

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

- - - - - X  
APEX BEAM TECHNOLOGIES LLC, :  
Plaintiff, : CASE NO.  
v. : 2:22-CV-00031-JRG-RSP  
SAMSUNG ELECTRONICS CO., LTD., : (LEAD CASE)  
Defendant. :  
- - - - - X

APEX BEAM TECHNOLOGIES LLC, :  
Plaintiff, : CASE NO.  
v. : 2:22-CV-00188-JRG  
SAMSUNG ELECTRONICS CO., LTD., : (MEMBER CASE)  
and SAMSUNG ELECTRONICS :  
AMERICA, INC., :  
Defendants. :  
- - - - - X

REMOTE DEPOSITION OF  
MIGUEL GOMEZ  
November 1, 2023  
9:04 a.m. PST

Reported by:  
Janice M. Kocek, CSR, CLR  
Job No. 54576

Henderson Legal Services

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Samsung Exhibit 1036, Page 1 of 104  
Samsung v. Apex - IPR2023-00571

1           The deposition of MIGUEL GOMEZ, via  
2 Zoom videoconferencing, called by the Defendants  
3 for examination, reported stenographically by  
4 Janice M. Kocek, License No. 084-002871,  
5 Certified Shorthand Reporter, Certified LiveNote  
6 Reporter, and Notary Public for the State of  
7 Illinois, commencing at the hour of 9:04 a.m.  
8 PST, on the 1st day of November, 2023.

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1     A P P E A R A N C E S:

2             \*\* ALL PARTIES APPEARING REMOTELY \*\*

3

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## DEPOSITION EXHIBITS

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| Exhibit 2 | Miguel Gomez Deposition Exhibit - Sample Claims                  | 59   |
| Exhibit 3 | United States Patent for Sample Claim 1 (redacted patent number) | 63   |
| Exhibit 4 | United States Patent for Sample Claim 5 (redacted patent number) | 80   |

REPORTER'S NOTE: All quotations are used for clarity and are reflected in the manner in which they were read into the record and do not necessarily indicate an exact quote from the document.

1 (Witness remotely sworn.)

2 MIGUEL GOMEZ,

3 called as a witness herein, having been first  
4 duly sworn, was examined and testified as  
5 follows:

6 EXAMINATION

7 BY MR. HIGH:

8 Q. Good morning. My name is Bob High.

9 I'm here on behalf of the Samsung  
10 defendants. And joining me today listening in 09:04  
11 is my colleague, also from Finnegan, Christopher  
12 Blackford.

13 So can you please state your name and  
14 address for the record?

15 A. Miguel Gomez. The address is 2178 09:05  
16 Sirah Court. That's in Livermore, California,  
17 94450.

18 Q. And is that where you are today?

19 A. That is.

20 Q. Is there anyone else in the room with 09:05  
21 you today?

22 A. No.

23 Q. Do you have any papers or notes with  
24 you?

25 A. Not on this desk. Obviously I'm in a 09:05

6

1   small office that does have other equipment but  
2   I have set up a special desk just for this  
3   purpose.

4 Q. Do you understand that you are under  
5 oath, meaning you must testify truthfully today 09:05  
6 as if you were in court before the judge?

7                    **A.        I do.**

8 Q. Is there any reason that would  
9 prevent from you testifying truthfully today?

**A.**

**No.**

09:05

11 Q. I'm sure your counsel probably gave  
12 you some general ground rules but I'm going to  
13 go over a few of them for the record. Okay?

14           **A.     Okay.**

15 Q. So we have a court reporter who will 09:06  
16 be recording your answers as if you were giving  
17 them in court. So I ask that you answer the  
18 questions truthfully and to the best of your  
19 knowledge. Okay?

**A.** Yes.

21 Q. Please respond in an audible answer,  
22 not a gesture or a nod.

23           **A.     Yes.**

24 Q. If you do not understand any of the  
25 questions I ask today, please tell me. If you 09:06

1 answer a question, I will assume that you  
2 understand my question.

3 Do you agree?

4 **A. Yes.**

5 Q. If you need a break, please let me 09:06  
6 know. I'll try and take a break every hour or  
7 so.

8 But if you need a break and a  
9 question is pending, I just ask that you finish  
10 answering my question before we take a break. 09:06  
11 Okay?

12 **A. Okay.**

13 Q. Do you have a phone with you today  
14 that you need to place on silent or do not  
15 disturb or anything like that? 09:07

16 **A. Yeah. Let me do that. Thank you for**  
17 **that.**

18 **Okay.**

19 Q. Do you have any email or instant  
20 messenger applications that you're using on the 09:07  
21 computer for this deposition?

22 **A. No, they're not.**

23 Q. Aside from the Zoom window, what  
24 other screens do you have open on your computer?

25 **A. The only other screen I had open** 09:07

8

1 right at this moment was the -- an editor so I  
2 could copy the link to this screen. But I'll  
3 close that right now.

4 Q. Okay.

5 A. Don't need that anymore. 09:08

6 Q. So no -- no documents open on your  
7 computer that you're using --

8 A. Nope.

9 Q. -- for the deposition?

10 A. Nope. Not at all. 09:08

11 Q. Okay. When did you first become  
12 involved in this case?

13 A. I believe it was late August of this  
14 year.

15 Q. Is that when you were first retained? 09:08

16 A. I'd have to go look at that. I don't  
17 recall off the top of my head.

18 Do you want me to check?

19 Q. Do you just have like a rough kind of  
20 guess? 09:08

21 A. It would have been late September,  
22 early -- I mean, excuse me, late July or August  
23 from my recollection.

24 Q. Have you reviewed the patents that  
25 are at issue in this case? 09:08

1           **A.     I have.**

2           Q.     How many of the patents have you  
3 reviewed?

4           **A.     I believe there's five of them.**

5           Q.     And you reviewed all five? 09:09

6           **A.     Yes.**

7           Q.     When did you first review each of the  
8 patents?

9           **A.     Well, shortly after I was retained**  
10 **so, again, somewhere between late July and** 09:09  
11 **August.**

12          Q.     How many hours have you spent on this  
13 case thus far?

14          **A.     I don't have an exact number. I'd**  
15 **hazard a guess. I could pull that up for you if** 09:09  
16 **you want.**

17          Q.     Sure.

18          **A.     Okay. This might take a minute.**

19                 **Do you want me to get that to you**  
20 **afterwards or do you want me to do that now?** 09:10

21          Q.     If you have like an estimate of the  
22 hours. I don't need an exact figure. But if  
23 you want to...

24          **A.     It's between 30 and 50 hours.**

25          Q.     Okay. And that's everything from the 09:10

10

1 time you were first retained leading up to right  
2 now?

3 A. Yeah. I believe it's probably closer  
4 to 50 hours. But yes.

5 Q. How much time did you spend preparing 09:10  
6 your declaration?

7 A. After reading the patents and reading  
8 the supplemental information I was given, at  
9 least three-quarters of that time. I'm thinking  
10 two-thirds, three-quarters of that time. 09:10

11 Q. So between two-thirds and  
12 three-quarters of roughly 50 hours?

13 A. Thereabouts. Like I said, I don't  
14 have exact numbers.

15 Q. And you mentioned supplemental 09:10  
16 information that you were given.

17 What's that referring to?

18 A. That was referring -- I can pull it  
19 up. Give me a second here while I get to it.

20 That had to do with -- defendant's 09:11

21 patent local rules disclosures of the  
22 preliminary constructions. I can get back to  
23 that again. That had to do with the terms that  
24 were -- that were originally asked -- or  
25 originally proposed. That had to do with the 09:12

11

1 patents, prosecution histories. That also had  
2 to do with preliminary claim constructions and  
3 identification of extrinsic evidence.

4 Those -- that's generally the  
5 information that I was given.

09:12

6 Q. Do you know, a rough estimate of the  
7 between two-thirds and three-quarters of the  
8 time you spent thus far in this case, does that  
9 time estimate include that time you spent  
10 reviewing those supplemental materials?

09:12

11 A. In part or in whole, sure.

12 Q. Okay. So when you said that you  
13 spent roughly two-thirds to three-quarters of  
14 the hours that you've spent on this case thus  
15 far preparing your declaration, that number  
16 could include the time you spent reviewing that  
17 supplemental information?

09:13

18 A. Yes.

19 MR. PYMENTO: Objection. Form.

20 BY MR. HIGH:

09:13

21 Q. Of the time that you spent preparing  
22 your declaration, how much of that time was for  
23 -- well, sorry. Let me back up.

24 So you mentioned that there's five  
25 patents at issue in this case.

09:13

12

1 Do you understand that, you know,  
2 sometimes us patent attorneys refer to the  
3 patent by the last three numbers of the patent?

4 **A. Yes.**

5 Q. So if I mention the '767 patent, you 09:14  
6 would know what I was talking about?

7 **A. I know which patent you're talking**  
8 **about and which one to refer to, yes.**

9 Q. Okay. If I use a number that you  
10 don't recognize, just let me know. 09:14

11 But how much of that time that you  
12 spent preparing your declaration was for the  
13 '767 patent?

14 **A. Well, I don't know that I could break**  
15 **it down like that. You know, I looked at them** 09:14  
16 **all in the aggregate and worked on each of them**  
17 **individually. But I didn't track how much time**  
18 **I spent on each individual patent.**

19 Q. Did you spend roughly equal time on  
20 each patent would you say? 09:14

21 **A. No, not necessarily. But like I**  
22 **said, I just didn't keep track of how much time**  
23 **I spent on each individual patent.**

24 Q. So of the five patents, which one did  
25 you spend the most time on? 09:15

13

1 MR. PYMENTO: Objection.

2 THE WITNESS: I don't know if I could

3 answer that. I mean I did spend a fair

4 amount of time on the '767 patent. It is

5 the first one that came up in discussion. 09:15

6 But like I said, I just don't -- I didn't

7 track that.

8 BY MR. HIGH:

9 Q. Can you -- sorry. Strike that.

10 Of the five patents, do you know 09:15

11 which one you spent the least amount of time on?

12 A. Same answer.

13 MR. PYMENTO: Objection.

14 THE WITNESS: Whoops.

15 Same answer. 09:15

16 BY MR. HIGH:

17 Q. So you might not have spent roughly

18 equal time on each of the patents but you can't

19 recall, you know, the relative amount of time

20 that you spent working on your declaration with 09:15

21 respect to each patent?

