1 UNITED STATES PATENT AND TRADEMARK OFFICE

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3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4 ----------

5 GOOGLE LLC

6 Petitioner

7 v.

8 FLYPSI, INC.

9 Patent Owner

10 ----------

11 IPR2023-00357; IPR2023-00358

12 IPR2023-00359; IPR2023-00360

13 IPR2023-00361

14

15 Deposition of ROBERT AKL, D.Sc.

16 Friday, January 5, 2024

17 Dallas, Texas

18 8:51 a.m.

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20

21

22 Job No.: 519686

23 Pages: 1 - 133

24 Reported by: Amanda Blomstrom, CRR/RMR/CLR/CSR

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3 Oral Deposition of ROBERT AKL, D.Sc., taken
4 pursuant to 37 C.F.R. § 42.53, regarding IPR2023-00357,
5 IPR2023-00358, IPR2023-00359, IPR2023-00360, and
6 IPR2023-00361, before Amanda Blomstrom, Certified
7 Realtime Reporter, Registered Merit Reporter, Certified
8 Livenote Reporter, and Certified Shorthand Reporter
9 (TX 8785, IL 84-3634, and CA 12681), held at the law
10 offices of Winston & Strawn, 2121 North Pearl Street,
11 Dallas, Texas 75201, from 8:51 a.m. to 2:44 p.m.
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1 I N D E X
2
3 WITNESS: ROBERT AKL, D.Sc.
4 EXAMINATION Page
5 By Mr. Herr 5
6 By Mr. McCullough 129
7
8
9 EXHIBITS


| NO. | DESCRIPTION | REFERRED TO |
|---|---|---|
| Exhibit 1001 | U.S. Patent 10,334,094..... | 30 |
| Exhibit 1005 | U.S. Patent Application Publication No. US 2013/0295892, Backhaus..... | 58 |
| Exhibit 1009 | Plaintiff Flypsi, Inc.'s Responsive Claim Construction Brief..... | 18 |
| Exhibit 1015 | U.S. Patent 9,667,770..... | 105 |
| Exhibit 1020 | Winbladh..... | 123 |
| Exhibit 2010 | Declaration of Dr. Robert Akl in Support of Patent Owner's Response..... | 9 |
| Exhibit 2011 | CV of Robert Akl, D.Sc..... | 10 |


21
22
23 (Exhibits not marked/not attached)
24
25

1 ROBERT AKL, D.Sc.,
2 having been first duly sworn, testified as follows:
3 EXAMINATION
4 BY MR. HERR:
5 Q. So, Dr. Akl, can you please state your full
6 name for the record.
7 A. Robert Akl.
8 Q. Okay. Thank you.
9 So I just want to go over -- I'll quickly
10 go over some simple and general ground rules. Given that
11 we have a court reporter that's transcribing the
12 deposition, so just try not to talk over each other. And
13 if you don't understand the questions, please do ask.
14 And you understand that today your
15 testimony is under oath, right?
16 A. Yes.
17 Q. Okay. Thank you.
18 Are there any reason today that you cannot
19 testify completely, truthfully, and accurately?
20 A. No.
21 Q. Thank you.
22 So who first contacted you about this case?
23 A. Counsel for Flypsi.
24 Q. Who is that?
25 A. Counsel contacted me.

1 Q. Which counsel?
2 A. For Flypsi.
3 Q. Could you please provide the name of the
4 person.
5 A. I don't remember.
6 Q. Don't remember. Okay.
7 So when were you retained?
8 A. Towards the fall of 2023.
9 Q. Do you remember -- do you remember the date?
10 A. I think it's sometime around October.
11 Q. Okay. I see that you are looking at your
12 computer screen. Are you looking at your Declaration?
13 A. I have -- I opened up my Consulting Agreement
14 to be able to answer your question.
15 So, it's October 2023.
16 Q. Okay. So for the deposition -- for the purpose
17 of this deposition, can you please let me know which
18 document you're opening on your computer --
19 A. Yes.
20 Q. -- before you do so. Thank you.
21 So when did you begin working on this case?
22 A. After I got retained.
23 Q. And I see that you're looking at your computer
24 again. Which document are you looking at?
25 A. I don't have -- I'm not looking at a document.

1 I'm just looking at my computer.
2 Q. Okay. So what do you have open on your
3 computer now?
4 A. I have my Declaration.
5 Q. Okay. So can I just say that, please let me
6 know before you open any document.
7 And you just told me that you only opened
8 the Agreement, but you didn't tell me that you opened the
9 Declaration.
10 A. Actually, no, that's not correct
11 characterization. Before we started the deposition, I
12 have five patents open, and I have my five Declarations
13 open.
14 Q. Okay.
15 A. When you asked me when I was retained, I opened
16 my Consulting Agreement to be able to answer your
17 question --
18 Q. Okay.
19 A. -- and then I closed it. So what remained in
20 the background is my Declaration.
21 Q. All right. So can you clarify what access you
22 have on your computer now.
23 A. I have just the five patents and my five
24 Declarations open.
25 Q. Okay. So you do not have any programs open

1 that can allow you to communicate with other people?
2 A. That's correct.
3 Q. Okay. You don't have any emails or chat box
4 that's open?
5 A. That is correct.
6 Q. Do you have access to those?
7 A. Yes.
8 Q. Okay.
9 A. I mean, they're programs on my computer, but I
10 don't have them open.
11 Q. Okay. How about any other files that's not
12 relating to the Declaration or the exhibits?
13 A. I don't have them open, but I do have the other
14 exhibits, the Petitions, the initial -- so some of the
15 other exhibits in this case I do have on my computer.
16 Q. Okay. Do you have any notes relating to the
17 case or just any notes on your computer that's being open
18 now?
19 A. No.
20 Q. Okay. Do you have access to those?
21 A. I do take, or I have in the past, taken notes
22 using a program called Microsoft OneNote.
23 Q. Okay. And do you have access to those now?
24 A. I have -- the program is on my computer, yes,
25 but I don't have it open.

1 Q. Understood. Thank you.
2 So can you confirm that you have now five
3 Declarations open and you have five patents open, and
4 that those are it?
5 A. That is correct.
6 Q. Okay. And they are clean, unmarked versions,
7 right?
8 A. Yes.
9 Q. Are they PDFs or Word documents?
10 A. They're PDFs.
11 Q. Okay. So now I'm handing you the copies of the
12 five Declarations, so -- which includes the IPR2023-
13 00357, Exhibit 210. And this is IPR ending in 358, also
14 Exhibit 210. IPR ending in 359, same Exhibit number.
15 IPR ending in 360, same exhibit number. And the last one
16 ending in 361.
17 Sorry, I should have just given you a copy.
18 Okay. So you have those five copies in
19 front of you, right?
20 A. Yes.
21 Q. Okay. Do you recognize these documents?
22 A. Yes.
23 Q. Okay. So can you please confirm that you
24 signed each of the Declarations that you submitted
25 associated with these IPRs at issue here in this

1 deposition.
2 And just to clarify. These exhibits are
3 Exhibit No. 2010. I might have misspoken, yeah.
4 A. They are all signed by me.
5 Q. Did you prepare all five Declarations?
6 A. Yes.
7 Q. So can you please go to Exhibit 210 of
8 IPR2023-00358 in Paragraph No. 2.
9 A. I'm there.
10 Q. Thank you.
11 That paragraph indicates that you "have
12 been retained by counsel for Patent Owner Flypsi."
13 And who is the counsel for the patent -- so
14 who is the counsel for the patent owner?
15 A. I'm going to open up my --
16 Q. Can you tell me what you're going to open
17 before you open it.
18 A. Yes.
19 -- my Consulting Agreement.
20 Q. Okay.
21 A. So the correct -- the spelling of counsel is
22 Winston & Strawn LLP.
23 Q. Thank you.
24 So I'm now handing you Exhibit 2011. And
25 can you please go to Page 2 of the document.

1 Essentially, at the top, it states that you
2 were hired by Devlin Law Firm for this case; is that
3 right?
4 A. No. That was a typo.
5 Q. So that entire line is a typo?
6 A. Yes. I copied and pasted the template, and I
7 forgot to change the top line.
8 Q. So did you prepare the CV yourself?
9 A. Yes.
10 Q. Did you prepare the Declaration yourself?
11 A. Yes. That, the typo, is a copy from L4, if you
12 look on the same page, L4, I copied and pasted L4 onto L1
13 to create a new entry, and I changed everything except
14 the first line.
15 Q. Okay. Can you please go to your Declaration,
16 IPR ending in 358, which is the '094 Patent Declaration.
17 A. I'm sorry, can you repeat --
18 Q. Sure.
19 A. -- which one?
20 Q. That's the IPR ending in 358, '094 Patent
21 Declaration.
22 A. Yes, I'm there.
23 Q. Thank you.
24 So can you please go to Paragraph 17.
25 A. I am there.

1 Q. So in that paragraph you indicate that you are
2 "being compensated for my work in this case at my
3 standard rate."
4 What is your standard rate?
5 A. 895.
6 Q. How much time you have spent on these five IPR
7 proceedings?
8 A. Around 30 hours.
9 Q. Is that 30 hours per case -- sorry, per IPR, or
10 total?
11 A. Total.
12 Q. So for today's deposition, did you -- how much
13 time did you spend for today's deposition?
14 A. I met with counsel yesterday for a little over
15 three hours, I think three and a half hours.
16 Q. So other than that, what else did you do to
17 prepare for the deposition?
18 A. The day before that I reviewed the -- my
19 Declarations and some of the exhibits.
20 Q. So did -- who did you talk to while preparing
21 for this deposition?
22 A. Counsel that's present here was present
23 yesterday, and we met in person.
24 Q. All right. How long did you have that
25 discussion for?

1 A. Around three and a half hours.
2 Q. Could you please go to paragraph -- sorry. Let
3 me see, make sure. Okay. Starting at -- go to
4 Paragraph 3 of the same Declaration you were just looking
5 at.
6 A. I'm there.
7 Q. Okay. And that's Section II of the
8 Declaration, correct?
9 A. Yes.
10 Q. Okay. So in that Section II, you listed your
11 Background and Qualifications, correct?
12 A. Yes.
13 Q. You did not list any specific experience
14 regarding PSTN, correct?
15 A. I -- can you repeat the question?
16 Q. Sure.
17 You did not list any specific experience
18 regarding PSTN, correct?
19 A. PSTN would be -- is included indirectly in
20 the courses that I have taught and some of the other
21 materials or cases that I have dealt with. I don't
22 believe I state the word "PSTN" directly. I provide an
23 overview, but I don't think "PSTN" is called out, that
24 specific acronym.
25 Q. So what courses did you teach that is relevant

1 to PSTN?
2 A. So -- so looking at my CV, which you gave me,
3 which is Exhibit 2011, I designed a course -- I'm on
4 Page 45 -- I designed a course called "Fundamentals of"
5 Voice over IP. This is a course that I developed and I
6 have taught a few times.
7 I have also designed two courses, one is
8 called "Wireless Communication," one is called
9 "Introduction to Wireless Communication." Those are on
10 Page 46. Those also cover PSTN. They focus on cellular
11 communication and how the cellular network connects to a
12 public switch telephone network.
13 I've also designed a course on LTE physical
14 layer that specifically focuses on 4G, and there is an
15 aspect of how the 4G network connects to a public switch
16 telephone network.
17 And then on -- the next set of pages lists
18 when I've taught these courses.
19 So starting in -- working backwards,
20 starting in fall 2023, I taught "Intro to Wireless
21 Communication," summer 2024, fall 2024, spring 2025,
22 summer 2025, fall 2025.
23 I've also taught "Wireless Communications"
24 at the graduate level, in addition to the intro class at
25 the undergraduate level, summer 2026.

1 Spring 2027, I taught "Fundamentals of"
2 Voice over IP and "Wireless Communication." Both are
3 graduate courses.
4 Spring 2028, I taught both the "Intro to
5 Wireless Communication" and the "Wireless Communication"
6 course.
7 Spring 2029, I taught both the intro at the
8 undergraduate level and the graduate-level version.
9 Q. So, sorry, you say "2029"?
10 A. Sorry. 2009.
11 Q. Got it.
12 A. Spring 2009.
13 Spring 2010, I taught both.
14 Spring -- sorry, fall -- no. Spring 2011,
15 I taught both.
16 Fall -- no. Spring 2012, I taught both.
17 Spring -- fall 2023, I taught an advanced
18 course in wireless communication, which also would
19 include aspects of public switch telephone network.
20 Then spring 2014, I taught my "Intro to
21 Wireless" and the "Wireless" course.
22 Q. Okay. Understood. So --
23 A. And I can keep going, but yes.
24 Q. Sure, sure. Yeah.
25 So none of these courses, at least on the

1 title, list "PSTN" as a -- "PSTN" as a topic, right?
2 A. The title of the courses are "Wireless
3 Communication, Intro to Wireless Communication."
4 Q. But none of them --
5 A. Voice -- I'm sorry, I'm not done with my
6 response.
7 Q. Sure. Okay.
8 A. -- and "Fundamentals of" Voice over IP, and do
9 not include the word "PSTN" as part of the title.
10 Q. So why would you teach PSTN in those courses?
11 A. Because you don't -- I mean, the title of the
12 course does not indicate every topic taught in the
13 course; otherwise, we would have very long titles.
14 The course on wireless communication focuses on telephone
15 calls. It's relevant to what we teach our students
16 related to cellular communication. And a cellular
17 network needs to communicate with a public switch
18 telephone network. So that is taught as part of
19 the -- those classes.
20 Voice over IP is a course that focuses on
21 voice over IP in a telephone network. It discusses SS7
22 and packet switching and implementations related to
23 security and quality of service.
24 So those would be relevant courses to teach
25 our students today because PSTN is not really a current

1 topic per se, but cellular communication, voice over IP,
2 and how they connect to the public switch telephone
3 network is how we prepare our undergraduate and graduate
4 students in a career in telecommunications.
5 Q. I appreciate that.
6 So other than teaching the courses and
7 involving cases having PSTN as a -- as a -- in the topic,
8 do you have any experience regarding PSTN in terms of
9 professional experiences?
10 A. I am an academic. I've been a professor for
11 over 20 years. Before that I did work in industry for a
12 couple years. And before that I -- so that basically
13 puts us back in the '90s when I was an undergraduate and
14 graduate student. So, having a fairly short span in
15 industry, the basis of my expertise in the field comes
16 from both being a student, being a Ph.D. student, and
17 being a professor where I've taught the materials over
18 the last 22 years.
19 When I did work in industry, I worked as a
20 senior systems engineer for a company called Comspace
21 Corporation. It did deal with telecommunication, but it
22 dealt with a wireless communication.
23 Q. Okay. Thank you.
24 So can you please go to Paragraph 18 on
25 your Declaration.

1 A. Yes, I'm there.
2 Q. Thank you.
3 So in there, you indicated that you have
4 reviewed a number of documents, correct?
5 A. Yes.
6 Q. So who provided those documents to you?
7 A. Counsel.
8 Q. Which counsel?
9 A. For Patent Owner.
10 Q. Does Paragraph 18 of your Declaration reflect
11 all of the documents you've reviewed?
12 A. Yes.
13 Q. You have reviewed Exhibit 1009, correct?
14 A. I don't remember what Exhibit 1009 is off the
15 top of my head.
16 Q. That's okay.
17 Can you please go to Paragraph 31 of your
18 Declaration.
19 A. I'm there.
20 Q. So you included paragraph regarding
21 qualification of a POSITA; is that right?
22 A. Yes. And it's an acronym, capital P, capital
23 O, capital S, capital I, capital T, capital A.
24 Q. How did you come up with your definition of a
25 POSITA?

