be a true and correct
5 copy of the preliminary response declaration that
6 you submitted in this proceeding?

7 A. As far as I can see, yes.

8 (Exhibit 2007 presented.)

9 BY MR. WILSON:

10 Q. I'm going to hand you another declaration
11 that's already been marked as Exhibit 2007 in this
12 proceeding. Again, flip through, all the way to the
13 back.

14 Do you see your signature on the last page?

15 A. Yes.

16 Q. Does this appear to be a true and correct
17 copy of the declaration you submitted in support of
18 patent owner's response in this proceeding?

19 A. It appears to be, yes.

20 Q. Do you stand by the testimony that you
21 submitted with the preliminary response declaration
22 that you submitted in this proceeding, which is
23 marked Exhibit 2001?

24 A. Yes.

25 Q. You don't wish to waive any of the

1 testimony submitted in that preliminary response
2 declaration?

3 A. No.

4 Q. Are you aware of any inconsistencies
5 between the testimony you submitted and your
6 preliminary response declaration, Exhibit 2001, and
7 the testimony that you submitted in your declaration
8 in support of patent owner's response, Exhibit 2007?

9 A. Well, I mean there are differences. I
10 wouldn't say there are inconsistencies.

11 Q. Nothing that you wish to amend or correct
12 at this time?

13 A. No.

14 Q. You are aware that there were several
15 related IPR proceedings between DraftKings and
16 Diogenes, correct?

17 A. Could you explain what you mean?

18 Q. Well, you previously submitted declarations
19 in support of other briefs submitted in other IPR
20 proceedings between DraftKings and Diogenes,
21 correct?

22 A. Yes.

23 Q. And you were also deposed in those other
24 proceedings, correct?

25 A. Yes.

1 Q. Have you been deposed outside of those
2 depositions that occurred in those related
3 proceedings?

4 A. In other matters?

5 Q. Yes.

6 A. Yes.

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

8 A. Not counting trial testimony?

9 Q. Correct.

10 A. I would say two or three.

11 Q. So I'm going to go through and just
12 establish some sort of rules for the deposition. I
13 think it will benefit both of us. Just briefly, I
14 will do my best to speak clearly and slowly -- it's
15 a good reminder to me -- so the court reporter can
16 hear me, and I will just ask that you do the same
17 when giving a response.

18 I will ask that we give a brief pause in
19 between question and answer, we do our best not to
20 speak over each other.

21 You are aware that counsel for a patent
22 owner might make certain objections. I just ask
23 that you accommodate time for those objections
24 between giving your answer.

25 Does that sound good?

1 A. Yes.

2 Q. I'm going to ask briefly about your
3 preparations for the deposition today.

4 I'm assuming that you prepared for today's
5 deposition?

6 A. Yes.

7 Q. How did you prepare?

8 A. I reviewed the materials. I reviewed my
9 declarations. I met with counsel.

10 Q. If you turn to paragraph 19 of that
11 Exhibit 2007 declaration, that's the declaration in
12 support of patent owner's response.

13 A. I'm sorry, what page?

14 Q. It's paragraph 19.

15 A. Yes.

16 Q. It's on Page 8.

17 Do you see the list of documents you
18 provide there?

19 A. Yes.

20 Q. Did you review those documents, listed in
21 the table there, in preparing for this deposition?

22 A. Yes.

23 Q. Anything else?

24 A. Not to my knowledge.

25 Q. You mentioned that you met with counsel for

1 patent owner Diogenes; is that correct?

2 A. Yes.

3 Q. Who did you meet with?

4 A. I met with -- you mean in preparation for
5 this?

6 Q. Yes.

7 A. I met with counsel that's present here.
8 And I think we had a meeting, perhaps two weeks ago,
9 about the same.

10 Q. So the first meeting you mentioned, in
11 person; is that correct?

12 A. We had a meeting yesterday here, yes, in
13 person.

14 Q. And about how long were those meetings?

15 A. I would say the meeting yesterday was
16 perhaps three hours, and the meeting prior was
17 perhaps an hour.

18 Q. Turn to paragraph 12 of your declaration.
19 And this is a paragraph in your background and
20 qualification section; is that correct?

21 A. Yes.

22 Q. And here you mention that you have designed
23 dozens of casino games; is that correct?

24 A. Yes.

25 Q. And that includes designing casino games

1 before and after the 2012 time frame that's relevant
2 to this proceeding; is that correct?

3 A. Yes.

4 Q. About when -- about when did you start
5 designing casino games?

6 A. I would say probably 1996, 1995, somewhere
7 in there.

8 Q. And what types of games were you
9 developing, designing?

10 A. At the beginning?

11 Q. Throughout.

12 A. Oh, I would say all kinds of games, table
13 games, various types of table games, including
14 variations on blackjack, new types of table games,
15 slot machines, stepper mechanical slots, video
16 slots, video poker games, all -- a wide variety of
17 games.

18 Q. When you say "table games," does that
19 involve computer-based games?

20 A. It can. I mean there was a -- I mean some
21 table games are what we just refer to as "felt," so
22 they are just -- they don't have any associated
23 equipment or hardware. But for example, Monopoly
24 Blackjack was a game I designed that utilized
25 hardware. It was a bonus game associated with a

1 table game.

2 Q. So part of your experience designing games
3 involved developing computer-based wagering games;
4 is that correct?

5 A. If you -- if a slot machine is a
6 computer-based wagering game, then yes.

7 Q. Is a slot machine a computer-based wagering
8 game?

9 A. Yes.

10 Q. How so?

11 A. I mean there is a computer -- basically a
12 computer inside the slot machine that, if you will,
13 is -- runs the machine and is the engine for the
14 machine.

15 Q. Do you have any other experience designing
16 computer-based wagering games, other than the
17 blackjack games that you just mentioned?

18 A. Well, all the slot machines I design are
19 computer-based wagering games. I have also designed
20 progressives associated with table games, either
21 existing table games or new table games
22 incorporating a progressive, so those would be
23 computer based or at least computer associated.

24 Q. Excuse me, I think I asked the wrong
25 question there.

1 A. Okay.

2 Q. So other than the slot machine games and
3 then the progressives associated with table games,
4 any experience with computer-based games?

5 A. Well, I would say Class II versions of
6 gaming machines, I have designed those as well. One
7 of the patents I have is on how to create a Class II
8 game that's indistinguishable from a Class III game.
9 I have also -- I mean I have coded extensively not
10 just my own games, but also analysis, evaluation,
11 optimization of other games, other products, and
12 generated reports that are delivered to gaming
13 regulators.

14 Q. And is that what you describe in paragraph
15 13?

16 A. Uh-huh. Yes.

17 Q. I would like to come back to something you
18 mentioned, implying that Class II games are computer
19 implemented. Do I have that correct?

20 A. I would say yes. I -- well, I'm referring
21 specifically to Class II gaming devices, which is
22 based on electronic bingo. Those are computer
23 implemented, yes.

24 Q. And I just guess -- you reference Class II
25 games in your declaration in paragraph 13, I

1 believe. Do you see that?

2 A. Yes.

3 Q. And so what are, more generally, Class II
4 games?

5 A. Class II games are -- I believe are -- is
6 defined by IGRA, the Indian Gaming Regulatory Act,
7 and it -- when I refer to "Class II games" I'm
8 referring to the bingo-based form of games that has
9 evolved into an electronic bingo-based game, so
10 generally with a central server that's drawing the
11 balls, and then each player's machine will have a
12 card, a bingo card, and the outcome of the bingo
13 game is mapped onto what appears to be slot reels so
14 that the player views things much like he would in a
15 traditional Class III slot machine.

16 Q. Are you aware of any other -- strike that.
17 You mentioned that the outcome of the bingo
18 game is mapped onto what appears to be slot reels;
19 is that correct?

20 A. Yes.

21 Q. And so the gaming machine appears to be a
22 slot machine game, but in reality there is a bingo
23 mechanism behind it; is that correct?

24 MR. JUREN: Objection. Form.

25 THE WITNESS: I would say that's generally

1 correct.

2 BY MR. WILSON:

3 Q. Are you aware of any other types of
4 implementations of Class II games that involve an
5 interface that's different from a slot machine?

6 A. Well, I would say, to my knowledge, I
7 haven't seen them firsthand, but I have heard of
8 Class II-based video poker, you know, utilizing
9 something like a card Genie so that the outcome --
10 the bingo outcome can be, if you will, forced upon
11 the player.

12 Q. And when you say "forced upon a player"
13 there, you mean translated from a result of a bingo
14 game into a poker result; is that correct?

15 A. That's correct, because in video poker, the
16 player -- you know, in draw poker, video poker, the
17 player can make a choice as to which cards to hold
18 and then redraw, and the player may make -- in
19 making that choice, may end up with a hand that is
20 not what the bingo outcome prescribes.

21 Q. You also mention that Class II games use a
22 central server; is that correct?

23 A. I would say generally they do, yes.

24 Q. Is it correct that they -- the Class II
25 games, that is -- utilize different gaming devices

1 connected to that central server?

2 MR. JUREN: Objection. Form.

3 THE WITNESS: What do you mean by
4 "different gaming devices"?

5 BY MR. WILSON:

6 Q. Let me reask.

7 Is it correct that Class II games are
8 implemented -- let me ask you this: How are Class
9 II games implemented with a central server?

10 A. Well, I mean I can speak to my own
11 experience of how we did it, for example, at AGS, at
12 American Gaming Systems. So each gaming terminal or
13 gaming machine has a bingo card, and the player can
14 switch cards if he or she so chooses. Then bingo
15 balls are drawn from the central server, if you
16 will, that are delivered to the device or each
17 device that's connected that's on that game. And so
18 in one sense players are competing against each
19 other for whatever is the competitive element of
20 bingo for that award and, in another sense, players
21 are trying to achieve various outcomes on their
22 bingo card, like, for example, you know a small X
23 within ten balls or a big X within 25 balls or
24 things like that that will be -- that will be
25 assigned a certain award value.

1 Q. So when you say "each gaming terminal"
2 there in that response, were you referring to gaming
3 terminals connected to a central server?

4 A. Yes.

5 Q. And more than one gaming terminal, correct?

6 A. Generally, yes, but -- yes.

7 Q. Have you ever heard of those games be
8 referred to as "central determinant games"?

9 MR. JUREN: Objection. Form.

10 THE WITNESS: I mean, to me, "central
11 determinant" implies that the determination of the
12 outcome is done at a central location, a central
13 controller or server. It -- yeah.

14 BY MR. WILSON:

15 Q. Have you ever worked on central determinant
16 games?

17 A. On server-based games that -- where the
18 outcome is determined at the server level? I'm
19 trying to think if we have explicitly worked on what
20 are known as must-hit-by progressives where -- or
21 mystery progressives. I may have patents in this
22 area. I cannot right now, as I sit here, recall if
23 I ever explicitly incorporated that into one of our
24 games. But that would be a situation where a
25 percentage of each coin in is communicated to a

1 central server that understands and has preselected
2 a mystery value, a mystery amount that, whoever's
3 coin triggers that mystery will win that amount,
4 that machine. So that would be centrally
5 determinated -- determined.

6 Q. Would you say at some level, in the
7 centrally determined games that you were just
8 describing, that different players are all playing
9 the same game?