22 MR. PYMENTO: Objection.

23 THE WITNESS: I -- I think that, you

24 know, they were generally approximately the

25 same amount of time. Sure. There's going 09:16

14

1 to be one that I spent more time on and I  
2 would hazard to guess it might have been  
3 the '767 patent. But I didn't track the  
4 amount of time that I spent on each  
5 individual patents.

09:16

6 You know, I'm not sure I could  
7 really answer your question specifically or  
8 -- or accurately.

9 BY MR. HIGH:

10 Q. Did you write the declaration  
11 yourself?

09:16

12 A. I had help with the declaration. But  
13 those are my opinions in the declaration, that  
14 is -- that is correct.

15 Q. Did you write any of the sections of  
16 your declaration by yourself?

09:16

17 A. I wrote -- like I said, I had help  
18 with the declaration. Those are my opinions. I  
19 did not write any of the legal sections but I  
20 did help -- I did write the -- in conjunction  
21 with the attorneys the -- the technical  
22 sections.

09:16

23 Q. Is there any section that you wrote  
24 without the help of your attorneys?

25 MR. PYMENTO: Objection.

09:17

15

1 THE WITNESS: Well, like I said, I  
2 did -- you know, those are my opinions. I  
3 did review all of the documentation. I did  
4 write the technical aspects. I gave them  
5 the first draft and that's -- so I would 09:17  
6 say, yes, I did.

7 BY MR. HIGH:

8 Q. Which section did you write without  
9 the help of your attorneys?

10 A. **I did not say that.** 09:17

11 Q. But you -- you answered the last  
12 question with "yes, I did" so I thought you were  
13 saying that you did?

14 A. **Well, like I said, I gave them a**  
15 **draft and we went back and forth and worked on** 09:17  
16 **the draft until we were happy with it.**

17 Q. Okay. So let me ask my question  
18 again.

19 Is there any section of your  
20 declaration that you wrote without the help of 09:18  
21 your attorneys?

22 MR. PYMENTO: Objection.

23 THE WITNESS: As I said, you know,  
24 those are my opinions. I -- I wrote a  
25 draft and then we worked on the draft 09:18

16

1 together until we were both happy. I  
2 wasn't requesting to allow them to put  
3 anything in that I wouldn't agree with.

4 MR. HIGH: Objection. Nonresponsive.

5 BY MR. HIGH: 09:18

6 Q. Mr. Gomez, I'd like you to answer the  
7 question that I'm asking you, please, rather  
8 than, you know, changing what my question is.

9 MR. PYMENTO: With all due respect,  
10 counsel, he is answering the question. I 09:18  
11 would appreciate --

12 BY MR. HIGH:

13 Q. So my question is --

14 MR. PYMENTO: If you reask the  
15 question, that's fine. 09:18

16 BY MR. HIGH:

17 Q. Is there any section of your  
18 declaration that you wrote without the help of  
19 your attorneys?

20 A. I think I answered it thoroughly. I 09:18  
21 think I answered your question. The way we  
22 wrote the declaration is that I reviewed the  
23 materials, I came up with my opinions, submitted  
24 the draft, and then that's the one we worked on  
25 until we were both happy. And I wouldn't allow 09:19

17

1    **them to put anything in unless I was agreeing**  
2    **with that information.**

3           Q.    So is the answer no?

4           A.    **I'm sorry?**

5           Q.    Is the answer no? 09:19

6           A.    **No. The answer is --**

7                   MR. PYMENTO:  Objection.

8                   THE WITNESS:  -- the one that I gave  
9           you.

10   BY MR. HIGH: 09:19

11           Q.    It's a yes-or-no question and I  
12   haven't heard a yes or a no.

13           A.    **I don't believe it is a yes-or-no**  
14   **question. You've asked me a question that I**  
15   **explained how the process worked. And I don't** 09:19  
16   **believe -- I -- I -- I can't answer that in a**  
17   **yes or no although I'd like to. The truth is**  
18   **I'm giving you the way that it worked.**

19           Q.    What's preventing you from answering  
20   it with a yes or a no? 09:19

21                   MR. PYMENTO:  Objection.

22                   Argumentative.

23                   THE WITNESS:  I'm just trying to be  
24   honest with you the way it worked and what  
25   we did. 09:19

18

1 BY MR. HIGH:

2 Q. So going back to I think your  
3 explanation of the process, I think you  
4 mentioned that you submitted a first draft; is  
5 that right?

09:20

6 A. Yes.

7 Q. Which portion of the declaration did  
8 you draft the first draft of?

9 A. That would be the technical sections.

10 Q. So you wrote the first draft of the  
11 technical sections and then worked with your  
12 attorneys after that to finalize things?

09:20

13 A. Yes.

14 MR. PYMENTO: Objection.

15 BY MR. HIGH:

09:20

16 Q. Is there any other section of your  
17 declaration that you wrote the first draft of?

18 MR. PYMENTO: Objection.

19 THE WITNESS: I did not write the  
20 legal sections.

09:20

21 BY MR. HIGH:

22 Q. And just to be clear, when you're  
23 referring to the technical section, you're  
24 referring to the section with the heading Claim  
25 Construction where each of the terms are listed?

09:21

19

1           A.     I'd have to go back and look at the  
2     -- at the section that you're referring to.

3                     Do you want me to -- should you -- I  
4     can look at it if you give me the -- I'm not  
5     quite sure what you're -- what you're -- what  
6     you're question actually is with regard to which  
7     section.

09:21

8           Q.     Yeah. I guess I just wanted to make  
9     sure I understood which section you were  
10    referring to when you say the "technical  
11    section."

09:21

12          A.     That would be the sections that  
13    include technical information.

14          Q.     Did you draft the first draft of the  
15    materials considered section?

09:22

16          A.     That was the materials that I  
17    considered. I don't recall that. But you know,  
18    if it had to do with the technical aspects, I  
19    certainly was involved or I -- it was part of  
20    the first draft.

09:22

21          Q.     So you don't -- you don't recall  
22    whether you drafted the first draft of the  
23    materials considered section?

24          A.     Oh, I looked at a number of different  
25    pieces of information provided to me. And so

09:22

20

1     **that would have been included in the report, in**  
2     **the declaration, that's correct.**

3           Q.     So it's included in the declaration.

4                   But I guess I'm asking if you were  
5     the one that drafted the first draft of it.                   09:22

6                   MR. PYMENTO:  Objection.

7                   THE WITNESS:  You know, I was given a  
8     number of different pieces of material to  
9     consider.  And I'm sure I would have  
10    suggested that they need to be in the                   09:23  
11    report.

12  BY MR. HIGH:

13           Q.     But you can't recall whether you were  
14    the one that physically typed out the first  
15    draft of that section?                   09:23

16           A.     They -- you know, I've written a  
17    number of reports in the past and I always  
18    include those sections.

19                   So yes, I probably would have  
20    suggested which ones to put in and then there           09:23  
21    would have been a negotiation back and forth and  
22    we would have reviewed to make sure that  
23    everything that I considered was in there.

24           Q.     Did you physically draft up the first  
25    draft of the level of ordinary skill in the arts       09:23

21

1 section?

2           A.       No. I did not physically draft that  
3       one.

4 Q. Did you draft the first draft of the  
5 qualifications and background information 09:24  
6 section?

7           A.     I believe I did. I'd have to go back  
8     and review that.

9 Q. And you've been deposed before?

**A. Yes.**

11 Q. About how many times?

12           A.     I think it's been 14 times.

13 Q. Were all those patent cases?

14           A.     All but one. I think the one case  
15     that -- that wasn't a patent case was a trade                 09:24  
16     secrets case.

17 Q. How many times have you been deposed  
18 in connection with a claim construction  
19 declaration or report?

A. Three or four times.

09:25

21 Q. Three or four times.

22 Is that about how many times you have  
23 submitted a declaration or a report regarding  
24 claim construction?

25           **A.**     That would probably be the case.                       09:25

22

1    There was one case where I was deposed on my  
2    report. And then based on some legal  
3    maneuverings, they were able to depose me a  
4    second time on the same report so that makes the  
5    account a little confusing. But it's  
6    approximately the same time.

09:26

7           Q.    So I guess another way of asking  
8    that, maybe to just eliminate some of the  
9    confusion, prior to this case, about how many  
10   times have you been drafted a declaration or a  
11   report regarding claim construction?

09:26

12          A.    Again, I'm -- I don't recall all of  
13   them but it's three or four times. In that --  
14   in that ballpark.

15          Q.    Of those three or four times, how  
16   many of those involved whether a claim term was  
17   indefinite?

09:26

18          A.    I'm going to guess probably almost  
19   every single one of them involved at least one  
20   term that was indefinite or claimed to be  
21   indefinite. Whether or not it survived to the  
22   final report is what I don't fully recall.

09:27

23                In other words, there was proposals  
24   that certain terms were indefinite in each and  
25   every one of those cases. But some of those got

09:27

23

1 settled before we actually submitted the final  
2 report and I just don't recall all the specifics  
3 sitting here.

4 Q. So you can't recall about how many of  
5 the three or four times you've been deposed 09:27  
6 regarding claim construction actually involved  
7 an issue where you were opining on whether a  
8 claim term was indefinite?

9 MR. PYMENTO: Objection.

10 THE WITNESS: In each and every one 09:28  
11 of the cases there was a claim made that a  
12 certain term was indefinite. And in each  
13 and every one of those cases I did work to  
14 resolve whether it was or was not  
15 indefinite. 09:28

16 What I don't recall is whether  
17 or not each and every one of those cases  
18 required me to actually submit a  
19 declaration in which a term was indefinite.

20 BY MR. HIGH: 09:28

21 Q. Have you ever opined on a claim term  
22 and reached the conclusion that it was  
23 indefinite?

24 MR. PYMENTO: Objection.

25 THE WITNESS: That I don't recall. 09:28

24

1           Yeah. Some of these -- some of these --  
2           some of these matters date back seven,  
3           eight years. So it's difficult for me to  
4           remember those. If you want, I can review  
5           them and get back to you on that.

09:29

6       BY MR. HIGH:

7           Q.     Do you have them -- do you have  
8           access to them?

9           A.     **Not here, no. Not sitting here.**

10          Q.     So when you opine on what a claim  
11          term means, how do you form your opinion?

09:29

12                 MR. PYMENTO: Objection.

13                 THE WITNESS: Well, the first thing I  
14                 do is I look at the claims and try to  
15                 understand the meaning imparted by the  
16                 claims themselves, you know.