1 A. So in the previous paragraph, in Paragraph 30,
2 I provide an opinion of what a person of one skilled in
3 the art is. They are a hypothetical person. They -- and
4 I would consider factors like the educational level,
5 years of experience of those working in the art. I look
6 at -- I mean, I also look at the patents themselves, the
7 patents, the technology that's relevant to the patents.
8 And there is in the patents, for example,
9 I'm looking at the '770 -- well, let's stick with this
10 patent. So we are -- I'm sorry, we are in '094. So for
11 the '094 patent, if you go to Column 1, Column 1, it has
12 a paragraph on the "Field of the Invention." And it
13 says, "The present invention relates to systems and
14 methods for setting up and connecting telephone calls ...
15 delivering information related to such telephone calls
16 using an Internet IP or other data channel while
17 delivering the voice portion of the call in accordance
18 with CDMA, GSM, or like voice channel delivery
19 standards."
20 So the paragraph relating to the Field
21 would also be something that I would consider, including
22 the technology in the spec, and then I would look at the
23 priority date, and I would look at when -- what the
24 patent claims as its priority around that time frame.
25 And so those are all factors that I take

1 into account in deciding what the qualifications of a
2 POSITA is that I come up with in Paragraph 31.
3 And it is fairly similar to what the
4 petition states. So I don't think there is dispute, at
5 least between the parties, on the qualifications of a
6 POSITA. And my opinions would be the same, whether
7 Petitioner's definition or my definition is adopted.
8 Q. Thank you.
9 So you referred to Column 1, the Field of
10 the Invention, in para- -- in the '094 patent, correct?
11 A. I did in answering your question.
12 Q. So are you saying that a POSITA would have
13 known about what you just read in Column 1 of the patent
14 as a -- as his or her knowledge at the time of the
15 alleged invention?
16 A. I think some of that is part of the knowledge
17 of a POSITA, yes. The patent itself goes into details in
18 terms of the -- the background. So, there is a separate
19 section, and the section related to the Background of the
20 Invention is more how the specification and the patent
21 itself is trying to define what is known as prior art.
22 Q. Thank you.
23 So you say some of that paragraph you
24 just -- some of the passage -- sorry -- some of the Field
25 of Invention you just read is a part of the POSITA

1 knowledge. So what part was POSITA's knowledge?
2 A. Well, your question was fairly broad. I mean,
3 CDMA is a field of study; GSM is a field of study; IP.
4 So I'm saying there are aspects to these that would be
5 within a -- the knowledge of a POSITA. I'm not saying
6 everything related to those would be.
7 So, again, you know, somebody -- this is
8 why the qualifications are different between what an
9 expert might possess in this field versus what a POSITA
10 would possess in this field, which would be a subset.
11 So, they would have knowledge related to
12 CDMA and GSM and IP that would allow them to read and
13 understand the patent, be able to understand the
14 invention, in that context.
15 Q. So you're saying IP, GSM, CDMA, they were all
16 well-known at the time of the alleged invention, right?
17 A. GSM, CDMA are second-generation. I believe
18 they're -- go back to the '80s and the '90s. IP goes
19 back around that time also. And those all predate the
20 priority date of the patent, yes.
21 Q. So is PSTN a telecommunication system?
22 A. I don't believe I provided a definition for
23 PSTN, but I would generally agree that PSTN is the public
24 switch telephone network, which would be an example of a
25 telecommunication system.

1 Q. Other than teaching the courses or working on
2 cases having PSTN as the -- part of the topic, do you --
3 did you have two years of experience in design or
4 development of the PSTN?
5 A. Yes. As an academic, when I teach my
6 students how to design a network, I need to have those
7 qualifications so I can teach them how to do such a
8 design.
9 Q. Okay.
10 Can you please go to Paragraph 21 of your
11 Declaration.
12 A. I'm going to close the other ones just so that
13 I don't open a different one by accident, so --
14 Q. Sure. So --
15 A. Since we're focusing on the 358, I'm going to
16 leave that open, and I'm only going to leave open the
17 '094 patent. So, right now in front of me, I only have
18 open the '094 patent and my Declaration that is to the
19 '094 patent.
20 So with that, can you please repeat your
21 question?
22 Q. Sure.
23 Can you please go to Paragraph 21 of the
24 Declaration.
25 A. I am there.

1 Q. Do you -- you used the phrase "ordinary and
2 customary meaning," right, in that paragraph?
3 A. Yes. In the first sentence, I state "I
4 understand that claim terms are typically given their
5 ordinary and customary meaning."
6 Q. What does that phrase mean?
7 A. I am not a lawyer. I'm not rendering opinions
8 on legal principles. My understanding comes from
9 counsel, and my understanding is that words in a claim
10 usually have plain and ordinary meaning.
11 Q. So on Paragraph 22, which is on the next page,
12 you stated that you applied "the plain and ordinary
13 meaning of the claim terms consistent with the
14 specification."
15 Right?
16 A. Yes, I do say that.
17 Q. Okay. So what is the difference of the
18 "ordinary and customary meaning" of a claim term versus
19 the "plain and ordinary meaning" of a claim term?
20 A. That seems like a legal question. I don't know
21 the answer to the question.
22 Q. So you put in phrases in your Declaration you
23 don't exactly know what they meant?
24 A. No, you're mischaracterizing what I said.
25 You're asking me -- well, it looks like you're asking me

1 a legal question. I'm not here to render legal opinions.
2 I understand -- so from my point of view, I
3 applied the plain and ordinary meaning of words in the
4 claim in rendering my rebuttal opinions.
5 Q. Is the phrase "ordinary and customary meaning"
6 the same as the phrase "plain and ordinary meaning"?
7 A. I have not -- this seems to be like a legal
8 question, and I don't have an answer to that question.
9 Q. Okay. In Paragraph 23 -- are you there?
10 A. Yes.
11 Q. Okay. Thank you.
12 So you stated, "I understand that in order
13 to anticipate a claim, a prior art reference must do more
14 than merely disclose each element of the claim, but
15 rather the prior art reference must disclose all of the
16 elements of the claimed invention arranged as is recited
17 by the claim."
18 Right?
19 A. Yes, that's my understanding.
20 Q. What does the sentence "the prior art reference
21 must disclose all of the elements of the claimed
22 invention arranged as is recited by the claim" mean to
23 you?
24 A. Those words would have the -- the plain and
25 ordinary meaning.

1 Q. So when -- a method claim, having multiple
2 steps, does the method require performing the steps in
3 the order arranged as is recited by the claim?
4 A. No, I think that's an incorrect application of
5 the legal principle related to a method claim, because my
6 understanding is, with a method claim, the steps or the
7 limitations in a method claim are not necessarily
8 performed in the order written.
9 Q. So how should the order be decided?
10 A. That seems to be a legal question. I don't
11 have an answer to that question.
12 But I do have an understanding that, in a
13 method claim, there is no inherent order unless, for
14 example, the steps themselves, like you have a step that
15 depends on the previous step, so in that sense, there is
16 an order, but it would be context dependent.
17 Q. In Paragraph 23, the last line, what does it
18 mean for a reference to "enable one of the ordinary skill
19 in the art at the time of the invention to practice the
20 claim without undue" experiments -- sorry -- undue
21 "experimentation"?
22 A. That seems to be a legal question. I
23 understand there is an enablement issue related to -- as
24 related to patents and specifications and prior art. I'm
25 not rendering opinions on that. So that would not be

1 relevant to the opinions that I have here today.
2 Q. Can you please go to Paragraph 26.
3 A. I'm there.
4 Q. Thank you.
5 You said that you "understand that one must
6 consider (a) the level of skill in the art at the time of
7 the claimed invention, (b) the scope and content of the
8 prior art, (c) any differences between the prior art and
9 the claims of the patent-in-suit, and (d) any 'secondary
10 factors.'"
11 Correct?
12 A. Yes.
13 Q. You said that one must consider secondary
14 factors. Does your analysis take any secondary con- --
15 does -- sorry. Does any analysis take any secondary
16 factors into consideration?
17 A. No, I don't believe I rendered opinions on
18 secondary factors. Again, I'm providing rebuttal
19 opinions in this case, so -- but I don't believe I've --
20 I went into secondary considerations.
21 Q. Thank you.
22 What does the term "teach away" mean in the
23 content of analyzing obviousness?
24 A. That seems like a legal question. Again, I'm
25 not rendering legal opinions.

1 But my understanding is, if a reference is
2 discouraging or doesn't -- is discouraging something,
3 then you wouldn't -- if someone is relying on that
4 reference that goes against what that reference is
5 saying, you would say that reference is teaching away,
6 for example, from a combination or teaching away from
7 trying something.
8 Again, this is a -- this is a legal
9 question. But I have an understanding of, you look at
10 the contents of the reference, whether it's teaching away
11 or not, as one of the things you would consider when
12 trying to combine more than one reference for an
13 obviousness combination.
14 Q. Okay. Please go to Paragraph 41, which is on
15 Page 18 of the Declaration.
16 A. I am there.
17 Q. In Paragraph 41, you provided a construction
18 for the channel terms, right?
19 A. No, I disagree with that characterization. I
20 did not provide a construction. I provided a discussion
21 of why I disagree with how the term is being used by
22 Petitioner; but I have not articulated a construction.
23 Q. Did anyone tell you to apply this
24 understanding?
25 A. I don't understand your question.

1 Q. So in Paragraph 41, you mention -- you stated
2 "A POSITA would understand that a 'channel' does not have
3 to be fully connected on both ends to qualify as a
4 channel. Additionally, a POSITA would understand that a
5 channel does not have to be actually transmitting
6 something to qualify as a channel at that moment."
7 Did anyone tell you to apply those
8 understandings?
9 I'm sorry, that's in Paragraph 40.
10 A. I still don't understand what you're asking me.
11 Q. So in your opinion, Paragraph 41, you say that
12 a POSITA would have understood two ideas, two notions.
13 Did anyone else tell you to apply those notions?
14 A. I'm still not sure what you're asking me. So,
15 first, you keep -- I think you're calling it
16 "Paragraph 41." It's Paragraph 40.
17 Q. Yeah, I said that toward the end of my last
18 line, yep.
19 A. So in Paragraph 40, I provide an opinion
20 regarding how a POSITA would understand "channel," not in
21 terms of a definition, but that a channel does not have
22 to be fully connected to qualify as a channel and does
23 not have to actually be transmitting something to qualify
24 as a channel. So that is the opinion that I have. And
25 that opinion, I use -- rely on that opinion in providing

1 my other opinions in this Declaration.
2 Q. So you understand that you're under oath today,
3 right?
4 A. Yes.
5 Q. Did anyone tell you to apply these
6 understandings in Paragraph 40?
7 A. So are you asking me, how did I arrive at those
8 opinions?
9 Q. My question was simple. As I stated. Did
10 anyone tell you to apply this -- these understandings?
11 MR. McCULLOUGH: Objection; asked and
12 answered, badgering the witness.
13 THE WITNESS: Yes, so the -- the
14 Declaration that I wrote, I wrote in collaboration with
15 counsel. I understand that counsel had provided a
16 preliminary response in this matter. And, in writing my
17 Declaration, it was a collaborative effort with counsel,
18 but the opinions that I have are my own opinions.
19 Q. (BY MR. HERR) Did you provide these
20 understandings based on your review of the preliminary
21 response?
22 A. No. I -- I looked at all the evidence, and I
23 agree with some of the opinions that might have been
24 stated previously by counsel, but the opinions that I
25 have in this Declaration are based on my own analysis of

1 all the evidence.
2 Q. On, Paragraph 41 of the '094 Declaration, you
3 cited to '094 patent at Column 4, Line 14 through 18,
4 right?
5 A. Can you repeat your question, please?
6 Q. Sure.
7 On Paragraph 41, you cited to Exhibit 1001,
8 Column 4, Line 14 through 18, right?
9 A. There are multiple citations. This is one of
10 them; that is correct.
11 Q. Okay. That cite or that block quote you've
12 provided states, "A preferred data channel may be an
13 Internet Protocol (IP) channel, which is not a
14 conventional telephone voice channel."
15 Right?
16 A. Yes.
17 Q. So you agree that an IP channel is a data
18 channel, right?
19 A. No. That's -- I mean, that's -- that's not the
20 takeaway from this sentence. I don't agree with your
21 characterization of this sentence. I don't think this is
22 what this sentence is stating.
23 Q. So the sentence literally states, "A preferred
24 data channel may be an Internet Protocol (IP) channel."
25 Correct?

1 A. Yes.
2 Q. So do you agree an IP channel is a data
3 channel?
4 A. I don't have opinions on that.
5 Q. So what is a conventional telephone voice
6 channel as written in your Declaration?
7 A. I don't know if I provided an opinion on what a
8 conventional telephone voice channel is.
9 Q. The last line of the block quote you have on
10 your Declaration has the phrase "a conventional telephone
11 voice channel," and you said that you don't have an
12 opinion on that?
13 A. I think you're mischaracterizing what I said.
14 I used part of the spec for support for the opinion that
15 I have in this section, but I don't necessarily have an
16 opinion on every word in the spec. Again, this is a
17 short Declaration that is rebuttal to the Petition and
18 Petitioner's expert.
19 So in that regard, I will try to answer
20 the questions regarding the opinions that I have in my
21 Declaration, of course. That's why I'm here. But I
22 don't necessarily have an opinion on every word in the
23 spec that I cite to. That's not why I'm here.
24 So even though I may cite a part of the
25 spec for support, it might be difficult for me to try to

1 state or restate what the spec is saying. I mean, I
2 can try. But in this case, I don't have a different
3 characterization or a specific opinion on those words.
4 Q. So isn't "voice channel" a claim term in the
5 claims of the IPR -- of these IPRs?
6 A. Yes. And you've asked me before if I have a
7 claim construction related to it, and the answer is no.
8 I provided opinions related to how I believe it was used
9 incorrectly by Petitioner, but I'm not articulating a
10 definition for it.
11 Q. So you don't have an understanding of the term
12 "voice channel"?
13 A. I do have an understanding, but I'm not
14 articulating a definition.
15 Q. So what is your understanding of the "voice
16 channel"?
17 A. I'm not articulating a definition, so it would
18 be difficult for me to answer your question. I can give
19 you examples.
20 So the spec itself describes channels like
21 CDMA and GSM and LTE and 3G and 4G as examples of voice
22 channels, and so that's consistent with my understanding;
23 but I don't have a definition for you.
24 Q. So what is a "conventional telephone voice
25 channel"?

1 A. I don't have a definition for those words.
2 Q. But you used the two -- put those words in
3 before the claim term, right?
4 A. I don't understand your question.
5 Q. So you put the two words "conventional
6 telephone" in front of the claim term, which is "voice
7 channel," correct?
8 A. I think we're -- we're looking at different
9 things. This is part of the spec. And "voice channel"
10 is a term that appears in some of the claims. So this is
11 why I'm having a difficult time understanding your --
12 your question.
13 Q. So what is a "conventional voice channel"?
14 A. You've already asked me that question, and I
15 have not articulated a definition for that term.
16 Q. No, I didn't ask that question. I asked a --
17 previously I asked "conventional telephone voice
18 channel." Now I just said: What is a "conventional
19 voice channel"? Those are two different questions.
20 A. Well, they seem to ask the same thing, at least
21 from my point of view. So I -- I don't know have an
22 answer.
23 Q. So in your point of view, conventional voice
24 channel is similar to a conventional telephone voice
25 channel?

1 A. Well, we're looking at the same part of the
2 spec, so I assumed you're asking me the same thing.
3 Maybe I misunderstood your question.
4 Q. Is PSTN a voice channel?
5 A. PSTN stands for public switch telephone
6 network.
7 Q. So is PSTN a voice channel?
8 A. I don't have opinions on that.
9 Q. On Paragraph 46 -- I don't want to rush you.
10 A. I am there.
11 Q. Thank you.
12 -- you stated, "A POSITA would understand
13 the 'when'" -- sorry, strike that.
14 On Paragraph 46, you stated, "A POSITA
15 would understand the 'when used to carry voice
16 information' phrase in the specification relates to the
17 fact that protocols like CDMA, GSM, LTE, 3G, and/or 4G
18 can also be used to transport data protocols. For
19 example, when accessing the Internet over a cell phone, a
20 POSITA would know that the communication would use IP
21 traffic that is transported over a standard cellular
22 protocol, such as CDMA, GSM, LTE, 3G, and/or 4G."
23 Correct?
24 A. Yes, you've read those words correctly.
25 Q. I tried. Thank you.