10 MR. JUREN: Objection. Form.

11 THE WITNESS: I think it depends on the
12 game and the construct and how it's put together.

13 BY MR. WILSON:

14 Q. But multiple players could be playing the
15 same centrally determined game, correct?

16 MR. JUREN: Objection. Form.

17 THE WITNESS: Again, I would say it depends
18 on how the game is constructed. If the game -- if
19 the -- I mean if a game is centrally determined and
20 it gives you an outcome and me an outcome, we might
21 be playing the same game type, but it might not be
22 the same game instance. So . . .

23 BY MR. WILSON:

24 Q. Interesting.

25 So even if different players are playing

1 different game types, it may be the same underlying
2 game underneath; is that correct?

3 MR. JUREN: Objection. Form.

4 THE WITNESS: I'm not sure I understand the
5 question.

6 BY MR. WILSON:

7 Q. Let's return back to the bingo-based games
8 that you were referring to. In a Class II
9 bingo-based game where a central server is drawing
10 the balls, that would be an instance where multiple
11 players are playing the same game, correct?

12 MR. JUREN: Objection. Form.

13 THE WITNESS: I mean, again, it depends how
14 the game is constructed. So at AGS, the way we
15 would construct those games is if, for example --
16 you know, the overarching competitive element of
17 bingo need not be decided on a particular ball draw.
18 It may continue for a hundred or a thousand or ten
19 thousand ball draws. It may continue with a single
20 player playing in the middle of the night.

21 BY MR. WILSON:

22 Q. But it may involve multiple players playing
23 the same game?

24 A. It may involve -- I'm not sure -- I'm not
25 sure -- to be honest, I'm not sure how we

1 constructed that, whether they had to be on the same
2 ball draw or not.

3 Q. Regardless of the particular implementation
4 that you worked on, are you aware of Class II
5 bingo-based games where multiple players would play
6 the same game and a central server is responsible
7 for determining the outcome of that game?

8 MR. JUREN: Objection. Form.

9 THE WITNESS: I think it could be possible
10 to construct a game that way. I don't know that it
11 would be pragmatic to insist that players continue
12 to play the same ball draw each time.

13 BY MR. WILSON:

14 Q. I'm sorry, are you tying the ball draw to
15 the game?

16 MR. JUREN: Objection. Form.

17 THE WITNESS: Not sure what you mean.

18 BY MR. WILSON:

19 Q. In your response you said "I don't know
20 that it would be pragmatic to insist the players
21 continue to play the same ball draw each time."

22 What did you mean by that?

23 A. I meant that -- that in a Class II gaming
24 device environment, that all the players are all
25 playing against the same ball draw. And then they

1 all wait and then they are all playing against the
2 same next ball draw. That's what I meant, that
3 there are practical reasons why that would lead
4 to -- that would lead to issues.

5 For example, if you only had one player.
6 You know, bingo is a competitive game, so how do you
7 play if there is only one player? Does he just not
8 get to play?

9 Q. You mentioned Class III games. Do you
10 recall that?

11 A. Yes.

12 Q. What are "Class III games"?

13 A. Class III games are traditional
14 Las Vegas-style games that, for example, utilize a
15 random number and map that to outcomes within the
16 game.

17 Q. Are you aware of Class III games that
18 involve a central server determining the outcome of
19 the game?

20 A. I'm aware that it's possible.

21 Q. And what types of games would be classified
22 as Class III games?

23 A. Basically any slot machine you see here
24 would be a Class III game.

25 Q. Any other games?

1 A. Well, I think I'm not -- I wouldn't say
2 that I'm the right guy to get into the nuances of
3 the Indian Gaming Regulatory Act, but my
4 understanding is that Class II games, the tribes are
5 allowed to do those essentially for free. Those are
6 legalized for them at tribal casinos. In Class III
7 games, there needs to be some form of a negotiated
8 compact with the state. So I think Class III would
9 be a catchall for games that they don't get
10 legalized under IGRA for Class II. So, in
11 principal, I mean, a Class III game, I think, could
12 be, you know, a slot machine, it could be video
13 poker, it could be some table game.

14 Q. And Class III games could include computer
15 implemented games; is that correct?

16 A. Yes.

17 Q. I would like to return to the paragraph 12
18 of your declaration, Exhibit 2007, where you are
19 describing your experience designing dozens of
20 casino games.

21 A. Yes.

22 Q. In particular, what was your role in
23 designing those games?

24 A. Well, as I state here, generally I was the
25 chief architect. So at the companies I have worked

1 at, either at the beginning or over time, R&D would
2 report to me. I was brought in specifically to
3 drive content, create content, so part of my role
4 was intellectual property in terms of patents and
5 ideas that are patentable and protectable, and part
6 of my role was specifying games, new methods of
7 play, new ways of doing games, new ways of doing
8 progressives on games. So generally what I would do
9 is, once I had a concept for the game, I would code
10 the game myself so that it played mathematically
11 with the attributes that I was looking for in terms
12 of the metrics for design metrics that I use, and
13 then ultimately I would create what's called a
14 "specification" or a "spec" for the game so that
15 artists and coders and sound engineers and everyone
16 understood the -- if you will, the road map or the
17 recipe for that game. And then I oversaw that
18 process.

19 Q. And did that involve developing a technical
20 architecture for computing elements of the game?

21 MR. JUREN: Objection. Form.

22 THE WITNESS: What do you mean by
23 "technical architecture"?

24 BY MR. WILSON:

25 Q. Well, designing, for example, a client

1 server implementation of a particular game.

2 A. I mean I would say it could. It depends.
3 I mean some of our games had progressives, some of
4 those -- you know, like, for example, local
5 progressives that would be a local server or a local
6 controller associated with a bank of slot machines.
7 And so, yeah, we would design both sides of that.

8 Q. Were you involved in the selection of
9 hardware?

10 A. I was involved. I supervised those that
11 were involved, so I would say I was involved. I
12 deferred to people that were more, you know,
13 specialized in that area in terms of
14 recommendations, but, yeah, ultimately it was my
15 decision.

16 Q. What about developing software, were you
17 involved in that?

18 A. Same. I mean the software that I wrote,
19 the code that I write to create the games and spec
20 the games out is not used in the games at all. But
21 the actual coders, generally, as I stated, you know,
22 they reported to me so I would review, you know,
23 code with them, output with them. We would -- yeah,
24 that was all in my purview.

25 Q. Would you classify any of the games that

1 you designed as online games?

2 A. I have designed online games. The -- yes.

3 Q. How about the casino games that you
4 reference in paragraph 12, would you describe any of
5 those as online games?

6 MR. JUREN: Objection. Form.

7 THE WITNESS: I would say, with respect to
8 this particular paragraph, the online games would
9 probably count, yes. With respect to the online
10 games that I have in mind, though, that was an
11 arrangement where the company -- my company would
12 create the specification and the assets and the math
13 that would be submitted to regulators, and a
14 different company, that was not under our control,
15 would do the actual implementation, the actual
16 coding of the game.

17 BY MR. WILSON:

18 Q. And would you describe any of the games --
19 I'm assuming you would, but you would describe any
20 of the games that you -- strike that.

21 Would you describe any of the casino games
22 that you describe in paragraph 12 of your
23 declaration as networked games?

24 MR. JUREN: Objection. Form.

25 THE WITNESS: I would say, what do you mean

1 by "networked"?

2 BY MR. WILSON:

3 Q. To give context to the question, let's
4 assume that "network" involves two devices
5 communicating with each other.

6 Would you describe some of the casino games
7 that you discuss in paragraph 12, that you designed,
8 as being networked games?

9 MR. JUREN: Objection. Form.

10 THE WITNESS: "Network" means two devices
11 communicating with each other? I'm sorry, I'm --

12 BY MR. WILSON:

13 Q. Yes.

14 A. Is that what --

15 Q. Yeah.

16 A. I would say yes.

17 Q. Were you involved in the design of user
18 interfaces for the games?

19 A. By "user interface," you mean customer
20 inputs?

21 Q. Front-end interface for a user playing the
22 game to interact with --

23 A. Yes.

24 Q. -- were you involved in the design of that?

25 A. Yes.

1 Q. What about payouts, were you involved in
2 the design of the payout structure for individual
3 games?

4 A. Yes.

5 Q. So it's fair to say that you are familiar
6 with payouts of casino games; is that correct?

7 A. Yes.

8 MR. JUREN: Objection. Form.

9 THE WITNESS: Yes.

10 BY MR. WILSON:

11 Q. What types of payouts were available in
12 casino games around the 2012 time period?

13 A. What do you mean by "payouts"?

14 Q. Well, you just testified that you were
15 familiar with payout structures for casino games.

16 A. Yes.

17 Q. I'm just trying to drill down on more --
18 more on what those are --

19 A. Payouts are --

20 Q. -- or would have been.

21 A. Okay. Well, I would -- I use "payouts" as
22 awards that the machine can pay you.

23 Q. And what about payout structure?

24 A. Payout structure might be, I suppose -- I
25 mean I don't want to speculate, so if you want to

1 tell me what you mean, I will comment.

2 Q. What types of payout structures did you
3 design?

4 A. Oh, well, I would say -- I mean to pay
5 out -- I would say pay tables, frequencies of pays
6 in those pay tables. A number of my games employ
7 strategy, whether they are table games or slot
8 machines, and so, generally, you need to have a pay
9 table that you are optimizing against in terms of
10 the optimal way a player should play. That's what
11 regulators require.

12 Q. So the design of a payout structure would
13 involve considering pay tables; is that fair to say?

14 A. I would say that's -- that would be
15 included.

16 Q. As well as the frequency of winning; is
17 that correct?

18 MR. JUREN: Objection. Form.

19 THE WITNESS: I think -- I think if you are
20 designing a game, like I discuss here in terms -- in
21 terms of paragraph 12, yes, you are concerned with
22 actual pay amounts, frequencies of those pay
23 amounts, how those visually appear to players.
24 Considerations like that play a part but there is a
25 lot that goes into designing a game.

1 BY MR. WILSON:

2 Q. Are you aware of any casino games where the
3 payout is based on a multiplier of the underlying
4 wager?

5 A. Yes.

6 Q. What are some examples of those games?

7 A. I would say -- I mean I would say slot
8 machines typically function that way. That's what a
9 pay table represents.

10 Q. Any other games that might function that
11 way?

12 A. I would say, in terms of if I wager more
13 than I get paid -- could you rephrase the question?
14 Sorry.

15 Q. Yeah.

16 Are there any other games that might
17 function where the payout is based on a multiplier
18 of the underlying wager?

19 A. Yeah. I would say -- I would say a number
20 of casino games function in that way or have parts
21 of them that function in that way.

22 Q. And can you -- and do you have any
23 examples?

24 A. Well, I would say a typical slot machine on
25 a base pay table probably functions that way. You

1 know, within the limits put on a blackjack table, it
2 would function that way. I would say roulette would
3 function that way. As I stated, I think most casino
4 games either function that way or have portions or
5 elements of them that would function in that way,
6 within limits or within rules of the game.

7 Q. So does a casino game developer have
8 flexibility to design a game in a number of
9 different ways; is that fair to say?

10 MR. JUREN: Objection. Form.

11 THE WITNESS: I would say that -- I mean
12 gaming is highly regulated, so there are a number of
13 regulations that must be adhered to with any casino
14 game, whether it's a electronic device or a felted
15 table game. On the other hand, there is flexibility
16 within those confines to design the game, yes.