09:29

17                         And then of course as required  
18                 I'll look at specifications in the file  
19                 history. In addition to those items, I'll  
20                 also use my own experience in trying to  
21                 understand how terms were used in that time  
22                 frame of the patent.

09:30

23       BY MR. HIGH:

24           Q.     So when you ultimately form your  
25           opinion on what a claim term means, are you ways

09:30

25

1 basing that on your own expertise?

2           **A.     No, not necessarily. If it's clear**  
3 **from the claims themselves or the specification,**  
4 **I'll try to understand what the author of the**  
5 **patent had intended.**

09:30

6                   **But having been in this industry now**  
7 **for 45 years, there's often inside information**  
8 **or just industry information that I might have**  
9 **that may help shed light on the meaning if it's**  
10 **not perfectly clear from the claims or the**  
11 **specification or the file histories.**

09:31

12           **Q.     So you're able to use your 45 years**  
13 **of industry experience to, you know, rely on**  
14 **that inside information to shed light on the**  
15 **meaning of a term when it might not be perfectly**  
16 **clear?**

09:31

17           **A.     As a person of ordinary skill in the**  
18 **art, I think that's what I'm often required to**  
19 **do if it's not clear from the specifications.**  
20 **Or even if it is, if -- if there's some extra**  
21 **insight I can help for a judge, the jury, or the**  
22 **other side to understand what -- what the**  
23 **meaning of the claims are, I certainly will**  
24 **provide that.**

09:31

25           **Q.     What's your understanding of what a**

09:32

26

1 person of ordinary skill in the art means in the  
2 abstract?

3 **A. A person --**

4 MR. PYMENTO: Objection.

5 (Stenographer clarification.) 09:32

6 MR. HIGH: In the abstract.

7 THE WITNESS: Well, a person of  
8 ordinary skill in the art is a concept of  
9 an ideal person who would have been able to  
10 have an understanding and be able to 09:32  
11 practice the invention at the time.

12 BY MR. HIGH:

13 Q. So when you submit your claim  
14 construction declarations, are you doing so from  
15 the perspective of a person of ordinary skill in 09:32  
16 the art?

17 **A. I try to understand what a person of**  
18 **ordinary skill in the art at the time would have**  
19 **-- what their understanding of the technology**  
20 **would have been at that time.** 09:33

21 Q. In the declarations regarding claim  
22 construction that you provided in the past, have  
23 your opinions on what a person of ordinary skill  
24 in the art would understand the claim terms to  
25 mean always match the positions of the party 09:33

27

1 that retained you?

2 MR. PYMENTO: Objection.

3 THE WITNESS: No, not at all. I have  
4 my experiences that I rely on in

5 understanding what a person of ordinary 09:33

6 skill in the art would have been. If I

7 don't agree with the -- with the definition

8 that sometimes is often decided before I

9 arrive but sometimes -- on the -- on the

10 case. 09:34

11 But sometimes I have the

12 opportunity -- many times I have the

13 opportunity to inform the counsel I'm

14 working with on what would be a person of

15 ordinary skill in the art. 09:34

16 BY MR. HIGH:

17 Q. So in the past you've submitted a  
18 declaration containing an opinion that differed

19 from the position of the party that retained

20 you? 09:34

21 MR. PYMENTO: Objection.

22 THE WITNESS: Yeah. I've always made  
23 sure that we are in agreement on my

24 declarations of what the contents are. And

25 that includes the person of ordinary skill 09:34

28

1 in the art.

2 BY MR. HIGH:

3 Q. So by the time you finalize your  
4 declaration, your opinions are the same as the  
5 party that retained you?

09:34

6 A. **That's the goal.**

7 Q. Has it always worked out that way in  
8 the past?

9 MR. PYMENTO: Objection.

10 THE WITNESS: If I disagree, I'll  
11 disagree loudly.

09:35

12 BY MR. HIGH:

13 Q. Have you ever testified at trial  
14 before?

15 A. **Yes.**

09:35

16 Q. About how many times?

17 A. **I believe it's five now. Well, let  
18 me rephrase that. I think it's five times in  
19 district court and there's two times at the ITC.**

20 Q. Do you recall whether your testimony  
21 at trial has ever been limited in any way by the  
22 judge?

09:35

23 A. **Do you mean -- I don't understand the  
24 question. Perhaps you can give me an example of  
25 what you mean.**

09:35

29

1 Q. Have you ever had opinions excluded  
2 by the judge?

3 A. No.

4 Q. Have you ever been found lacking the  
5 credentials of an expert by a judge? 09:36

6 A. No.

7 MR. PYMENTO: Objection.

8 MR. HIGH: I'm going to introduce  
9 your CV as an exhibit. I'll call it  
10 Deposition Exhibit 1. I have uploaded that 09:36  
11 into the chat. You should see it.

12 (Gomez Deposition Exhibit 1  
13 was marked for identification.)

14 BY MR. HIGH:

15 Q. Let me know when you have that open. 09:37

16 A. Yeah. I'm clicking on it. It's  
17 opening all right. I have it open.

18 Q. And this is a copy of your CV that  
19 you submitted in this case?

20 A. That's correct. 09:37

21 Q. You currently work for a company  
22 called Rockslide Analytics, LLC; is that right?

23 A. Yes, that's correct. It's been  
24 changed to a corporation but generally still the  
25 same name. 09:37

30

1 Q. What is Rockslide Analytic --  
2 Rockslide Analytics?

3 A. **Rockslide Analytics is my consulting**  
4 **company.**

5 Q. And your CV says that you're working 09:38  
6 on developing and hopefully to eventually sell a  
7 depth-sensing camera?

8 A. **That is correct.**

9 Q. Is that still correct?

10 A. **Yes.** 09:38

11 Q. And so I guess when you say it's your  
12 consulting company, is it also doing other  
13 things as well?

14 A. **Yes, it is.**

15 Q. How many employees does Rockslide 09:38  
16 Analytics have?

17 A. **Rockslide Analytics has just me as an**  
18 **employee but we have a number of contractors.**  
19 **We tend to focus more on contracting than --**  
20 **than employees.** 09:38

21 Q. And you have been working there since  
22 April of 2013?

23 A. **That's correct.**

24 Q. Aside from your work on the  
25 depth-sensing camera, what kind of work do you 09:39

31

1 do at Rockslide Analytics?

2           A.     I do general engineering consulting,  
3 also software design, a lot of embedded  
4 applications or sometimes some web-based  
5 applications, and then of course this expert  
6 work. 09:39

7           Q.     Is your engineering consulting that  
8 you do for Rockslide Analytics included anywhere  
9 in your CV?

10          A.     Not it's not. Most of what I'm 09:39  
11 focusing on right now is some product  
12 development. And I'd like to get this startup  
13 moving along here. But if you look at my CV, my  
14 history is starting and running startups. And  
15 of course, that's what I focus -- I'd like to 09:40  
16 focus Rockslide on as well.

17          Q.     So in terms of a percentage of your  
18 time, about how much of your time for Rockslide  
19 Analytics is spent as an expert consulting  
20 versus as an engineer consulting? 09:40

21               MR. PYMENTO: Objection.

22               THE WITNESS: There's three parts to  
23 Rockslide. There's, you know, engineering  
24 -- engineering services, there's product  
25 development, and then there's expert work. 09:40

32

1                   Lately most of this focus has  
2           been on the product development and also  
3           some of the expert work. But you know, I  
4           just got back yesterday from India where we  
5           have a consulting team down there for the  
6           product side. And I was there for three  
7           weeks.

09:41

8                   So you know, you can see that  
9           the focus here is on product development.

10   BY MR. HIGH:

09:41

11           Q.     And the product development you're  
12           referring to is the depth-sensing camera?

13           A.     **There's several products, one of**  
14           **which is the depth-sensing camera. And the**  
15           **other is the software surrounding some of the**  
16           **web-based applications we're building.**

09:41

17           Q.     Are the web-based applications  
18           associated with the depth-sensing camera?

19           A.     **One of them is. One of them is not.**

20           Q.     So about how much of your time is  
21           dedicated to consulting as an expert as a  
22           percentage?

09:41

23           A.     **Approximately one-third to half.**  
24           **Depends on the time of year and what's going on**  
25           **at that particular moment. When I get an**

09:42

33

1 important expert project, I'll tend to focus on  
2 that through its completion and then I'll take  
3 time off to go work on the product development.

4 Q. Prior to Rockslide Analytics, you  
5 worked for a company called ActSolar; is that 09:42  
6 correct?

7 A. That's correct. That's another  
8 startup I started.

9 Q. And you were there from August  
10 of 2006 to March of 2009? 09:42

11 A. Yeah. We sold it to National  
12 Semiconductors in March of 2009 and I elected  
13 not to go with the company.

14 Q. What did you do between March 2009  
15 and April 2013? 09:43

16 A. That was a fair amount of expert work  
17 in that time frame.

18 Q. What is ActSolar?

19 A. That was a company that was designed  
20 to build instrumentation for solar panels. The 09:43  
21 idea -- at the time frame -- at that time solar  
22 panels didn't have any way of telling you  
23 whether they were working well or not. So we  
24 built an instrumentation package that would be  
25 added to solar panels that could -- that could 09:43

34

1 transmit the performance of the solar panels to  
2 a server.

3 So we had application bits -- you  
4 know, web-based software that would present the  
5 -- the findings of the performance of the solar 09:44  
6 panel, along with the instrumentation package  
7 that went up on the roof.

8 We also built as part of that system  
9 a shading compensator. And the shading  
10 compensator would be a -- was a piece of 09:44  
11 technology that would detect whether clouds were  
12 passing overhead. And when the cloud shadows  
13 passed overhead, it would protect the solar  
14 panels from inrush of current that occurs when  
15 you get shading. 09:44

16 And that total system we sold to  
17 National Semiconductors in that time frame.

18 Q. And you worked as an engineer to help  
19 develop that technology?

20 A. I was vice president of the 09:44  
21 engineering department at ActSolar.

22 Q. As vice president, what were your  
23 responsibilities?

24 A. I was tasked with coming up with the  
25 initial architecture and then hiring the team 09:44

35

1 that would carry out the actual implementation  
2 and then working with that team to make sure  
3 that the implementation happened in a way that  
4 was appropriate.

