UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD,

Petitioner,

CERTIFIED COPY

v.

DODOTS LICENSING SOLUTIONS LLC,

Patent Owner.

Case IPR2023-00621 (US Patent No. 8,020,083)

Case IPR2023-00701 (US Patent No. 8,510,407)

Case IPR2023-00756 (US Patent No. 9,369,545)

VIDEOCONFERENCE DEPOSITION OF

JOHN KEMBEL

MAY 16, 2024

Page 1 - 79 9:21 a.m. - 11:14 a.m.

REPORTED BY:
Tamara L. Houston
CA CSR No. 7244, RPR, CCRR No. 140
Job Number 24-137040
BILLING FR Ref. 39843-0148IP1
39843-0149IP1
39843-0150IP1

Exhibit 1028
Samsung v. DoDots
IPR2023-00621

REMOTE VIDEOCONFERENCE DEPOSITION OF JOHN KEMBEL, taken on behalf of the Petitioner, commencing from 9:21 a.m. to 11:14 a.m., Thursday, May 16, 2024, before Tamara L. Houston, CSR No. 7244, CCRR, RPR.

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Also Present: Petitioner, Jyun Jin In

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WITNESS: JOHN KEMBEL

EXAMINATIONS PAGE

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QUESTIONS INSTRUCTED NOT TO ANSWER

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NONE

INDEX TO EXHIBITS

EXHIBIT DESCRIPTION PAGE

NONE

THURSDAY, MAY 16, 2024, 9:21 a.m.

--o0o--

All counsel present stipulate that the witness shall be sworn remotely by the court reporter

* * *

Whereupon, JOHN KEMBEL, having been called as a witness was duly sworn to tell the truth, the whole truth, and nothing but the truth testified as follows:

EXAMINATION BY MR. BALLANCO:

Q. Okay. For the record, I will introduce myself. I am Michael Ballanco with the law firm Fish & Richardson representing the Samsung Petitioners in these proceedings, which I will read the proceeding numbers into the record. We do not have a videographer. They are IPR2023-00621, the next one is IPR2023-00701, and the third is IPR2023-00756.

Joining me today are my colleagues, Hyun Jin In and Chris von Gunten, also with the Fish & Richardson law firm.

MR. IYER: This is Chandran Iyer for Mr. George Kembel.

THE WITNESS: John.

MR. IYER: Sorry, John Kembel.
MS. CANINO: This is Christina Canino and Paul Hart with Erise IP on behalf of Apple, Inc.
BY MR. BALLANCO:
Q. Mr. Kembel, would you please state your full name for the record.
A. Sure. John Albert Kembel.
Q. Okay. And, Mr. Kembel, where are you joining the deposition from today?
A. I am in beautiful downtown Boulder, Colorado.
Q. Okay. And we -- I believe I heard you say before we got on the record that this is your first deposition. Is that true?
A. That's correct.
Q. Okay. Let me go over a few ground rules just so that things go smoothly today and that we don't have any unnecessary issues. I -- you understand you're here today under oath. Right?
A. Yes. You broke up there a little bit, but I understand I'm here under oath.
Q. And would you --
(Audio issues; Mr. Ballanco rejoins Zoom.)
BY MR. BALLANCO:
Q. So, Mr. Kembel, question I was about to ask you is: Do you understand that, with you being under

oath, the testimony you give today is the same as if you were in court before a judge or a jury?

A. I understand that, yes.

Q. Okay. Especially because we're virtual and because I've had some technology issues, I'd ask that, before you start an answer to my question, you wait until I've finished my -- my question, and I will do the same for you and wait to ask my next question until you finish your answer.

Is that fair?

A. That's fair.

Q. Okay. Do you have any medical issue or other issue that prevents you from giving full, accurate, and complete testimony today?

A. No, not that I can think of.

Q. Okay. If that changes at any point during the deposition, just let me know, and we'll stop. Okay?

A. Yeah. No worries.

Q. The other thing is that we have a court reporter here with us today who is transcribing everything that we talk about, and for her benefit, I'd ask that you please give audio "yeses" or "noes" or other responses to my questions rather than nonverbal.

Fair?

A. Fair.

Q. We'll take breaks about every hour, but if you need one sooner than that, just ask me, and I'll let you do that. Okay?

A. Yep.

Q. The only thing I'll say with that, if there's a question pending, I'll ask you to answer the question before we take a break. Okay?

A. Understood.

Q. And we also discussed this a little bit off the record, but I'll just state it on the record.

There's going to be exhibits that we're using today. My plan is to put them in the Zoom chat, have you navigate them on your computer, but if that presents an issue, you're having any trouble with the exhibits, just let me know, and we'll address that.

Is that okay?

A. That's okay.

Q. Okay. Mr. Kembel, I want to start by actually pulling up an exhibit, so it's going to be -- and I believe you're familiar with. Let me put it into the chat.

Let me know when you're able to access that document that I've put into the chat.

A. Downloading.

Yeah, it's the patent. Let me resize it.

Q. Sure. Just let me know when you're ready.
A. I'm ready.
Q. Okay. And can you identify what document this is that I've put into the chat?
A. U.S. patent ending in '083.
Q. Okay. And you understand that the '083 patent is one of the patents that's at issue in the proceedings that I read into the record earlier?
A. I understand that, yes.
Q. And you submitted a declaration in the '083 IPR proceeding.
Is that fair?
A. I submitted a declaration, yes.
Q. And, in fact, I believe you submitted a declaration in actually all three of the proceedings that we're here about today, right?
A. Yeah. There are three declarations, and they pretty much have the same content. They just wrapped with, I think, three patents. I don't remember all of the numbers, but I do remember '083 as one of the numbers.
Q. Okay. Do you remember the '545 as one of the other patents?
A. Rings a bell.
Q. Okay. And --

A. An accurate memory, '083, '545, and something with maybe a 7. But, yeah, I remember those.

Q. Okay. We can pull those up later, but let's focus on the '083 for now. Okay?

A. Sure.

Q. You're a named inventor on this patent, right?

A. Yes, and I can see my name there.

Q. And you understand that this patent relates to an application that it claims priority to filed in April of 2000; is that right?

MR. IYER: Objection to form.

You can answer.

THE WITNESS: Yeah, it's hard for me to trace all of the file patent dates. That's something more for our patent lawyers on the dates and how the references work. I mean, I've reviewed this application, and I was part of the provisionals, but I don't know exactly the dates of the other patents on the whole patent tree.

BY MR. BALLANCO:

Q. Okay. If I represent to you that this patent claims priority to an April 2000 patent application, does that seem like the timeframe that you were filing or that you were working on this invention?

A. We filed the provisional patents, I believe -- is that listed here?

COURT REPORTER: Mr. Iyre, did you have an objection?

MR. IYRE: Not to this question.

COURT REPORTER: Okay. Your screen lit up. I apologize.

Go ahead, Mr. Kembel.

THE WITNESS: This was 25 years ago. What I remember is I filed the provisional application in -- in -- I think that was '99, but I can go back and look at the dates.

A year later, we converted that to -- I don't know the exact language here. You'd have to talk to a patent lawyer. But I worked with a patent lawyer to convert it to some sort of formal application.

After that, I -- it's hard for me to trace how the patents got split and divided. That's something that we relied on counsel for.