17 BY MR. WILSON:

18 Q. We were talking about casino games where
19 the payout is based on a multiplier of the
20 underlying wager. Did you mention that you had
21 worked specifically on blackjack games that had that
22 type of payout structure?

23 A. Yes. But I don't think I mentioned it, but
24 I have.

25 Q. Have you worked on any other casino games

1 with that type of structure?

2 A. I would -- as I stated, I think most slot
3 machines either utilize that or portions of them
4 utilize that, so I would say yes.

5 Q. Would you refer to those games as "fixed
6 odds games"?

7 MR. JUREN: Objection. Form.

8 THE WITNESS: To me, it's not a term we
9 would use in the slot world. We refer to the "pay
10 table" and we refer to the pay table as
11 "multipliers" typically.

12 As a mathematician, I guess, you know, it
13 could be considered fixed odds to the extent that,
14 you know, a pay table is fixed and the odds are the
15 multiplier of the wager.

16 BY MR. WILSON:

17 Q. So a person of skill in the art, at the
18 2012 time period, at least if they had mathematics
19 experience, would understand that games, where the
20 payout was based on a multiplier of the underlying
21 wager, to be fixed odds games in the casino context;
22 is that correct?

23 MR. JUREN: Objection. Form.

24 THE WITNESS: I don't think I would go so
25 far as to say a slot machine would be considered

1 fixed odds. I mean, you know, it's a wager that
2 opens up, if you will, a number of possibilities, a
3 number of probabilities of various pays being made.
4 And as I mentioned, some of those may be a
5 multiplier of your wager, but other pays may not be.
6 For example, if I'm paying -- if I'm playing a
7 progressive, I'm not going to get a multiplier on
8 that. So I think what I said earlier, you know, I
9 mean -- you know, if -- if -- well, go ahead. I'm
10 done.

11 BY MR. WILSON:

12 Q. Okay.

13 So you wouldn't describe any casino games
14 as fixed odds games?

15 MR. JUREN: Objection. Form.

16 THE WITNESS: I don't know that I would go
17 that far either. I don't think I would describe
18 slots as fixed odds. I mean, it's a fixed pay table
19 that changes with the odds, but like, for example --
20 I mean if I'm betting on a single number in
21 roulette, that would be fixed odds, 35 to 1.

22 (Exhibit 1 marked.)

23 BY MR. WILSON:

24 Q. I'm going to hand you what I will ask to be
25 marked as deposition Exhibit 1.

1 Do you recognize this document?

2 A. I don't.

3 Q. Do you see you're under what's commonly
4 referred to as "section 76" -- anyway, on the front
5 cover, do you see the "Inventors" section?

6 A. Yes.

7 Q. And that's your name there, Olaf Vancura?

8 A. It is.

9 Q. And if you take -- I don't want to rush
10 you, but flip through the document, see if you have
11 any recollection of it.

12 So I will ask: Does this appear to be a
13 patent application that you submitted to the patent
14 office?

15 A. I don't recall submitting this, personally.

16 Q. After very briefly reviewing, does it seem
17 reasonable that you might have submitted it?

18 MR. JUREN: Objection. Form.

19 THE WITNESS: I -- let me just look at it.

20 I don't recall submitting this. I mean,
21 the time frame of this is when I would have been at
22 American Gaming Systems, and anything I would have
23 submitted at that time would have been assigned to
24 them. The other inventor here, Andrzej Surmacz, was
25 a fellow I did some consulting work for, but that

1 was probably 2008 or '9.

2 On the other hand, it looks like it's filed
3 here September 1, 2010. I think that may have been
4 before I started at AGS. I'm not sure. I consulted
5 for AGS before I formally joined them, so I'm not
6 sure of the exact time frame, but I don't -- I don't
7 recall drafting this or filing it.

8 BY MR. WILSON:

9 Q. Does the name Integrated Group Assets sound
10 familiar to you at all?

11 A. No.

12 Q. After a brief review, does it appear
13 related to any of the work that you were doing?

14 A. I would have to sit down and take a look at
15 this and think through what projects I consulted
16 with with Andrzej. It's -- I -- you know, it's too
17 quick, me just looking at it just here quickly, for
18 me to know what's taught.

19 Q. Fair enough.

20 You mentioned the September 1, 2010, filing
21 date.

22 A. Yes.

23 Q. At that point in your career, had you had
24 professional experience with sports wagering?

25 MR. JUREN: Objection. Form.

1 THE WITNESS: What do you mean by
2 "professional"?

3 BY MR. WILSON:

4 Q. I'm trying to weed out from a -- experience
5 of a casual user from professional experience.

6 A. Well, I would say -- I mean I enjoy sports
7 wagering. At this -- a this period of time, I had
8 not yet started with Clay, you know, the sports
9 analytics company we have now. But, for example, in
10 my first book, "Smart Casino Gambling," I devoted an
11 entire chapter to sports wagering, how it works, how
12 it works behind the scenes. I mean at the time, the
13 leading odds maker for the United States, his name
14 was Roxy Roxborough. I interviewed him for that
15 book. So I think I was quite familiar with it.

16 Q. Can you turn to paragraph 25 of this
17 deposition Exhibit 1.

18 MR. JUREN: We are looking at the patent
19 application?

20 MR. WILSON: Yes.

21 MR. JUREN: This one.

22 THE WITNESS: Sorry.

23 BY MR. WILSON:

24 Q. In paragraph 25 it states, "The method,
25 apparatus, and computer program product described

1 herein may be utilized with a variety of games."

2 Do you see that?

3 A. I do.

4 Q. "The base game and bonus game can be
5 selected from games such as slots, poker, blackjack,
6 bingo, et cetera."

7 Do you see that?

8 A. I do.

9 Q. And briefly, what is meant by "base game
10 and bonus game"; understanding that you have no
11 recollection of drafting this personally, what, in
12 your opinion, is meant by "base game and bonus game"
13 here?

14 MR. JUREN: Objection. Form.

15 THE WITNESS: Well, I mean I would have
16 to -- the way I use base game and bonus game is the
17 base game is the game that initiates upon a wager,
18 so, you know, once consideration is put into play,
19 the base game initiates. And a bonus game is -- so
20 it might be the reel spinning, for example, it might
21 be five video poker cards being dealt to you. A
22 bonus game would be a special kind of game, what we
23 sometimes call a "game within a game" or a
24 "secondary game" that typically is triggered by some
25 event that occurs in the base game. Doesn't have to

1 be, but it typically is. So special symbols called
2 "triggers" that, you know, if you get three or more,
3 may trigger a bonus game.

4 And a bonus game is -- as I mentioned, it's
5 a game within a game. It can be related to the base
6 game, for example, it might be a set of ten free
7 spins where all wilds pay 2X or something like that.
8 It could be completely unrelated to the base game.
9 So, for example, in my Yahtzee series of games, you
10 get to play Yahtzee. In Ripley's Believe It Or Not,
11 you get to answer trivia questions, so -- as bonus
12 games.

13 BY MR. WILSON:

14 Q. If you turn to paragraph 37, do you see
15 there it says, "In one embodiment the base game
16 offers a variety of prizes such as fixed odds
17 prizes"; do you see that?

18 A. I do see it.

19 Q. Fair to say that the subject matter of this
20 patent application, that you are an inventor on,
21 includes casino games that offer fixed odds prizes?

22 MR. JUREN: Objection. Form.

23 THE WITNESS: Again, I don't have any
24 recollection of drafting this or that it was even
25 filed.

1 BY MR. WILSON:

2 Q. But it is certainly described here; is that
3 correct?

4 MR. JUREN: Objection. Form.

5 THE WITNESS: It says what you -- what you
6 say it says.

7 BY MR. WILSON:

8 Q. Let's return to your Exhibit 2007
9 declaration. Returning to paragraph 13 -- strike
10 that. Could you turn to paragraph 4 of that same
11 Exhibit 2007 declaration.

12 In paragraph 4, you state that you have
13 been provided -- and this is toward the middle of
14 that paragraph -- you have been provided with the
15 decision of the delegated review panel.

16 Do you see that?

17 A. Yes.

18 Q. And that's Paper 14 in this proceeding,
19 correct?

20 A. I don't know it by that paper. I mean I
21 don't have that memorized, but yes.

22 Q. You see it cited there though, correct?

23 A. Yes. Yes.

24 (Paper 14 presented.)

25 ///

1 BY MR. WILSON:

2 Q. I will hand you what's already been marked
3 as Paper 14.

4 Does this appear to be the delegated review
5 panel decision that you reference in paragraph 4?

6 A. Yes.

7 Q. And you reviewed this DRP decision in
8 preparing your declaration, correct?

9 A. In reviewing the second declaration, yes.
10 In preparing the second declaration, yes.

11 Q. Do you have an understanding of what the
12 delegated review panel is in a PTAB proceeding?

13 A. I would say I have a working understanding
14 that they function as a sort of an appeals board
15 above the PTAB.

16 Q. And do you have an understanding of how the
17 delegated review panel came to render a decision in
18 this proceeding?

19 A. Only insofar as what they disclose in this
20 document.

21 Q. And that is -- you understand that the PTAB
22 panel issued a decision denying institution at the
23 onset of the proceeding; do you understand that?

24 A. Yes.

25 Q. And then the DRP rendered a decision,

1 correct?

2 A. Yes.

3 MR. JUREN: Objection. Form.

4 THE WITNESS: Sorry.

5 BY MR. WILSON:

6 Q. That's what's shown in this Paper 14,
7 correct?

8 A. Yes.

9 Q. Do you know whether DRP decisions are
10 binding in this case?

11 A. No.

12 Q. Have you treated the DRP decision,
13 Paper 14, as binding in this case?

14 MR. JUREN: Objection. Form.

15 THE WITNESS: I'm not sure of the legal
16 definition of "binding." I defer to the DRP
17 decision and tried to use their -- apply their
18 decision in my second declaration.

19 BY MR. WILSON:

20 Q. You say you tried to apply their decision.
21 Did you adopt the DRP --

22 A. Yes.

23 Q. -- decision?

24 And you adopted -- well, strike that.

25 You understand that the DRP rendered

1 certain claim constructions in this Paper 14?

2 A. Yes.

3 Q. Have you adopted the DRP's construction?

4 MR. JUREN: Objection. Form.

5 THE WITNESS: Yes.

6 BY MR. WILSON:

7 Q. Don't you propose a modification of the
8 DRP's constructions?

9 MR. JUREN: Objection. Form.

10 THE WITNESS: I'm not sure what you mean.

11 BY MR. WILSON:

12 Q. You understand that the DRP decision
13 vacated the first PTAB institution decision?

14 A. Yes.

15 Q. And do you have an understanding what that
16 term "vacated" means?

17 A. Set aside.

18 Q. And then the DRP decision also remanded to
19 the original panel. And this is on Page 2 of the
20 Paper 14, in the first paragraph there. Do you see
21 that?

22 A. Yes.

23 Q. And then on remand from the DRP, the PTAB
24 board issued a second institution decision in this
25 case, correct?

1 A. Yes.

2 (Paper 20 presented.)