1 When any of the protocols, like CDMA, GSM,
2 LTE, 3G, and/or 4G, are used to transport data, such as
3 the message or an image, are those protocols qualified as
4 data channel?
5 A. I don't have an opinion on that.
6 Q. So you do not have an opinion as to whether
7 data communication using IP protocols over cellular
8 protocol qualify as a data channel?
9 A. My Declaration speaks for itself.
10 If you want to direct me somewhere ...
11 But, at least in the section that we're
12 looking at that you are asking me, I did not provide that
13 opinion in this paragraph.
14 Q. So I'm asking for your opinion sitting here
15 today. So please provide your best answer to the extent
16 possible.
17 A. I will. This is not a memory test. I don't
18 have my Declaration committed to memory. I will try to
19 look elsewhere, if instructed, to try to find an answer
20 to your question, but I'm also going to be careful not to
21 use too much time going through my Declaration if you
22 don't instruct me to look somewhere specific.
23 So the fact that we are looking at
24 Paragraph 46, in Paragraph 46, I'm providing the opinion
25 that you do have standard cellular protocols. Those are

1 usually for voice. And the specification discusses them
2 in the context of a voice channel, but also, you can
3 use -- you can send IP traffic over them. That's the
4 opinion, at least in the sentence -- in the sentence that
5 you read.
6 Q. All right. Thank you for that.
7 So when you said "using IP protocols over
8 the cellular protocol," do those IP protocol qualify as
9 data channel?
10 A. I don't believe I've rendered that opinion
11 here.
12 Q. So what is your opinion on that, sitting here
13 today?
14 A. I think it would depend on the context. So I
15 don't think it's just a -- it's not a black-and-white
16 issue. I think that's the takeaway from how the
17 specification is using the term. This is why the
18 specification is describing that you can have a voice
19 channel. Usually, the voice channel is carrying voice,
20 and it gives examples of CDMA and GSM and LTE and so on.
21 You can also, in contrast to a voice call which is
22 carrying voice, the cellular protocols can carry IP
23 traffic, and ...
24 Q. So -- okay. So depending on the context, like
25 you said, you don't deny that, when using IP protocol

1 over cellular protocol, the IP channel can qualify as a
2 data channel, correct?
3 A. I don't think I've stated that as my opinion.
4 So I've -- in this paragraph, I'm stating how you can,
5 over a voice channel, carry voices of the callers, and
6 you could carry IP traffic.
7 Q. But you said earlier -- you said, depending on
8 the context, the IP protocol over cellular protocol can
9 qualify as data channel. So what context would that
10 depend on?
11 A. I don't think -- I think you might be
12 mischaracterizing what I said. I don't mention "data
13 channel" in this paragraph at all. There is no mention
14 of "data channel" in Paragraph 46.
15 "Data channel" is described in the
16 specification, and it's contrasted to a voice channel
17 in the spec. So I'm saying, in the context of the
18 specification, the patent is -- in different contexts
19 describes voice channels and data channels. That's --
20 but, in Paragraph 46, I'm focusing on the voice channel
21 description.
22 Q. So sitting here today, what is your opinion as
23 to whether, when -- when using IP protocol over cellular
24 protocol to carry data, to transmit data, whether that IP
25 protocol would qualify as a data channel?

1 A. It would depend on the context, like I said.
2 It's -- I don't think I can answer that question in a
3 vacuum. In the next couple of paragraphs, I do describe
4 how a POSITA would understand channels. I'm right above
5 Paragraph 47 on Page 23 where I state "a POSITA would
6 understand 'channels'" where "the focus is not on the
7 underlying protocol(s) used for transport, but on the
8 protocol that is being used to transmit information
9 (whether that information is voice or data, or any other
10 type of information)."
11 So, again, it's -- it's context-specific
12 how "data channel" and "voice channel" are used in the
13 specification.
14 Q. So I'm reading back from what you just
15 answered, the first line. You said, "It would depend on
16 the context, like I said."
17 So what context would it depend on?
18 A. So the -- I am referring to examples in the
19 specification. The specification gives you different
20 contexts, and I'm referring to those to answer your
21 question.
22 And we've been going about an hour. Is
23 this a good time for a break?
24 MR. HERR: Yeah, good for us. Off the
25 record for now.

1 (Recess taken.)
2 Q. (BY MR. HERR) So we're back on the record.
3 So let's go back to the same Declaration,
4 which is the 358 Declaration for the '094 patent, and in
5 the same paragraph, 46, okay -- and let me help you out
6 with that -- it's on Page 22, about in the middle of that
7 paragraph, it starts -- it states, "By contrast, in a
8 voice call, the cellular protocol is actually said to be
9 used to transmit information (the voices of the call
10 participants) and would qualify as a voice channel."
11 Right?
12 A. Yes.
13 Q. Is it your position that a cellular protocol
14 can be used to transmit either voice or data and thus can
15 be voice -- can be a voice channel or a data channel?
16 A. I don't mention "data channel" in this
17 paragraph. I'm merely stating that you could transmit
18 data traffic and you could transmit voice traffic over
19 standard cellular protocols.
20 Q. So you agree that a cellular protocol can use
21 to -- can be used to transmit either data or voice,
22 correct?
23 A. I state that you can transmit voice traffic or
24 you can transmit data traffic where you're distinguishing
25 data as non-voice traffic in a cellular protocol.

1 Q. Does that cellular protocol qualify as a voice
2 channel or data channel when transmitting either voice or
3 data?
4 A. I haven't rendered an opinion on -- in response
5 to your question.
6 Q. Is it your opinion that, regardless of whether
7 you transmit voice traffic or data traffic, the cellular
8 protocol will qualify as a voice channel?
9 A. I don't specifically believe I stated that
10 opinion either.
11 Q. But sitting here today, what is your opinion on
12 that question?
13 A. That is not something I've addressed in this
14 paragraph.
15 Q. But sitting here today, what is your answer to
16 that, to my question?
17 A. I don't know if I have an answer to your
18 question, at least I don't in Paragraph 30 --
19 Paragraph 46. But my Declaration speaks for itself.
20 Q. So you do not have an opinion as to, regardless
21 of whether you transmit voice traffic or data traffic,
22 the cellular protocol would qualify as a voice channel,
23 sitting here today?
24 A. In Paragraph 46, I state that you could
25 transmit data traffic, and those can be transported over

1 cellular protocols. Of course, you can transmit voice
2 traffic. And those are examples from the specification
3 of the patent. But that's the opinion that I have in
4 Paragraph 46. I don't mention "data channel" per se.
5 Q. But I'm asking you, sitting here today, is it a
6 data channel or voice channel when transmitting either
7 voice or data?
8 A. I have not provided an opinion on that in this
9 paragraph.
10 Q. Do you have any opinion on that, sitting here
11 today?
12 A. I -- my Declaration speaks for itself, unless
13 we look somewhere else, if I provide an opinion related
14 to that, at least it's not in Paragraph 46. And this is
15 not a memory test, and I don't have my Declaration
16 committed to memory.
17 Q. Are you -- here you said, "By contrast, in a
18 voice call, the cellular protocol is actually set to be
19 used to transmit information (the voices of the call
20 participants) and would qualify as a voice channel."
21 Correct?
22 A. Yes, I did say those words.
23 Q. So is it your opinion that regardless of
24 whether you transmit voice traffic or data traffic, the
25 cellular protocol will qualify as voice channel?

1 A. It does qualify as a voice channel when you're
2 sending voice traffic. That's what the specification
3 describes, an example of a voice channel in the context
4 of CDMA, GSM, LTE, 3G, and/or 4G.
5 Q. So let's go back to Paragraph 46, again on
6 Page 22.
7 The last line of that paragraph, you
8 stated, "Thus, a POSITA would understand that 'when used
9 to carry voice information' is distinguishing between
10 circumstances where the voice protocol is set to be used
11 to transmit voice information rather than where the voice
12 protocol is merely used to transport another protocol."
13 Correct?
14 A. Yes.
15 Q. Can the "another protocol" -- sorry.
16 Can the "another protocol" you mentioned in
17 the paragraph be an IP protocol?
18 A. Yes.
19 Q. So you are saying that the voice protocol may
20 be used to transport IP protocol, correct?
21 A. I am saying, in this context, you have
22 different layers. You have the physical channel -- or
23 the, sorry, the physical layer, which is defining the
24 voice protocol, and in this example, the traffic can be
25 something like IP traffic, which can have its own

1 protocol.
2 Q. In this situation, is the communication a data
3 channel communication or a voice channel communication?
4 A. I don't have opinions on that.
5 Q. Sitting here today, you don't have an opinion
6 on that?
7 A. I don't have opinions on that in the context of
8 this paragraph, and my Declaration speaks for itself.
9 It's not a memory test. And I don't know if I rendered
10 an opinion on that in a different part of my Declaration,
11 but it is not here.
12 Q. So in Paragraph 48, which is on Page 23, you
13 included a quote from Petition's Page 25, right?
14 A. Yes.
15 Q. Okay. Does the quote you included state that
16 there is no voice channel when a voice path is not
17 connected?
18 A. The last part of the sentence that I quote from
19 the Petition states, "a voice path," it says, you know,
20 it's going to be using "a data channel rather than a
21 voice channel because Backhaus" -- B-A-C-K-H-A-U-S,
22 discloses that" the -- "that a voice path is not
23 connected until the subscriber answers the call."
24 So my understanding of the sentence is that
25 Petitioner is making the argument that you don't have a

1 voice channel until after the subscriber answers the
2 call, and I disagree with that. You do have a voice
3 channel. And before the subscriber answers the call, the
4 channel is still a voice channel. And I gave examples
5 earlier and in this section why it's still a voice
6 channel before a subscriber answers a call on a voice
7 channel.
8 Q. But my question is pretty simple. Does the
9 quote you included say that there is no voice channel
10 when a voice path is not connected?
11 MR. McCULLOUGH: Objection; asked and
12 answered.
13 THE WITNESS: I'm not sure if you're asking
14 me what this sentence means to me, or are you asking me,
15 do those specific words appear in the quote?
16 Q. (BY MR. HERR) So do those words appear in the
17 quote?
18 A. I think the quote is clear. And I have the
19 quote. I think the phrase that you're saying is not in
20 the quote.
21 Q. So which part of the quote supports your
22 conclusion that you put forth in Paragraph 48 today?
23 A. So I'm saying I disagree with this statement.
24 And I think I may have already answered your question,
25 what's the part that I disagree with, because you asked

1 me about a quote. The quote may not necessarily appear
2 verbatim in -- in the quote that I -- is from the
3 Petition. But I understood what the Petitioner is
4 saying, and a POSITA would understand what Petitioner is
5 saying that you have a data channel rather than a voice
6 channel because the voice path isn't connected yet.
7 And so I disagree that you have a data
8 channel rather than a voice channel because the voice
9 path isn't connected. The opinion that I have is, you
10 still have a voice channel. It's not a data channel.
11 And even though the voice path still is not connected yet
12 because the subscriber hasn't answered the call, that
13 channel is still a voice channel.
14 And I provide other support for it, but
15 that's the part of the quote that I disagree with or a
16 POSITA would also disagree with.
17 Q. Before a -- before a voice path is connected,
18 can you transmit an image through the voice channel from
19 the caller to callee?
20 A. I don't know the answer to that question based
21 on memory.
22 Q. But sitting here today, what is your opinion on
23 that question?
24 A. I don't know if I have an answer to your
25 question based on memory.

1 Q. Before a voice path is connected, can you
2 transmit a message through the voice channel from the
3 caller to the callee?
4 A. Your question is too vague, so it's hard to
5 answer yes or no. But I can give you an example,
6 Like, before a voice path is connected and
7 a subscriber answers the call, to the extent you're
8 transmitting, for example, caller ID information, that
9 would be an example of a message. I think I do have the
10 opinion that that is also transmitted over a voice
11 channel.
12 So, again, you know, I'm trying to answer
13 your questions, and this would be an example, where
14 caller ID -- traditional caller ID information is sent
15 over a voice channel before a caller answers a call.
16 Q. So can you provide -- please provide an
17 example, like you just did, before a voice path is
18 connected and where you use to -- that to transmit an
19 image through the voice channel from the caller to
20 callee?
21 A. I don't know if I -- I haven't rendered an
22 opinion on that here.
23 Q. Are you able to come up with any example on
24 that scenario?
25 A. No, that's outside the scope of my Declaration.

1 The example that I gave you related to caller ID is an
2 opinion that I have in my Declaration.
3 Q. So the only example you can come up with is to
4 transmit caller ID before the voice channel is connected,
5 correct?
6 A. No, I think also you're mischaracterizing what
7 I said. In my Declaration, I provide that example. To
8 the extent there are other examples in my Declaration, my
9 Declaration speaks for itself. But based on -- that's
10 one example that I recall is in my Declaration.
11 Q. But sitting here today, can you come up with an
12 example where an image is transmitted before a voice path
13 is connected through the voice channel from the caller to
14 the callee?
15 A. I don't provide any opinions in my Declaration
16 regarding an image. It's outside the scope of this
17 Declaration. And I don't have examples that I can give
18 you sitting here today.
19 Q. I'm not ask -- I'm not saying you have another
20 example in your Declaration, but I'm asking you for your
21 best testimony as an expert.
22 A. I think I already answered the question. I
23 said, not only is it not in my Declaration but I also do
24 not have an opinion on it sitting here today. And I --
25 and it falls outside the scope of my Declaration, and I

1 don't have opinions on it.
2 Q. So in Paragraph 48, last line, you say that "A
3 POSITA would understand a conventional call to be used"
4 -- sorry, strike that.
5 You stated that a -- you said that "A
6 POSITA would understand a conventional call to be using a
7 voice channel when ringing (i.e., before the 'voice path'
8 is connected, which only happens when the callee picks up
9 the phone)."
10 Correct?
11 A. Yes.
12 Q. In addition to the ringtones, what other
13 information may be transmitted using a voice channel when
14 ringing?
15 A. I don't have an answer to your question based
16 on memory.
17 Q. But I'm asking you, sitting here today, as a --
18 you know, as an expert providing the best testimony you
19 have, what is your answer to that?
20 A. I don't think it's something I've addressed in
21 my Declaration. It falls outside the scope.
22 Q. Dr. Akl, I'm entitled to your best testimony.
23 You cannot refuse to answer based on your personal view
24 that the question falls outside the scope.
25 A. One, that is not a question. Two, you're

1 providing commentary. Three, I disagree with your
2 characterization of my response. You can ask a question.
3 Q. Sure.
4 In addition to ringtones, what other
5 information may be transmitted using a voice channel when
6 ringing?
7 A. I've already answered your question. I don't
8 have opinions on that.
9 Q. You don't have opinions in your Declaration, or
10 just any opinions at all?
11 A. The opinions that I have here today relate to
12 the opinions that I have in my Declaration. And I don't
13 believe that is something I've addressed in my
14 Declaration. And because it's not something that I've
15 addressed in my Declaration, I don't have opinions on it
16 today.
17 Q. But the last line of the paragraph you -- this
18 is what you stated in your Declaration. You don't have
19 an opinion on that?
20 A. You're asking me something other than what's --
21 the last line in my Declaration states.
22 Q. So for forming that understanding, you don't
23 need to think about whether other information may be
24 transmitted using a voice channel when ringing?
25 A. No, I do not.

1 Q. And the only thing that you can think of is the
2 ringtone itself?
3 A. That's the example that I have in the last
4 sentence in Paragraph 48; that is correct.
5 Q. So is that the only thing that you can think
6 of that can be transmitted before the voice path is
7 connected?
8 A. That's the example that I gave in Paragraph 48.
9 Q. But I'm asking you, sitting here today, is that
10 the only thing that can be transmitted before the voice
11 path is connected?
12 A. I don't have opinions on that question.
13 Q. Okay. Can a caller ID be transmitted using a
14 data channel?
15 A. The question is too broad and too vague, and I
16 don't believe I have an opinion on it. The opinions that
17 I have related to caller ID refer to -- are limited to
18 Backhaus.
19 Q. Okay. So what part of the question is too
20 broad and too vague? I was asking, can a caller ID be
21 transmitted using a data channel?
22 A. So I don't have opinions on your question
23 because you're not giving enough context of the network
24 or -- again, it's -- it's too broad. I have provided
25 opinions related to caller ID in the context of Backhaus,

1 and I'm happy to go over those. Those are things that I
2 have discussed in my Declaration.
3 Q. So you will agree that there are
4 circumstances -- sorry. You will agree that there are
5 situations where a caller ID could be transmitted using a
6 data channel, correct?
7 A. No, you're mischaracterizing what I said. I
8 said I do not have an opinion on it because your question
9 is too broad and too vague.
10 Q. So you don't know whether it is possible to
11 transmit a caller ID using a data channel?
12 A. I don't have opinions on that other than -- the
13 opinions that I have related to caller ID relate to the
14 Backhaus reference when it refers to caller ID, and I'm
15 happy to discuss those opinions. Outside the context of
16 Backhaus and the opinions in my Declaration, I don't have
17 opinions related to caller ID beyond that context.
18 Q. But Backhaus is not the only reference that you
19 reviewed, right?
20 A. Backhaus is not the only reference that I
21 reviewed; that is correct.
22 Q. So what is your opinion as to whether a caller
23 ID can be transmitted using data channel?
24 A. I don't have opinions on caller ID outside
25 Backhaus.