5 Kind of a side responsibility also 09:45  
6 was that the first concept that we came up with  
7 wasn't necessarily marketable. So we had to  
8 continually innovate and come up with new ways  
9 of making the product more marketable. For  
10 example, what happened was the first idea was an 09:45  
11 instrumentation package. But by itself, we  
12 didn't think that there was a market for it.

13 So we combined it with an inverter.  
14 And I built the -- I built the architecture of  
15 the inverter and also laid out the process that 09:45  
16 the engineers would use to implement it. And  
17 then -- and then that -- that evolved into the  
18 shading compensator. The shading compensator is  
19 essentially an inverter running in reverse.

20 So you can see the evolution of how 09:45  
21 -- how the product model changed over time. And  
22 that was also part of my responsibility, was to  
23 align the product with what the market needed.

24 Q. Before ActSolar you were at  
25 BridgeWave as a consultant; is that right? 09:46

36

1           **A.     That's correct. BridgeWave was a**  
2           **microwave corporation for backhaul**  
3           **communications and -- mostly for overseas --**  
4           **over overseas implementations.**

5                   **So my goal there -- my job there was**           09:46  
6           **to build a series of test platforms that would**  
7           **ensure that the backhaul communications was**  
8           **first built properly and then -- and then**  
9           **installed properly.**

10           **Q.     What's the word that you're saying,**           09:46  
11           **backhold?**

12           **A.     Backhaul. It means that it's the**  
13           **backbone of the network that transmits all the**  
14           **communications from various users.**

15           **Q.     Before that you were a consultant for**           09:47  
16           **PA Consulting Group?**

17           **A.     Yeah. That was a group that was**  
18           **interested in understanding how they could put**  
19           **their product into FPGAs, field programmable**  
20           **logic chips. And I had quite a bit of**           09:47  
21           **experience in that technology as well.**

22           **Q.     What did you do for them?**

23           **A.     I advised them in the approaches that**  
24           **they needed to take.**

25           **Q.     Before that you were at Santel**           09:47

37

1 Networks?

2 A. That's correct. At Santel I built a  
3 10-gigabit-per-second fiber-optic link that  
4 would -- that basically used what they called  
5 optical dual-binary compression. And it would  
6 allow us to get better throughput on the fiber  
7 channel. And they needed a test platform to be  
8 able to prove out the concept and then be able  
9 to implement it. I did both.

09:48

10 Q. Before that you were director of  
11 hardware content -- sorry.

09:48

12 Before that you were director of  
13 hardware and content networking division of  
14 Extreme Networks?

15 A. Yeah. There were two companies,  
16 first Webstacks and then Extreme. Webstacks was  
17 where we built the server load balancer that was  
18 one of the fastest throughput machines around.  
19 It was intended to be the fastest. And Extreme  
20 Networks came to us early on and said that if we  
21 could build it, they would buy it -- they would  
22 buy us. So that's -- the two companies were  
23 working around the same product line.

09:48

09:49

24 Q. I see. So you were at Webstacks kind  
25 of January 2000 and then Extreme Networks

09:49

38

1 March 2001?

2 A. That's correct. Yeah, that's when  
3 the sale occurred, was in March of 2001.

4 (Stenographer clarification.)

5 THE WITNESS: The sale of the 09:49  
6 company.

7 BY MR. HIGH:

8 Q. What's a server load balancer?

9 A. A server load balancer is a device  
10 that determines how to issue information 09:49  
11 requests to redundance array of servers. So for  
12 example, if Yahoo! had football information on  
13 one server -- on let's say five servers, a  
14 server load balancer would balance the requests  
15 for that information across those five servers 09:50  
16 in an intelligent way.

17 Q. Before that you were a consultant for  
18 Philips Semiconductor?

19 A. That's correct.

20 Q. What did you do there? 09:50

21 A. We did a number of different things  
22 there. The original and primary product was  
23 that they built a handheld computing system.  
24 And Microsoft had an operating system that  
25 Philips wanted to use with their handheld 09:50

39

1 computing system. It was Windows CE. Windows  
2 CE was used in various -- various types of  
3 handheld platforms including cell phones, some  
4 of the early cell phones -- or smartphones I  
5 should say.

09:50

6 And my role there was to ensure that  
7 the certification process, as well as the  
8 implementation of some of the peripherals, met  
9 Microsoft's certification requirements.

10 Q. So you helped to develop the  
11 technology used to verify that the Microsoft  
12 operating system was running properly on the  
13 handheld device?

09:51

14 A. It was more of the reverse. I  
15 advised Philips on the requirements for the  
16 Microsoft certification and helped modify their  
17 designs mostly around the peripherals, which  
18 included things like storage elements for PCMCIA  
19 or for Microsoft's interface to their -- to  
20 various radio links and to -- just to ensure  
21 that those peripherals would work properly with  
22 my Windows CE.

09:51

09:51

23 And then I had to build the in-test  
24 environment to prove to Microsoft that those  
25 things were working properly with Windows CE.

09:52

40

1 Q. Before that you were president and  
2 founder of Minden Group?

3 A. That's correct.

4 Q. What did you do there?

5 A. Well, Minden, I was the founder. I 09:52  
6 came up with the initial idea and developed the  
7 company around a memory trellis for personal  
8 computers. So that people who owned computers  
9 in the day and wanted to expand, they were often  
10 out of slots. There wasn't just physically 09:52  
11 enough slots in the computers for that time  
12 frame.

13 And so this allowed them to reuse  
14 their memory by placing them on a -- on a memory  
15 trellis and then have extra slots available then 09:52  
16 to -- to add in additional memory. And we sold  
17 that through, gosh, like 1,500 stores across the  
18 United States. Fry's Electronics, CompUSA,  
19 Future Shop, Best Buy, they were all some of our  
20 customers. 09:53

21 Q. So the memory trellis was kind of  
22 like -- it provided extra memory slots for a  
23 computer?

24 A. Yeah. Memory slots often were fairly  
25 limited in those days. There might have been 09:53

41

1     like four memory slots. And if somebody had  
2     purchased in those days 4 megabytes of memory,  
3     there would be 1 megabyte on each slot. If they  
4     needed to expand on that, there just weren't any  
5     more slots. So they could buy a memory trellis 09:53  
6     to populate the first and second slot with the  
7     existing memory and then have the next two  
8     memory slots available for expansion. Memory  
9     was pretty expensive in those days so it was a  
10    good economic decision for them to buy these. 09:54

11           Q.     Before that you were  
12    founder/president of Spectrum Analysis?

13           A.     That's correct.

14           Q.     What did you do there?

15           A.     Spectrum Analysis was a company I 09:54  
16    started for -- a consulting company. And we  
17    built a number of different products for various  
18    customers. We also supported them in the  
19    engineering design of various products.

20                   The primary focus there was to work 09:54  
21    with customers on implementing designs into  
22    FPGAs as a test suite before moving them to  
23    ASIC. FPGAs are programmable integrated  
24    circuits that look a lot like an ASIC, which is  
25    an application-specific physical circuit. But 09:54

42

1    **PFPGAs are reprogrammable so you can continue to**  
2    **iterate on your design provided that you had a**  
3    **-- a -- a circuit board that had FPGAs on them.**  
4    **So it was basically an emulator and it would**  
5    **emulate the ASIC.**

09:55

6            Q.    Is that more of a hardware focus?

7            A.    Yeah, that was very much a hardware  
8    **focus.**

9            Q.    Before that you were applications  
10   **manager for Quickturn Systems?**

09:55

11           A.    Yes. So Quickturn --

12           Q.    What did you do --

13           A.    So Quickturn was a company designed  
14   **to build some of the world's first emulators --**  
15   **or hardware emulators. And again, they had a**  
16   **completely automated system that would allow a**  
17   **user to input their -- their ASIC design and the**  
18   **emulator would then reprogram the FPGAs to**  
19   **perform that emulation.**

09:55

20                    The work I did there was to support  
21   **the customers in making sure that their designs**  
22   **actually worked on the emulator. Even though it**  
23   **was billed as an automated emulator, it didn't**  
24   **always work fully automatic. And then based on**  
25   **that knowledge that I acquired at Quickturn**

09:55

09:56

43

1 design, that's what I used at Spectrum Analysis.

2 Q. Before that you were applications  
3 engineer for Telestream?

4 A. That's correct.

5 Q. What did you do there? 09:56

6 A. Telestream was a startup that built  
7 telecommunication -- a programmable  
8 telecommunication platform. And at that time  
9 frame in 1989 -- let's see. That would be 1987  
10 actually, the bulk of the telecom products were 09:56  
11 physically implemented in that they weren't  
12 programmable or barely programmable.

13 And the Telestream platform was  
14 designed to be almost 100 percent programmable  
15 so that customers could use this product to test 09:57  
16 out their telecom -- telecom hardware before  
17 they actually went to a full chip or to a full  
18 fixed product line.

19 Q. And before that you were design  
20 engineer for StrataCom? 09:57

21 A. That's correct.

22 Q. What did you do there?

23 A. StrataCom is a company that built  
24 literally the first packet-based  
25 telecommunications product. The idea was that 09:57

44

1    -- we were a bunch of engineers out of ROLM  
2    Communications. And ROLM was a telecom company  
3    that was building computerized branch exchanges,  
4    which are basically telephone equipment for  
5    businesses. And we realized that there was a                   09:58  
6    market for building telecommunications over  
7    using packets, which seems obvious today but  
8    wasn't at that time frame.

9                   Originally we were asked to build a  
10   voice communication system to go over cable                   09:58  
11   networks. And that's what we started building.  
12   That was a company called PacketDAX. And  
13   PacketDAX was looking to build voice and video  
14   over cable networks. But unfortunately the  
15   video aspect was more difficult at the time than               09:58  
16   they expected.

17                   So PacketDAX became Packet  
18   Technologies. And we ended up repositioning the  
19   voice element on to long-haul T1 lines. And  
20   that's what became the -- the IPX, which is the               09:58  
21   product that Packet Technologies developed.  
22   That was later sold to Cisco in I think 1994,  
23   including some of data elements that came later.  
24   Data -- some of that data stuff became -- was  
25   what was known at the time as frame relay.                   09:59

45

1 Q. Finally, before that you were design  
2 engineer for R-O-L-M?

3 A. Yeah. That's ROLM Communications.  
4 ROLM stood for the acronym -- first letter of  
5 each founder's name, last name. And they built 09:59  
6 computerized branch exchanges. Like I said,  
7 it's business equipment for telecommunications.