3 BY MR. WILSON:

4 Q. I will hand you what's already been marked
5 as Paper 20.

6 Do you recognize this document as the
7 second PTAB board institution decision in this case?

8 A. It looks to be, yes.

9 Q. And you reviewed this document, this
10 Paper 20 -- well, let me ask you.

11 Did you review this document, Paper 20, in
12 preparing your second declaration, Exhibit 2007?

13 A. I -- I know I reviewed it. I'm not sure
14 that I relied upon it. I would have to go back to
15 my declaration, see what it says.

16 Q. You don't really focus on Paper 20, the
17 second institution decision, at all in your
18 declaration, do you?

19 MR. JUREN: Objection. Form.

20 THE WITNESS: I don't recall citing it.

21 MR. WILSON: Excuse me. Now would be a
22 good time to take a break if you would like to.

23 MR. JUREN: We can go off the record.

24 MR. WILSON: Off the record, please.

25 (Off the record.)

1 BY MR. WILSON:

2 Q. Dr. Vancura, did you talk to your -- talk
3 to the attorneys here for patent owner regarding the
4 substance of your testimony during the break?

5 A. No.

6 Q. Can you turn to page 14 of Paper 14?
7 That's the DRP decision.

8 A. Which page?

9 Q. Page 14. Let me back up. Let's turn to
10 Page 13. Do you see under the title "Analysis,"
11 there is a subheading "claim Construction" and then
12 "'Continuously' Limitations."

13 Do you see that?

14 A. Yes.

15 Q. And it states, "The term 'continuously' is
16 used in two limitations of claim 1 which recite as
17 follows."

18 Do you see that?

19 A. Yes.

20 Q. And it continues on to recite the
21 limitations first being "continuously retrieve, by
22 the system controller, data in real time related to
23 a progress of the wagering event"; is that correct?

24 A. Yes.

25 Q. And secondly, "continuously evaluate, by

1 the system controller, the recalculated wager
2 information," correct?

3 A. Yes.

4 Q. And it's these limitations that are -- that
5 the DRP refers to as the "continuously limitations";
6 is that correct?

7 A. I don't know that they refer to them as the
8 "continuously limitations," but they do list them.

9 Q. They list them in this section at the top
10 of the section, correct?

11 A. Yes, you are right. Yes.

12 Q. If you turn to page -- turn the page to
13 page 14, in the last paragraph on page 14, do you
14 see it says, "We construe the phrase continuously
15 retrieve data related to a progress of the wagering
16 event to encompass repeatedly retrieving data
17 related to a progress of the wagering event as
18 developments occur that may affect the odds of the
19 wager"?

20 A. Yes.

21 Q. And that's the DRP's construction of that
22 limitation, correct?

23 A. I mean I would say that's a portion of it
24 or the overarching part, but there are exceptions or
25 limitations that are noted there afterwards.

1 Q. Where, in your opinion, does the DRP
2 establish its construction of the limitation
3 "continuously retrieve data related to a progress of
4 the wagering event"?

5 MR. JUREN: Objection. Form.

6 THE WITNESS: I mean I would say it's in
7 this general area. It includes what you read, but
8 there is additional statements they make here as to
9 clarity of what the construction does or does not
10 mean.

11 BY MR. WILSON:

12 Q. And this construction is the one that you
13 adopted in your declaration; is that correct?

14 A. Let me look at my declaration.

15 Yes, it looks -- it looks like that's in my
16 declaration, paragraphs 66 to 67.

17 Q. And you are referring to Exhibit 2007 --

18 A. Yes.

19 Q. -- at 66 to 67, correct?

20 A. Yes.

21 Q. It looks like here you certainly
22 acknowledge and cite to the DRP's construction, but
23 you are not adopting it here, are you?

24 MR. JUREN: Objection. Form.

25 THE WITNESS: Well, I mean I think that's

1 covered in paragraph 65. I say, "The DRP decision
2 was issued after I made that initial declaration,"
3 my first declaration. "The DRP decision includes
4 construction of the '779 Patent's 'continuously' and
5 'real time' elements. Below, I discuss
6 'continuously' then 'real time,' and then what these
7 terms mean together is they appear in claim elements
8 in 1[e] and 16[i] based on the DRP decision."

9 So, yes, I was trying to adopt their
10 construction.

11 BY MR. WILSON:

12 Q. And this entire section, beginning at the
13 top of this page, through, I guess -- so from
14 paragraph 63 to paragraph 76, this is where you
15 address the construction of "continuously retrieve
16 in real time"; is that correct?

17 MR. JUREN: Objection. Form.

18 THE WITNESS: I would say it's probably --
19 I would say it's probably paragraph 62 to 74. Not
20 sure if that's what you said.

21 BY MR. WILSON:

22 Q. And you testified that your intention was
23 to adopt the DRP's construction of this limitation
24 in paragraphs 65 through 67; is that correct?

25 MR. JUREN: Objection. Form.

1 THE WITNESS: Yes.

2 BY MR. WILSON:

3 Q. If you turn to paragraph 74, you see you
4 say, "Per the DRP decision, I conclude that
5 'continuously retrieve in real time' in the '779
6 Patent, given its application to sporting events
7 whose outcome is dependent on game time itself,
8 contemplates the system (which, being external to
9 the sporting event, has a time frame of reference
10 external to the event's game clock) retrieving data
11 by a repeated, regular polling operation -- i.e.,
12 not only at discrete time points of the wagering
13 event -- that is sufficiently frequent to promptly
14 capture relevant developments in the wagering event
15 as they occur."

16 Is that correct?

17 A. Yes.

18 Q. Now, that sentence in paragraph 74 is
19 different than the DRP's construction, correct?

20 MR. JUREN: Objection. Form.

21 THE WITNESS: Which sentence?

22 BY MR. WILSON:

23 Q. The text in paragraph 74, which I believe
24 is a single sentence that was just read, that's
25 different than the DRP's construction, correct?

1 MR. JUREN: Same objection.

2 THE WITNESS: I think it adopts The DRC --
3 the DRP construction and, as it states here, given
4 its application to sporting events contemplates this
5 system that I describe.

6 BY MR. WILSON:

7 Q. So in your understanding, you are not
8 actually proposing a different construction here?

9 MR. JUREN: Objection. Form.

10 THE WITNESS: Well, I'm not -- in this
11 particular paragraph, I'm not proposing a different
12 construction, I'm trying to adopt their
13 construction, the DRP decision construction.

14 BY MR. WILSON:

15 Q. Was the DRP's construction unclear, in your
16 opinion?

17 MR. JUREN: Objection. Form.

18 THE WITNESS: I think it could have been
19 clearer.

20 BY MR. WILSON:

21 Q. Did you have trouble applying the DRP's
22 construction to Mr. Crevelt's and the petition's
23 arguments?

24 MR. JUREN: Objection. Form.

25 THE WITNESS: I would say it took -- it

1 took a while for me to understand what they were
2 saying.

3 BY MR. WILSON:

4 Q. Is it fair to say that you thought the DRP
5 construction required further interpretation?

6 MR. JUREN: Objection. Form.

7 THE WITNESS: I would say it could have
8 been clearer. I don't know that I would go so far
9 as to say it needed to be interpreted further.

10 BY MR. WILSON:

11 Q. But you provide some further interpretation
12 here in paragraph 74, correct?

13 MR. JUREN: Objection. Form.

14 THE WITNESS: That's not the intent of this
15 paragraph. The intent of this paragraph is to
16 describe, based on the adopted construction of the
17 DRP, what the system would -- would look like for a
18 sporting event.

19 BY MR. WILSON:

20 Q. And when you say "the system" there, you
21 are referring to one of the embodiments of the '779
22 Patent, correct?

23 A. Yes.

24 Q. So this interpretation that you provide in
25 paragraph 74 applies the DRP's construction to one

1 of the '779 Patent's embodiments directed to sports
2 wagering; is that correct?

3 MR. JUREN: Objection. Form.

4 THE WITNESS: Can you repeat the question?

5 BY MR. WILSON:

6 Q. The interpretation that you provide in
7 paragraph 74 applies the DRP's construction to one
8 of the '779 Patent's embodiments related to sports
9 events, correct?

10 MR. JUREN: Objection. Form.

11 THE WITNESS: I'm not sure if
12 "interpretation" is the right word. But I believe
13 that, as it states here, that given what the DRP
14 said, if you want to apply '779 to sporting events,
15 which are clearly taught, it contemplates the system
16 as described in paragraph 7 -- 74.

17 BY MR. WILSON:

18 Q. And so that's what you meant by that word
19 "contemplates," is that if -- strike that.

20 So you don't mean that your interpretation,
21 provided in paragraph 74, is required under the
22 DRP's construction, correct?

23 MR. JUREN: Objection. Form.

24 THE WITNESS: My understanding of the DRP
25 construction is, as I state here -- yeah, I would --

1 I would -- I would point you to paragraph 70, the
2 DRP -- here, I'm discussing "The DRP decision finds
3 that 'in real time' as used with 'continuously' in
4 the '779 Patent denotes retrieving information 'with
5 sufficient frequency to promptly capture
6 developments' that may affect the odds."

7 "The use of 'frequency' and 'capture' are,
8 in my opinion, important. 'Frequency' suggests a
9 repetitive operation at regular intervals. In
10 computing, frequency refers to cycles per unit of
11 time and can be measured in Hertz, for example.
12 Retrieving -- i.e., going and getting something --
13 at a frequency sufficient to 'capture' suggests a
14 polling application, at regular intervals."

15 So that's the -- if you will, the
16 explanation underlying paragraph 74.

17 BY MR. WILSON:

18 Q. Okay. So those -- those, the description
19 that you pointed to in paragraph 70, that's
20 contemplated by -- by the DRP's construction,
21 correct?

22 MR. JUREN: Objection. Form.

23 THE WITNESS: I mean I would point you to
24 paragraph 69 also. So it's -- the DRP's decision
25 expressly states that, "determinations in real time

1 cannot cover only discrete determinations, such as
2 the end of a period or halftime during a sporting
3 event."

4 So, last sentence there, "The DRP thus
5 notes a important distinction under actions
6 undertaken only at discrete points of an event and
7 actions undertaken 'continuously in real time' as
8 discussed in the '779 Patent."

9 So you are not -- you know, the DRP draws a
10 distinction between "continuously in real time" and
11 says that it cannot cover only discrete events or
12 discrete determinations or discrete time points.

13 Therefore, I think that paragraph 70
14 explains what that means and paragraph 74 kind of
15 summarizes that.

16 BY MR. WILSON:

17 Q. So it's your opinion that the DRP -- it's
18 your opinion that the DRP specifically excludes
19 performing a task at discrete time points from its
20 construction?

21 MR. JUREN: Objection. Form.

22 THE WITNESS: I don't think that's what
23 they say. I think it -- I'm sorry, can you repeat
24 the question?

25 BY MR. WILSON:

1 Q. It's your opinion that the DRP specifically
2 excludes performing a task at discrete time points
3 from its construction of the "continuously"
4 limitation?

5 MR. JUREN: Objection. Form.

6 THE WITNESS: No, I don't agree with that.

7 BY MR. WILSON:

8 Q. Is it your opinion that the DRP's
9 construction of "in real time" expressly excludes
10 discrete operation?

11 MR. JUREN: Objection. Form.

12 THE WITNESS: I don't think I opine on
13 that.

14 BY MR. WILSON:

15 Q. So discrete determinations, in your
16 opinion, are included within the DRP's construction
17 of its entire limitation, correct?