BY MR. BALLANCO:

Q. Understood.

Fair to say that the provisionals were in the 1999 timeframe and then the applications that were converted were in the spring of 2000 timeframe?

A. Yeah. That -- the year later, I remember that -- that year clock that started. I remember that. Mm-hmm. So that makes sense to me.

Q. You can -- you could put that document to the side for now. I imagine we'll revisit it, but the questions I'm about to ask you, I don't think you'll need the patent for.

A. Okay. I'm just going to minimize it so I have it later. Yeah.

Q. Okay. What were the major pieces of the DoDots product? The major parts of the invention?

MR. IYER: Objection to form. Vague.

You can answer.

THE WITNESS: Goodness, Mike, there's a lot there. Is there a specific way you'd like me to answer that question or just...

BY MR. BALLANCO:

Q. As the -- as the co-founder of DoDots and --

(Audio disruption; Reporter requests clarification.)

BY MR. BALLANCO:

Q. Let me just ask this: Have I -- has the audio caught up?

A. Yes.

Q. Okay. Let me start the question over.

In your role as co-founder of DoDots and named inventor on these patents, I'd just ask for you to describe for me the major components that you saw here

to your --

MR. IYER: I'm going to object to the form as vague.

You can answer.

THE WITNESS: I think the main -- (audio distortion) -- at that is --

(Audio disruption; Reporter requests clarification.)

THE WITNESS: Can you hear me, Mike? Last thing I heard you -- okay. So something changed. Maybe we just stand very still.

I think maybe to highlight sort of the key components and, you know, the little bits of magic that make the DoDots technology work, you really had to dial back the clock to what it was like in the late '90s because there's so many things we take for granted now in terms of the way apps and the app ecosystem in the app store work.

But back then, you had your computers, and you had this burgeoning new Internet really flourishing because of the rise of the web, right? And to do something on computer, you needed a native-installed application, and to do something on the web, that -- the web rose, as you all know, if you were there, as, you know, really with a document paradigm.

And so websites were, you know, hypertext documents, page by page, and really had a great flourishing and blossoming around -- certainly on research documents, I think, is where it started.

And then the company started making websites, but they were trapped in a page-by-page document model which was -- which was pretty okay for anything that was information based or document based.

But for anything that wanted to be a little more interactive, more application-like or to meet the needs of other companies that weren't maybe necessarily information companies or research companies or document companies, the web -- and the web page paradigm presented a lot of challenges in terms of that regard.

And goodness, it was -- what? Late '98, '99, my brother and I were just finishing design school and were trained in sort of design and innovation processes and methodologies. We started our own little design consulting firm with the intent of inventing new technologies and products. That was just kind of what we were trained in. We ran these little IP hours, what we call "happy hours," but IP hours. You kind of get the joke there.

Every week, we were just brainstorming new ways of doing interesting things. We were exploring all

kinds of different product categories, and of course we were exploring --

(Reporter admonishment.)

THE WITNESS: -- ways of, you know, inventing new products and technologies. You can think of it as a happy hour, but we called it an IP hour like intellectual property hour. IP hour.

And every week, we would just sit around -- we had a tiny office. We had glass windows like here, and we'd get out our whiteboard markers, and we would just brainstorm things. We explored a lot of different product categories, and obviously one the categories that kept coming up was what might be possible on the web.

And, you know, I'd love to maybe talk to you, if it makes sense, about how we came up with the nonobvious perspective of what we came up with because our rigorous innovation process as well as something we were exploring scientifically around systems making emergent --

(Reporter admonishment.)

THE WITNESS: Oh, sorry. Thank you. Maybe you can wave your hand, and I'll see it, and I'll remember --

(Discussion off of the record.)

THE WITNESS: Because we used both our design process, our rigorous innovation process -- you know, most people believe innovation comes from luck or genius. That proverbial ah-ha moment or you have to be brilliant to do it.

If you work in the design field or the innovation field, you learn that you can use a rigorous methodology, a rigorous design process, find nonobvious solutions to things that people wouldn't come up with. And so we used both a rigorous design process in all of our work as well as we were curious about systems and emergent behavior.

Think schools of fish, colonies of ants, flocks of birds. We were holding those two things at the same time in our minds and exploring what might be possible on the web.

And so we asked a very simple question: If -- what if we were to break out of the browser and break web pages up into smaller pieces like get flocks of birds, schools of fish, smaller pieces because when you break things into smaller pieces, unexpected things emerge, emergent behavior. And so that's the question we asked.

And right then, we realized so many things were possible that -- well, first, the web being trapped

in pages was a problem. As we got into it, we realized lots of people recognized the limitations of the browser. You know, users could only navigate the web one page at a time.

After going to -- navigating the browser to a website and navigating the website back and forth with arrows, companies were trapped in representing their products, their services, and their brand in page format and within a browser window, which they didn't control the branding of or the user experience of. That was controlled by the browser companies.

At the time, I think that was -- what? Mosaic and maybe Internet Explorer. And then developers, these new web developers were trapped in their imagination. Their creativity was trapped in a page format, not very interactive, not very application-like.

And so by coming up with the idea of breaking out of the browser paradigm, out of the page-by-page paradigm, and breaking these things into smaller pieces, we realized that there was a potential world between native software applications that were -- you know, could be branded, could be tailored, could be directly, you know, installed on a computer for a user, but were hard to develop, required software developers, required updates. Things didn't auto-update back then. And the

flexibility of the web, but without being trapped in a browser.

We imagined the Dot, right? We would now call that an app, but we called it a Dot, because the word did not exist for an Internet-powered or web-powered application back then.

And what made a Dot work were -- it's a couple of magic ah-ha moments. One is a Dot had to be fully configurable in its frame. And you'd have, you know, application controls that made it feel more like an application than like a monolithic web page. And then it had the ability to render content or interactive content from the web.

With those properties, you could have something that had all of the flexible characteristics of the web but behaved more like, quote/unquote, "apps." And that required something special to make the Dot work as you needed to be able to define the Dot or make a template for the Dot. We call that a Dot template or a Dot definition.

And the Dot definition just described the NIM, right? The NIM's characteristics. The frame, which I think it was the window, the controls, you know, what -- where it gets the content, the view, and didn't require any code, executable code, which means a web developer

could do it, not a software developer. Huge difference. Unleashed a whole new community of Dot developers.

And because it was fully configurable, fully branded, and could be configured, that meant a couple of things: Companies that struggled to reach end users directly before because their reach to customers was mediated by a browser and limited by websites page by page, they could directly get a Dot to an end user because you could collect them rather than download them.

Web developers could unlock their imagination or do things outside the construct and the limitations of the page, and end users could control their, you know, web application experience and not be limited by a browser that takes over their whole page.

And so we could go into this, but you could collect Dots, you could share Dots, you could organize them into packs based on your different work products, but the gist and the magic of the invention really comes down to the concept of a Dot, the Dot definition, and the server infrastructure that enabled those to be defined, collected, developed, and distributed.

BY MR. BALLANCO:

Q. So, Mr. Kembel, you -- let me just ask a couple setup questions.

Your company launched the Dot -- right -- as a product?

A. We launched a bunch of things. The concept of Dots was one of the things in our Dot technology and our Dot infrastructure.