1 Q. But Backhaus is not the only reference that you
2 reviewed, correct?
3 A. Yes, I -- so your question doesn't make sense.
4 It is correct that Backhaus is not the only reference
5 that I reviewed. But my opinions regarding caller ID are
6 limited to Backhaus.
7 So me reviewing other references was --
8 doesn't change the opinions that I have related to caller
9 ID, because the other references, I don't rely on them or
10 use them to form the opinions regarding caller ID that I
11 have in my Declaration.
12 Q. So when you form an opinion, do you base it on
13 a POSITA's knowledge?
14 A. The opinions that I have in my Declaration are
15 based on how a POSITA would understand certain terms, but
16 there is also context and -- that I use, as an expert, I
17 can put myself in the shoes of a person of ordinary skill
18 in the art and render the opinions that I have in my
19 Declaration.
20 Q. So as an expert or as a POSITA, can a caller ID
21 be transmitted using data channel?
22 A. You've now asked me that question multiple
23 times, and I have answered your question saying, I don't
24 have an opinion on that outside how I've addressed it
25 specifically in the context of Backhaus.

1 Q. When making a voice over IP call, is the caller
2 ID in the voice over IP call transmitted over IP?
3 A. I don't discuss voice over IP in my
4 Declaration. I don't have opinions on it here today.
5 Q. So you don't have any opinion as to voice over
6 IP in your Declarations?
7 A. That is correct.
8 Q. Okay. So you don't have an opinion as to that
9 question, sitting here today?
10 A. That is correct.
11 Q. So it is not something that you have any
12 knowledge from the courses that you have taught?
13 A. I would disagree with that characterization. I
14 am here to answer questions regarding my Declaration.
15 You are going beyond the scope of my Declaration. You
16 are, in my opinion, trying to get sounds on the record
17 that would relate to the litigation. Voice over IP is an
18 issue in the litigation, it's not an issue related to the
19 IPR, and I don't have opinions on it today.
20 Q. I disagree, but you said that you taught
21 courses relating to voice over IP or PSTN. We're just
22 trying to understand your qualification and your
23 understanding of those materials. Right? So, is the
24 caller ID over a voice over IP call transmitted over a
25 data channel?

1 MR. McCULLOUGH: Objection; asked and
2 answered.
3 THE WITNESS: I don't have a response to
4 your question. It falls outside of my Declaration. I
5 have not rendered opinions in my Declaration on voice
6 over IP.
7 Q. (BY MR. HERR) Take a sip of water.
8 A. Okay.
9 Q. And just to confirm, we're still on the 358
10 Declaration?
11 A. We are, the one that relates -- yes, the one
12 that relates to the '094 patent.
13 Q. Okay. Dr. Akl, do you have any knowledge that
14 would allow you to answer my question but-for you --
15 but-for your belief that you may refuse to answer it?
16 A. I don't understand the question.
17 Q. So do you have any knowledge that you -- that
18 would allow you to answer my question relating to voice
19 over IP?
20 A. Sitting here today, I don't know the answer to
21 your question.
22 Q. Even on a topic that you have taught over and
23 over again in your courses, that you cannot answer any
24 questions relating to voice over IP?
25 A. You're asking me something very specific

1 related to voice over IP. I don't have an answer to your
2 question. It falls outside the scope of my Declaration.
3 It relates to the litigation that is ongoing that I'm not
4 involved in. And it is outside the scope.
5 Q. So it's in the patents relating to the
6 litigation as a whole, and you cannot answer any
7 questions -- I guess you cannot really answer any
8 question relating to the patents? Because the patents
9 are relating to the Declaration -- sorry -- litigation.
10 MR. McCULLOUGH: Objection; argumentative.
11 THE WITNESS: You are asking me a question
12 that falls outside the scope of my Declaration. My
13 Declaration is providing rebuttal opinions to the
14 Petition and Petitioner's expert. I will answer
15 questions related to my Declaration. I will not answer
16 questions that fall outside the scope of my Declaration.
17 Q. (BY MR. HERR) I understand that your belief
18 that my question falls outside the scope of your
19 Declaration, but I'm still entitled to your best answer,
20 if you have one.
21 MR. McCULLOUGH: Objection; argumentative,
22 asked and answered.
23 THE WITNESS: I don't have an answer to
24 your question.
25 Q. (BY MR. HERR) So other than a data channel and

1 a voice channel, is there a third type of channel?
2 A. I don't have an answer to that question.
3 Q. So sitting here today, you don't have answer to
4 that question?
5 A. Correct. That's not something I provide
6 opinions on.
7 Q. So all of your opinions in these -- relating to
8 these Declarations, you -- your opinions are based on
9 either data or voice channel because you didn't think
10 about another type of channel when you considered
11 providing the opinions?
12 MR. McCULLOUGH: Objection; vague,
13 compound, argumentative.
14 THE WITNESS: The rebuttal opinions that I
15 provide in my Declaration relate to a voice channel or a
16 data channel.
17 Q. (BY MR. HERR) So you did not consider a third
18 type of channel?
19 A. I did not need to for the opinions -- for the
20 rebuttal opinions that I have in my Declaration.
21 Q. So let's go to Paragraph 59 of your
22 Declaration.
23 A. I am there.
24 Q. Okay. Can you read the first sentence to
25 yourself.

1 A. Yes, I have.
2 Q. Thank you.
3 So where you say "'calling party field of
4 the call' is delivered as part 'of the call,'" did you
5 mean that a call transmitted through the data channel?
6 A. No. I mean, it is transmitted on the same
7 voice channel as the call itself.
8 Q. So you're saying that the call is transmitted
9 through a voice channel?
10 A. Yes.
11 Q. So your understanding of a call or the call in
12 Backhaus necessarily mean a voice channel?
13 Sorry, strike that.
14 So your understanding of a call or the call
15 in Backhaus necessarily means a voice call?
16 A. In the context of the sentence in Paragraph 59.
17 Q. But how about in the context of the Backhaus as
18 a whole?
19 A. We would need to go and look at specific
20 examples. I -- it's -- your question would be too broad
21 to be able to answer as asked.
22 Q. Can a call include any data transmission other
23 than the calling party field?
24 A. We would need to look at something more
25 specific. I can't answer your question in a vacuum like

1 that.
2 Q. Can the call include any video transmission?
3 A. I have not rendered any opinions on video
4 transmission in my Declaration so I don't have an answer
5 to your question.
6 Q. So also on Paragraph 59, I think it's start --
7 it's the second line. You stated, "A POSITA would
8 understand this," which you appears to -- which you
9 appear to refer to the calling party field of the call,
10 "in Backhaus to be referring to conventional caller ID."
11 Correct?
12 A. Yes, I see those words.
13 Q. Okay. So what is the basis of such a -- such
14 an understanding, that Backhaus's calling party field of
15 the call refers to conventional caller ID?
16 A. I am citing Paragraph 55.
17 Q. So based on Paragraph 55, you're saying that
18 the calling party field of the call is a conventional
19 caller ID?
20 A. My Paragraph 59 is citing to Paragraph 55 of
21 Backhaus.
22 Q. So what is the function of a conventional
23 caller ID?
24 A. If we're going to be going into that reference,
25 I'm going to ask to open Exhibit 1005.

1 Do I have your permission?
2 Q. Yes, please.
3 A. So I am at Paragraph 55 of Backhaus, which is
4 Exhibit 1005, and the first sentence states, "The calling
5 party field of the call placed from SLS platform 115 to
6 subscriber TD 110 may contain a specially encoded message
7 for the SLS phone app running on SLS module."
8 And then it goes on, "In some embodiments
9 the calling party field may contain the relationship
10 number established by the SLS platform" -- and it gives
11 you an example of a phone number -- "and the actual
12 primary number of the calling third party," and it gives
13 another example of a phone number. And it goes on to
14 describe additional embodiments.
15 Q. Okay. So does that paragraph say anything
16 about a conventional caller ID?
17 A. Caller ID is described in the Background in
18 Paragraph 6 and Paragraph 35 earlier in the reference.
19 Q. But which you didn't cite in your Declaration
20 in Paragraph 59, correct?
21 A. I cite to Paragraph 55.
22 Q. Okay. And Paragraph 55 does not mention
23 "conventional caller ID," correct?
24 A. Those words are not part of the quote of the
25 paragraph; that is correct.

1 Q. So what part of Paragraph 55 supports your
2 opinion that "A POSITA would understand" this, which
3 you -- appears to refer to "a calling party field of the
4 call" in Backhaus which appears to be "referring to
5 conventional caller ID"?
6 A. The placement of caller ID information, which
7 is described in Paragraph 55, is what I use for the
8 opinions in my Paragraph 59.
9 Q. What do you mean by "placement of caller ID
10 information"?
11 A. As we were reading Paragraph 55, Paragraph 55
12 is describing replacing caller ID with a relationship
13 number.
14 Q. Does Paragraph 55 use the term "caller ID"?
15 Can you point out -- can you point that out to me,
16 please?
17 A. Like I said, the words "caller ID" aren't
18 there, but the number -- there are examples of a phone
19 number, like a relationship number or a primary number of
20 the calling third party.
21 Q. So you're saying that a conventional caller ID
22 includes a relationship number?
23 A. No, you're mischaracterizing what I'm saying.
24 Q. So where does "conventional caller ID" appear
25 in this paragraph?

1 A. You've asked me that question now multiple
2 times, and I've answered that Paragraph 55 does not use
3 the words "conventional caller ID. " "Caller ID" is
4 mentioned earlier in the Backhaus reference. This
5 paragraph is describing, instead of having a caller ID,
6 is describing using a relationship number, and including
7 that.
8 Q. So does this paragraph describe caller ID at
9 all?
10 A. This paragraph describes having caller ID
11 information, yes, where a relationship number is
12 transmitted in the calling party field or a primary
13 number of the calling third party.
14 Q. So you're regarding the term "calling party
15 field" to be equivalent as a "conventional caller ID"?
16 A. No. Again, you're mischaracterizing what I
17 state.
18 THE REPORTER: Can we take a pause?
19 MR. HERR: Sure.
20 (Lunch recess taken.)
21 Q. (BY MR. HERR) So let's go back on the record.
22 So let's go back to Paragraph 59 of the 358
23 IPR or the '094 patent Declaration.
24 A. I'm there.
25 Q. Okay. So the second line states that "A POSITA

1 would understand this teaching in Backhaus" -- which you
2 refer to the 'calling party field of the call" in
3 Backhaus -- "to be referring to conventional caller ID."
4 Correct?
5 A. Yes, in part.
6 Q. So what is the basis of your understanding that
7 Backhaus "calling party field of the call" refers to the
8 call -- conventional caller ID?
9 A. So going to Paragraph 55 of Exhibit 1005,
10 Paragraph 55 refers to sending a relationship number as a
11 form of caller ID.
12 Q. Does Paragraph 55 use the phrase "caller ID"?
13 A. No. The word "caller ID" appear earlier in the
14 reference, but they do not appear in Paragraph 55.
15 Q. Let's go to Paragraph 60. So the second
16 sentence in that paragraph.
17 "A POSITA would understand that" a --
18 "caller ID is delivered over the same channel as the call
19 itself, either over the PSTN" or the -- "or some wireless
20 protocol such as CDMA, GMS, LTE, 3G, or 4G?"
21 Correct?
22 A. Yes.
23 Q. Does this understanding that caller ID is
24 delivered over the same channel as the call itself apply
25 to all types of calls at the time of the alleged

1 invention?
2 A. I only reference PSTN and cellular protocols
3 that are 2G and 3G and 4G.
4 Q. Can you use an IP channel to make a call?
5 A. I don't understand the question.
6 Q. Can you make a call over an IP channel?
7 A. I -- I don't know the answer to that question.
8 I don't discuss an IP channel in my Declaration.
9 Q. So sitting here today, with your background and
10 qualification, you -- you cannot say that whether an IP
11 channel can be used to make a call or not?
12 MR. McCULLOUGH: Objection; relevance,
13 outside the scope.
14 THE WITNESS: Yeah, I'm -- I'm not -- I
15 don't have opinions on IP channel sitting here today.
16 Q. (BY MR. HERR) Can you use IP protocol to make
17 a call?
18 A. I don't have opinions on IP protocols outside
19 the scope of my Declaration sitting here today.
20 Q. Can you use a data channel to make a call?
21 A. I don't believe I render opinions on using a
22 data channel to make a call. I think my opinions in this
23 Declaration relate to using a voice channel to make a
24 call. And you can use the data channel to send data,
25 like a notification over the Internet, for example.

1 That's -- that's my understanding of the opinions at a
2 high level.
3 Q. Can a data channel be used as part of the call?
4 A. I'm not sure what you mean, "the call," --
5 Q. It --
6 A. -- so --
7 Q. Okay.
8 A. -- your question is vague.
9 Q. Can you use a data channel as a part of the
10 call -- sorry -- as part of a call?
11 A. Again, your -- your question is vague. I don't
12 understand the context. I know, like with regard to some
13 of the limitations, there is a -- there is a data channel
14 in some claim language which is separate from the voice
15 channel which is handling a voice call.
16 So again, I'm not understanding exactly
17 what you're asking me.
18 Q. So when using a data channel, does the usage of
19 the data channel can be -- has to be during the call or
20 before the call?
21 A. I don't think I've rendered opinion on -- on a
22 temporal relationship between them.
23 Q. So you did not render any opinion as to the
24 temporal relationship between the data channel and the
25 voice channel?

1 A. Well, not in the paragraph we're looking at
2 today, I mean right now. I know, in other sections of
3 my -- I do provide opinions relating to call information,
4 and I recall there is a temporal relationship where
5 you're referencing call information. I'm not sure if
6 it's in this Declaration or in another Declaration.
7 But the paragraphs we're looking at now
8 does not have that requirement. And it might be in a
9 different Declaration where we have the temporal
10 relationship as it relates to setting up a call or call
11 information would be relevant; but I don't think it's in
12 this one.
13 Q. So you're saying there's a temporal
14 relationship between a data channel and voice channel?
15 A. No, you're mischaracterizing what I said.
16 There are some claim limitations that require a temporal
17 relationship, but I'm not -- but I'm not answering -- I
18 would need more context to be able to answer whether
19 those limitations relate to your question or not. So I
20 can't answer your question in a vacuum.
21 Q. Okay. Let's -- do you have Exhibit 1005, which
22 is Backhaus, in front of you?
23 A. Yes.
24 Q. Okay. Can you please go to Paragraph 70 of
25 Backhaus, seven zero.

1 A. Yes, I'm there.
2 Q. Sorry. It's actually Paragraph 71.
3 A. Okay, I'm there.
4 Q. So about halfway through that paragraph, there
5 is a sentence starting with a "Block 446."
6 Do you see that?
7 A. There are multiple "Block 446" in the middle.
8 Q. Okay. So the one starting with "At Block 446."
9 A. Yes.
10 Q. Okay. And can you read that sentence to
11 yourself.
12 A. Yes.
13 Q. And then it goes on to state that, which is the
14 next sentence, "The SLS module 105 has provided the
15 request for" a new relation -- sorry -- "the new
16 relationship number, along with" a -- or "the third party
17 number it desires to call, to the SLS platform 115 via
18 the communication."s
19 Correct?
20 A. Yes, I see those words.
21 Q. So it basically says that this request of a new
22 relationship number is for a subscriber to use the SLS
23 service to call a third party, correct?
24 A. Can you repeat your question, please?
25 Q. Sure.