18 MR. JUREN: Objection. Form.

19 THE WITNESS: Which limitation?

20 BY MR. WILSON:

21 Q. The "continuously retrieve data in
22 real time," as referenced in this section of your
23 declaration just prior -- in the section heading
24 just prior to paragraph 63.

25 MR. JUREN: Objection. Form.

1 THE WITNESS: Can you repeat the question?

2 BY MR. WILSON:

3 Q. Discrete determinations, in your opinion,
4 are included within the DRP's construction of the
5 limitation you address in this section, correct?

6 MR. JUREN: Objection. Form.

7 THE WITNESS: I mean I'm not sure if you
8 are saying the opposite of what I'm saying.

9 The "continuous in real time" cannot cover
10 only discrete determinations. It's the combination
11 of "continuous" and "in real time." I touch on
12 what -- how the DRP uses "continuous" and I touch on
13 how they use "real time." But the claim element
14 that has "continuously in real time" is what I'm
15 focusing on here.

16 BY MR. WILSON:

17 Q. If you turn to -- if you pull up Paper 14,
18 at Page 15, in that last paragraph there, isn't the
19 DRP disagreeing with the construction of
20 continuously performing a task, which excludes
21 performing the task at discrete time points?

22 A. I mean you are talking two different
23 things. Discrete time -- this is -- this particular
24 paragraph is a deference, if you will, to the fact
25 that computers, you know, run at a certain clock

1 speed which is discrete. They are not talking
2 about, here, this issue that we were talking about
3 prior to this of discrete time points of an event or
4 discrete points of an event. And that's what --
5 that's what they are referring to when I'm -- what I
6 discuss in my second declaration.

7 Q. So even though the DRP states that it
8 disagrees with the construction of "continuously"
9 that would exclude performance at discrete time
10 points, it's your opinion that the DRP is actually
11 requiring its own construction to exclude performing
12 a task at discrete time points?

13 MR. JUREN: Objection. Form.

14 THE WITNESS: Well, I mean you need -- you
15 need -- you need to accommodate what they say here,
16 with this sentence on Page 15 that you are alluding
17 to, with what they say on Page 19. And I'm reading
18 kind of three-quarters of the way down, and they are
19 referring to a passage from '779, and they say,
20 "This passage suggests that determinations in
21 real time must be made with sufficient frequency to
22 promptly capture developments that may affect the
23 odds of the event, and cannot cover only discrete
24 determinations." And they give examples related to
25 the wagering event. So that's what they are talking

1 about there. They are not talking about clock
2 speeds on Page 19.

3 BY MR. WILSON:

4 Q. Is it your opinion that the description in
5 that paragraph you just read on Page 19 is the DRP's
6 construction?

7 MR. JUREN: Objection. Form.

8 THE WITNESS: Again, I give what I believe
9 the DRP's construction is in my second report.
10 Earlier, we read the -- kind of the main part of the
11 construction, but they have these caveats associated
12 with that for clarity and understanding what their
13 construction is. And this would be one of the
14 caveats as to what they mean by "continuously in
15 real time."

16 BY MR. WILSON:

17 Q. Isn't the DRP simply describing what a
18 passage suggests here?

19 MR. JUREN: Objection. Form.

20 THE WITNESS: I'm sorry, I don't know what
21 you mean by "passage."

22 BY MR. WILSON:

23 Q. Well, the DRP -- this section of the DRP
24 decision that you just read says "this passage
25 suggests," correct?

1 A. Yes.

2 Q. And it's referring to this particular
3 section of the '779 Patent, correct?

4 A. Yes.

5 Q. If you turn to paragraph -- I'm sorry,
6 Exhibit 2007, paragraph 74.

7 A. Yes.

8 Q. And I would like to return to the term
9 "contemplates."

10 Do you see you use a term in paragraph 74?

11 A. Yes.

12 Q. So you are not saying that the DRP decision
13 requires what you state here in paragraph 74,
14 correct?

15 MR. JUREN: Objection. Form.

16 THE WITNESS: I mean I think the DRP
17 decision, their construction requires, in terms of
18 the term "continuously," a repeated operation. And
19 in terms of "in real time," as I note in here,
20 it's -- "in real time" refers to the time and the
21 frequency. So if you repeatedly do something in a
22 timely fashion at a particular frequency, that's
23 polling, at least the way I'm using the term here.
24 It's a polling operation.

25 BY MR. WILSON:

1 Q. So polling is required under the DRP's
2 construction?

3 MR. JUREN: Objection. Form.

4 THE WITNESS: Well, I don't want to say
5 that polling -- and there might not be something
6 else that does what they say, but to me it
7 contemplates polling. And in particular, I'm
8 contrasting polling with triggering, where
9 triggering is, you know, based on a discrete point
10 or an event that triggers or launches something or
11 initiates something, because of their -- because of
12 the DRP construction.

13 BY MR. WILSON:

14 Q. So polling -- do I have this right -- is
15 one way to implement the DRP's construction?

16 MR. JUREN: Objection. Form.

17 THE WITNESS: I -- I would say it's one
18 way, it's at least one way.

19 BY MR. WILSON:

20 Q. Is it the only way to implement the DRP's
21 construction?

22 MR. JUREN: Objection. Form.

23 THE WITNESS: Again, I don't know that I
24 would go that far. I'm contrasting polling with
25 triggering. In my view, the DRP directs you or

1 contemplates polling, it doesn't -- triggering does
2 not -- is not accommodated by what the DRP's
3 construction is.

4 BY MR. WILSON:

5 Q. Do you know whether the DRP used either of
6 those terms?

7 A. Triggering or polling?

8 Q. Uh-huh.

9 A. I don't think they did.

10 Q. So I'm just returning to the larger picture
11 with your interpretation in paragraph 74. That's
12 not required under the DRP construction, correct?

13 MR. JUREN: Objection. Form.

14 THE WITNESS: I would say it's
15 contemplated. I cannot think of other examples, as
16 I sit here right now, but you are asking me, you
17 know, a really superlative type of question.

18 BY MR. WILSON:

19 Q. It's possible other ways to implement the
20 DRP's construction may exist?

21 A. Other than polling? I can't think of one
22 right now. That's why I say I think it contemplates
23 polling, but I suppose it's possible.

24 Q. Do you know whether the board's institution
25 decision, that second institution decision,

1 Paper 20, found the reference Scott to disclose an
2 approach that's within the scope of the DRP
3 construction?

4 MR. JUREN: Objection. Form.

5 THE WITNESS: Could you repeat the
6 question?

7 BY MR. WILSON:

8 Q. Sure. Maybe I will ask a background
9 question.

10 You are aware of the reference "Scott,"
11 what that is?

12 A. Yes.

13 Q. Do you know whether the board's institution
14 decision, Paper 20, found that reference, Scott, to
15 disclose an implementation that is within the scope
16 of the DRP construction of this limitation?

17 MR. JUREN: Objection. Form.

18 THE WITNESS: I -- I don't know the legal
19 standard for what the PTAB has to approve, if you
20 will. I think -- I think the standard is a
21 likelihood of success of some sort. So I'm not
22 sure, the way you posed that question, how I would
23 answer it, but that's what I understand the PTAB is
24 looking for, just a likelihood of something, not
25 that it is or it isn't.

1 BY MR. WILSON:

2 Q. And you don't address whatever it is that
3 the PTAB, the PTAB, found in that institution
4 decision in your declaration, do you?

5 MR. JUREN: Objection. Form.

6 THE WITNESS: I don't think so.

7 BY MR. WILSON:

8 Q. You talked about your reference to sporting
9 events in paragraph 74 of your declaration. Do you
10 recall that?

11 A. Yes.

12 Q. And specifically, in one instance, you say
13 "given its application to sporting events," and more
14 fully, "Per the DRP decision, I conclude that
15 'continuously retrieve in real time' in the '779
16 Patent, given its application to sporting events."

17 Do you see that?

18 A. Yes.

19 Q. Is the '779 Patent limited to sporting
20 events, in your opinion?

21 MR. JUREN: Objection. Form.

22 THE WITNESS: No.

23 BY MR. WILSON:

24 Q. Is it your opinion that a POSITA would
25 understand that the claims of the '779 Patent would

1 be limited to sporting events?

2 MR. JUREN: Objection. Form.

3 THE WITNESS: No.

4 BY MR. WILSON:

5 Q. And specifically the independent claims, 1
6 and 16, would not be limited to sporting events,
7 correct?

8 MR. JUREN: Objection. Form.

9 THE WITNESS: Can I see the patent?
10 (Exhibit 1001 presented.)

11 BY MR. WILSON:

12 Q. I will hand you what's been previously
13 marked as Exhibit 1001.

14 And this is the '779 Patent, correct?

15 A. Yes.

16 MR. WILSON: Did you need a copy?

17 MR. JUREN: I need a copy.

18 MR. WILSON: Sorry.

19 THE WITNESS: Could you repeat the
20 question?

21 BY MR. WILSON:

22 Q. It's your opinion that a POSITA would not
23 understand that the claims, specifically the
24 independent claims of the '779 Patent, would be
25 limited to sporting events, correct?

1 MR. JUREN: Objection. Form.

2 THE WITNESS: I believe a POSITA would
3 understand that claims -- the independent claims are
4 not limited to sports. I think I said what you said
5 a different way, but that's the way I would say it.

6 BY MR. WILSON:

7 Q. In fact, the claims of the '779 Patent
8 could be interpreted to include casino games,
9 correct?

10 MR. JUREN: Objection. Form.

11 THE WITNESS: Which claims?

12 BY MR. WILSON:

13 Q. The independent claims.

14 MR. JUREN: Objection. Form.

15 THE WITNESS: I would say, in light of
16 dependent claim 3, for example, yes.

17 BY MR. WILSON:

18 Q. Sort of drilling down on the language of
19 the claim, in, for example, independent claim 1, do
20 you see it says "perceive a wager on a wagering
21 event"?

22 A. Yes.

23 Q. And it's your opinion that that wagering
24 event could be a casino game, correct?

25 A. Yes.

1 Q. And the '779 Patent describes providing
2 cash-out functionality with respect to casino games,
3 correct?

4 MR. JUREN: Objection. Form.

5 THE WITNESS: Yes.

6 BY MR. WILSON:

7 Q. If you go back to Exhibit 2007, and return
8 to paragraph 73.

9 A. Yes.

10 Q. Towards the middle, the upper middle of
11 paragraph 73, you say, "a POSITA would understand
12 the repeated polling function is suitable for
13 'continuously retrieve in real time' for a sporting
14 event."

15 Do you see that?

16 A. I mean that's part of what it says, yes. I
17 see it.

18 Q. So you are saying that a repeated polling
19 function is suitable if the wagering event is a
20 sporting event, correct?

21 MR. JUREN: Objection. Form.

22 THE WITNESS: I mean, it says "for a
23 sporting event whose outcome is dependent on time."

24 BY MR. WILSON:

25 Q. If the wagering event were something other

1 than a sporting event, then something other than a
2 polling function could satisfy the DRP's
3 construction of this term, correct?

4 MR. JUREN: Objection. Form.

5 THE WITNESS: Which term?

6 BY MR. WILSON:

7 Q. The term just at the top of this paragraph,
8 in the same sentence that we are discussing,
9 "continuously retrieve in real time"?