Q. Okay. And you said there was a bunch of things, so that was part of a bundle of technology that you all launched; is that fair?

A. I think of it as a Dot -- Dot technology platform, a Dot infrastructure. I think the language that we used, happy to -- you know, I know the exhibits show the diagrams, the way the Dot servers worked, the developer ecosystem, and those developer tools worked.

What it means to Dot-enable a computer so you can even collect Dots, the Dot templates, the definitions for how Dot templates are defined, those were defined and developed. We made some, but largely by our customers and by our developer ecosystem, so they are the ones who made the Dots and distributed the Dots, and we were just a platform that enabled that.

And then, you know, we can get as technical as you want. The Dots also had a Dot messaging system, and that enabled Dots to behave more like applications, application interactive behavior rather than pages.

So, you know, I draw a soft circle around all

the things we did. We did a lot at DoDots. And so it's hard to say it's just the Dots or just the server. All of those things based on the concept of a Dot and a Dot definition is what made our ecosystem of technologies work.

Q. So fair to say the Dot would not be able to work in the way that it works without the Dot infrastructure, right?

MR. IYER: Objection to form. Vague.

THE WITNESS: Yeah. I don't know what you mean by that. The concept of a Dot, the concept of a Dot definition? What do you mean?

BY MR. BALLANCO:

Q. The -- the concept of a Dot, what really enabled it to be as powerful as it was, was that it was a part of this larger Dot infrastructure, right?

MR. IYER: Objection to form. Vague.

But you can answer.

THE WITNESS: I think what made the Dot powerful was the concept of a Dot, that it was different than a web page and different than installed application. And the Dot was intimately related to its definition, its template.

Now, there are a lot of ways you could serve it and scale it and bring it to market, but the magic is

the concept of the Dot and the notion that the Dot isn't a web page.

It requires a Dot definition to describe effectively all of the characteristics of that Dot which were distinct from the content that came into it. So the magic that made this work was the concept of a Dot and the Dot definition. The infrastructure is what enabled us to bring it to market, what enabled us to sell it, what enabled us to have statistics --

Oh, I'm talking fast again. Thank you.

What enabled us to develop statistics, you know, host and develop our ecosystem. But all of that was built on the concept of the Dot and the Dot template.

BY MR. BALLANCO:

Q. Okay. What -- strike that.

How did your Dot technology improve upon what your competitors were doing?

A. Do you have any competitors in mind?

Q. Who would you view as your competitors?

A. Man, the Internet was a Wild West of a lot of people trying a lot of things.

I think it's fair to say that -- and you can see this in the exhibits that I included. It was fun to go back through all of the press and, you know, the

materials that I've kept from the company and see how people commented on both the potential and what was exciting about the web but the limitations of the web model.

So a number of people recognized the limitations of the browser both for companies, for developers, and for end users. People were trying a lot of different things.

It's hard to pin down direct competitors because people were doing different things trying to imagine a different kind of Internet. We were the only ones, and the first that I know of, to take a Dot-centric approach, you know, rather than, you know, people were doing channels and, you know, portals and all kinds of other things.

But we were the only ones to come up with a concept of a Dot and a Dot template. And it was different because of those concepts that I just described.

Q. And how was your technology superior to channels, for example?

A. I -- I don't remember a whole lot about the technology of channels. I remember there were kind of like the T.V. approach of imagining a future Internet -- right? -- the obvious term of channels coming out of the

media ecosystem.

But our technology was superior because of the flexibility of -- and the configurability of the concept of a Dot and the Dot definition. And, I mean, companies were trying all kinds of things, obviously, and companies -- other companies were pitching all kinds of things.

But, man, we collected a lot of well-known customers. ABC used Dots. Merriam-Webster used Dots. ZDNET used Dots. A lot of big companies that were big back then -- you may not know now -- some still exist -- just pulled on our DoDot technology because it enabled them to solve those needs, as I mentioned before, to reach their customers directly, to control the brand of their company, to package their services and products other than information in a form that honored what their offering was and honored their brand to get that out in a viral distributive way, enable a whole class of content developers and web developers to develop those Dots for them rather than having to hire native software developers and -- and to engage their customers, their end users more directly.

I think I include in some of the marketing materials the engagement metrics of Dots were orders of magnitude greater than the engagement metrics of normal

web pages which showed it met the needs of users of wanting to pull this content and interactivity into their world and their day-to-day work experience, and it met the needs of companies trying to engage their customers in whatever product service or experience they wanted.

So I would call that evidence of the superiority of our technology, if that answers your question.

Q. Okay. Anything else that comes to mind? Those are the key things that differentiate your product from everything else that was on the marketplace?

A. I would just reemphasize the key differentiator was the Dot and the magic that made it work, the Dot template.

Q. The Dot template. If I'm understanding your testimony correctly, please correct me if I'm wrong, that is what enabled nontraditional code developers to work on Dots; is that fair?

A. The Dot template in that regard, sure. The Dot template, you know, technically defined the characteristics of the Dot. It defined the characteristics of the controls and the view within it. But that enabled -- as a result, that enabled what we called "Dot developers." You might call them app

developers now, right?

Rather than traditional software developers sitting, coding, compiling code, distributing software over CDs -- I don't know if you remember this. Software was distributed -- you went down to, you know, the store, and you bought a box. You took a CD out. You stuck it into your CD drive.

These computer's don't have CD drives. You installed, compiled executable applications on your computer, and you ran them. And they did not auto-update, by the way. You went a year later, got another CD, and updated it.

And so to be a software developer for what we now would call native software applications and the whole distribution system, packaging system, for getting that type of software onto the computers of users required a certain technical skill set. Native software developers.

The concept of a Dot and Dot template enabled the emerging class of web developers and content developers to offer a similar interactive app-like experience on a user's device, which, by the way, could be their computer, could natively move to their mobile devices.

You might remember PalmPilots and PDAs and

phones with screens. Companies were struggling to figure out how to get big pages onto small things. Dots were small. They just went across. And so it enabled those developers to make those types of interactive app experiences simply by defining a Dot template and the content that went within it.

So it enabled that entire group of people who had a need to want to contribute but didn't have the skill set to do it to participate. In that regard, yes, it enabled them to develop -- develop, I would put that in quotes, Dots.

Q. Okay. And you mentioned before in your testimony that traditional applications you'd need to download them from -- or load them from CD-ROMs onto your machine and update with new CD-ROMs.

What about the Dot technology obviated that?

A. What do you mean by "obviated"?

Q. In other words, why was that not required to download an application from a CD-ROM for a Dot technology?

A. Why wasn't a CD-ROM required for a Dot technology?

Q. Correct.

A. We were able to -- what we called Dot-enable a computer just by downloading a thin client, very small.

And other applications, small applications could be downloaded in that way as well. Let's say you downloaded PointCast. You could download PointCast, for example. Some of the modern -- or rather emerging custom applications could be downloaded in that way.

Most of the whole software field was delivered in the traditional way of CDs, but because our application was very small, it could be downloaded really quickly. Didn't require a lot of time, which most applications were fairly large and needed a CD or a long time. Internet connections weren't as fast as they are now. I do remember.