1 So it says basically that this request of a
2 new relationship number is for the subscriber to use the
3 SLS service to call a third party?
4 A. I mean, you're rephrasing. I'm not sure if
5 your rephrasing of -- is correct or not. I don't have an
6 opinion on your rephrasing.
7 Q. Which part you don't understand?
8 A. I don't -- I don't have an opinion on your
9 rephrasing.
10 Q. So --
11 A. You're changing words. You're using words that
12 don't appear here. And I don't have an opinion on it.
13 Q. So did you see the phrase "along with the third
14 party number it desires to call"; did you see that?
15 A. Yes, I see those words.
16 Q. So does a subscriber call a third party?
17 A. I believe so.
18 Q. Okay. So the next paragraph, Paragraph 72, in
19 Backhaus, the first sentence, can you please read that to
20 yourself.
21 A. Okay.
22 Q. So this Paragraph 72 of Backhaus discussed
23 transmission of a relationship number between SLS module
24 105 over the phone and the SLS platform 115.
25 A. It says, "SLS module 105 may communicate with

1 the SLS platform 115 in some embodiments to obtain a
2 relationship number."
3 Q. And that transmission is between SLS module 105
4 and the SLS platform 115, correct?
5 A. There is communication between SLS module 105
6 and SLS platform 115.
7 Q. And is the relationship number part of that
8 transmission?
9 A. There is communication between SLS module 105
10 with SLS platform 115 to obtain a relationship number.
11 Q. So in the last line of that sentence you read,
12 it talks about USSD protocol, right?
13 A. Yes.
14 Q. Is that protocol a data channel?
15 A. I don't have opinions on that.
16 Q. Did you review Backhaus?
17 A. Yes.
18 Q. And is data channel a part of the claim
19 limitation?
20 A. Well, we have to go back and look at which
21 limitation you're referring to; otherwise, it's -- your
22 question is vague.
23 Q. So sitting here today, you cannot tell me
24 whether the USSD protocol is a data channel or not?
25 A. I do not discuss USSD protocol in my

1 Declaration and don't have opinions on it.
2 Q. So what does "USSD" stand for?
3 A. Unstructured supplementary services data.
4 Q. And what is your understanding of the USSD
5 protocol?
6 A. I don't have opinions on it.
7 Q. So you read Backhaus and this paragraph, and
8 you don't have any understanding or opinion about that
9 protocol?
10 A. I don't have opinions on -- I did not rely on
11 this sentence in rendering my rebuttal opinions. I don't
12 recall if Petitioner relied on this sentence for their
13 opinions. But I did not rely on this sentence for the
14 opinions that I have in my Declaration.
15 Q. Let's go back to your '094 patent Declaration,
16 which is Exhibit 210.
17 A. Okay.
18 Q. Sorry, 2010. I keep saying the same thing.
19 Could you please go to Paragraph 72 of the
20 Declaration.
21 A. Okay, I'm there.
22 Q. So starting from the second sentence of that
23 paragraph, it starts with "A POSITA would not
24 understand," can you please read that sentence to
25 yourself.

1 A. I have.
2 Q. So you say -- you stated in that paragraph,
3 "All a POSITA would understand from this paragraph is
4 that some communications between the handset and SLS
5 platform involve a data protocol. It could be other
6 information besides the relationship number that is
7 transmitted by IP ..."
8 Correct?
9 A. Yes.
10 Q. So you agree that the handset and the SLS
11 platform is able to communicate by an IP channel?
12 A. I do not mention "IP channel" in this
13 paragraph.
14 Q. So do you agree that the handset and the SLS
15 platform is able to communicate by a data channel?
16 A. I don't mention "data channel" in this
17 paragraph.
18 Q. So sitting here today, are you able to tell me
19 whether between the handset and the SLS platform is able
20 to communicate by a data channel?
21 A. I don't render any opinions in this paragraph
22 regarding data channel. I -- the opinions here are
23 regarding the data protocols that are used for some
24 communication between the SLS module and the SLS
25 platform.

1 Q. You said that you do not mention an "IP
2 channel" in this paragraph. Is communication by IP
3 different than communication by an IP channel?
4 A. I don't know. I have not rendered an opinion
5 on that.
6 Q. So do you agree that the handset and the SLS
7 platform is able to communicate by IP?
8 A. There could be IP communication, yes.
9 Q. But you're just not sure whether IP is used to
10 transmit the relationship number, correct?
11 A. I state other information besides the
12 relationship number is transmitted by IP, and I give
13 examples like account setup or login credentials, like a
14 user name and password.
15 Q. So where do those examples come from?
16 A. Can you repeat your question, please?
17 Q. So you said that you provide examples, right,
18 that IP could be used for user "account setup, any login
19 credentials, and/or initial registration" of a second SLS
20 number -- sorry -- "for a secondary SLS number."
21 So where did you find those examples?
22 A. Those are examples of common account setup
23 procedures.
24 Q. Are they in Backhaus; are they mentioned in
25 Backhaus?

1 A. I don't recall.
2 Q. Did you cite to any paragraph of Backhaus when
3 you mentioned these examples?
4 A. I cite to Paragraph 73 earlier in this
5 paragraph, but I do not provide a citation after the
6 examples related to account setup.
7 Q. Do you have any basis from Backhaus itself to
8 say that the relationship number in Backhaus is not
9 transmitted by IP?
10 A. I don't think Backhaus says that relationship
11 number is transmitted by IP. That's the point that I'm
12 making here. There could be other information that is
13 transmitted by IP that is not a relationship number.
14 Q. Let me find the next exhibit for you.
15 So can you -- do you have Exhibit 1001 for
16 the '094 patent, which is the '094 patent itself?
17 A. Yes, I have the patent in front of me.
18 Q. Can you please go to Column 1, Line 24, of the
19 patent.
20 A. I am there.
21 Q. Okay. And right above it, it says -- this is a
22 section under the "Field of Invention," correct?
23 A. Yes.
24 Q. So the Field of Invention essentially states
25 that "The present invention relates to systems and

1 methods for setting up and connecting telephone calls,
2 and delivering information related to such telephone
3 calls using ... data channel while delivering the voice
4 portion of the call in accordance with ... voice channel
5 delivery standards."
6 Correct?
7 A. Well, you skipped some words, but yes.
8 Q. Okay. So what is the benefit of using separate
9 data channel such as IP and voice channel such as PSTN
10 for processes for phone call?
11 A. I don't have opinions on that.
12 Q. So there's no -- like you cannot provide any
13 opinion as to the benefits of using separate voice
14 channel and data channel today?
15 MR. McCULLOUGH: Objection; relevance,
16 scope.
17 THE WITNESS: I did not provide such
18 opinions or needed to in my Declaration in providing the
19 rebuttal opinions that I have.
20 Q. (BY MR. HERR) Do you believe that data channel
21 and IP and voice channel are within the scope of
22 today's -- of these IPRs?
23 A. I can answer questions to the extent they are
24 in my Declaration and I have opinions on them. And if
25 I -- if it's something that's outside the scope of my

1 Declaration and I have not formed an opinion on it, then
2 that is going to be my response.
3 Q. Do you agree that using a data
4 channel -- scratch that.
5 Do you agree that using IP to transmit data
6 is well known around '23 -- sorry -- around 2013 or so?
7 A. Using IP to transmit data was known before
8 2013? Yes.
9 Q. Do you agree that using PSTN to make voice
10 calls is well known around 2013 or so?
11 A. Yes. The public switch telephone network
12 existed before 2013.
13 Q. And the protocols relating to how to connect to
14 an IP network and the PSTN were well known and well
15 established, correct?
16 A. Your question is vague. In their own systems,
17 IP protocols were known; PSTN protocols were known.
18 Q. Does the '094 patent say anything about not
19 using a conventional IP network or a conventional PSTN?
20 A. I don't think that's something I address in my
21 Declaration, so I don't have an answer for you.
22 Q. Did you read the '094 patent itself?
23 A. Yes. But I have not committed it to memory.
24 Q. Okay. Does the '094 patent say anything about
25 modifying the structure of the PSTN?

1 A. Again, I provide an overview of the patent in
2 my Declaration, and I'm happy to walk you through my
3 overview; but I cannot answer such a broad question from
4 memory.
5 Q. Well, my question is pretty specific, right?
6 That the -- does the patent itself say anything about
7 modifying the structure of PSTN?
8 MR. McCULLOUGH: Objection; asked and
9 answered, outside the scope.
10 THE WITNESS: In Section 6 of my
11 Declaration, starting Paragraphs 33 through Paragraph 39,
12 I provide an overview of the '094 patent. I don't know
13 if I specifically address your question or have an
14 opinion on your question in this section.
15 Q. (BY MR. HERR) Can you please go to the '094
16 patent, which is Exhibit 1001.
17 A. I'm there.
18 Q. Can you go to Column 6, Line 46.
19 A. I am there.
20 Q. The very last two words, it starts with, "The
21 pre-call information may include information used by the
22 application installed on the handset 340 to cause a
23 display of the calling telephone number."
24 Correct?
25 A. Yes, I see those words.

1 Q. And can you please read the next sentence to
2 yourself, which starts Line 52 and ends in 53.
3 A. I have.
4 Q. Okay. Do you agree that pre-call information
5 may be received at the handset before or during the call
6 ringing on the handset?
7 A. Your question is somewhat loaded because there
8 are limitations, maybe not in this patent, that deal with
9 that, but you're asking me about the spec. So in the
10 spec, in Lines 52 to 53, the specification says, "The
11 incoming pre-call information may be received at the
12 handset 340 before or during the call ringing on the
13 handset."
14 I know in my Declarations I have opinions
15 when those words appear as part of the claim language, so
16 I want to make sure that my response relates specifically
17 to the two lines in the spec and not the opinions in my
18 Declaration as they relate to claim language.
19 Q. So are those opinions -- are those opinions
20 consistent with what you just read?
21 A. Well, we can go to the Declaration where I
22 address claim language, and we can discuss them there.
23 Q. Do you think your opinions should be consistent
24 with the specification of the patent itself?
25 A. It's too broad of a question, because claims

1 may read on some embodiments but not all embodiments. So
2 it's difficult to answer your question in a vacuum.
3 My understanding are claims are understood
4 by a person of ordinary skill in the art in light of
5 the specification, but the specification may include
6 different embodiments, and not every claim might read on
7 every embodiment. So it's hard to answer your question
8 as a generalization like that.
9 Q. So you agree that embodiments of the
10 specifications may be just examples, correct?
11 A. I have an understanding that embodiments are
12 examples, but that if -- to the extent that's a legal
13 question, I don't have a response.
14 Q. All right. Let's go back to the '094 patent
15 Declaration.
16 A. I'm there.
17 Q. All right. So about halfway through, I
18 think -- let's see -- third sentence, it starts with,
19 "But a given endpoint" --
20 A. I'm sorry, where are we?
21 Q. Oh, sorry. Yeah, the '094 Declaration,
22 Paragraph 93.
23 A. I was missing the paragraph number. Thank you.
24 Q. Okay. And the third sentence roughly, starting
25 with, "But a given endpoint."

1 Okay. Read that sentence to yourself,
2 including the next one starting with, "For example."
3 A. I have.
4 Q. So in that sentence starting with "For
5 example," it reads, "For example, with a conventional
6 cell phone, the switch that is local for one call may not
7 be used for a later call if the user has changed
8 locations between the two calls."
9 Correct?
10 A. Yes.
11 Q. Which local switch are you referring to?
12 A. The switch that the cell phone is going to
13 connect to after it connects to the base station.
14 Q. So you're saying there is a local switch --
15 that's a switch local to the cell phone?
16 A. It's a switch local to the base station that
17 the phone is connecting to, yes.
18 Q. That is not the one that's connected and local
19 to the SLS platform server, correct?
20 A. I don't understand the question.
21 Q. I'll rephrase again.
22 Is that the switch that is connected and
23 local to the SLS platform server?
24 A. I don't mention "SLS" here, so I'm confused to
25 the context of your question.

1 Q. Do you know what the "SLS platform server" is,
2 which you mentioned in Paragraph 90 of your Declaration?
3 A. SLS is second lines service.
4 Q. And is that SLS platform server connected to a
5 local switch?
6 A. It depends. There could be more than one
7 server. In 93, I say it's not uncommon for -- to have
8 multiple servers or multiple locations. You can do that
9 both for redundancy and for backup and for load
10 balancing. And so that is a sentence that I have in
11 Paragraph 93.
12 Q. So if you only have one SLS server, or only one
13 SLS platform server, is it connected to one local switch?
14 A. Again, not necessarily. Because there might be
15 more than one switch in its vicinity. So depending on
16 where -- where the communication is going to go, there
17 could be more than one switch, even if you have a single
18 server. It's going to pick. It's kind of like, you
19 know, you're on a highway, you want to go right or left,
20 there is -- there may be more than one switch that is
21 within the vicinity that it would choose.
22 Q. There may or may not be multiple switches in
23 the vicinity of this server, but how many switches is the
24 server connected to?
25 A. It would depend on the communication that would

1 depend on which switch -- which ports, which switch that
2 server is going to communicate with.
3 Q. And what is your basis of that opinion?
4 A. That's how -- that's how switches work. You
5 have switches. The higher the load in an area, the more
6 you increase the number of switches so that you -- your
7 network isn't throttled and you have good throughput.
8 That's part of network design.
9 Q. Did you cite to any reference to support your
10 opinion on that?
11 A. No. This is common in the courses that I teach
12 my students at the undergraduate level. So this is known
13 to a person of ordinary skill in the art.
14 Q. So you taught your student that there are
15 multiple local switches that a server can connect to in a
16 PSTN?
17 A. No. I mean, I don't remember specifically
18 those words. I am saying, in network design, we discuss
19 load balancing, we discuss the concepts of load
20 balancing. We discuss the concepts of redundancy.
21 Those concepts -- of load balancing, of
22 redundancy -- are known to a POSITA because those
23 concepts are taught in undergraduate-level and graduate-
24 level courses related to networking.
25 Q. But when you're only using one server, how many

1 local switches -- or how many local switch is the server
2 connected to for -- when using one server?
3 A. I think you've asked me that, and I said it
4 might be connected to one at a time, but at different
5 points in time, it may connect to different servers if it
6 has multiple connections. It may even connect to
7 multiple servers to -- sorry -- multiple switches to
8 support multiple simultaneous connections.
9 So your question is vague because you're
10 not providing me enough information on its load or the
11 number of simultaneous connections. But a single
12 connection at one point in time will come out of the
13 server to one switch, but another point in time, it might
14 be -- that same connection might go to a different
15 switch, and for different connections you might go to
16 different switches.
17 Q. So how do you define that "point in time"; how
18 long is that period?
19 A. There is no def- -- there is no one answer for
20 that, because things, switches -- routing protocols
21 modify the path. They can pick different switches. They
22 can select different switches on different path at
23 different points in time. That's really outside the
24 scope of how that's done.
25 But that is understood in terms of how

1 routing takes place and how different switches are
2 picked. That's part of load balancing in terms of
3 picking different switches and different routers to route
4 even the same call, depending on the quality of service,
5 on the latency, on the throughput, on the load of
6 different hops.
7 Q. So in Paragraph 93, you said, "For server-based
8 systems, if the server software is running at multiple
9 physical locations (as is commonly done to balance
10 loads), the switch used by the software in one instance
11 might not" the same as -- might not "be the same as the
12 switch used in another instance."
13 Correct?
14 A. Yes.
15 Q. So when you say "the switch used by the
16 software in one instance might not be the same as the
17 switch used in another instance," did you mean that the
18 switch used by the software in one call might not be the
19 same as the switch used in another call?
20 A. No, I'm not necessarily defining time to a
21 call.
22 Q. So --
23 A. It could be shorter than the length of the
24 call.
25 Q. So you're saying during one call, the location

1 of a local switch in a server can change?
2 A. No, I -- I'm not saying the location can
3 change. I'm saying the connection might switch to a
4 different switch.
5 Q. So during one call, the location -- sorry, the
6 local switch -- one switch can -- I'm sorry, let me
7 rephrase.
8 So during one call, you can have multiple
9 local switches that is connected to that call?
10 A. At different points in time in that call, yes.
11 You could -- the connection may go over different
12 switches at different points in time that are still
13 local.
14 Q. Does Backhaus disclose that?
15 A. I don't think the reference -- I don't think
16 Backhaus discloses switches at all, and I -- I don't
17 think there is a discussion of switches in the reference.
18 Q. Does Backhaus disclose PSTN?
19 A. Yes. The -- Backhaus has in two claims and in
20 the specification. There is two hits in the claims and
21 two hits in the specification.
22 Q. So does Backhaus disclose the switch?
23 A. Not directly.
24 Q. So did you mean inherently disclose the switch?
25 A. No, because inherently is -- has specific

1 understandings, and legally you have to do things -- my
2 understanding of legal principles, when you say something
3 is inherent, it means you can only do it in a specific
4 way; and so I would disagree with that.
5 Q. So is it your opinion that a PSTN can be
6 implemented without a switch?
7 A. No, I don't think the issue here is whether
8 there's a switch or not. I think the issue, as it
9 relates to the claim language, whether it's the same
10 switch. So the dispute is not the presence or absence of
11 a switch, but the dispute is whether it's the same
12 switch.
13 So I'm not disputing that switches were
14 known, but I am disputing the inherent -- inherency
15 argument made by Petitioner that it needs to be the same
16 switch.
17 Q. That's not my question.
18 So you do not dispute that Backhaus
19 discloses a switch, correct?
20 A. I don't provide an opinion that it discloses a
21 switch, but I do agree that public switch telephone
22 networks include switches.
23 Q. So all other opinions you have are based on
24 your non-opinion as to whether there is a switch or not
25 in PSTN, correct?