10 A. Again, I think you asked this before. Per
11 my understanding, I can't think of something other
12 than polling right now, but I -- but, in my view,
13 polling is contemplated by their construction of
14 this phrase.

15 Q. For a sporting event, correct?

16 MR. JUREN: Objection. Form.

17 THE WITNESS: I think it's for any wagering
18 event.

19 BY MR. WILSON:

20 Q. Do you provide any explanation, outside of
21 the context of sporting events, to support that
22 understanding of polling being required under the
23 DRP's construction?

24 MR. JUREN: Objection. Form.

25 THE WITNESS: I don't know that I -- I

1 don't know that -- let me restart.

2 The -- could you rephrase the question?

3 BY MR. WILSON:

4 Q. Yeah, let me rephrase.

5 You don't provide any analysis of
6 nonsporting events that support your interpretation
7 that polling is suitable under the DRP's
8 construction of "continuously retrieve in
9 real time," correct?

10 MR. JUREN: Objection. Form.

11 THE WITNESS: I don't understand the
12 question.

13 BY MR. WILSON:

14 Q. Well, your analysis of polling, in this
15 section of your declaration, is tied to sporting
16 events, correct?

17 A. What I'm trying to say here is, in light of
18 the fact that sporting events are dependent on time,
19 at least the ones under consideration in this
20 paragraph 73, a POSITA would understand a repeated
21 polling function is suitable, for that phrase that
22 the DRP has constructed, the way they have
23 constructed it, their construction.

24 Q. But you don't analyze any casino games --
25 strike that.

1 You don't analyze any casino games as
2 supporting your interpretation that polling is
3 required under the DRP's construction, in this
4 section of your declaration, do you?

5 MR. JUREN: Objection. Form.

6 THE WITNESS: I mean I think the point of
7 this section is that '779 is, to a large extent,
8 directed to sporting events speaks of, you know,
9 time and, essentially, time being of the essence,
10 and so in -- I'm trying to combine that with the
11 DRP's construction to what a POSITA would
12 understand. That's the purpose of this paragraph.
13 It doesn't address other casino games.

14 BY MR. WILSON:

15 Q. Your opinion here in this section of your
16 declaration is not addressing other -- strike that.
17 Your opinion here, in this section of your
18 declaration, is not addressing casino games,
19 correct?

20 MR. JUREN: Objection. Form.

21 THE WITNESS: My opinion in paragraph 73
22 does not address other -- does not address casino
23 games, correct.

24 BY MR. WILSON:

25 Q. Is polling, in general, a discrete or

1 continuous process, in your opinion?

2 MR. JUREN: Objection. Form.

3 THE WITNESS: Can you define "continuous"?

4 BY MR. WILSON:

5 Q. No, I don't have a definition.

6 A. I think, in my view, the way I'm using
7 "polling" here in contrasting with "triggering" in
8 paragraph 73, I'm viewing polling in the sense of
9 the manner in which I believe the DRP construction
10 contemplates, so that it's repeated and it's
11 repeated at a frequency sufficient enough to capture
12 these developments that are affecting the odds. So
13 I personally would say that's continuous.

14 Q. There is another concept described in your
15 declaration regarding the repeated nature of polling
16 where the interval of polling is fixed. Does that
17 sound familiar to you?

18 A. Can you point me to where that is?

19 Q. This is just above paragraph 71. Literally
20 the last clause says "at regular intervals."

21 A. Uh-huh.

22 Q. But obviously, the sentence is broader than
23 that.

24 My question is: -- I think the answer that
25 you gave -- you just gave didn't address that

1 concept of regular intervals.

2 A. Well, I think, you know, the DRP uses the
3 term "frequency." So frequency is a cyclic
4 operation that has a periodicity or a period, and
5 that period would be the interval at which you go
6 out and do the repetitive operation.

7 Q. So for polling to be continuous, would it
8 have to be conducted at regular intervals?

9 MR. JUREN: Objection. Form.

10 THE WITNESS: Again, I'm adopting the DRP
11 construction. So their use of the term "frequency,"
12 to me suggests regular intervals.

13 BY MR. WILSON:

14 Q. So polling at nonregular or irregular time
15 intervals, that would not be continuous, in your
16 opinion, under the DRP's construction, correct?

17 MR. JUREN: Objection. Form.

18 THE WITNESS: Again, I would defer to
19 what's here, "Frequency suggests a repetitive
20 operation at regular intervals." That's what it
21 means to me. You know, you are kind of asking me to
22 define a term they used to define another term. And
23 I -- you know, I'm not a mind reader, but that's
24 what that means to me.

25 BY MR. WILSON:

1 Q. Is there any sort of time limitation on the
2 frequency at regular intervals of polling that's
3 required under the DRP's construction?

4 MR. JUREN: Objection. Form.

5 THE WITNESS: Could you repeat the
6 question?

7 BY MR. WILSON:

8 Q. Yeah.

9 Is there any time interval -- well, strike
10 that.

11 Does the DRP's construction, in your
12 opinion, impose any limitation on the time between
13 polling checks?

14 MR. JUREN: Objection. Form.

15 THE WITNESS: I -- I mean, their quote is
16 "with sufficient frequency to promptly capture
17 developments that may affect the odds," so I guess
18 that would be the governing constraint.

19 BY MR. WILSON:

20 Q. So as long as the polling is conducted with
21 sufficient frequency to capture developments that
22 may affect the odds, that would suffice under the
23 DRP's construction, correct?

24 MR. JUREN: Objection. Form.

25 THE WITNESS: Well, it would have to be

1 promptly. I would just defer to what the DRP said.

2 BY MR. WILSON:

3 Q. Have you ever heard a polling process be
4 referred to as a "continuous process"?

5 A. I mean, as I sit here now, I would probably
6 say I probably have.

7 Q. Do you recall what context that was in?

8 A. Honestly, it might have been -- I'm not
9 sure.

10 Q. Sitting here today, you can't think of any
11 other context in which a polling operation was
12 referred to as a "continuous operation"?

13 MR. JUREN: Objection. Form.

14 THE WITNESS: Well, I mean -- I'm sorry.
15 To me, polling -- I'm going to go back to what I
16 said here.

17 So what do you mean by "continuous"? Do
18 you mean the definition I used in my first
19 declaration or the definition of the DRP? Because
20 it's -- to me, generally, polling is utilized to go
21 out and check something or access something or
22 retrieve something. Might be continuous in the
23 sense that it's done in a regular frequency. It
24 might be not continuous if you don't want to do it
25 at a regular frequency, but it's -- I'm trying to

1 adopt, again, the construction of the DRP.

2 BY MR. WILSON:

3 Q. You mentioned previously that you were
4 drawing a distinction between triggering, on the one
5 hand, and polling on the other. Does that sound
6 familiar?

7 A. Yes.

8 Q. Ask you to consider a hypothetical where
9 the triggering itself -- well, strike that.

10 What do you mean by "triggering"?

11 A. A trigger is just a -- well, for example,
12 in the slot world, it would be a special symbol that
13 we call "triggers," and if you land three or more of
14 those it would trigger a bonus game so it launches a
15 bonus game. It can be kind of a form of an
16 interrupt, like you interrupt play of the base game
17 to go and play this bonus game would be the slot
18 analogy. But an interrupt generally is just
19 something that -- I can't think of a synonym for
20 interrupt, right now, as I sit here, but it cuts
21 into what something else was doing and causes
22 something else to occur, initiates something else.

23 Q. And I'm sorry, you're saying that an
24 interrupt is similar to a trigger or?

25 A. I'm sorry, I may have said "interrupt" when

1 I meant to say "trigger." Yeah, that's a trigger.

2 Q. Got it.

3 Are triggers events that affects the odds
4 of a wagering event?

5 MR. JUREN: Objection. Form.

6 THE WITNESS: I mean that's kind of a
7 generalized statement. You know, for example, we
8 use triggers in slots. I don't know that that's
9 a -- I don't know that -- I'm not sure that's well
10 posed. Sorry.

11 BY MR. WILSON:

12 Q. Are triggers triggered upon an underlying
13 event?

14 MR. JUREN: Objection. Form.

15 THE WITNESS: What is -- what do you mean
16 by "underlying event"?

17 BY MR. WILSON:

18 Q. Well, you just discussed, in the context of
19 slot machines, I believe, there would be one or
20 more, potentially, triggers, and at some point, that
21 would launch or cause a bonus game to be played or
22 displayed.

23 A. Yes.

24 Q. What is the impetus for a trigger in that
25 context?

1 A. In that context it would be, for example,
2 three or more special symbols -- that we happen to
3 call trigger symbols, but it's three or more special
4 symbols that are scattered anywhere on the reels.
5 That might be one context. I mean in the other
6 example of the mystery progressive that we discussed
7 earlier, the player that makes the wager whose
8 contribution takes the progressive meter over the
9 mystery value, that triggers the awarding of that
10 value to that player.

11 Q. So triggers could certainly coincide with
12 events that affect the odds of a wagering event,
13 right?

14 MR. JUREN: Objection. Form.

15 THE WITNESS: Yes.

16 BY MR. WILSON:

17 Q. But when you use the term -- the term
18 "trigger" in your declaration here, you are using it
19 more generally, right, not as limited to the
20 specific instances or examples that you just
21 discussed regarding roulette triggers and other
22 special symbols from your experience, correct?

23 A. I don't think I was --

24 MR. JUREN: Objection form.

25 THE WITNESS: I don't think I was

1 discussing roulette, but --

2 BY MR. WILSON:

3 Q. Oh, I'm sorry. Slots doing that.

4 A. Well, let me go to my report here and see
5 how I use it.

6 So, for example, in paragraph 73 -- we were
7 looking at that earlier -- I'm going to start kind
8 of four lines down: "A POSITA would understand a
9 repeated polling function is suitable for
10 'continuously retrieved in real time' for a sporting
11 event whose outcome is dependent on time. Since
12 time is fluid, as time elapses during that game,
13 there is no discrete point upon which to 'hang your
14 hat,'" and I refer to that as a "trigger."

15 So that would be an example of how I use it
16 there.

17 So I give, I believe, some examples. Yeah,
18 I would say that, you know, in the context of a
19 sporting event, if there is a stoppage of play, like
20 a team calls a time out, that could be used as a
21 trigger, but that's a discrete point. On the other
22 hand, there might be no stoppage of play and time
23 just is running out. And my point, here, I'm trying
24 to make is there is nothing -- because time is
25 fluid, there is nothing to -- there is nothing to

1 utilize as a trigger to, you know, retrieve the data
2 and do the evaluation and all of that. It's your --
3 everything is fluid, so hence the need for polling.

4 Q. Would a system in which triggers occurred
5 at regular intervals, would that satisfy your
6 interpretation of the DRP's construction?

7 MR. JUREN: Objection. Form.

8 THE WITNESS: Well, again, I would go back
9 to what I said earlier, that -- I will just point to
10 paragraph 69 here, the last sentence, "The DRP thus
11 notes a important distinction important actions
12 undertaken only at discrete points of an event and
13 actions undertaken 'continuously in real time' as
14 discussed in the '779 Patent."