But because we had -- part of our technology was just a thin client that enabled the Dot and Dot definitions to work -- everything after that, by the way, to get a new Dot, you didn't need to download software. Huge advantage. All you needed to do was get the Dot template. The Dot definition was, you know, about this big.

Once you got the definitions that could be substantiated on the computer, you know, configured, sized, whatever the frame size was, all of the branding, the title bar, everything didn't come from a CD, didn't even come from our servers, came from our company servers -- excuse me, servers of our customers.

So all of the application-like content and experience did not have to be distributed in the traditional software way, did not have to be downloaded in the traditional software way. It all was loaded in the same way web content was loaded. Which, by the way, think about it. For ABC to change the ABC Dot because they changed their -- after they ran their commercials about Dots, they wanted to change the programming, all they'd have to do was change the content on their web servers, and their Dot changed like that.

See the flexibility there? Amazing. No downloading Dots in that way, in a software way. That was one of the things that was so powerful about them. The flexibility and configurability of applications but with characteristics of the web.

Q. What is the HomeDot?

A. The HomeDot was the thing that enabled -- think of it as like the face of the thin client when you Dot-enabled your computer. It's what enabled you to open Dots, close Dots, and share Dots. Things like that.

Q. And how was -- how was that HomeDot concept enabled?

A. What do you -- what do you mean, "enabled"?

Q. What about the Dot -- Dot form allowed for the

use of a HomeDot to control the Dot infrastructure?

MR. IYER: Objection to form. Vague.

THE WITNESS: Yeah, you've got a bunch of pieces in there. Can you be more precise? We can talk about it from the end user experience.

Does that help, or do you have a direction you're going?

BY MR. BALLANCO:

Q. Yeah. Why don't we start there from the end user experience.

A. Yeah. So you could look at the marketing materials -- I'm happy to show some screenshots of this. They are in the exhibits.

But if an end user had not collected a Dot before, they needed to Dot-enable their computer. And that happened the first time they collected their first Dot. So it's like, hey, I want a Dot from Merriam-Webster or ABC.

You could get the Dot, by the way, by getting it on a link from the company's website, a Dot link from the company's website. You can get it from our index of Dots where they got published. I think of that as the app store in today's vernacular, or I could receive it shared from a friend. "Hey, you know, John, go check out ABC's app Dot. I just shared it with you."

Those are all the ways of starting your Dot experience. Excuse me.

And so the first time we need to Dot-enable our computer, as I had mentioned, that thin client on the computer in order to Dot-enable their computer and the HomeDot came with that, and the HomeDot -- just think of it as their control panel for opening and closing Dots, collecting Dots, organizing Dots. But, you know, it was more just like the control panel. It wasn't -- wasn't ABC's Dot enabled ABC's Dot to be opened and closed and shared and things like that.

Does that help?

Q. It does. Let me ask you this question:

If I understand, an end user, to use the Dot platform, would need a HomeDot to start?

A. They would need to Dot-enable their computer. The most important thing is have the way -- the software on the computer enabled to be able to open the Dot -- actually be able to instantiate a Dot from a template and fetch the information from -- from the Internet to fill that out.

Q. Okay. And --

A. The HomeDot made it convenient to open and close it, but you can probably imagine other ways of -- I think we had ways of previewing Dots without a

HomeDot -- right? -- before people committed to a Dot.

So I wouldn't call it necessary. More convenient. What's necessary is to Dot-enable your computer in order for the computer to be able to instantiate a Dot template and get information from the Internet to fill it out. That's what's necessary.

Q. Okay. And so -- just so we're clear, in order to use the Dot platform, an end user's machine would have to be dot-enabled, right?

A. That was our marketing language for it, yes.

Q. And one of the primary ways that a user would Dot-enable their machine is by downloading a HomeDot?

A. No. You download -- well, I'm going to have to -- by the way, plug my computer in. I forgot to do this, and we're going to run low on battery.

Can I hit pause and plug my computer in so I don't lose you?

MR. IYER: Okay if we go off record?

MR. BALLANCO: Sure.

(Off the record.)

(Whereupon the certified court reporter read the record.)

THE WITNESS: Yeah, Mike, I wouldn't say it that way. I would say Dot-enabling the computer is bringing down the thin client in order to substantiate

Dots. The HomeDot came with that as a convenience.
BY MR. BALLANCO:
Q. I'll ask you, then, in order for a user to use the Dot platform, they would need to download the thin client so that they could instantiate Dots, right?
A. Yeah. That's why we like the simple language of Dot-enabling your computer. It's just more clear to understand what the user experience was like. And I -- I know that there -- if we want to walk through how this happened in some of the exhibits, there are diagrams of -- of how that works.
Q. Okay. We may head there in a bit, but I want to ask you first about PointCast.
Can you tell me what PointCast is?
A. Man, it's been 25 years. My recollection, it was a newscasting company that built a custom, you know, native application that received streams of news and maybe stock tickers, if I recall. I believe it was categorized as a news streaming service.
Q. Okay.
A. It's -- goodness, it's been 25 years since I've seen it, and it's one of the most memorable names because, I mean, come on. PointCast. But I don't really remember the details of -- I don't know if I ever even used it.

Q. Was it a subscription service?
A. No, I don't recall.
Q. How did Dots retrieve content from the Internet?
MR. IYER: Objection to form. Vague.
You can answer.
THE WITNESS: Just by fetching it the way normal Internet -- excuse me, web content was fetched.
BY MR. BALLANCO:
Q. And if you were describing that to a layperson, how would you describe that?
A. I'd just maybe follow the user experience -- excuse me -- and, if you want, we can flip over to the developer experience again because different perspectives, you would answer it different ways. From a company perspective, from a developer which could be independent, or at a company and from the end user perspective, right?
So from the end user perspective, you would open a Dot -- let's assume you have collected it -- the Dot template would sort of define how that gets instantiated, but it's pretty much empty.
And so then all of the characteristics of the Dot -- say, like the title bar, which can be branded, "ABC," and any menu items -- would be fetched from the

Internet. Each of these things would have addresses to where that, quote/unquote, "content" would come from and what parts of the Dot template it would fill out. And the Dot technology would know where to go get that and then use that information to then instantiate a Dot, so each one of those things would be fetched.

So I think, in the simplest sense, just think title bars, think menus. Title bar branding. It could have a name, could have a hover image and a non-hover image, could have a click image. Same with the bottom bar. And then, of course, the primary view for most Dots was filled with what you would think of as normal web content which could be as static or as interactive as you want depending on what your app's functionality was.

And so in that way, the DoDots technology fetched all of that content, the web content in the view and all of the other branding and configurable content from the Internet in standard Internet protocols.

Q. Okay. Let's then shift a bit to the developer experience.

Was there a program module that performed the function of retrieving Internet content?

MR. IYER: Objection. Form. Vague.

THE WITNESS: I'm sorry, a what? A program

what?
BY MR. BALLANCO:
Q. Module.
A. Could you repeat the question? A program module that did what?
Q. I'll repeat the question.
Was there a program module that performed the function of retrieving web content in the Dots?
MR. IYER: Same objection.
THE WITNESS: I mean, I guess you could describe it that way. Part of the thin client's responsibility was to fetch the content when a Dot was instantiated. If you want to call that a programming module as part of the functionality of the Dot technology, sure, I guess that would work.
BY MR. BALLANCO:
Q. Well, let me ask you this:
Do you know what the web conduit control was in the Dots?
A. That would probably -- a term that you could describe the primary view for most default Dots. I'm aware of that.
Q. Okay. And what do you mean by "the primary view for most Dots"? If you could unpack that a little bit for me.