8 Q. And that takes us back to when you  
9 got your undergrad engineering degree, right?

10 A. That's correct. Quite a while back. 09:59  
11 That was in 1983.

12 Q. So just going through that  
13 engineering experience, would you agree that the  
14 bulk of your engineering experience thus far has  
15 been on the hardware side of thing as opposed to 10:00  
16 software?

17 MR. PYMENTO: Objection.

18 THE WITNESS: My early days was in  
19 hardware for sure. That might be a step  
20 away from Yale in 1983. Went to go work 10:00  
21 ROLM Communications and we built circuit  
22 cards for the computerized branch  
23 exchanges.

24 Over time by the late mid --  
25 late '80s or early to mid 1990s, most of 10:00

46

1 the hardware was becoming more software  
2 oriented. Computer chips were, you know,  
3 getting the necessary processing power that  
4 you could start doing software-defined  
5 radios. You could do -- move quite a bit 10:00  
6 of the hardware -- physical hardware and  
7 more into software and still get the  
8 processing times that you needed.

9 So -- and then of course  
10 everything became more -- simulation became 10:01  
11 a very big part of my career because  
12 whenever you build an expensive product  
13 that's going to be pumped out in millions,  
14 you need to be able to ensure that it's  
15 working properly. 10:01

16 And so, you know, originally it  
17 was emulators, then it became -- simulators  
18 became more powerful and became the  
19 dominant method of ensuring that the  
20 product worked. And then of course more of 10:01  
21 the physical layers. Circuitry became  
22 embedded more of the software -- into  
23 software programming environments. And so  
24 my career took a twist and ended up  
25 becoming more of a software engineer than a 10:01

47

1 hardware engineer.

2 MR. HIGH: We've been going about an  
3 hour. Do we want to take a quick break?

4 THE WITNESS: Yeah. I think that  
5 would be good. I need to go refill my 10:01  
6 water.

7 THE STENOGRAPHER: We are off the  
8 record at 10:01 a.m.

9 (Whereupon, a recess was taken  
10 from 10:01 a.m. to 10:07 a.m.) 10:08

11 THE STENOGRAPHER: The time is  
12 10:07 a.m. and we're back on the record.

13 BY MR. HIGH:

14 Q. So before the break we just went  
15 through the engineering experiences listed on 10:08  
16 your CV.

17 Which of those engineering  
18 experiences involved wireless networking?

19 A. There was quite a few that involved  
20 wireless networking. The Philips environment 10:08  
21 required wireless local area networking, as well  
22 as working with Microsoft, to understand their  
23 early smartphone implementations that they were  
24 coming out with on CE.

25 Also the ActSolar required 10:09

48

1 transmission of data from the rooftops down to  
2 the -- down to the receivers. And so we were  
3 using a protocol called Zigbee. I think it was  
4 802.11.15 was the underlying technology to that  
5 -- to that -- to Zigbee. And so, you know, I 10:09  
6 built a number of radio systems over the years  
7 related to transmitting various types of data.

8 Q. Are there any others besides those  
9 that you just called out?

10 A. Those are the two primary ones that I 10:10  
11 -- that I recall.

12 Q. What kind of protocol did the  
13 wireless communications with Philips rely on?

14 A. That was a lot of second -- 2G and 10:10  
15 technologies for working with some of the  
16 integrated circuits that we were implementing in  
17 the Philips products.

18 Q. So 2G, that's cellular network  
19 communication?

20 A. Yeah, it was cellular as well as 10:11  
21 local-area-network-type technologies embedded in  
22 that -- in that product line.

23 Q. Which of the engineering experiences  
24 involved work on telecommunication systems?

25 A. Well, all of them pretty much. I 10:11

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1 mean, you start back in ROLM Communications,  
2 that's telecom right there. And then StrataCom  
3 was a combination of telecom and datacom.

4 And you know, each one of these  
5 technologies, whether it be datacom or telecom, 10:11  
6 required understanding the protocols that would  
7 do the communications.

8 Then of course at Telestream, we were  
9 building programmable telecom platforms. At  
10 Philips I was working on linking our handheld 10:12  
11 computer system with various other networks as  
12 part of the peripheral work that I did there.

13 Then of course at -- at Santel, I built that  
14 10-gigabit-per-second fiber-optic transmitter  
15 for telecom environments. And then of course at 10:12  
16 -- at ActSolar, we were building communications  
17 to transport the data off the rooftops down to  
18 the -- down to the receivers. So that was, you  
19 know, low -- low-bit-rate communications.

20 I think at least half to two-thirds 10:12  
21 of my work I've done during my years -- during  
22 my career has been based on telecom of various  
23 types. Oh, of course then there's Webstacks.  
24 We built the server load balancer for, you know,  
25 network-based communications distributing the 10:13

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1 various types of requests out to various places.

2 Q. Did any of the engineering  
3 experiences listed on your CV involve 4G  
4 cellular network communications?

5 A. From the engineering experiences, 10:13  
6 most of the work was done either on the -- on  
7 the 2G or the local area network protocols like  
8 802.11a and some of the other protocols that had  
9 to do with technology similar to 4G.

10 Q. But none of them directly involved 10:13  
11 4G?

12 A. (Witness indicating.)

13 MR. PYMENTO: Objection.

14 THE STENOGRAPHER: I didn't get an  
15 answer. I'm sorry. 10:14

16 THE WITNESS: Like I said, the  
17 technologies included some of the same  
18 elements of the 4G, like, you know, the  
19 OFDM -- OF -- the orthogonal  
20 frequency-division multiplexing. 10:14

21 (Stenographer clarification.)

22 THE WITNESS: Orthogonal  
23 frequency-division multiplexing.

24 Some of the same technologies.

25

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1 BY MR. HIGH:

2 Q. But none of them directly involved  
3 4G?

4 MR. PYMENTO: Objection.

5 THE WITNESS: No. 10:14

6 BY MR. HIGH:

7 Q. Did any of the engineering  
8 experiences involve 5G?

9 A. No.

10 Q. Are you familiar with multiple-input/  
11 multiple-output technologies? 10:14

12 A. MIMO, yes.

13 Q. What's your understanding of MIMO?

14 A. MIMO is a way to provide various  
15 different services, including diversity, as well 10:14  
16 as beamforming so that, you know, you can get  
17 either -- you can get a more reliable signal to  
18 the receiver that you're intending to target.

19 Q. Which of the engineering experiences  
20 listed on your CV involved MIMO? 10:15

21 A. Well, I have a fair amount of  
22 experience developing antenna systems in general  
23 and, you know, I'm very familiar with all of the  
24 technologies involved in MIMO, mostly on the  
25 receiver side when I was looking at building a 10:15

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1    **phased array antenna. But I haven't actually**  
2    **specifically built a product related to those**  
3    **technologies.**

4            Q.    Are you familiar with the third  
5    generation partnership project or 3GPP?

10:15

6            A.    Yes, I am. I've read the  
7    specification but it's been quite a while.

8            Q.    Have you ever been a part of the  
9    development of the specifications for 3GPP?

10          A.    No, I haven't.

10:16

11          Q.    Have you ever worked on implementing  
12    any specifications developed by 3GPP?

13          A.    I'm sorry. Say that -- I didn't  
14    quite catch that.

15          Q.    Have you ever worked on implementing  
16    any specifications developed by 3GPP in  
17    telecommunications devices?

10:16

18          A.    I'd have to go back and look. I  
19    don't believe so but I'd have to go back and  
20    see. You know, I did a fair amount of  
21    consulting work for Spectrum Analysis that also  
22    included some radio work on pagers and other  
23    types of products. We had probably 40 projects  
24    in there and I don't recall off the top of my  
25    head if that included any of them.

10:16

10:16

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1 Q. Spectrum Analysis was late '80s,  
2 early '90s, right?

3 A. Yeah, correct.

4 Q. Do you recall when 3GPP was formed?

5 A. Not off the top of my head. 10:17

6 Q. You have a section in your CV called  
7 Consulting Areas.

8 A. Yes.

9 Q. One of those sort of subsections is  
10 labeled Communications and under that you have 10:17  
11 LTE listed.

12 Do you see that?

13 A. Yes.

14 Q. What consulting work have you done  
15 related to LTE? 10:17

16 A. These are areas that I have consulted  
17 in more on the legal side than on the -- on the  
18 engineering side. I have supported litigation  
19 in a number of different matters concerning LTE  
20 for -- that would be in -- under -- let me go 10:18  
21 back down there and look at it.

22 That would be under the Wi-LAN cases.

23 And that was work I did for McKool Smith back in  
24 -- let's see. That would be 2000 -- where's the  
25 date on that -- 2009 to 2011. 10:18

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1 Q. So your consulting work related to  
2 LTE has been more so focused on the legal side  
3 than the engineering side?

4 A. Well, as I said, I understand the  
5 technology very well. I've studied it and I've 10:18  
6 supported litigation on -- on -- on LTE.

7 Q. What about OFDM, what -- what  
8 consulting work have you done related to OFDM?

9 A. Well, OFDM is the underlying  
10 technology used in LTE to transmit the -- the 10:19  
11 information.

12 Q. Okay. So similar answer?

13 A. Yes. And by the way it's OFDM, I  
14 think.

15 Q. I see. I was just reading what was 10:19  
16 in your CV.

17 A. Did I get it backwards in my CV?

18 Q. Yeah. Looks like there's a typo in  
19 your CV on page 2 there.

20 A. I'll change that. Thank you for 10:20  
21 that.

22 Q. I knew that didn't sound right coming  
23 out of my mouth.

24 A. Oh, yes I see it. Okay. Thank you.

25 Q. So earlier we were talking about your 10:20

55

1 past claim construction declarations.

2 And I think you mentioned that you've  
3 opined on whether a claim term is indefinite in  
4 the past; is that right?

5 **A. Yes.** 10:20

6 Q. And remind me, have you ever opined  
7 on a claim term and come to the conclusion that  
8 it is indefinite?

9 **A. I don't recall sitting here. I can**  
10 **get back to you on that. The -- there were** 10:21  
11 **several different cases that I did opine on**  
12 **claim terms. The -- one of the ones that I**  
13 **recall is for VIA versus Asus, which started off**  
14 **as a claim -- as a patent matter, also included**  
15 **the intellectual property matter. And I opined** 10:21  
16 **on a large number of terms in that case. But**  
17 **you know, that's already coming up on eight**  
18 **years ago so I don't recall the details of them.**

19 Q. Do you recall prior to this case  
20 whether you have opined whether a term is 10:21  
21 indefinite and come to the conclusion that it is  
22 in fact definite?