1 A. I don't understand the question.
2 Q. So all of your opinions are based upon --
3 scratch that.
4 Is it your opinion that load balancing is
5 something that has to be mandatory?
6 A. No, I don't provide an opinion that load
7 balancing is mandatory. It is common to do load
8 balancing.
9 Q. Can you please go to -- are you still on
10 Paragraph 94 of your Declaration?
11 A. Well, I was in 93, but we can go --
12 Q. Okay.
13 A. Where would you like to go?
14 Q. 94, please.
15 A. I'm there.
16 Q. So there in the sentence bridging Pages 39 to
17 40, you stated, "A POSITA would understand that Taylor is
18 simply describing conventional telephony in which
19 multiple switches" are being used -- or, sorry -- "can be
20 used."
21 Correct?
22 A. Yes.
23 Q. So do you agree that the PSTN shown in Figure 1
24 of Taylor is how a conventional PSTN would look like?
25 A. That might be too broad. I'm just agreeing

1 that a conventional PSTN network, as shown in Taylor,
2 includes multiple switches, which I think are highlighted
3 and shown in one of the figures, Figure 1A, which is
4 prior art, in Taylor.
5 Q. Do you agree that Server 50 in that Figure 1 is
6 connected to a Single Switch 12?
7 A. I agree that at one point in a snapshot it
8 shows a connection between 50 and 12, but a -- a specific
9 instance.
10 Q. Could you please go to Paragraph 101 of your
11 Declaration, same Declaration.
12 A. Okay, I'm there.
13 MR. McCULLOUGH: What paragraph? Sorry.
14 THE WITNESS: 101.
15 MR. McCULLOUGH: Thank you.
16 (Brief interruption.)
17 Q. (BY MR. HERR) What was that?
18 A. It was my watch. I accidentally pressed the --
19 Q. Okay.
20 A. -- crown.
21 Q. Can you please read the first line to yourself,
22 which would end at the cite to 1005, citing to
23 Paragraph 32 and 136.
24 A. I read the sentence. You want me to also read
25 the citations; is that what you're asking?

1 Q. No, no, it's okay. Just the sentence itself.
2 So based on this line you just read, are
3 you saying that an interface is needed between Backhaus's
4 SLS platform and the PSTN to place or receive a call?
5 A. Can you repeat the question, please?
6 Q. Sure.
7 Are you saying that based on -- are you
8 saying that an interface is needed between Backhaus's SLS
9 platform and the PSTN in order to place or receive a
10 call?
11 A. Can you be more specific in your question?
12 Because "call" can mean a call -- there's different calls
13 that are described. Is it a call that requires the use
14 of the SLS to the public switch telephone network? Then,
15 in that case, yes.
16 Q. So you say there is a requirement to implement
17 an interface between the SLS server and the PSTN in order
18 to place or receive a call?
19 A. I'm not sure if I expressly phrased it that way
20 or I would characterize it that way, but you do need to
21 have -- similar to Logan, which is prior art, regarding
22 Figure 1A, and it talks about how you can have a PSTN
23 interface and how you have a network interface, those
24 interfaces would need to exist also in Backhaus. That's
25 the point that I'm making here.

1 They're explicitly shown in Logan. I don't
2 necessarily think they're shown in Backhaus, but they
3 would be there. That's the point.
4 Q. So when you say "Logan," it's actually Taylor,
5 right?
6 A. Oh, yes, I misspoke.
7 So I am referring to Taylor Figure 1A,
8 which is prior art.
9 Q. So did you provide a construction for the
10 claimed switch in any of the IPRs at issue today?
11 A. I don't think so.
12 Q. What is the meaning of the claimed switch?
13 A. I have not provided a construction. We just
14 established that.
15 Q. Okay. So what is the meaning of this switch to
16 you, sitting here today, as it was --
17 A. It would have plain and ordinary meaning as
18 understood by a person of ordinary skill in the art when
19 reading the claims in light of the specification.
20 Q. And what is that meaning for -- relevant to
21 switch?
22 A. I have not articulated a definition. I don't
23 have one for you.
24 Q. So you did not have any understanding of what
25 the plain and ordinary meaning of a switch is in mind

1 when you analyzed the claims?
2 A. No, you're mischaracterizing what I said. I
3 can have an understanding of the plain and ordinary
4 meaning without articulating a definition and doing claim
5 construction.
6 Q. So what is that meaning that you just
7 mentioned, the plain and ordinary meaning?
8 A. Well, if I articulate a definition, I would be
9 doing claim construction, which is not something that I
10 take lightly. So I can do an analysis without
11 articulating a definition of the plain and ordinary
12 meaning.
13 Q. So can you give me an example of a switch?
14 A. Yeah, I can give you an example of a switch. A
15 switch would be maybe a combination of hardware and
16 software or hardware or software that's going to, you
17 know, take an input and provide an output. But that
18 would be an example. But I have not articulated a
19 definition.
20 Q. Can you -- do you have Exhibit 1009 with you?
21 A. Exhibit?
22 Q. 1009. If not, I have a copy.
23 A. I do not.
24 Q. So I'm handing you Exhibit 1009. And can you
25 please go to Page 22. Page 22. It's labeled at the

1 bottom left.
2 A. Okay.
3 Q. And there's a sentence at the top paragraph --
4 the ending paragraph, the very last line of that
5 paragraph, it reads, "In other words, the claims describe
6 the switch in the same way as the extrinsic evidence and
7 the specification: as an element in the communications
8 networks that facilitates connections between
9 transmitters and receivers."
10 Do you see that?
11 A. I see those words.
12 Q. So do you agree that statement that I just
13 read?
14 A. I don't have an opinion on it.
15 Q. Okay. You did review this exhibit, right?
16 A. I don't remember.
17 Q. Okay.
18 A. The exhibit is "Plaintiff Flypsi Responsive
19 Claim Construction Brief" in the District Court in the
20 Western District of Texas, Waco Division, between Flypsi
21 vs. Dialpad.
22 Q. Okay.
23 A. I don't remember reviewing it.
24 Q. Okay. So do you not have an opinion on the
25 statement that I just read because you are not sure if

1 the plain and ordinary meaning of a switch would
2 encompass the statement you just read, which, "as an
3 element in the communications networks that facilities
4 connections between transmitters and receivers"?
5 A. No, you're mischaracterizing what I said. I
6 don't have an opinion on it because I don't have an
7 opinion on it. I'm not giving you a reason why I don't
8 have an opinion on it other than it is outside the scope
9 of my Declaration. I have not rendered an opinion on
10 this sentence, and so I don't have an opinion on it.
11 And we've been going about an hour. Is
12 this a good time for a break?
13 Q. I have one more, just one quick question.
14 A. Sure.
15 Q. Would the plain and ordinary meaning of a
16 switch encompass an element in communication networks
17 that facilitates connections between transmitters and
18 receivers?
19 A. I don't have an answer to that question.
20 Q. Okay.
21 Let's take a break.
22 (Recess taken.)
23 Q. (BY MR. HERR) Dr. Akl, I notice that you are
24 typing something. Are you using an email application
25 or --

1 A. Well, on break I was using my email, and I
2 closed it when we started.
3 Q. Okay. So can you confirm that you only have
4 the Declaration that's open?
5 A. Well, right now I have Exhibit 1005,
6 Exhibit 2010, and Exhibit 1001 open.
7 Q. Thank you.
8 So can you please open the '770 patent
9 Declaration, Exhibit 2010.
10 A. For which patent? Sorry.
11 Q. Sure. '770.
12 Okay. So --
13 A. So I opened the -- I have now --
14 Q. Okay.
15 A. -- the patent and my Declaration open.
16 Q. Would you please go to Paragraph 49 of the
17 Declaration.
18 Okay? This is on Page 25.
19 A. I'm there.
20 Q. So starting at Paragraph 49, you provided a
21 construction for the claim transmitting pre-call
22 information that's recited in Limitation [1.g], correct?
23 A. No, I disagree with that characterization. I
24 did not provide a construction but I provided a
25 clarification that pre-call information would be

1 transmitted after receiving a call and relates to that
2 specific call that has been received.
3 Q. Can you go to Page 19 of the Declaration.
4 A. I'm sorry, 19 or --
5 Q. 19.
6 A. Okay.
7 Q. Page 19 of the Declaration.
8 A. I'm there.
9 Q. What does Section VII say? The title.
10 A. The title of the section is "Claim
11 Construction."
12 Q. So are you saying you're not providing claim
13 construction under Section VII?
14 A. I am not providing a construction, but that's
15 the closest heading that would be applicable to what --
16 to the opinions that I have. So I'm not providing a
17 definition per se, but I am providing a clarification on
18 those terms. So claim construction is the closest legal
19 heading that would be applicable for the opinions that I
20 have here.
21 Q. Did anyone tell you to apply this construction?
22 A. No.
23 Q. What is "pre-call information"?
24 A. Those words would have plain and ordinary
25 meaning.

1 Q. Which is what meaning?
2 A. I have not articulated a definition for it.
3 Q. Are you able to sitting here today?
4 A. No.
5 Q. In Paragraph 51, you provided a reason as to
6 why you think that the claim language makes it clear that
7 the pre-call information is transmitted after receiving
8 the call, correct?
9 A. That's fair.
10 Q. And the reason is that the claim language
11 recites that the pre-call information includes
12 information relating to the incoming call, as you stated,
13 correct?
14 A. That's part of my analysis, yes.
15 Q. Did you provide another reason as to why the
16 claim language support your understanding or construction
17 relating to the claimed pre-call information?
18 A. Yes.
19 Q. Can you please identify what that is?
20 A. Yes. So the opinion that you're asking me
21 about is in Paragraph 51. I -- and I discuss that
22 relationship that's logical and temporal in Paragraph 52,
23 and then, additionally, in Paragraph 53, I also describe
24 and rely on Figure 4 with a flowchart that shows Steps
25 404 and 408. And I highlight those in blue and in pink.

1 And I rely on those as part of the reasons in
2 Paragraph 53 to reach my conclusion in Paragraph 54.
3 Q. So Paragraphs 53 and 54, like you said, they
4 are from the specification itself, right?
5 A. Yes.
6 Q. Okay. So let's focus on the claim language
7 itself for now.
8 So Paragraph 52 you say, "Thus, a POSITA
9 would understand the claim language imposes a logical and
10 temporal relationship between the incoming call and the
11 pre-call information, namely that the pre-call
12 information is transmitted after and relates to the
13 specific call received in step [1.f]."
14 Correct?
15 A. Yes.
16 Q. So that's your -- essentially your conclusion
17 basically started with "Thus." And if you go up to 51,
18 that's where you try to justify that understanding based
19 on the claim language. And you, like you stated earlier,
20 you provide a reason based on the claim language, right?
21 And the reason being, you said, the pre-call information
22 includes information relating to the incoming call,
23 correct?
24 A. Yes. And I have "the" underlined and
25 italicized and in bold compared -- in limitation [1.g],

1 referring back to the "and," which is also underlined,
2 italicized, and in bold, to show that relationship, and
3 my understanding, when a claim uses "the," it's referring
4 back to the previous item; and in this case that would be
5 the incoming call.
6 Q. What information does the pre-call information
7 include that is relating to the incoming call?
8 A. I have not provided that opinion. I mean,
9 the claim language itself provides context onto what's
10 required, but I have not -- I don't need to elaborate on
11 that aspect, and I didn't here.
12 Q. But earlier you said your -- the reason that
13 the claim language -- well, scratch that.
14 Earlier you said the reason that the claim
15 language recites a pre-call -- all right, scratch that.
16 My bad.
17 Claim 1 of the '770 patent recites a
18 process associated with an incoming call, correct?
19 A. That's fair.
20 Q. Okay. What claim term or limitation in Claim 1
21 is not related to the claimed incoming call?
22 A. That's super odd of a question. I don't have
23 an opinion on that. And I definitely don't address it in
24 Paragraph 51.
25 Q. Okay. The claim term that you propose for

1 construction includes the claim -- the term "pre-call
2 information" -- sorry -- the word "pre-call," correct?
3 A. I provide opinions on that phrase and how it
4 would be understood by a POSITA.
5 Q. So what does the first part of the word "pre"
6 mean to you?
7 A. I don't know if it means anything. I mean,
8 "pre" is a prefix, but I have not articulated a
9 definition for what "pre" would mean.
10 Q. Can "pre" mean before or prior to?
11 A. It could, but I don't believe I specifically
12 rendered that opinion.
13 Q. Do you think that pre-call information means
14 information transmitted before a call is received?
15 A. No. I provide the opposite opinion. I say
16 pre-call information is transmitted after receiving the
17 call and relates to that specific call that has been
18 received.
19 Q. In Paragraph 64 of the same Declaration, can
20 you please read it to yourself.
21 A. I read Paragraph 64.
22 Q. So you discussed the phrase directed to the
23 handset using the bridge telephone number in Limitation
24 [1.g]," correct?
25 A. The claim language includes "the handset is

1 capable of ... accepting the incoming call by connecting
2 with the switch over the at least one voice channel using
3 the bridge telephone number."
4 Q. Do you agree that the term "using" requires the
5 handset to place a call to the bridge telephone number?
6 MR. McCULLOUGH: Objection; relevance,
7 scope.
8 THE WITNESS: I state that the "handset,"
9 not the "server," must be capable of connecting the call
10 using the bridge number.
11 Q. (BY MR. HERR) And what is your support -- what
12 is the support for such an understanding?
13 A. The claim language that we -- I just read.
14 Q. That's all the support you provided?
15 A. In Paragraph 64; that is correct.
16 Q. How about in Paragraph 65 and 66?
17 A. In Paragraph 65 and 66, I provide rebuttal
18 opinions saying what the Petition states --
19 Q. Okay.
20 A. -- and why I disagree, and why it's the
21 handset, again, and not the server, that needs to perform
22 this functionality.
23 Q. The claims of the patents at issue recite a
24 primary number and a secondary number, correct?
25 A. It's too broad of a question. We can go to the

1 patent. We can go to a specific claim, specific
2 limitation, to answer your question.
3 Q. What is the difference between the primary
4 number and the secondary number in any claim you can go
5 to?
6 A. So I'm opening the '770 patent.
7 Q. Okay.
8 A. I'm looking at Claim 1, and the first
9 limitation after the preamble says, "Associating a
10 secondary telephone number with a primary telephone
11 number. The primary telephone number being assigned to a
12 handset." And it goes on to describe the relationship.
13 Q. So how do you distinguish between a primary
14 number and a secondary number?
15 A. Again, I'm not sure that was my task, or I
16 specifically rendered an opinion on that. I'm providing
17 rebuttal opinions, and I don't recall specifically
18 addressing that in my Declaration.
19 Q. So there are two numbers associated with a cell
20 phone: one is designated as a home phone number, and the
21 other one is designated as an office phone number. Which
22 one is the primary number, and which one is the secondary
23 number?
24 A. I'm sorry, are you reading from somewhere?
25 Q. No, I'm -- it's a question relevant to the

1 claim terms.
2 A. I don't know if I have an answer to you in
3 vacuum like that.
4 Q. Can we go on to the '770 patent Declaration.
5 A. Yes.
6 Q. And let's go to Paragraph 121.
7 A. Okay.
8 Q. So at the bottom of the page, you included
9 Paragraph 11 of Logan, right?
10 A. Yes.
11 Q. And let's go to the next page. So it reads,
12 "based upon his or her unique user preferences, can
13 control the forwarding of calls from the caller to a
14 series of virtual numbers, as well as the user cellular
15 telephone 'base' or own number (i.e., the number that is
16 the user cellular telephone-specific number)."
17 Did you see that sentence?
18 A. Yes.
19 Q. All right. Do you agree that Logan's base
20 number correspond to the claimed primary number?
21 A. Yes.
22 Q. Do you agree that Logan's virtual number
23 correspond to the claimed primary number?
24 A. I think the virtual is the secondary, but,
25 again, I'm -- I'm trying to see if I specifically state

1 that somewhere.
2 Q. Are you still looking? Or, we can go move on
3 to the next one.
4 A. No, I think that's -- that's my response.
5 Q. Okay.
6 A. I think virtual is secondary, and so, you know,
7 Logan describes rules associated with the virtual number.
8 That's -- that's what Logan focuses on.
9 Q. So on Page 54 of the Declaration, the same
10 paragraph, 11, right after the sentence you just read,
11 right, it reads, "The forwarding of calls to the owned
12 number and virtual numbers can be based upon a variety of
13 factors."
14 Do you see that?
15 A. Yes.
16 Q. Does the -- does the "owned number" here refer
17 to a primary number?
18 A. I think it could, yes.
19 Q. The last line of the paragraph in Logan
20 reads -- in that Paragraph 11 reads, "When calls are
21 received to one of the virtual numbers, or to the base
22 number, outside of the permitted receipt time as provided
23 by the user preference, the call is routed to a voicemail
24 database by the system server, which implements a call
25 forwarding application."