A. Yeah, the simplest Dot -- again, if a Dot was a flexible, configurable frame that could have one or more controls that could pull and render information and content, interactive or not, to an end user, one of those places of, you know, content being rendered in the normal Dot -- just think of a normal Dot. It would have -- you know, it has to be instantiated within the window system.

So a normal Dot would have, you know, a menu, a title bar, a close button, primary area -- let's call that the view or -- what did you call it? The web conduit control?

We have different language for when we use it, depending on who is talking about it. And, again, 25 years, I'd have to see which terms we used for what. Call that the primary view, and then the bottom bar. So most Dots fell into that configuration, right, as a default template.

Developers -- excuse me, Dot developers could do different things. And that primary web conduit would fetch web content in the same format of HTML web pages.

So anything that you could do on the web, you could do in a Dot. Which was really cool, by the way, for companies which they didn't need custom technology to serve Dot content. If they had a web server, they

could serve Dot content, which is amazing.

Q. I want to understand that a little bit better.

So you -- you just mentioned if they -- if a company had web content, it could serve Dot content, right? I just want to make sure I got that right.

A. I believe I said if they had a web server, they could serve Dot content because Dot content was not just web pages, remember -- right -- I have to also serve a title bar. My branding. I have to serve any hover images as well as whatever web-like content got filled into the web view if that was the way I developed my Dot.

But those were served off of standard web servers. They didn't require custom server technology on a company side. That's one of the things that made the Dot ecosystem very scalable was we managed templates and user accounts. All of the content, interactive content, did not have to come through us. It was served from our partners and our customers on their normal web server technology.

Q. We were talking just a moment ago about web conduit and how it was one of the minimum controls for a Dot; is that fair?

A. It was one of the primary elements in a Dot -- in most Dots, yes, that I remember.

Q. Okay. It was a control, as that term was used in the Dot technology?

MR. IYER: Objection to form. Vague.

THE WITNESS: Yeah. I mean, probably different ways of using the "control" term. The way I would define the Dot is it was fully configurable with one or more controls -- right? -- that fetches content and renders that to the user and makes a different kind of interactive experience.

In that regard, you could probably call the menu, the title bar, the close button, the view conduit, you could refer to it as a control and the bottom bar as control.

From a user's experience, you know, the window affordances of the title bar and the menu is probably what they would think of as controls. And anything, of course, interactive within the primary view would feel like an application even though it was interactive web content.

MR. BALLANCO: Okay. So I think we've been going for about an hour. Would now be a good time for a break?

MR. IYER: Yeah.

THE WITNESS: Sounds good to me.

MR. BALLANCO: Okay. Let's do ten minutes.

(Recess.)
BY MR. BALLANCO:
Q. Mr. Kembel, before the break, we were talking for a moment about web conduit.
Do you remember that?
A. I do.
Q. Okay. And the '083 patent that we were looking at before describes the web conduit as a control, right?
MR. IYER: Objection to form. Calls for speculation. And beyond the scope.
THE WITNESS: Yeah. I've reviewed the patents, but the terminology, I don't remember.
BY MR. BALLANCO:
Q. Do you still have the '083 patent that I sent before in the chat?
A. I do.
Q. If you would navigate, sir, to column 11 of that patent, and let me know when you're there.
A. Do what? I'm sorry.
Q. Column 11.
A. How do I get to column -- sorry. This is a silly question.
How I do get to column 11?
Q. It's not a silly question at all for someone

that's not a patent lawyer. I take it for granted.

If you go to the patent -- when you get to the written specification at the top of each column there, there's a number, and you'll just go to the one that says "11" at the top of it.

A. Oh, look at that. I'm on page 22, and I see an 11 at the top.

Q. Okay. Now, if you see, in between the two columns of text that are there, there are line numbers.

Do you see those as well?

A. I'm going to get another pair of glasses.

Yes.

Q. Okay. If I could then direct you, sir, to column 11 and line 5. Let me know when you're there.

A. I think I'm there.

Q. Okay. Column 11, line 5, of the '083 patent describes web conduit as a control, right?

MR. IYER: Objection to form. Calls for expert opinion and legal conclusion.

THE WITNESS: All right. I can see the words on the page. "Web conduit, a control that accesses" -- but not being a patent lawyer, I don't know exactly what that means in the context of the patent. I can tell you about how it worked in the Dots technology in our platform, which I believe we've already talked about.

BY MR. BALLANCO:

Q. Okay. Well, let's first talk about that.

In the context of the Dot technology and the platform, what conduit was a control there?

MR. IYER: Objection. Form. Calls for a legal conclusion.

THE WITNESS: Yeah, I think I already answered the question of how I thought of the web conduit in the context of the Dot.

BY MR. BALLANCO:

Q. Okay. Well, my precise question, sir, was: In the Dot technology in the platform, fair to say the web conduit is a control?

MR. IYER: Objection to form.

THE WITNESS: Yeah. I believe the way we talked about it before when you asked me if I was familiar with the web conduit was I said the way I think of a Dot is it's a fully configurable -- it's fully configurable, it has one or more controls, and that it renders content altogether -- right? -- to the end user.

And in that regard, you could consider, I guess from a technology perspective -- I don't know from the patent perspective -- you know, the web conduit is one of the controls.

From the user perspective, they are going to

think of the menu, the title bar, the close button, and the bottom bar where you grab and resize, they are going to think of those as the interface controls.

So I -- I like to think of it in that way. What it means in the patent context, I -- again, I'm not an expert at that.

BY MR. BALLANCO:

Q. By looking at the '083 patent, your column 11 and line 5, fair to say that that portion of the patent describes --

(Audio disruption.)

MR. IYER: Objection. Form. Calls for a legal opinion and expert opinion.

(Whereupon the certified court reporter read the record.)

(Discussion off the record.)

BY MR. BALLANCO:

Q. I apologize for that, sir. Let me try this question again.

Looking at the '083 patent at column 11, line 5, fair to say that that portion of the patent describes web conduit as a control, right?

MR. IYER: Objection to form. Calls for a legal conclusion and expert opinion.

THE WITNESS: Again, all I can answer is from

a technologist's point of view. I can't answer as an IP lawyer. I don't know what it means in this context and the context of the whole patent. I can read the words just like you can, but I'm comfortable with how I talk about the Dots from a user experience.

BY MR. BALLANCO:

Q. Sir, in preparing your declaration on the '083 patent, did you study the '083 patent?

A. Not sure I'd use the word "study." I reviewed it. Yes.

Q. Okay. If I could direct you to another portion of the '083 patent, sir, it's going to be column 9.

A. Okay.

Q. And line 61. Just let me know when you're there.

A. 9, 61?

Q. Correct.

A. I think I'm there.

Q. You'll see, at the beginning of column 9, line 61, of the '083 patent, it sets out to define Controls, with a capital C.

Do you see that?

A. I see the paragraph, yeah.

Q. And if you could, sir, go with me to the

second sentence of that paragraph. Begins on line 63, begins "in the preferred embodiment."