23 MR. PYMENTO: Objection.

24 THE WITNESS: Again, it's the same  
25 answer. You know, it's been -- it's not 10:21

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1 something I focused on trying to remember  
2 after the case. So I'd have to go back and  
3 look at what I might have said -- you know,  
4 what my opinions were at that time.

5 BY MR. HIGH: 10:22

6 Q. So you just remember that  
7 indefiniteness was at issue but you can't  
8 remember one way or the other which side your  
9 opinion fell on?

10 **A. Not sitting here right now. I didn't** 10:22  
11 **prepare to answer that question. And these have**  
12 **been eight years ago.**

13 Q. Do you recall whether any court has  
14 ever found a claim term indefinite despite you  
15 providing testimony that the claim was definite? 10:22

16 MR. PYMENTO: Okay.

17 THE WITNESS: Again, same answer. I  
18 can't recall just sitting here. It's not  
19 that I prepared for that type of a  
20 question. So I'd have to go back and look 10:22  
21 at the reports, even if I have them.

22 BY MR. HIGH:

23 Q. Are you aware that a claim can be  
24 indefinite if it covers both an apparatus and a  
25 method of use of that apparatus? 10:23

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1 MR. PYMENTO: Objection.

2 THE WITNESS: Can you restate the  
3 question, please?

4 BY MR. HIGH:

5 Q. Are you aware that a claim can be 10:23  
6 indefinite if it covers both an apparatus and a  
7 method of use of that apparatus?

8 MR. PYMENTO: Objection.

9 THE WITNESS: I'm not sure I  
10 understand all the legal aspects. But I 10:23  
11 understand that a claim can be -- or a  
12 claim term can be indefinite if it's not  
13 properly supported by the specification or  
14 -- or obvious within the claims, the use of  
15 the way it's being used in the claims. 10:23

16 BY MR. HIGH:

17 Q. Are you aware of how to assess  
18 whether an element in a claim is a method  
19 element or a structural element?

20 MR. PYMENTO: Objection. 10:24

21 THE WITNESS: So if a claim is a  
22 structural element, it's often cited by the  
23 claim itself as a system or an apparatus.  
24 If it's a method, it's often identified as  
25 a method and the language within the claim 10:24

1 is structured as a method.

2 BY MR. HIGH:

3 Q. Are you aware of any claims that  
4 purport to be a system but have been found to be  
5 indefinite because they claim -- sorry. Let me 10:25  
6 back up and make this question better.

7 Are you aware of any claims that  
8 purport to be a system but are indefinite  
9 because they include method steps?

10 MR. PYMENTO: Objection. 10:25

11 THE WITNESS: This is for any claim  
12 that I've ever seen or -- I'm not sure I  
13 understand the scope of the question.

14 BY MR. HIGH:

15 Q. Just in general in terms of assessing 10:25  
16 indefiniteness.

17 MR. PYMENTO: Objection.

18 THE WITNESS: I don't understand the  
19 question then.

20 Can you restate it or break it 10:25  
21 down.

22 BY MR. HIGH:

23 Q. Sure. Are you aware that a claim can  
24 be found to be indefinite if it recites a system  
25 in the preamble but it includes a method step in 10:26

1 the body of the claim?

2 MR. PYMENTO: Objection.

3 THE WITNESS: I think that the usage  
4 of the term -- again, as a person of  
5 ordinary skill in the art, if the usage of 10:26  
6 the term is either defined in the  
7 specification or it's clear from the  
8 specification or it's clear from the claims  
9 themselves, I would -- I would know how to  
10 interpret that -- that term. 10:26

11 What I'm -- whether or not it's  
12 a legal issue, I'd have to work with the  
13 attorneys to try to understand if that's an  
14 issue that needs to be addressed.

15 MR. HIGH: I'm going to drop another 10:27  
16 exhibit into the chat and we'll call this  
17 Deposition Exhibit 2.

18 (Gomez Deposition Exhibit 2  
19 was marked for identification.)

20 BY MR. HIGH: 10:27

21 Q. Let me know when you have that open.

22 A. **Right. I just got it.**

23 **All right. I have it open.**

24 Q. So this exhibit just includes some  
25 sample claims that I wanted to -- to go over 10:27

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1 with you and ask you a few questions about them.

2 **A. Okay. Sure.**

3 Q. So we can just start with the one on  
4 the first page that's identified as Sample  
5 Claim 1. 10:28

6 Do you see that?

7 **A. Yes.**

8 Q. Do you agree that Sample Claim 1 is a  
9 system claim?

10 **A. It says "a computer system for 10:28**  
11 **redirecting internet communications."**

12 Q. So you agree?

13 **A. That's what the preamble says. And**  
14 **the -- I'm reading through the rest of it. The**  
15 **"first processor," "second processor," "third 10:28**  
16 **processor," "fourth processor," "fifth**  
17 **processor." And so these things do various**  
18 **things so there is a structure here that seems**  
19 **like it would fit with the system.**

20 Q. Feel free to read through this claim 10:29  
21 if you need to.

22 As you pointed out, this system  
23 comprises multiple processors, right?

24 **A. Yes.**

25 Q. So for example, this claim recites 10:29

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1 "a first processor that receives information  
2 from a computer at a point of origin."

3 Do you see that?

4 A. Can I ask where this -- this is a  
5 sample claim?

10:29

6 Q. Yeah, this is a sample claim.

7 A. Okay. And this doesn't come from any  
8 of the patents that I analyzed or that I  
9 provided an opinion on?

10 Q. Right. This does not come from any  
11 of the five patents that are asserted in this  
12 case.

10:29

13 A. So I didn't prepare anything in my  
14 report on this particular claim so you're just  
15 using this as an example to test my knowledge on  
16 system claims at this point?

10:30

17 Q. Let me just ask the questions and I  
18 think it will be pretty apparent.

19 A. All right. I just want to make sure  
20 that you know that I'm not prepared to answer  
21 stuff that I haven't actually considered. And  
22 if -- you know, to the best of my ability, I'll  
23 -- I'll try to answer a question but I don't  
24 want to be put on the record for something --  
25 having to make decisions or having to analyze

10:30

10:30

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1    **information on the fly because, you know, I --**  
2    **as an expert, I need to be more considered in my**  
3    **opinions.**

4            Q.    All I'm asking is that you answer the  
5    questions to the best of your ability. 10:30

6                    All right. So you see that first  
7    processor limitation that -- that I read out,  
8    right?

9            A.    Yes.

10           Q.    So in this limitation, do you agree 10:30  
11    that "receives information from a computer at a  
12    point of origin" is a function?

13                MR. PYMENTO: Objection.

14                THE WITNESS: Again, I'd have to  
15    analyze this more -- in the context of the 10:31  
16    entire claim. And since there's no other  
17    information other than what you're giving  
18    me here, I am reluctant to answer this  
19    because I just haven't considered it.

20    BY MR. HIGH: 10:31

21           Q.    Do you want to -- do you want me to  
22    upload the patent that this came from into the  
23    chat?

24           A.    You can. And then I'll have to read  
25    the whole patent. 10:31

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1 Q. Okay. You should have access to the  
2 patent now.

3 THE STENOGRAPHER: Do you want this  
4 marked as Exhibit 3?

5 MR. HIGH: Yes. 10:32

6 (Gomez Deposition Exhibit 3  
7 was marked for identification.)

8 THE WITNESS: All right. I got a  
9 patent here. There's a lot of redactions  
10 in the patent. The patent is -- looks like 10:32  
11 it's 14 pages. I can start reading it now.

12 BY MR. HIGH:

13 Q. I don't -- I don't think that the  
14 questions that I'm asking require any knowledge  
15 of what this patent is actually discussing. I 10:32  
16 think it's just more so basic questions about  
17 how you're reading the claim structure. But if  
18 you feel like you need to review any portions of  
19 the patent, feel free.

20 A. So your first question, can you 10:33  
21 restate that again about the first element?

22 Q. Sure. Would you agree that "receives  
23 information from a computer at a point of  
24 origin" is a function that's performed by the  
25 first processor? 10:33

1 MR. PYMENTO: Objection.

2 THE WITNESS: Can you explain what a  
3 function is in the context of this patent?

4 BY MR. HIGH:

5 Q. I'm just using that word in normal, 10:33  
6 everyday parlance.

7 A. Okay. But the function is a loaded  
8 word. There could be lots of different meanings  
9 to the word "function." I need to understand  
10 what you mean by that. 10:33

11 Q. I don't know if I can think of  
12 another word other than function.

13 Do you agree that the first processor  
14 in this claim should receive information from a  
15 computer at a point of origin? 10:33

16 MR. PYMENTO: Objection.

17 THE WITNESS: What do you mean by  
18 "should"?

19 BY MR. HIGH:

20 Q. Well, I guess what do you understand 10:34  
21 the first processor to do just based on this  
22 line in this claim?

23 A. Well, I would say "a first processor  
24 that receives information from a computer at a  
25 point of origin," I'd have to go back and look 10:34

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1 at what they -- what the patent means by "point  
2 of origin" or --

3 (Simultaneous speaking.)

4 THE STENOGRAPHER: I'm sorry. I  
5 missed the end of that. "What the patent 10:34  
6 means by 'point of origin' or"?

7 THE WITNESS: I think that's where I  
8 got to and then I was -- and then the  
9 attorney stepped in.

10 BY MR. HIGH: 10:34

11 Q. Let me see if I can just ask this a  
12 different way. I want to get -- I don't want to  
13 get hung up on the word "function."

14 For this limitation to be met by a  
15 computer system, would the computer system have 10:34  
16 to possess a first processor that is capable of  
17 receiving information from a computer at a point  
18 of origin or would the computer system have to  
19 be used such that a first processor of the  
20 computer system receives information from a 10:35  
21 computer at a point of origin?

22 MR. PYMENTO: Objection.

23 THE WITNESS: I'm sorry. I lost you  
24 on that one.

25 Can you start over again? 10:35

1 BY MR. HIGH:

2 Q. Sure. Let me -- I'll just repeat my  
3 question.

4 For this limitation to be met by a  
5 computer system, would the computer system have 10:35  
6 to possess a first processor that is capable of  
7 receiving information from a computer at a point  
8 of origin or would the computer system have to  
9 be used such that a first processor of the  
10 computer system receives information from a 10:35  
11 computer at a point of origin?