1 Do you see that?
2 A. I do.
3 Q. Do you agree that Logan discusses a server that
4 routes a call to the base number based on a user's
5 preference?
6 A. Can you please repeat the question?
7 Q. Do you agree that Logan discusses a server that
8 routes a call to the base number based on a user
9 preference?
10 A. I don't think the word "server" appears in this
11 paragraph.
12 Q. I can point that out to you. That's the word
13 right before comma. There are two commas. It's the
14 second comma.
15 A. Oh, I see it now. Thank you.
16 Q. Yeah.
17 A. "... the call is routed to a voicemail database
18 by the system server, which implements a call forwarding
19 application."
20 Yes, that's -- that's what -- the word that
21 I was missing.
22 So, with that, can you repeat your question
23 again --
24 Q. Absolutely.
25 A. -- please? Thank you.

1 Q. You're welcome.
2 Do you agree that Logan discusses server
3 that routes a call to the base number based on a user's
4 preference?
5 A. I think what this sentence is saying is it's,
6 in a way, the opposite. When calls are received to the
7 base number, the reference is saying the call can be
8 routed to voicemail if it's outside -- you know, a call
9 coming to the virtual number or the base number outside a
10 permitted time, then it's going to go to voicemail based
11 on a user preference. So a user can choose not to accept
12 any calls. And regardless if the call goes to your base
13 number or your virtual number, it's going to send it to
14 voicemail.
15 Q. And what components or component routes the
16 call?
17 A. It says the system server.
18 Q. So do you agree that Logan discloses a server
19 that routes a call to the base number based on the user's
20 preference?
21 A. Again, I agree that it's doing the opposite.
22 It's -- it's rejecting a call and sending it to voicemail
23 instead of routing it to the virtual number or the base
24 number if it's outside a specific time, so the phone
25 doesn't ring and it goes to voicemail.

1 Q. So you agree that in Logan it discloses routing
2 calls based on user's preference, and the call -- which
3 the call is directed to the base number?
4 A. Again, I think, you know, we're -- we're going
5 around in circles, but I can try to -- so the statement
6 is saying that if a call is received outside a specific
7 permitted time, then it's going to go to voicemail
8 instead and not be received -- and not let the phone
9 ring. I mean, it's going to -- the server is going to
10 send the call to a voicemail if it's received outside a
11 permitted time.
12 Q. So do you agree that in Logan the user
13 preference dictate whether a call goes to the base number
14 or instead goes to the voicemail?
15 A. I think the user preference can provide the
16 time where, if a call is outside that time, it's going to
17 go to voicemail and not ring any number, whether it's
18 base or virtual.
19 Q. In Paragraph 122 of your '770 Declaration, you
20 included a -- you included Claim 1 of Logan, correct?
21 A. Yes. Claim 2 depends on Claim 1, and I showed
22 the language of Claim 1 in addition to Claim 2 of Logan.
23 Q. Did you consider other dependent claims that's
24 depending from Claim 1 other than Claim 2?
25 A. Not in Paragraph 122.

1 Q. Okay. Could you please open Logan, which is
2 Exhibit No. --
3 A. I have it as Exhibit 1015.
4 Q. That's right.
5 Okay. Could you please go to Claim 9 of
6 Logan.
7 Are you there?
8 A. Yes, I'm reading Claim 9.
9 Q. Okay. So Claim 9 reads, "The system as set
10 forth in Claim 1 wherein the server is constructed and
11 arranged to deliver a CID to a call recipient from the
12 user's cellular telephone that varies based upon the"
13 user's preference -- sorry, rephrase -- based upon the
14 "user preferences with respect to each of the virtual
15 numbers and cellular telephone base number."
16 Correct?
17 A. Yes.
18 Q. All right. Does the server in Logan process
19 the call to the base number based upon the user's
20 preference?
21 A. I don't see that here. I see here a
22 description of "caller ID being arranged to be
23 delivered."
24 Q. And that arrangement or caller ID being
25 delivered is based on the user's preference with respect

1 to the base number, correct?
2 A. Yes. The sentence says "user preferences with
3 respect to each of the virtual numbers and a cellular
4 telephone base number."
5 Q. Could you please go to the '105 patent
6 Declaration, and that will be Paragraph 49.
7 A. I have the '105 patent and then '105
8 Declaration -- my Declaration for the '105 patent open.
9 Q. Thank you.
10 So on Page 25 of the Declaration is
11 Paragraph 49.
12 A. Yes, I'm there.
13 Q. And you provided a construction of the claim
14 feature transmitting pre-call information recited in
15 limitations [1.g] and [2.b], correct?
16 A. Similar to the pre-call information that we
17 looked at before, I am providing an opinion that the
18 pre-call information is transmitted after receiving a
19 call and relates to that specific call, so it's more of a
20 clarification of how a POSITA would understand those
21 words.
22 Q. Did anyone tell you to apply these
23 understanding clarification or construction?
24 A. No.
25 Q. Can you please turn to Paragraph 51.

1 A. I am there.
2 Q. Can you please read it to yourself.
3 A. I'm done.
4 Q. In that paragraph, you explain as to why you
5 think that the claim language makes clear that the
6 pre-call information is transmitted after receiving the
7 call, correct?
8 A. Yes.
9 Q. And it is because the claim language recites
10 that "the pre-call information including information
11 relating to 'the incoming call,'" correct?
12 A. That's part of the opinion. I cite claim
13 language. I highlight and emphasize in element [1.d] you
14 have "an" incoming call. In element [1.g], you have
15 "the" incoming call at the switch. And, similarly, for
16 Claim 2, you start with "an" incoming call for [2.a].
17 And for [2.b], you have "the" incoming call twice.
18 Q. What information does the "pre-call
19 information" include that is relating to the incoming
20 call?
21 A. I don't provide a description of it. I mean,
22 the claim language itself limits what it can be. I'm
23 just providing an opinion that it needs to be transmitted
24 after receiving the call.
25 Q. But the basis of your opinion or understanding,

1 like you mentioned earlier, is because the claim language
2 recites that "the pre-call information, including
3 information relating to 'the incoming call.'" And what
4 information does the pre-call information include that's
5 relating to the incoming call?
6 A. Yeah, so it's because of the "and" and the
7 "the," where, when claim language uses "the," it's
8 referring back to and establishing antecedent basis, so
9 it's the same incoming call. That's the opinion that I
10 have. That it's referring to information of "an incoming
11 call" that is set up in [1.d], and so in [1.g], when
12 you're referring back to "the incoming call," it's
13 referring back to the same incoming call. And that's why
14 it's -- happens after.
15 Q. So can you please go back to Paragraph 49,
16 please, still -- which is on Page 25.
17 A. I'm there.
18 Q. So in limitation [1.g], the claim recites the
19 pre-call information including the bridge telephone
20 number and the handset associated telephone number,
21 correct?
22 A. Yes, that's part of [1.g].
23 Q. Are they relating to the incoming call?
24 A. Well, the claim language says pre-call
25 information including a bridge telephone number, so

1 it's -- that's -- the claim itself is stating that a
2 bridge telephone number is part of a said pre-call
3 information.
4 Q. Are those numbers relating to an incoming call?
5 A. Yes, because the last part of the limitation
6 says to "the incoming call" at the switch, and "the
7 incoming call" is referring back to the "an incoming
8 call" from element [1.d.].
9 Q. So you're saying they're being used for
10 connecting the handset to the incoming call, so they are
11 related to the incoming call?
12 A. I'm saying that the pre-call information is
13 transmitted after receiving a call.
14 Q. That's not my question. I was asking: Are
15 those numbers relating to the incoming call because they
16 are being used to connect to incoming call?
17 A. I don't think I've rendered an opinion on that.
18 I'm saying that that limitation mentions "the incoming
19 call" which is established in element [1.g].
20 Q. Is a bridge telephone number relating to an
21 incoming call?
22 A. I don't know if -- I don't believe I
23 specifically rendered an opinion on that, so I don't have
24 an answer for you, other than the claim language says the
25 pre-call information includes a bridge telephone number.

1 Q. So earlier you say, you know -- you render this
2 understanding relating to pre-call information it's
3 because the claim language recites the pre-call
4 information including information relating to the
5 incoming call. What is that information that's relating
6 to the incoming call?
7 A. It's the word "information" that's part of the
8 pre-call information that element [1.g] says, at the very
9 end, that's "connecting the handset to the incoming call
10 at the switch."
11 Q. So you're saying the word "information" or the
12 term "pre-call information" relates to the incoming call?
13 A. I'm saying the claim language says that the
14 pre-call information is transmitted, and then it tells
15 you what's in it; and then, it's for connecting the
16 handset to the incoming call. And "the incoming call" in
17 element [1.g] is referring back to "an incoming call" in
18 element [1.d].
19 Q. So where in the claim language makes it clear
20 that the pre-call information is transmitted after
21 receiving the call?
22 A. Because it's in an element that is referring
23 back to an incoming call that is received in [1.d], and
24 it's that same incoming call that element [1.g] is
25 referring to.

1 Q. Does the claim expressly state that the
2 pre-call information has to be transmitted after
3 receiving the call?
4 A. Yes, because you have element [1.d] as
5 receiving an incoming call, and element [1.g] is
6 referring to the incoming call that was received in
7 element [1.d].
8 Q. Could you -- if the pre-call information is
9 received before the call in [1.d], could that be used to
10 connect the call or connect the incoming call?
11 A. I don't know the answer to that question.
12 That's also inconsistent with the specification, because
13 I also show the specification and a flowchart from the
14 specification in Figure 4 in Paragraph 53 where you have
15 the pre-call information in Step 408 happening after
16 Step 404, where the call is routed, and I highlight those
17 in blue and in pink.
18 Q. So just to be clear. It is your opinion that
19 Limitation [1.g] and [2.b] cannot be met where the
20 pre-call information is transmitted before an incoming
21 call even though the pre-call information is used for
22 connecting the handset to incoming call?
23 MR. McCULLOUGH: Objection; vague, outside
24 the scope.
25 THE WITNESS: No, you mischaracterized what

1 I said. I said I don't have an opinion on it being
2 before, and that's inconsistent with the specification,
3 which shows it after. And then I showed you -- referred
4 you to Figure 4 that has it after.
5 Q. (BY MR. HERR) Okay. Can pre-call information
6 be received at a handset before the call is connected?
7 MR. McCULLOUGH: Objection; vague, outside
8 the scope.
9 THE WITNESS: My opinions relate to
10 Elements [1.g] and [1.d] and Element [2], [2.a], and
11 [2.b]. In this context, the pre-call information is
12 after. But that's the context that I'm providing an
13 opinion.
14 Q. (BY MR. HERR) When a call is ringing, is it
15 connected or not?
16 A. I don't know if I specifically have an opinion
17 on that.
18 Q. So sitting here today, you cannot tell me
19 whether, when the call is ringing, you don't know whether
20 the call is connected or not?
21 A. I mean, my guess is it's not yet because it's
22 still ringing, but I don't know if that's something I
23 specifically address in my Declaration.
24 Q. Could you please open Exhibit 1001 of the '770
25 patent.

1 A. So we're switching back to the -- we were at
2 the '105 patent. Do you want to switch --
3 Q. Sorry, the -- which patent are we on?
4 A. Currently, we're looking at the '105 patent and
5 the '105 Declaration.
6 Q. Sure. We can --
7 MR. McCULLOUGH: Give him a second.
8 Q. (BY MR. HERR) Yeah, we can go to the '105,
9 Exhibit 1001. That's fine.
10 Do you have it?
11 A. Yes, I have the '105 patent open.
12 Q. Can you please go to Column 6, Line 43.
13 A. I'm there.
14 Q. Would you please read those two lines between
15 43 and 44.
16 MR. McCULLOUGH: What column?
17 MR. HERR: 6, please.
18 MR. McCULLOUGH: Thank you.
19 THE WITNESS: I have. I think we discussed
20 them before, right, I recall today?
21 Q. (BY MR. HERR) That's correct.
22 So it reads, "The incoming pre-call
23 information may be received at the handset 340 before or
24 during the call ringing on the handset."
25 So do you agree that the pre-call

1 information may be received before the call is connected?
2 MR. McCULLOUGH: Objection; vague, outside
3 the scope.
4 THE WITNESS: I haven't specifically
5 rendered an opinion on those two lines, so they say
6 whatever they say.
7 Q. (BY MR. HERR) You were saying earlier the --
8 the Petition's positions are inconsistent with the
9 specification. Did you include those two lines in your
10 consideration, those being part of the specification?
11 A. In Paragraph 53, I cite to -- I do cite to
12 Column 6. I don't believe I cite to these two lines, but
13 I do cite to Column 6 and I cite to Figure 4 and the
14 description associated with Figure 4.
15 Q. Why didn't you cite to those two lines?
16 A. Because those two lines are not describing
17 what's happening in Figure 4.
18 Q. Why Figure 4?
19 A. Because it is an embodiment that's illustrated
20 giving you a flow of the steps.
21 Q. But Column 6 in general points to Figure 4,
22 isn't it?
23 A. Column 6 in general is describing Figure 4,
24 yes.
25 Q. And those two lines are part of the same

1 paragraph that you cited to, right?
2 A. Yes.
3 Q. And -- okay.
4 So why you didn't cite to those two lines?
5 A. Because they -- the claim language is
6 specific -- is addressing a specific order, and the
7 embodiment that would be consistent with that order is
8 what's shown in Figure 4.
9 Q. So is your understanding that you have in the
10 Declaration requiring that the pre-call information has
11 to be received after the call is received consistent with
12 those two lines that you just read?
13 A. I have not provided opinions on those two
14 lines.
15 Q. But that's part of the specification, right?
16 A. Yes.
17 Q. So your opinion is not based on that part of
18 the specification?
19 A. I did not rely on those two lines. I relied on
20 other parts of the specification that's consistent with
21 the claim language.
22 Q. Earlier today you said that it is the
23 specification that is inconsistent with the receiving
24 pre-call information before the incoming call, correct?
25 A. In Paragraph 53, I say, "The specification

1 is ... consistent with this understanding," and I refer
2 to Figure 4.
3 Q. And are those two lines consistent with your
4 understanding?
5 A. With what understanding?
6 Q. Your understanding that the pre-call
7 information has to be received after the call is
8 connected or received?
9 A. I haven't rendered an opinion on these two
10 lines.
11 Q. Are they consistent? Sitting here today,
12 reading those two lines and your opinion provided in your
13 Declaration, are they consistent?
14 A. I don't have an opinion on these two lines.
15 Q. Just very short two lines. Do you have an
16 opinion on that sitting here today?
17 A. No.
18 MR. McCULLOUGH: Objection; asked and
19 answered.
20 Q. (BY MR. HERR) So you agree that you did not
21 rely on these two lines when you formed your opinion?
22 A. I did not rely on these two lines; yeah, that
23 is correct.
24 Q. Did you analyze these two lines when you formed
25 your opinion?

1 A. I don't recall. I know I read the
2 specification. So I considered the specification, but I
3 don't remember those two lines, one way or the other.
4 Q. But you cannot, sitting here today, provide an
5 opinion based on these two lines regarding your
6 understanding with respect to the pre-call information?
7 A. That's fair.
8 And we've been going about an hour. Is
9 this a good time?
10 MR. HERR: Yeah, I was thinking about a
11 break too.
12 (Recess taken.)
13 Q. (BY MR. HERR) Go back on the record.
14 Let's talk about Limitation [1.g] in the
15 '105 patent, and let's go to the Paragraph 57 of the '105
16 Declaration.
17 A. I am there.
18 Q. Okay. Can you please read that paragraph to
19 yourself.
20 A. I'm ready.
21 Q. So in Paragraph 57, you explain why you think
22 that the claim language makes clear that the bridge
23 tel- -- the bridge number "is for use by the handset to
24 connect to the call (not, for example, the server),"
25 correct?