Do you see that?

A. "In the preferred embodiment." Yes, I see it.

Q. Okay. And I'll read this into the record, and let me know if I read it right.

It says, "In the preferred embodiment, this minimum control is the web conduit which is the Internet data rendering portion of the frame."

Did I read that right?

A. What I read.

Q. So this portion of the '083 patent, that column 9, line 63 to 65, describes the web conduit as the minimum control for the Dot, right?

MR. IYER: Objection. Calls for a legal conclusion, expert opinion. And I'm not even sure there was a question there.

THE WITNESS: Yeah, as I mentioned before, I understand these terms as a technologist and as a designer. I can't comment about what they mean in a legal sense as a patent lawyer. So I can read it just like you can, but I can only interpret it in the way that I interpret it as a technologist and as a designer, and we've talked about that already.

BY MR. BALLANCO:

Q. Okay. And by the same token, you can't speak to what's covered or captured by the claims of the '083 patent, right?

A. Yeah. I can't speak as a -- as a patent attorney on that. I've -- I've read the claims. They're even harder to understand than some of this stuff, but, yeah, I've reviewed them. They -- they make sense to me as a technologist in the same way this stuff we're reading here makes sense to me as a technologist and accurately describes our technology as I understand it.

Now, how to interpret this in a legal context, again, I do a lot of work with lawyers on the business side, and I know what it's like to get a business contract to match my spirit of intent. But I trust my business lawyer is doing, you know, the precise surgery and definition of the terms beyond my understanding. I see this the same way.

Q. Sir, what is the Dot messaging architecture?

A. So the Dot messaging -- can I minimize this patent so I can see you?

Q. Be my guest.

A. Thanks.

So the Dot messaging architecture was -- once

you break out of the web page paradigm, you break out of the browser and you start to make these more dedicated, branded, interactive, application-like web experiences, one of the obvious next steps to make them feel more like applications and give them true application like -- I'm putting these in quotes because that's really important back in the world that didn't exist -- to give Dots, you know, and Dot developers the ability to create true application-like experiences.

It's important to be able to enable Dots to be able to communicate with each other and -- and with the system or for content that's coming, say, from a web developer's server or a -- or a customer's server to be able to interact with -- with a NIM -- to be able to reconfigure -- if you think really fully configurable, then messaging allows configurability to happen on multiple fronts as well.

Q. Was the Dot messaging architecture something that actually became implemented into the Dot platform?

A. Oh, yeah. And a lot of our customers used it, and a lot of our developers loved it because, again, they are not used to developing, quote/unquote, "applications." They are used to developing web pages which are locked in a page. Any interactivity was stuck on a page.

But in a Dot, I could, you know -- for example I could get a trading -- stock trading Dot and be tracking trades, set up some sort of event, and automatically pop up -- not just a monitoring Dot, but the ability to facilitate a trade, right?

The things -- the interactivity between Dots, you could imagine all of the creativity that unlocks from content developers that you can't do inside a page context, one page at a time, and locked inside a browser which you don't control.

So it's -- people loved it. We loved it. It worked. It was amazing.

Q. And I guess I'm -- it would be fair to say that the Dot's messaging architecture is something that set the Dot platform apart from your competitors, right?

MR. IYER: Objection to form. Vague.

THE WITNESS: It was one of the things that built on the core premise of what a Dot was and the Dot template was. It really brought that whole experience to life. Sure. It was a valuable piece of our whole platform in technology for sure.

BY MR. BALLANCO:

Q. What about the Dot app? What was the Dot app?

A. Yeah. Loved it.

So once you, again -- the best way to

understand all of this from a user experience as well as from the experience of the companies and the developers is to try to compare to it their alternative of using a browser, right? Once you could have one or more Dots, then the idea of using them in sets starts to make sense, right?

So that could be defined by a developer. "Hey, you're a set. Just use the stock tracking and trading," you know, "concept for a bit."

You could define the set of Dots that allowed you to follow the market in different ways, and that set -- we called it pack -- that could be offered and developed and distributed by a developer, by a company. Just think of it as a collection of Dots.

A Dot pack could also be defined by an end user. "Hey, I'm a writer."

I bring up my Word document. And, you know, I'm starting to write. And I want a thesaurus, I want a dictionary, and, you know, I want a quote of the day to get inspiration, and I also want to track the weather to know when to get up from my desk to go hike.

I can create a collection of Dots from different companies and developers that align to a particular, say, work mode. So I could create my own Dot pack too. Again, it's a set of Dots.

What's amazing about it is I could very quickly open and close Dot pack. Not have -- you know, a browser takes up your whole window. Like, literally we're talking the whole window. Dot package could be on the right, and I could be -- it could integrate in my day-to-day work experience. And I could switch from writing to getting to my inbox.

Just think about what it means to bring applications into your workday. Dot packs enable that both on the user side and on the company and developer side.

Now, what's super cool is users can --

(Reporter admonishment.)

THE WITNESS: -- share these Dot packs.

So I could say, "Hey, Mike, here is a set of Dots that I collected. It's great when you're watching the game," or whatever.

And -- and obviously the Dot packs stayed with you across all the devices you used.

BY MR. BALLANCO:

Q. How would users share Dot packs amongst themselves?

A. I believe you just go in and say, "Hey, here's a pack."

And you just hit "Share," and it would

generate, as I recall, a Dot -- a share link, which I could just send on email with you -- to you. And then you would click that share link, and if your computer was Dot-enabled, you'd just get that Dot pack instantly.

The cool thing, by the way, it was you would receive the Dots in the state that I left them. Right? So all of the state information, all of the configurability that was captured in my version of Dots -- or let's say it was coming from a company, but you asked about sharing between end users -- the way I set it up, you'd get it that way.

So the share was not just the Dots. It was whatever the configurability of the moment was that I left them in. Let's say I aligned them on the right side of my screen. You'd get them that way, and of course then you could -- when they received them, you could then reorganize it, and now you have your own collection.

Q. And so if I'm hearing you correctly, one way to think of it is it's a bundle of Dot templates essentially?

MR. IYER: Objection. Form.

What's your question, Mike?

BY MR. BALLANCO:

Q. Yeah. The Dot pack, one way to think of it is

a bundle of Dot templates?

A. Yeah, I think I described it as a collection of Dots. That the user would think of it as a collection of Dots.

Technically, it would be a collection of Dot templates with whatever configurability information they had in them, and that allowed me to redistribute those Dots without distributing software, right? That's, again, back to the magic of what made Dots Dots was the definitions of Dot templates themselves.

Q. Another phrase that I've seen in the material was "block of Dots."

First of all, are you familiar with that term?

A. Yeah. It's been a while, but I do remember it, yeah.

Q. Is that related to Dot packs?

A. Not that I recall. The way I recall a block of Dots is more when you're working with more than one Dot at a time.

Let's say I wanted to organize them on the right side of my screen. I could -- in the same way you -- you know, like, working in PowerPoint or Keynote, you'd select a set of objects altogether, I can multi-select multiple dots. And if I vertically organize them or, like, slant them up to the right side

of my screen, that would be a block of Dots.

And we had these -- I mean, we had these amazing little user experience things where you can take a block of Dots -- let's say you had a column of vertical Dots, a block. You figure out a way to select these things. A little yellow bar would come around to show you which ones you're selecting.