12 MR. PYMENTO: Objection.

13 THE WITNESS: Well, you know, the --  
14 the language in the element is "a first  
15 processor that receives information from a 10:36  
16 computer at a point of origin."

17 I'm sure there's some support in  
18 the specification for that. And it would  
19 be -- the correct analysis would be to go  
20 look and see if there's some -- if that's 10:36  
21 supported in the specification.

22 Do you want me to do that?

23 BY MR. HIGH:

24 Q. So I'm not so much asking whether  
25 there's support in the specification. You're 10:36

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1 welcome to -- to look through it if you'd like.

2 But I think my question is more so focused on

3 does the first processor -- sorry.

4 For there to be infringement, would

5 the first processor have to be just capable of 10:36

6 receiving the information that's listed or would

7 the first processor have to actually be used to

8 receive the information?

9 MR. PYMENTO: Objection.

10 I'm going to object to the whole 10:36

11 line of questioning in general for asking

12 an expert for legal conclusions

13 essentially.

14 THE WITNESS: Yeah. Now I lost track

15 of the question. I'm sorry. 10:37

16 BY MR. HIGH:

17 Q. I'll repeat my question.

18 A. Okay.

19 Q. You've analyzed infringement in the

20 past, right? 10:37

21 A. When I analyze infringement, it's

22 usually not on the fly like this. But yes.

23 Q. You understand generally what the

24 word "infringement" means?

25 A. Yeah, I think so. But you know, I'm 10:37

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1 not a lawyer so I have to be careful when I  
2 answer these things.

3 But I think the problem I'm having  
4 with this is that when you restate this element  
5 you're using words that aren't in the element. 10:37  
6 And so I have to be careful to make sure that I  
7 understand that context.

8 Q. Right.

9 A. For example, the word "function" has  
10 many meanings in engineering. 10:37

11 Q. I'm not using the word "function"  
12 right now. So let me just repeat my question.

13 A. Okay.

14 Q. For there to be infringement, would  
15 the first processor have to be just capable of 10:38  
16 receiving the information or would the first  
17 processor have to actually be used to receive  
18 the information?

19 MR. PYMENTO: Same objection.

20 THE WITNESS: Well, the first 10:38  
21 processor receives the information from a  
22 computer at the point of -- a point of  
23 origin.

24 So is the first processor  
25 capable? Is it capable always? There's a 10:38

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1 whole bunch of questions that come to my  
2 mind as to, you know, what else would it  
3 require to answer your question other than  
4 that first processor -- the first processor  
5 receives information from a computer. And 10:38  
6 that's where I would want to go back and  
7 look at the specification.

8 BY MR. HIGH:

9 Q. Let me ask this a different way then.  
10 So you've run several startups in the 10:38  
11 past and you've been involved in product  
12 development, right?

13 A. Correct.

14 Q. So if you wanted to know -- so let's  
15 assume that you make a computer system and you 10:39  
16 want to sell it.

17 A. Okay.

18 Q. If you wanted to know whether your  
19 computer system infringes claim, you could read  
20 this claim, would your computer system -- all 10:39  
21 right. Let me back up again. Let me set it up.

22 Let's assume that you have a computer  
23 system that has a first processor and that first  
24 processor is capable of receiving information  
25 from a computer at a point of origin. 10:39

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1           **A.     What does "capable" mean?**

2           Q.     When you sell it, it possesses the  
3     ability to do so.

4                     MR. PYMENTO:  Objection.

5                             I'm confused where the question           10:40  
6     started and ended, to be honest.

7     BY MR. HIGH:

8           Q.     When you sell your computer system --  
9     I'm sorry.  Let me -- let me back up again.

10                    Will your computer system satisfy           10:40  
11    this limitation when you sell the computer  
12    system or would your computer system have to  
13    actually be used such that the first processor  
14    physically receives information from a computer  
15    at a point of origin?                                       10:40

16                    MR. PYMENTO:  Objection.

17                    THE WITNESS:  That sounds like a  
18    legal question.

19                             Is that a technical question?

20                    I'm not quite sure I followed that.           10:40

21     BY MR. HIGH:

22           Q.     You've opined on whether -- well,  
23    it's just a question.  If you can answer it --

24           **A.     So the question --**

25           Q.     -- please do so.                                       10:41

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1           A.     The question I believe was when I  
2     sold the computer, it would infringe -- it could  
3     infringe or whether it just had the capability  
4     in that it would infringe. And -- and I'm not a  
5     lawyer so it's difficult for me to answer that           10:41  
6     because I haven't studied case law.

7                     But if I had a computer and it had a  
8     first processor that receives information from a  
9     computer at a point of origin, you know, that's  
10    what it would -- that's -- that's what it would           10:41  
11    do.

12           Q.     Let me skip down to the last part of  
13    this claim, the very last sort of portion where  
14    it says "wherein the system further comprises."  
15                     Do you see that?                     10:42

16           A.     Uh-huh.

17           Q.     It says "wherein the system further  
18    comprises maintaining a list of bit strings or  
19    character sets..."

20           A.     Okay.                                     10:42

21           Q.     Is that a structural element or a  
22    method element, the "maintaining a list"?

23                     MR. PYMENTO:  Objection.

24                     THE WITNESS:  You know, to me that  
25    means that there's structure, there would           10:42

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1 be some storage or there would be some  
2 element of -- of tracking state.

3 BY MR. HIGH:

4 Q. So in your opinion, "the system  
5 further comprises maintaining a list of bit 10:43  
6 strings or character sets" is describing  
7 structure of the system?

8 A. A big part of the system --

9 MR. PYMENTO: Objection.

10 THE WITNESS: Sorry. 10:43

11 A big part of any system is to  
12 maintain state. And that's what this is  
13 describing to me. And that's definitely a  
14 structure.

15 BY MR. HIGH: 10:43

16 Q. Let's -- let's jump now to the second  
17 page, Sample Claim 2.

18 A. Okay.

19 Q. This claim starts with "Apparatus  
20 comprising:" 10:44

21 Do you see that?

22 A. Yes.

23 Q. So do you agree that this is an  
24 apparatus claim?

25 MR. PYMENTO: Objection. 10:44

1 THE WITNESS: That's what it says.

2 BY MR. HIGH:

3 Q. If you skip down, let's see, to the  
4 sixth line where it says "an input device  
5 supported by the portable housing." 10:44

6 Do you see that?

7 A. Yes.

8 Q. Do you agree that the input device is  
9 a structural element of the apparatus?

10 MR. PYMENTO: Objection. 10:45

11 THE WITNESS: It says "device."

12 BY MR. HIGH:

13 Q. Sorry. I missed it.

14 Is that a yes or no?

15 A. Well, it says "input device." And I 10:45  
16 consider device to be -- could be -- could be an  
17 apparatus.

18 Q. Okay. So -- so you agree that an  
19 input device, at least in this claim, it -- it  
20 purports to be a structural element of the 10:45  
21 apparatus?

22 MR. PYMENTO: Objection.

23 THE WITNESS: All I know at this  
24 point is that it says "an input device  
25 supported by the portable housing." 10:46

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1 BY MR. HIGH:

2 Q. And that's one of the elements  
3 underneath "Apparatus comprising:", right?

4 A. That is underneath "Apparatus  
5 comprising:"

10:46

6 Q. And then the very next element it  
7 says "operation of the input device by the user  
8 enabling the memory to retain the visual image  
9 data in digital format."

10 A. Okay.

10:46

11 Q. So for there to be infringement of  
12 this claim, does a user have to operate the  
13 input device in this way or is there  
14 infringement if a product is just sold that  
15 allows a user to operate the input device in  
16 this way?

10:47

17 MR. PYMENTO: Objection.

18 THE WITNESS: You're asking me to  
19 make a -- a legal claim here -- or a legal  
20 statement. And I'm not sure I'm prepared  
21 to do that. I haven't analyzed this  
22 thoroughly. I'd need to go back and, like  
23 I said, read the specification and then  
24 also any other supporting material.

10:47

25

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1 BY MR. HIGH:

2 Q. So just by reading this claim you  
3 can't say whether --

4 (Simultaneous speaking.)

5 THE WITNESS: I'm sorry. Go ahead 10:47  
6 and finish your question.

7 BY MR. HIGH:

8 Q. Just by reading this claim, you can't  
9 say one way or another whether there has to be  
10 actual operation by the user of the input device 10:47  
11 for there to be infringement?

12 MR. PYMENTO: Objection.

13 THE WITNESS: Well, it says  
14 "operation of the input device by the user  
15 enabling memory." 10:48

16 Is user enabling memory or is  
17 the user -- or is the user controlling the  
18 operation of the device? I'd have to go  
19 back and look at the specification to know  
20 which way to interpret that, maybe even the 10:48  
21 file history.

22 There's a lot of issues that I  
23 have with the way that this particular  
24 claim element is structured. And I'd have  
25 to study that more thoroughly. 10:48

1 BY MR. HIGH:

2 Q. Let's skip down to the last  
3 limitation, the "movement by the user of the  
4 portable housing commonly moving the display."

5 Do you see that? 10:49

6 A. Oh, the very last line?

7 Q. Yes.

8 A. Uh-huh.

9 Q. By reading this claim, can you say  
10 one way or another whether the portable housing 10:49  
11 has to be actually moved by the user or whether  
12 the portable housing could just be capable of  
13 being moved for there to be infringement?

14 MR. PYMENTO: Objection.

15 THE WITNESS: I couldn't say because 10:49

16 I haven't read all the rest of the material  
17 here. There's a lot of other claim  
18 elements. This is a kind of a sentence  
19 fragment, "movement of the user by the  
20 portable housing commonly moving the 10:49  
21 display." That's not even a complete  
22 sentence.

23 BY MR. HIGH:

24 Q. Feel free to take some time to read  
25 the full claim if that would help. 10:49

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1 (Witness reviewing document.)

2 BY MR. HIGH:

3 Q. Just let me know when you're finished  
4 reviewing the claim and ready to discuss again.

5 A. Yeah. I have more questions now that 10:54  
6 I've read the claim than I -- than I did before.

7 You know, it's things like this is  
8 saying that a portable housing -- a portable  
9 housing being wireless is the first element.  
10 And to me as a person of ordinary skill in the 10:55  
11 art, without having read the specification or  
12 any of the -- you know, the -- the rest of the  
13 patent documentation, a housing to me is usually  
14 a piece of plastic or a piece of metal.