15 So that would be my answer.

16 BY MR. WILSON:

17 Q. So a trigger -- a trigger that occurs on a
18 cycle, per unit of time, at a frequency sufficient
19 to report developments that affect the odds of a
20 wagering event, would that type of system satisfy
21 your interpretation of the DRP construction?

22 A. Could you repeat --

23 MR. JUREN: Objection.

24 THE WITNESS: -- the question?

25 BY MR. WILSON:

1 Q. Would a trigger that occurs at a -- at
2 repeated intervals on a cycle, and where that cycle
3 is sufficient to ensure that it promptly captures
4 developments that may affect the odds of a wagering
5 event, would that type of system meet your
6 interpretation of the DRP construction?

7 MR. JUREN: Objection. Form.

8 THE WITNESS: What's causing the trigger?
9 What is the trigger?

10 BY MR. WILSON:

11 Q. Well, I suppose in this hypothetical, the
12 trigger is being automatically triggered at a
13 repeated -- you know, repeated set frequency,
14 regular intervals, on a cycle.

15 A. Well, that's starting to sound a lot like
16 polling, so . . .

17 MR. WILSON: Be another okay time to stop,
18 if you would like to take a breather.

19 MR. JUREN: We can go off the record.

20 MR. WILSON: Off the record, please.

21 (Off the record.)

22 MR. WILSON: Back on the record.

23 BY MR. WILSON:

24 Q. Dr. Vancura, if you turn to paragraph 71 of
25 your 2007 declaration.

1 A. Which paragraph?

2 Q. 71.

3 Just briefly review that paragraph 71.

4 A. Okay.

5 Q. And you are referring there again to
6 sporting events, correct?

7 A. Yes.

8 Q. And sporting events external to the
9 computerized system, right?

10 A. Yes.

11 Q. The middle of the paragraph, you say, "In
12 short, the computerized system of the '779 Patent
13 can operate with respect to external wager events,
14 like a sports game," correct?

15 A. Yes.

16 Q. Do you also mean that the computerized
17 system claimed by the independent claims of the '779
18 Patent can operate with respect to external wagering
19 events?

20 MR. JUREN: Objection. Form.

21 THE WITNESS: Could you -- I apologize.
22 Could you restate the question?

23 MR. WILSON: Yeah, we can strike that.

24 BY MR. WILSON:

25 Q. Here, in this sentence we just reviewed,

1 you are not saying that the claims require that the
2 wagering event, as claimed, be an external event,
3 are you?

4 MR. JUREN: Objection. Form.

5 THE WITNESS: I -- in this particular
6 paragraph, I'm -- I don't believe I'm saying that.
7 I'm saying it can operate with respect to an
8 external wagering event.

9 BY MR. WILSON:

10 Q. Can the '779 Patent also operate on
11 internal wagering events?

12 MR. JUREN: Objection. Form.

13 THE WITNESS: What do you mean by "internal
14 wagering event"?

15 BY MR. WILSON:

16 Q. Well, any event that's not external, as you
17 state here.

18 A. Is the event under the complete control of
19 the system?

20 Q. I suppose, in the hypothetical, I would be
21 referring to a casino game that's internal to the
22 casino's system that's implementing the '779 Patent.

23 MR. JUREN: Objection. Form.

24 THE WITNESS: I'm going to have to look at
25 what '779 says.

1 BY MR. WILSON:

2 Q. Let's strike the -- let's strike the
3 question.

4 You are not saying -- or it's not your
5 opinion that the claims require that the wagering
6 event be an external event, correct?

7 MR. JUREN: Objection. Form.

8 THE WITNESS: Let me just look and see. I
9 was -- I'm trying to find the description in '779 of
10 the slot machine. I mean, as I sit here right now,
11 I don't see that that would be excluded, the way the
12 claims are written.

13 BY MR. WILSON:

14 Q. How would you draw the line between an
15 external and an internal event?

16 MR. JUREN: Objection. Form.

17 THE WITNESS: Well, I think I -- I describe
18 that in my second declaration. So what paragraph
19 were you pointing me to?

20 BY MR. WILSON:

21 Q. 71.

22 A. 71.

23 Yeah, so I say -- this is like halfway
24 through. "The computerized system of the '779
25 Patent can operate with respect to external wagering

1 events (like a sports game) with said external
2 wagering events not running on, or in any way
3 generated by, the claimed system."

4 So I would say "external" implies, you
5 know, it's not running on this system, it's not
6 generated by this system or controlled by this
7 system, it's just outside of this system. And so,
8 "The '779 Patent does not generate the underlying
9 event or otherwise control its pace, status or
10 developments. And yet, it retrieves data related to
11 the progress of the event 'continuously in
12 real time.'"

13 Q. So if you have the '779 Patent, if you have
14 the '779 Patent there --

15 A. I do.

16 Q. -- which I believe you do, turn to figure
17 1.

18 A. Yes.

19 Q. In your opinion, are the slot machines 26A
20 through N on the right-hand side of figure 1, are
21 those internal to the system?

22 MR. JUREN: Objection. Form.

23 THE WITNESS: Let me see how he uses that
24 in the spec.

25 Yeah, he seems to be -- I'm sorry, you

1 asked about the slot machine?

2 BY MR. WILSON:

3 Q. Yeah.

4 A. So he seems to be utilizing that as an
5 input device to the system, either in the form of a
6 slot machine proper accepting a wager or some other
7 just general input device.

8 Q. If you turn to column 27, about line 54 of
9 the '779 Patent --

10 A. Okay.

11 Q. -- do you see it says, "It is further
12 contemplated that the jackpot buyout option and the
13 concept and system disclosed herein can be adapted
14 for a variety of other 'multi leg,' multi-outcome
15 wagering scenarios, such as, for example, keno,
16 poker, racing, video games," et cetera.

17 Do you see that?

18 A. Yes.

19 Q. And there is no discussion here that
20 requires these wagering games to be internal or
21 external, correct?

22 MR. JUREN: Objection. Form.

23 THE WITNESS: I mean, I don't -- I don't
24 see it there, no.

25 BY MR. WILSON:

1 Q. And you don't cite to anything in
2 paragraph 71 to support a requirement that --

3 A. My paragraph 71?

4 Q. Yes, excuse me.

5 -- in your paragraph 71 to support a
6 requirement that the '779 Patent would only operate
7 on external wagering events, correct?

8 MR. JUREN: Objection. Form.

9 THE WITNESS: I don't seem to say that it
10 is or is not only on external events. The point
11 here is, when it's applied to an external event, it
12 does not generate that event or control the pace.

13 BY MR. WILSON:

14 Q. Understood.

15 Let's move to paragraph 80 of your
16 declaration. In paragraph 80, you state -- well,
17 strike that.

18 Paragraph 80 is within a section of your
19 declaration that addresses the construction of fixed
20 odds single, correct?

21 A. Yes.

22 Q. And in paragraph 80, you state that "A
23 POSITA would understand that the plain and ordinary
24 meaning of 'fixed odds single' to be a wager on a
25 single outcome of or within a competitive event,

1 wherein a bettor is offered a fixed multiplier for a
2 wager upon a given outcome," correct?

3 A. Yes.

4 Q. Paragraph 81, you state that, "A POSITA
5 would recognize the group of wager types in claim 5
6 (i.e., accumulators, parlays, fixed odd singles and
7 fixed odds multiples) as most commonly associated
8 with sportsbooks."

9 Do you see that?

10 A. Yes.

11 Q. Do you see you say "most commonly" there?

12 A. Yes.

13 Q. And I assume you -- you didn't mean
14 "always," right?

15 MR. JUREN: Objection. Form.

16 THE WITNESS: You know, I just -- "parlay"
17 is a term we use in the vernacular now in English.
18 I try to be precise in what I'm saying. But what
19 I'm trying to say here is that the group, when you
20 group these together, accumulators, parlays, fixed
21 odds singles and fixed odds multiples, that's most
22 commonly associated sportsbooks. I footnote down
23 here that it's in -- that it's -- that fixed odds,
24 that these -- anyway, the footnote talks about
25 racebooks, as well, in the United States and how

1 that's a little bit different than with racebooks in
2 other countries. But -- but taken as a grouping, I
3 think, if you look at this as a grouping, it -- the
4 clear implication is it's associated with a
5 sportsbook.

6 BY MR. WILSON:

7 Q. Could any of the wager types identified
8 there in paragraph 81, as recited in claim 5, would
9 a POSITA have recognized that any of those could
10 have applied to casino games?

11 MR. JUREN: Objection. Form.

12 THE WITNESS: Again, I think from a
13 mathematical perspective, you know, we -- we talked
14 about earlier like a single number bet in roulette
15 or a red or black bet in roulette. I mean,
16 that's -- you are getting fixed odds mathematically,
17 but that's the way it means here. But when you
18 combine the phrase "fixed odds singles" with the way
19 that the '779 talks about what fixed odds singles
20 are or "fixed odds" and then "singles" and then -- I
21 think cumulatively, in terms of how '779 uses these
22 terms, uses these terms together and groups these
23 terms, to me, it's -- to me, it's associated with
24 sportsbooks. That's what's meant here in claim 5.

25 BY MR. WILSON:

1 Q. Are you familiar with fixed odds betting
2 terminals?

3 A. Yes.

4 Q. What are "fixed odds betting terminals"?

5 A. I think they are terminals -- I think I
6 have a reference to that here, in this -- in this
7 report. I believe it was one of these exhibits here
8 in my report that discusses it. But it's a terminal
9 where you can make wagers.

10 Q. And it would have -- it would have
11 supported fixed odds wagers?

12 MR. JUREN: Objection. Form.

13 THE WITNESS: I believe so, yes. That's my
14 understanding.

15 BY MR. WILSON:

16 Q. Would they have supported fixed odds
17 singles?

18 A. When you say "supported," you mean could
19 you make that wager?

20 Q. Yes.

21 A. I would expect you could.

22 Q. Could you have wagered on nonsporting
23 events --

24 A. I think in --

25 Q. -- on fixed odds betting terminals?

1 A. I think in some instances that's allowed,
2 yes.

3 Q. Did some -- and I will just shorten it to
4 FOBTs.

5 Did some FOBTs provide casino games?

6 MR. JUREN: Objection. Form.

7 THE WITNESS: That's my understanding.

8 BY MR. WILSON:

9 Q. You were mentioning a footnote 10, I
10 believe it is, within your paragraph 81. Do you
11 recall that?

12 A. Yes.

13 Q. And in paragraph 10, you are saying that
14 fixed odds multiples would not necessarily have been
15 a wager -- excuse me -- have been wager types a
16 POSITA would have associated with racebooks in the
17 United States as of September 6, 2012, correct?

18 MR. JUREN: Object to form.

19 THE WITNESS: Yes.

20 Sorry.

21 BY MR. WILSON:

22 Q. When you say "racebooks" there, are you
23 referring to -- you are referring to horse racing, I
24 assume?

25 A. Or dog racing, animal racing.

1 Q. So a POSITA in the United States that had
2 an understanding of horse racing may not have
3 associated fixed odds singles and fixed odds
4 multiples with horse racing, correct?

5 MR. JUREN: Object to form.

6 THE WITNESS: Could you repeat the
7 question?

8 BY MR. WILSON:

9 Q. Yeah. A POSITA in the United States with
10 an understanding of horse racing, at the relevant
11 time, that's 2012, may not have associated fixed
12 odds singles and fixed odds multiples with horse
13 racing; that's what you say here?