You could take it, and you could drag your mouse --

(Reporter admonishment.)

THE WITNESS: The Dots that you selected -- so let's say I've selected a column of four Dots. That would be a block. Now I can move them altogether, right? Which we take for granted in a lot of the tools we use today, what it means to right justify or left justify things. But obviously that doesn't exist in the world of web pages.

But Dots that behave like applications, using them together is a benefit for end users and for the interactivity that developers want to create. And so you could grab a vertical block of Dots altogether, and you could -- it is really sweet. It's amazing. You just slam it up to the top of your screen, and they would reorganize themselves into a horizontal block of Dots.

It's hard to describe. You just have to -- you had to feel it. It's like the way it worked and snapped was just beautiful.

BY MR. BALLANCO:

Q. I think I can visualize it, but I understand it's probably hard to get the full effect without actually seeing it.

Could you -- could you put a Dot pack into a block of Dots? Like, in other words, take your Dot pack and make that a block of Dots?

A. Yeah. We're starting to blur the terms, and it's been a while. I think of a Dot pack, again, as a collection of Dots I can open and close together and share. Of course, when you do that, it maintains the state of those Dots as if they were, say, to the right.

Now, when I move them, that's when I would probably think of them as a block, that I'm moving a block of Dots together. I think of the block more as an interaction affordance than, say, a collection concept.

But obviously we're talking about multiple Dots in both cases.

Q. Going to block of Dots again.

What was the concept of lead Dot as it related to block of Dots?

A. I don't -- I remember that term. I honest --

to be honest, I can't remember what the design intent of that was. I mean, if I had to guess, it would be the one on the top, maybe. But I don't -- I don't remember how that was set. I don't remember how that worked.

We'd have to ask our interface designers who were working on that at the time.

Q. I have just a few more of these about the Dot platform.

The next one I wanted to ask about is a Share. And when I use that term, with a capital S, Share, not just the normal English word.

What was a Share in the Dot platform?

A. That's what I mean -- the way I remember it, it's easiest to go back to the user experience as if I wanted to share a Dot or a set of Dots with you. There was a mechanism for me to identify which Dot or Dots I wanted to share with you and then hit a "Share" button, in the same way we sort of do that on our devices every day and don't even think about it.

It's not something that really was a concept in the web paradigm because, I mean, I could take a web address, "Hey, Mike, go check out this web page I found."

But I'm copying a web link, giving it to you, and you're copying it and clicking it and putting it

into your browser.

So sharing didn't exist as a concept in that way for a web page paradigm -- for us, the ability to share Dots, because they are so lightweight, just the Dot template, the possibility of sharing them and having viral content, "I like it. You might like it," company benefits from more audience.

A Share was not only natural -- "I want to share exciting things with you" -- but it was beneficial to both companies and developers.

And you would just receive an email. I would click a link -- you would click the link and, boom, it would just show up on your screen if you accept that Share because you didn't have to download software to get it.

Q. So long as you had a Dot-initiated computer, you could open a Share that was sent to you without having to do any downloading of an application or --

A. That's right. Dot-enabled. Yeah.

And the --

Q. Sorry.

A. -- technology of flow allowed for me to share a Dot or Dots with you even if you weren't Dot-enabled. It figured that out and allowed you to Dot-enable your computer for the first time if you wanted to collect

your first Dot.

Whether that was from a company's website, from our index, what you think of as like the app store now, or from a friend, you can get it from any of those three locations. Of course, you'd have to be Dot-enabled to receive your first Dot, but not after that.

Q. When we were talking about Dot packs, you had spoken about the Share feature. It -- so that's the same Share feature we're talking about now, right? I just want to make -- I hadn't related those concepts before, but it sounds like the Share feature of that pack is the same Share concept that's part of the Dot platform. Right?

MR. IYER: Objection to form. Vague.

THE WITNESS: Yeah. I would say the concept of what it means to share Dots, Dots or packs, the user experience is kind of the same. I can't remember technically if we use the same server construct or the way we pass that.

But the overall mechanism and certainly the overall user experience is about what it means to share Dots for sure.

BY MR. BALLANCO:

Q. There's one more -- and I believe it's

related, but if it's not, let me know -- and that's a snapshot.

What was a snapshot in the Dot platform?

A. A what?

Q. A snapshot.

A. Can you spell that? I hear Snapchat, but I don't think that's what you're saying.

Q. Snapshot, S-N-A-P-S-H-O-T.

A. Oh, I remember that term. I don't remember how the -- how the interface design went for that. Again, it's been 25 years since I've used these things. And I don't remember it in any of the screenshots in the marketing materials referred to, right? I remember the term. I just don't remember what the user experience was like.

It's amazing. We hired -- we had a big, growing -- rapidly growing engineering team, Dot developer team, Dot developer community. People were doing so many things. It's -- and had to invent new terms for all these amazing new things we could do with the Dot and the Dot template.

So even if it's familiar, I might not remember exactly how something worked.

Q. I can barely remember what I had for lunch yesterday, so I completely understand.

A. And we're doing plus 25 years on that. Yeah.

Q. Going to the Dot developer team, I saw in the material something called the dev Dot.

Do you recall that?

A. Yeah. We had a whole developer -- launched a whole developer ecosystem. So it required Dot development tools. The dev Dot was part of that. Developer materials.

We even -- I even remember, in our offices, we had a whole section where new want-to-be Dot developers would show up in just classes -- we would run classes. So we had all kinds of things that supported these new class of web developers to become Dot developers.

Yeah. And a dev Dot was a key piece of that, and I think that's -- I think I included in an exhibit some of the dev Dot developer materials which showed the dev Dot in there, I believe.

Q. And you were a Dot developer for a company, say -- let's use ABC as an example because I know we've spoken about that. Say you're a Dot developer for ABC.

How could you direct a user using your Dot to your web content?

MR. IYER: Objection to form. Incomplete hypothetical.

THE WITNESS: Yeah. You have to be more

specific. What do you mean about their web content, and what do you mean by "direct"?

BY MR. BALLANCO:

Q. So let me try to fill it in a little bit more.

You're developing a Dot for, say, ABC, and you want an end user to see something that is -- that you're hosting on the web, some -- some content.

Does that make sense, or should we talk about that some more?

A. Probably -- are you talking about what does it mean to enable one of their customers to find an ABC Dot? Or by use a Dot, to find something on their website?

Q. The latter. So you've got something on a website, but you don't want to use a browser to show it to a user. You want them to be able to view that content through a Dot.

Are you with me?

A. That's different. Viewing the content through a Dot is different than using a Dot to find content that would be shown through a browser.

All of that is possible, by the way. It just depends on what -- what you are trying -- what the company is trying to do. And that either has to come down to sort of an experiential goal or a business goal,

right?

Usually, they're, like, "Am I trying to build audience? Am I trying to build engagement? What am I trying to do?"

And then they would use Dots, Dot design, Dot technology to follow the rest of their media and content strategy, which included website content.

For ABC, it's not just website content. It also included TV, right? They wanted to direct people to their TV shows. So ABC, just as an example, they would use all of their content and media strategies together to build the engagement and customer flow that they wanted.