15 I'm not sure how a housing by itself 10:55  
16 could be wireless so I have to go back and look  
17 at that. And then this "movement of the user of  
18 portable housing commonly moving the display,"  
19 what does that mean, "commonly moving the  
20 display"? I'd have to go back and study the 10:55  
21 specification to understand that even better.

22 One interpretation might be that the  
23 movement of the user and of the housing moving  
24 -- when you move the housing, it moves the  
25 display. But it's not clear what the housing is 10:55

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1     **because the housing is wireless. So I have more**  
2     **questions now than I did before. I'm sorry.**

3           Q.     Right. So I guess I'm not so much  
4     asking you to -- to say what any of these terms  
5     individually mean. 10:56

6                     But I'm more so asking, you know,  
7     that last limitation, "movement by the user of  
8     the portable housing," is that a structural  
9     limitation or is that a method step?

10          **A.     Well, without understanding the** 10:56  
11     **words --**

12                     MR. PYMENTO: Objection.

13                     THE WITNESS: You asked me not to  
14     focus on the words. But without  
15     understanding the words, I don't know if I 10:56  
16     can answer that question.

17     BY MR. HIGH:

18           Q.     So you're not able to answer whether  
19     it's a structural limitation or a method step?

20          **A.     I think --** 10:56

21                     MR. PYMENTO: Objection.

22                     THE WITNESS: I'd have to go study  
23     the entire patent. Just from not  
24     understanding the words makes it difficult  
25     to answer that question. 10:57

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1 BY MR. HIGH:

2 Q. Let's jump ahead now to Sample  
3 Claim 5. It's on page 5.

4 A. Okay.

5 Q. Feel free to take a moment to read 10:57  
6 the whole claim.

7 A. Okay.

8 (Witness reviewing document.)

9 THE WITNESS: All right.

10 BY MR. HIGH: 10:59

11 Q. Do you recall whether you've seen  
12 this claim before?

13 A. I don't recall.

14 Q. This claim starts off with "a data  
15 transmitting device..." 10:59

16 Do you see that?

17 A. This is from -- is this claim from  
18 any of the five patents that we are  
19 investigating?

20 Q. I'll stipulate that it's not one of 10:59  
21 the -- it doesn't come from one of the five --

22 A. Okay.

23 Q. -- patents that are asserted in this  
24 case.

25 I can -- I'll go ahead and just place 11:00

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1 the patent that it's from into the chat. So you  
2 should have access to the patent now.

3 And we can call this Deposition  
4 Exhibit 4?

5 (Gomez Deposition Exhibit 4 11:00  
6 was marked for identification.)

7 BY MR. HIGH:

8 Q. Okay. So do you see that the claim  
9 starts off with "a data transmitting device"?

10 A. Yes. 11:00

11 Q. Do you agree that this claim is to a  
12 device as opposed to a method?

13 MR. PYMENTO: Objection.

14 THE WITNESS: It says "device."

15 BY MR. HIGH: 11:01

16 Q. And then -- so "the device for  
17 transmitting signals corresponding to an  
18 incoming stream of bits, comprising" and then it  
19 lists several limitations.

20 Do you see that? 11:01

21 A. Yes.

22 Q. So the first one is "first buffer  
23 means."

24 Would you agree that the "first  
25 buffer means" is a structural limitation? 11:01

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1 MR. PYMENTO: Objection.

2 THE WITNESS: My understanding is  
3 that the word "means," "means for" may  
4 imply that it's a means plus function. But  
5 that also depends on whether or not the 11:02  
6 claim element is functional in nature or if  
7 it also includes structure. So that's up  
8 for interpretation.

9 I would say that this particular  
10 element includes a stream into frames of 11:02  
11 unequal bits, number of bits, and four  
12 separating bits of each frame into a first  
13 group and a second group of bits. There's  
14 significant structure defined in this first  
15 element. 11:02

16 (Stenographer clarification.)

17 THE WITNESS: There's significant  
18 structure defined in this first element.

19 BY MR. HIGH:

20 Q. So if you were opining on whether a 11:02  
21 data transmitting device satisfied this claim,  
22 could you make that decision -- well, let me  
23 strike that.

24 Do you see the last limitation,  
25 "transmitting the trellis encoded frames"? 11:03

1           A.     Yes.

2           Q.     Is that a structural limitation or a  
3 method step?

4                   MR. PYMENTO:  Objection.

5                   THE WITNESS:  You want me to analyze       11:03  
6                   that just in isolation?

7 BY MR. HIGH:

8           Q.     I'm asking your understanding of --  
9 of that limitation, just in terms of whether  
10 it's a structural limitation or a method step.       11:03

11                   MR. PYMENTO:  Objection.

12                   THE WITNESS:  You know, it's --  
13                   again, it's a -- it's a fragment sentence.  
14                   It's -- it has structure.  There's trellis  
15                   encoded frames.  There's, you know, other       11:04  
16                   elements before that help define what that  
17                   is.

18                               So I would -- you know, reading  
19                   this, I would see that there -- that it's  
20                   structural because it's supporting a -- a       11:04  
21                   claim that is structural in nature  
22                   throughout the claim -- throughout all the  
23                   other elements.  And then the fact that  
24                   it's sending trellis encoded frames, it's  
25                   defining what it's actually sending.  And       11:04

1 the frames to me is a structural element.

2 It's a -- it's a -- it's a -- it's an

3 object.

4 BY MR. HIGH:

5 Q. Is there a requirement as to what has 11:05

6 to transmit the trellis encoded frames?

7 MR. PYMENTO: Objection.

8 (Witness reviewing document.)

9 THE WITNESS: Well, it would be the  
10 device -- the transmitting device. I have 11:06

11 to be careful about the logic here. But

12 I'm going to go ahead and hazard to show

13 that the "transmitting device for

14 transmitting signals corresponding to

15 incoming bit streams, comprising: first 11:06

16 buffer means for partitioning said stream"

17 -- and you don't see -- stream here isn't

18 defined. But I'm assuming that it's

19 implying -- it's -- it's "said stream." It

20 doesn't say what the said stream was. 11:06

21 I'm going to assume that it was

22 in the preamble. So if that's the case --

23 and like I said, I need to, you know,

24 analyze this a lot more deeply. If that's

25 the case, then it's sending -- it's "said 11:07

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1 streams into frames" and the stream would  
2 be sent by the transmitting device.

3 But you know, I've only had like  
4 a minute -- or a few minutes to look at  
5 this. So I'd be very careful and very -- 11:07  
6 very careful to go through this logic more  
7 in detail and make sure that the  
8 "transmitting the trellis encoded frames"  
9 is the same frames that's in the "second  
10 element" and that "the said stream" is 11:07  
11 referring to the preamble. I'd have to go  
12 through and check all that very carefully.

13 BY MR. HIGH:

14 Q. Feel free to reread the claim if you  
15 need to. 11:07

16 (Witness reviewing document.)

17 THE WITNESS: It -- you know, it --  
18 with this quick read, it appears that it is  
19 structural because we're sending the  
20 trellis encoded frames, frames being an 11:08  
21 object, frames is defined, when you're  
22 putting the streams into frames in the  
23 second element.

24 So if you follow back through  
25 the -- through the definition of what a 11:09

1 frame is and where frames are being used  
2 and what the streams are, except for the  
3 fact it's -- "said stream" is not defined  
4 anywhere in here, it -- it all appears to  
5 be a structural element -- claim.

11:09

6 MR. HIGH: Let's go ahead and take  
7 another break.

8 THE WITNESS: Okay. Can I get ten  
9 minutes this time?

10 MR. HIGH: Sure.

11:09

11 THE WITNESS: Okay. Thank you.

12 THE STENOGRAPHER: We're off the  
13 record at 11:09 a.m.

14 (Whereupon, a recess was taken

15 from 11:09 a.m. to 11:18 a.m.)

11:10

16 THE STENOGRAPHER: We're back on the  
17 record at 11:18 a.m.

18 MR. HIGH: At this time I'm going to  
19 pass the witness.

20 MR. PYMENTO: I have no further  
21 questions.

11:19

22 MR. HIGH: Thank you very much,  
23 Mr. Gomez.

24 THE WITNESS: Thank you.

25 (Time concluded: 11:18 a.m.)

1 STATE OF ILLINOIS )

2 ) SS:

3 COUNTY OF COOK )

4

5 I, Janice M. Kocek, CSR, CLR,

6 No. 084-002871, do hereby certify:

7 That the foregoing remote deposition of  
8 MIGUEL GOMEZ, was taken at the time and place  
9 therein set forth, at which time the witness was  
10 put under oath remotely by me;

11 That the testimony of the witness and  
12 all objections made at the time of the  
13 examination were recorded stenographically by  
14 me, were thereafter transcribed under my  
15 direction and supervision, and that the  
16 foregoing is a true record of same.

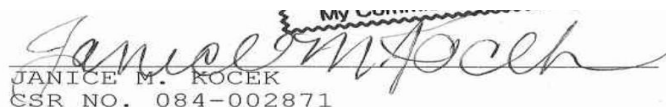
17 I further certify that I am neither  
18 counsel for nor related to any party to said  
19 action, nor in any way interested in the outcome  
20 thereof.

21 IN WITNESS WHEREOF, I have subscribed  
22 my name this 7th day of November, 2023.

23

24

25

  
JANICE M. KOCEK  
CSR NO. 084-002871

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## 1                   ACKNOWLEDGMENT OF DEPONENT

2                   I, \_\_\_\_\_, do hereby  
3   acknowledge that I have read and examined the  
4   foregoing testimony, and the same is a true,  
5   correct and complete transcription of the  
6   testimony given by me, and any corrections  
7   appear on the attached Errata Sheet signed by me.

8

9

10

11

12                   \_\_\_\_\_  
                  (DATE)                   (SIGNATURE)

13

14

## 15   NOTARIZATION (If Required)

16   State of \_\_\_\_\_

17   County of \_\_\_\_\_

18   Subscribed and sworn to (or affirmed) before me

19   on this \_\_\_\_\_ day of \_\_\_\_\_,

20   2023, by \_\_\_\_\_, proved

21   to me on the basis of satisfactory evidence to

22   be the person who appeared before me.

23

24   Signature: \_\_\_\_\_

25                   (SEAL)

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