1 A. Yes.
2 Q. And according to you, the basis of your opinion
3 is that the claim language in the case "that the pre-call
4 information is transmitted to 'the handset' and is for
5 connecting the handset to the incoming call at the
6 switch," correct?
7 A. Yes, which I state in Paragraph 56.
8 Q. Did you provide any other reasons as to why
9 the claim language supports your understanding or
10 construction in Limitation [1.g] relating to the bridge
11 telephone number for connecting the handset to the
12 incoming call at the switch?
13 A. I do, in Paragraph 58, refer to the claim
14 language in [1.i]. And then, in Paragraph 59, I refer to
15 the spec and provide an annotated Figure 4. And then I
16 provide my opinion again in Paragraph 60.
17 Q. Would you please go to Paragraph 111 of your
18 Declaration.
19 A. I'm there.
20 Q. In that paragraph, you made a statement
21 regarding Backhaus, correct?
22 A. Yes.
23 Q. What do you mean by "cross-carrier"?
24 A. "Cross-carrier" is a term used in the
25 reference.

1 Q. What does he mean?
2 A. Using more than one carrier. So you can think
3 of a carrier as like a -- like AT&T would be an example
4 of a carrier, Verizon would be another example of a
5 carrier. And the reference envisions having a second
6 number, a cross-carrier second number, so you can
7 communicate with two numbers that might have been
8 obtained from different carriers, or use two numbers from
9 different carriers.
10 Q. So is AT&T a service provider?
11 A. Yes, AT&T would be an example of a service
12 provider.
13 Q. And "cross-carrier" means you're working with
14 multiple service provider?
15 A. That's fair.
16 Q. In Paragraph 112, you made a statement
17 regarding Backhaus, correct?
18 And when you have a chance, can you please
19 read it to yourself.
20 A. I have.
21 Q. What do you mean by this statement?
22 A. What don't you understand about it?
23 Q. Okay. So wouldn't working across and with
24 existing phone networks require coordination or at least
25 some control over conventional phone routing?

1 A. So the context of this sentence is to show a
2 contrast between Backhaus and next when I'm going to talk
3 about Winbladh, which is W-I-N-B-L-A-D-H. That reference
4 discusses, at a high level, its own type of functionality
5 that is very different than anything in the other
6 references. And so, in order to provide support for the
7 opinion that I have in this section that you wouldn't
8 combine these two references, I am describing the
9 architecture and what Backhaus describes so later I
10 can contrast it with Winbladh, which brings us to
11 Paragraph 112 that you asked me about where I say, you
12 know, Backhaus teaches "the importance of working with
13 and across existing phone networks," and examples of that
14 where you have multiple service providers, following up
15 on the question that you asked me before.
16 And so this would be -- this would teach
17 away from a solution like the one that Winbladh describes
18 where, I describe it starting in the very next paragraph,
19 that would require replacing the existing telephone
20 network or making major changes that would replace
21 traditional service providers in the functionality that
22 Winbladh is contemplating.
23 Q. So I'm just confused. Like how -- in
24 Paragraph 12, you said Backhaus teaches the importance of
25 working with and across, like you said, multiple service

1 providers, and that teaches away from any solution that
2 requires coordination. Don't you think that's kind of
3 contradicting?
4 A. No. Because when I'm describing existing phone
5 networks and current carriers, these are all consistent
6 with the current PSTN standards versus Winbladh that is
7 coming up with its own way of doing things that would
8 not -- that would require replacing the existing network
9 with its own techniques.
10 Q. Where does Winbladh say it replaces existing
11 networks?
12 A. This is in Paragraph 113, I make that
13 statement. So in Paragraph 113, if you go down a couple
14 lines, I state, "a POSITA would understand Winbladh
15 requires control over the routing system (which would
16 either require replacing the existing telephone network
17 or coordinating with the user's service provider as
18 Backhaus teaches away from)."
19 Q. So you're saying Win- -- in order to implement
20 Winbladh, you need to install a new telephone system?
21 A. You would need to replace major parts of the
22 routing of the telephone system, yes.
23 Q. You cannot use the existing Internet?
24 A. Not in terms of what Winbladh describes as the
25 host resource that's going to manage the multiple call

1 legs and how you're going to have different costs
2 associated when you receive a call and then when you call
3 back. It's a very convoluted concept that's actually
4 being proposed, but -- and -- and the redialing back
5 and -- that's going to be cheaper than the one you got --
6 you received a call on. So at a high level, that's what
7 Winbladh is proposing.
8 Q. So the idea of replacing the existing phone
9 network, where does Winbladh say that in its disclosure?
10 A. So we can go back to Pages 34 and 35. This is
11 where I describe Winbladh, and specifically I describe
12 how Winbladh teaches where a second user is going to
13 initially accept a call, then it's going to disconnect,
14 then it's going to use a special phone number within a
15 specific period of time to reconnect, and you're going to
16 have cost savings. And this would not work with a normal
17 telephone number, because normally, you know, if you
18 receive -- or your call is going to be the same price.
19 So the -- this different control over the
20 routing that's going to give you cost savings would
21 require a major overhaul of what a traditional telephone
22 system basically works and routes.
23 Q. And that is your opinion but not expressly
24 discussed in Winbladh itself, correct?
25 A. Well, I cite to -- this is the opinion that I

1 have here, and I do provide citations to Winbladh in that
2 section.
3 Q. So let's look at Page 54 of your Declaration,
4 which is in Paragraph 113 of your Declaration. Do you
5 see that? And there you cited to Exhibit 1020, which is
6 Winbladh, at Paragraph 56 to 58.
7 Can you please tell me where in these
8 paragraphs that Winbladh states that you would need to
9 replace the telephone network in order to implement the
10 procedure described herein?
11 A. All three paragraphs is describing what I
12 described a few minutes ago in terms of what the
13 reference teaches, where you have two legs of a call, L1
14 and L2, and you're going to receive a call, and then
15 you're going to disconnect one leg, and then you're going
16 to reconnect using a host resource at a local call rate
17 and reestablish the connection.
18 So the fact that one leg is going to have a
19 different host resource with a different rate in this
20 normal bidirectional setup where, when you think of the
21 Internet and you think what you're asking me is -- is
22 those, A to B and B to A, have the same cost. So the
23 reference is describing a different -- a difference in
24 host resource -- a difference that Host Resource 110 is
25 going to play in the reconnection and how, even though

1 two different legs are bidirectional, there is going to
2 be different costs associated with them based on the
3 direction. So you hang up, and then you reconnect.
4 That would inform that whatever Host Resource 110 is
5 implementing, this process is -- is not a traditional
6 phone system.
7 Q. Does Backhaus's SLS platform manage and connect
8 call legs?
9 A. Yes.
10 Q. Can, in Backhaus, a subscriber send a request
11 to the SLS platform for a new relationship number?
12 A. I think so, yes.
13 Q. In Paragraph 113 of the '105 Declaration, you
14 say that "Winbladh makes clear that its system involves a
15 'host resource' that manages multiple call legs."
16 Correct?
17 A. Yes.
18 Q. And you just told me that Backhaus' SLS
19 platform also manage and connects call legs, correct?
20 A. Not in the same way that Winbladh is requiring.
21 Your two questions are very broad, and they would be
22 inconsistent with each other. When you look at the
23 requirements that Winbladh requires for these different
24 legs and -- so the system in Backhaus and the legs
25 established by the SLS system in Backhaus would not meet

1 the objectives that Winbladh describes.
2 Q. Paragraph 114, let's go there, of your
3 Declaration of the '105 --
4 A. I'm there.
5 Q. In the third sentence, which is the second full
6 sentence on Page 55, you said, "Backhaus is expressly
7 designed to plug" in "and work with a normal telephone
8 network."
9 Correct?
10 A. Yes.
11 Q. What is the basis of this opinion?
12 A. The description that we were describing, how
13 the SLS platform works and how it integrates into a
14 telephone network, would be consistent with this
15 statement.
16 Q. After the line, you said, "Winbladh is the
17 opposite: designed to replace a normal telephone
18 network."
19 Correct?
20 A. Yes.
21 Q. What is your -- what's the basis of this
22 opinion?
23 A. The support that I described in the previous
24 paragraphs, specifically 56, 57, 58, where you're going
25 to have these requirements, where you're going to have

1 these predefined thresholds and timers, and you're going
2 to disconnect, you're going to reconnect, you're going
3 to have different costs associated with the different
4 directions of the leg and you need to meet the
5 preconditions where there is not a termination request
6 that's been received yet, those all do not fit a
7 conventional telephone network.
8 Q. So in your Declaration, from Paragraph 109
9 to Paragraph 114, okay, essentially beginning of
10 Section X.A. to Paragraph 114, did you cite to any other
11 Winbladh disclosure in that portion of the Declaration?
12 109 to 114.
13 A. I think that's it. My Declaration speaks for
14 itself. But I cited to these three paragraphs and how a
15 POSITA would understand this reference.
16 Q. Okay. Let's go to Paragraph 118 of the same
17 Declaration.
18 A. I'm there.
19 Q. You stated in the second line of the paragraph
20 that "Winbladh's system, on the other hand would require
21 constantly regenerating numbers based" upon "the physical
22 location of the user, which can vary significantly, for
23 example if the user is using a cell phone."
24 Correct?
25 A. Yes.

1 Q. What is the basis of your opinion?
2 A. I'm going to open up Winbladh, to better answer
3 your question.
4 Q. Before you do that, did you cite to any
5 evidence in that paragraph to support your opinion?
6 A. In Paragraph 118, I do not.
7 Q. Okay. And you say you're going to open up --
8 A. Yes.
9 Q. Yeah, thank you.
10 A. So Winbladh contemplates that either the first
11 phone or the second phone can be a cell phone. I don't
12 think that's disputed. That's the only missing citation,
13 if any. I mean, I don't think I necessarily need to cite
14 to that, but reading Winbladh, a POSITA would understand
15 that you can have a cell phone. That's a couple of
16 places. Like in Paragraph 13, it says both the
17 originating and the second terminal may be wireless, a
18 cell phone, a mobile phone. And this is also mentioned
19 in 35, Paragraph 35.
20 And so, the way the reference -- so if you
21 are a cell phone or using a cell phone, you're going to
22 be moving around. That's the point of a cell phone.
23 The reference is saying that, you know, wherever that
24 location of that user is, that's where you're going to
25 generate this number, and then you're going to call back

1 on a different number.
2 So if your -- if the reference is
3 contemplating a cell phone, and the point of a cell phone
4 is you -- you make calls in different locations, then
5 every time you're at a different location, to have this
6 different local rate that's supposed to be cheaper,
7 you're going to have a different number that's going to
8 be generated. And that's why I state in my Declaration
9 in 118 that this is going to be -- this is going to
10 increase complexity significantly, because it's going to
11 be -- the scale of how -- the location for the first and
12 the second user is going to vary drastically from call to
13 call when using a cell phone that Winbladh contemplates
14 can be used in one of its embodiments.
15 MR. HERR: Let's take a five-minute break.
16 MR. McCULLOUGH: Okay.
17 MR. HERR: Yeah.
18 (Recess taken.)
19 Q. (BY MR. HERR) All right. We're back on the
20 record.
21 So during any of the breaks today, did you
22 communicate with anyone regarding the substance of the
23 proceeding or the substance of your testimony?
24 A. No.
25 MR. HERR: In that case, we have no further

1 questions.
2 MR. McCULLOUGH: All right. I will have
3 just a couple of questions.
4 EXAMINATION
5 BY MR. McCULLOUGH:
6 Q. In your Declaration regarding the '105 patent,
7 can you go to Paragraph 51.
8 A. Yes, I'm there.
9 Q. All right. In Limitation [1.d], where is the
10 call being received?
11 MR. HERR: Objection; leading.
12 THE WITNESS: [1.d] says, "receiving an
13 electronic indication of an incoming call to the
14 secondary phone number at the server, said electronic
15 indication of an incoming call being received from a
16 switch associated with the server."
17 Q. (BY MR. McCULLOUGH) So at which device is the
18 incoming call being received in Limitation [1.d]?
19 MR. HERR: Objection; leading.
20 THE WITNESS: At the server.
21 Q. (BY MR. McCULLOUGH) In Limitation [2.a], where
22 is the call being received?
23 MR. HERR: Objection; leading.
24 THE WITNESS: It's received by a switch in
25 [2.a] and retrieved by a server.

1 Q. (BY MR. McCULLOUGH) So the opinion that you
2 offered in Paragraph 51 that the pre-call information is
3 transmitted after receiving the call, in that opinion,
4 the pre-call information is transmitted after receiving
5 the call where?
6 A. At the server.
7 MR. HERR: Objection; leading.
8 Sorry, you have to wait for me, sir.
9 Q. (BY MR. McCULLOUGH) All right. Can you turn
10 to the '105 patent now.
11 A. I'm there.
12 MR. HERR: Give me one second.
13 MR. McCULLOUGH: Are you --
14 MR. HERR: Objection; leading. Sorry.
15 THE WITNESS: Is there -- there is no
16 question pending.
17 MR. McCULLOUGH: There is no question
18 pending. You were --
19 MR. HERR: No, I thought you asked a
20 question. My bad.
21 MR. McCULLOUGH: I asked, "Can you turn to
22 the '105 patent." I thought you were pulling it up. Do
23 you have the document?
24 MR. HERR: Yes. My bad.
25 Q. (BY MR. McCULLOUGH) Okay. Can you turn to

1 Column 6, Lines 43 to 44, of the '105 patent.
2 A. I am in Column 6. What line numbers?
3 Q. 43 and 44.
4 A. Yes, I'm there.
5 Q. In Column 6, Lines 43 and 44, where does the
6 specification say that the call is ringing?
7 MR. HERR: Objection; leading.
8 THE WITNESS: At the handset.
9 Q. (BY MR. McCULLOUGH) So are Columns 6, Lines 43
10 and 44, relevant to the opinion that you offered about
11 the timing of transmitting pre-call information in the
12 '105 patent claims?
13 MR. HERR: Objection; leading.
14 THE WITNESS: No, because Column 6,
15 Lines 43 and 44, that I was asked about, relate to the
16 call ringing at the handset, while the claim language
17 requires the call being received at the server.
18 Q. (BY MR. McCULLOUGH) All right. Turn to your
19 Declaration for the '770 patent.
20 A. Okay.
21 Q. And go to Paragraph 51, please.
22 A. Okay.
23 Q. In Limitation [1.f], where is the call being
24 received?
25 MR. HERR: Objection; leading.

1 THE WITNESS: At a switch.
2 Q. (BY MR. McCULLOUGH) So are the two lines of
3 the specification we just looked at relevant to your
4 opinion of the timing of transmitting pre-call
5 information in the '770 patent claim?
6 MR. HERR: Objection; leading.
7 THE WITNESS: No. Because the
8 specification specifically is looking at the call being
9 received at the handset, while this claim language is
10 looking at the call being received at a switch.
11 MR. McCULLOUGH: I have no further
12 questions.
13 MR. HERR: Want to take a couple minutes to
14 talk over?
15 MR. ZEILBERGER: Sure.
16 MR. HERR: Okay.
17 (Recess taken.)
18 MR. HERR: So we have no further questions.
19 (End of proceedings at 2:44 p.m.)
20
21
22
23
24
25

1 CERTIFICATE OF SHORTHAND REPORTER
2
3 I, Amanda Blomstrom, Certified Reporter do
4 hereby certify:
5 That ROBERT AKL, D.Sc., the witness whose
6 deposition is hereinbefore set forth, was duly sworn by
7 me before the commencement of such deposition and that
8 such deposition was taken before me and is a true record
9 of the testimony given by such witness.
10 I further certify that the adverse party,
11 Flypsi, was represented by counsel at the deposition.
12 I further certify that the deposition of
13 ROBERT AKL, D.Sc., occurred at the law offices of Winston
14 & Strawn, 2121 North Pearl Street, Dallas, Texas 75201,
15 on Friday, January 5, 2024, from 8:51 a.m. to 2:44 p.m.
16 I further certify that I am not related
17 to any of the parties to this action by blood or
18 marriage, I am not employed by or an attorney to any
19 of the parties to this action, and that I am in no way
20 interested, financially or otherwise, in the outcome
21 of this matter.
22
23 _____
24 Amanda Blomstrom, CSR, CRR, RMR, CLR
25 TX CSR 8785/CA CSR 12681/IL CSR 843634

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