14 A. Exactly, that -- yes. I don't -- I'm not
15 an attorney. I don't understand the rules for a
16 POSITA. Does he have to -- you know, for a U.S.
17 patent, is it just U.S. information? Are you
18 supposed -- is it worldwide? So I just put this
19 here just for clarity.

20 Q. Turn to paragraph 138 of your declaration.
21 And this section begins a section titled
22 "Scott Does Not Disclose, Teach, Or Suggest a System
23 According to Independent Claim 16."

24 Do you see that?

25 A. Yes.

1 Q. Then, in paragraph 139, you cite to -- you
2 are citing to portions of Exhibit 1001, which is the
3 '779 Patent, at column 54. Do you see that?

4 A. Yes.

5 Q. And that column 54 is referring to the
6 recitation of claim 16, correct?

7 A. Let me just double-check.

8 Q. Yeah.

9 A. Yes.

10 Q. In one of those limitations that you quote
11 is the requirement that the system controller
12 receives, by the trading engine module, a plurality
13 of wagers on the wagering event, correct?

14 That's towards the middle of that
15 paragraph 139.

16 A. Yes.

17 Q. In the paragraphs that follow, up through,
18 I guess, the end of your declaration in paragraph
19 149, you analyze Scott with regard to its disclosure
20 of that limitation and certain -- and another
21 limitation regarding a plurality of different
22 participants; is that fair to say?

23 MR. JUREN: Objection. Form.

24 THE WITNESS: Could you restate the
25 question?

1 BY MR. WILSON:

2 Q. Yeah.

3 I guess just in general, this is the
4 section of your declaration where you analyze Scott
5 with regard to these limitations that you have
6 bolded in paragraph 139, correct?

7 A. Yeah. Okay.

8 (Exhibit 1006 presented.)

9 BY MR. WILSON:

10 Q. I hand you what's previously been marked
11 Exhibit 1006.

12 Do you recognize this Exhibit 1006 as the
13 Scott reference?

14 A. Yes, it appears to be Scott.

15 Q. If you turn to paragraph 44 of Scott and
16 just take a second to read it and let me know when
17 you are done.

18 A. Okay.

19 Q. You don't -- you don't address this
20 paragraph of Scott anywhere in your section 12 of
21 your declaration, do you?

22 MR. JUREN: Objection. Form.

23 THE WITNESS: Not to my knowledge, as I sit
24 here, no.

25 BY MR. WILSON:

1 Q. Then if you turn to Scott paragraph 55 and
2 read that for a second.

3 A. Okay.

4 Q. Same question: You don't cite to this
5 paragraph of Scott 55 in section 12 of your
6 declaration, do you?

7 A. As I sit here, I don't think so, no.

8 Q. In paragraph 141 of your declaration, you
9 address testimony provided by Mr. Crevelt. Do you
10 see that?

11 A. Second declaration, paragraph 141?

12 Q. Yeah.

13 A. Okay.

14 Q. Do you know whether Mr. Crevelt
15 cross-referenced back to any additional analysis
16 when he analyzed claim 16 in his declaration?

17 MR. JUREN: Objection. Form.

18 THE WITNESS: I'm not sure I understand the
19 question. Do you mean did he analyze more than
20 what's in this one paragraph? I mean --

21 BY MR. WILSON:

22 Q. Well, in his section -- in Mr. Crevelt's
23 declaration where he addressed claim 16, do you know
24 whether he cross-referenced or incorporated, by
25 reference, any analysis of, for example, claim 1

1 within his claim 16 analysis?

2 A. As I sit here now, I don't recall.

3 Q. And you don't -- you certainly don't
4 address any cross-referenced analysis that may or
5 may not have been included by Mr. Crevelt in his
6 declaration in regard to claim 16?

7 MR. JUREN: Objection. Objection. Form.

8 THE WITNESS: That appears to be true.

9 BY MR. WILSON:

10 Q. I'm going to ask to do something a little
11 unorthodox, but I don't -- I lack a printer here, so
12 I'm going to try to enter into the record a document
13 pulled from Patent Center, and this is the -- the
14 application filing receipt and application, as
15 filed, for U.S. Patent number -- well, sorry, not
16 U.S. Patent number, rather U.S. Patent Application
17 No. 12/874,029.

18 And to give sort of foundation or reference
19 for this, I'm going to ask you to also look at
20 deposition Exhibit 1, which is the '935 Patent
21 application publication that we discussed.

22 A. Am I supposed to look through this?

23 Q. Well, yeah, and I will sort of guide you to
24 give context. But do you see the application number
25 on that deposition Exhibit 1, that we discussed, and

1 do you see there should be, on the first page, that
2 same application number on the document on the iPad,
3 at the top left, I believe?

4 A. Yes.

5 Q. And if you scroll down to Page 76 -- and I
6 apologize, it's going to be a lot of scrolling, but
7 it's a long application submission. And it's not
8 going to be marked on the bottom, you know, just the
9 absolute page No. 76 of this document.

10 A. Okay. I think I'm close.

11 MR. JUREN: That's 70.

12 BY MR. WILSON:

13 Q. Do you see what appears to be your
14 signature at Page 76?

15 A. Yep.

16 Q. And if you scroll up, back, I believe, one
17 page, to Page 75, I believe that indicates that the
18 document that you signed is a inventor oath or
19 declaration; is that correct?

20 A. I don't know where that is, but I'm trying
21 to scroll up to get to it.

22 Q. Should just be at Page 75.

23 A. I'm just right above that.

24 Q. And I understand it may have Bates
25 numbering on it, so scroll down.

1 A. Okay.

2 Q. Do you see that that document that you
3 signed is an inventor oath or declaration?

4 MR. JUREN: Objection. Form.

5 THE WITNESS: I mean, I don't know. I see
6 I signed something. That's my signature.

7 BY MR. WILSON:

8 Q. Is there a title at the top of Page 75?

9 A. Yeah. It says "Declaration."

10 Q. And there is some text about the middle of
11 the page that indicates -- let me just pull it up
12 here. Apologies.

13 Some text in the middle of the page on
14 Page 75 that says, "I hereby state that I have
15 reviewed and understand the contents of the
16 above-identified specification, including the
17 claims, as amended by the amendment referred to
18 above."

19 Do you see that?

20 MR. JUREN: Scroll down some more.

21 THE WITNESS: Here?

22 Yeah, I see it.

23 BY MR. WILSON:

24 Q. And when it says "above-identified
25 specification," do you see above that, in box A it

1 references a "specification of which is attached
2 hereto"?

3 A. Yes.

4 Q. And so without having extensively reviewed
5 this document, does this document appear to be
6 patent application submitted with a declaration that
7 you signed?

8 MR. JUREN: Objection. Form.

9 THE WITNESS: I don't want to speculate.
10 I -- it's my signature, and so if I signed it, then
11 I would have done what it said when I signed it.

12 MR. JUREN: I'm just going to put an
13 objection on the record to the way the exhibit is
14 being presented. Do you plan to email it to the
15 court reporter afterwards?

16 MR. WILSON: Yeah, I think we -- if it's
17 not been uploaded in the chat, it will be. But
18 maybe you don't have access to the chat, so we will
19 certainly email it to you.

20 MR. JUREN: Please just copy us on that,
21 too.

22 MR. WILSON: Certainly.

23 I don't have any further questions about
24 the document. I'd appreciate a short break.

25 MR. JUREN: Sure. Off the record.

1 MR. WILSON: Off the record.

2 (Off the record.)

3 MR. WILSON: Back on the record.

4 MR. JUREN: We are ready.

5 MR. WILSON: I just wanted to clear up a
6 document we were just discussing, just displayed on
7 my iPad, refer to that as deposition Exhibit 2.

8 And with that, I pass the witness.

9 MR. JUREN: Give us counsel couple minutes
10 to group together and we will come back on the
11 record. So we will go off the record and come right
12 back.

13 (Off the record.)

14 MR. JUREN: We can go back on the record,
15 if everybody is ready.

16 EXAMINATION

17 BY MR. JUREN:

18 Q. Dr. Vancura, I will do some quick redirect,
19 so I will ask you a few questions just to kind of go
20 back to your testimony that occurred earlier today.

21 A. Okay.

22 Q. You were asked some questions about the
23 second institution decision and whether or not it
24 appeared directly or explicitly within your
25 declaration. Do you remember that conversation?

1 A. Yes.

2 Q. Do you understand that the second
3 institution decision adopted and applied the DRP's
4 construction of the claims of the '779 Patent?

5 MR. WILSON: Objection. Leading.

6 THE WITNESS: Yes, that's my understanding.

7 BY MR. JUREN:

8 Q. Did the -- did the panel, when they wrote
9 their second institution decision, adopt and apply
10 the DRP's construction?

11 MR. WILSON: Objection. Leading.

12 THE WITNESS: That's my understanding, yes.

13 BY MR. JUREN:

14 Q. And did your report adopt and apply the
15 DRP's construction?

16 MR. WILSON: Objection. Leading.

17 THE WITNESS: That's what I attempted to
18 do, yes.

19 BY MR. JUREN:

20 Q. Did your report respond to the grounds and
21 positions set forth in DraftKings' petition?

22 MR. WILSON: Same objection.

23 THE WITNESS: I'm sorry, could you restate
24 the question?

25 BY MR. JUREN:

1 Q. Does your report respond to the grounds and
2 positions raised and set forth in DraftKings'
3 petition in this IPR?

4 MR. WILSON: Objection. Leading.

5 THE WITNESS: Yes.

6 MR. JUREN: No further questions. Pass
7 back, if you have anything.

8 MR. WILSON: No, nothing further. We can
9 go off the record.

10 THE REPORTER: Before we go off the record,
11 are you ordering a copy of the transcript today?

12 MR. JUREN: Yes.

13 THE REPORTER: Yes.

14 MR. WILSON: And a rough, yeah.

15 MR. JUREN: We reserve the right to sign an
16 errata.

17 (Deposition adjourned at 12:36 p.m.)

18 -oOo-

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CERTIFICATE OF REPORTER

STATE OF NEVADA)
)
COUNTY OF CLARK) ss:

I, Carre Lewis, a Certified Court Reporter
licensed by the State of Nevada, do hereby certify:
That I reported the deposition of OLAF VANCURA on
Wednesday, October 23, 2024, at 9:00 a.m.

That prior to being deposed, the witness was
duly sworn by me to testify to the truth. That I
thereafter transcribed my said stenographic notes via
computer-aided transcription into written form, and
that the typewritten transcript is a complete, true,
and accurate transcription of said shorthand notes;
that review of the transcript was requested.

I further certify that I am not a relative,
employee, or independent contractor of counsel or of
any of the parties involved in the proceeding; nor a
person financially interested in the proceeding; nor
do I have any other relationship that may reasonably
cause my impartiality to be questioned.

IN WITNESS WHEREOF, I have set my hand in my
office in the County of Clark, State of Nevada, this
28th day of October 2024.


CARRE LEWIS, CCR NO. 497, RPR

ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing pages of my testimony, taken at 3960 Howard Hughes Parkway, Suite 500, Las Vegas, Nevada, on Wednesday, October 23, 2024, and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:

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	Signature of Witness

	Name Typed or Printed

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