Simple example: I remember, when ABC launched their Dots, they started, as a good T.V. company would back then, with a T.V. commercial. Fantastic. It was awesome to see our name on the ABC commercial. "New line of shows, bah, bah, bah, bah. Go get the ABC Dots to track," and pointed them to get the ABC Dots.

Which then folks would collect the Dots and presumably would point them to wherever ABC wanted to point them. And I don't remember the exact interaction the ABC Dots -- if that pointed them to facts about the shows or, you know -- back then, we had to find out with the T.V. guide when the show was even on -- or whether

that pointed people to their website.

For us, it didn't matter. They could use a Dot to either put the content within the Dot or use the Dot to point people to somewhere else, whatever their goal was.

And, again, put your company perspective on. They -- the Dots enabled them to engage their users in a much more branded, controlled, and interaction-controlled ways than a web page, right? If I were going to an ABC website, I would be gone in a minute. If I had an ABC Dot, that would stay up 10, 20 times longer.

So, again, way more brand control, way more user experience control than -- than what was enabled on a page which people left.

Q. Okay.

A. We call that bounce rate now, right? Goodness. It was even showing up back then.

Q. That's fine to define it now.

Let's talk about the use case where ABC wants to display content to a user on the Dot.

Is that fair?

A. Using a Dot to -- to display content within the Dot? Sure. Yeah.

Q. All right. From the Dot developer

perspective, how would the Dot developer take that content from -- that ABC is hosting and display it to the user in the Dot?

MR. IYER: Objection to form. Vague.

You can answer.

THE WITNESS: Yeah, I would just point you to the developer materials in one of the exhibits. It's -- I think one of them is like a two-pager, front and back. It was actually a one-pager. It was the simplest thing we handed to developers. Everything is right there.

You'd define the Dot characteristics. We've talked about that before. It made it really easy to do. You'd point all -- you would tell where the different parts of the Dot would get the content from.

Like, where does ABC's title bar image come from? They would have to design it and load it to their server just like they load all other web images.

Where does the content that fills out the primary view control sit in, right? We've talked about that already before. They'd have to point that to somewhere to go get some web content. And the developer tools enabled them to define the Dot in that way and point to wherever those resources were.

And I would just refer you to the exhibit that shows you the visuals of that. It's super, super clear;

super, super simple.
BY MR. BALLANCO:
Q. Okay. And I did look at that. And one of the things I believe I understood is that the -- the Dot would retrieve the content from a URL that the developer had specified it to retrieve content from. Correct?
MR. IYER: Objection to form. Vague.
THE WITNESS: Yeah, I'd have to look back at the materials again, but that was my recollection that, you know, you would use a URL to point to, say, the title bar image. You'd use a URL to point to whatever filled the primary view area.
That was consistent with the developer experience, I remember, and certainly the materials that we show.
BY MR. BALLANCO:
Q. Okay.
A. The way we set it at marketing is anything that you can show on the web, you can show in a Dot. So that's how we talked about it, and that's what the developer experience is like.
Q. You know, we've been talking a lot about the declaration, but I don't believe I've shared it yet in the chat. I'm going to do that now.
A. Okay.

Q. I have one or two questions that I really wanted to point to the declaration for, so give me one moment.

A. Sure.

MR. IYER: I think, Mike -- I think that was the first document you put into the chat.

MR. BALLANCO: Oh, when we were off the record. Oh, okay.

THE WITNESS: When we were testing it.

MR. BALLANCO: I now have it in the chat again.

THE WITNESS: Is that EX 2021 something or other?

MR. BALLANCO: Correct. Yeah, I did drop into the chat, and I had previously, Exhibit 2021 as it's been marked in the '083 IPR proceeding.

Just let me know when you're able to access that document.

THE WITNESS: I think I have it. EX 2021, my name, '083 declaration. Yeah.

Got it.

BY MR. BALLANCO:

Q. Can you -- do you recognize this document?

A. Oh, yeah.

Q. And what is this document?

A. This is one of my three declarations.
Q. Okay. Appears to be a fair and accurate copy of it?
A. I haven't reviewed it. Let me see here. Let me -- just scanning through the pages, I see familiar images and formatting, and I see my signature on the end, so it's pretty much like the right thing.
Q. Okay. If you would, sir, navigate to page 22 of this declaration. It's PDF page 23, but the page number at the bottom of the document is 22.
A. I was just going to ask. Is it PDF -- PDF 23, page 22. Yeah.
It has a -- kind of a warpy scan at the top.
Q. Correct. And the warpy scan is actually what I wanted to chat about.
And just for the record, this is -- the top of that page is captioned "Exhibit 2045 at 4"; is that right, sir? Is that what you're looking at?
A. I see that, yeah.
Q. And what is this wavy scanned image showing?
A. Zoom in here. How do I do that?
Sorry. Small screen. When I was working on this, I had my big computer screen. Okay. Here we go.
Yeah, this looks like -- I believe it's attached as one of the exhibits. It looks like some of

the Dot developer documentation.

And this looks like it's, you know, one of the pages of the Dot -- the specification for a Dot definition. And it looks like, at the top, it shows -- yeah. We had schemas for multiple things.

We've talked about shares. I see that. We've talked about Dot templates. I see that there too. It talks about the user --

(Reporter clarification.)

THE WITNESS: So those are the X amount schemas for those concepts that we've talked about.

And it looks like it shows, at least in the table at the top, that it will talk about the schemas for the user configuration, "<ALL_CONFIG>," and the session configuration, "<SESSION_CONFIG>."

So think of that as the -- if I recall correctly, the user accounts. You know, my account, my collection of Dots, and whatever session information when I log in.

BY MR. BALLANCO:

Q. Okay. And do you see in that wavy image where it mentions Dot templates and then, in the column next to it, defines it as capital "<DOT>" within carets?

A. The table -- this document defines the structure of the XML used for DoDots, yep. Generally,

there are three or four top-level XML structures, and one of those is Dot templates. And it shows a tag, a Dot tag. Yes. And then --

Q. Okay.

A. -- it looks like the document -- and I remember this when I skimmed through it -- goes through and describes the -- the structure for that. And you can see it's starting right below.

Q. Okay. And what's -- and when you say "starting right below," again, we're looking at the image that is on page 22 of your declaration in -- and it's tagged, "Dot," and it begins to define it. Right?

A. Yeah. This -- and I'd have to go back and look to see if this is sort of internal documentation or Dot developer documentation. But it looks like it starts to detail out the -- the -- the schema, or what I would think of, the type definition for a Dot, yeah.

Q. And is this the -- is what's shown on this page here the complete schema or definition for a valid Dot template?

A. Yeah. It's just the -- it's just the first page of a bunch, and it only --

Q. Okay.

A. -- only starts with -- what? -- two or three variables at the top with one sub tag to frame. That's

it. So there's obviously a lot more.
Q. Okay.
A. I believe that -- I believe that's in the exhibit.
Q. Okay.
A. This was just to refer to -- to refer to it in the declaration as illustrative.
Q. Okay. You can -- you can put that down for the moment, if you'd like.
Sir, you, in your declaration, referred to various articles that had come out around the time that you were working on the Dot platform. Right?
A. Yeah. I believe I clipped a few and referred to a few. There's one Walt Mossberg that I recall. I recall the meeting. There's one of them from him.
Q. And the articles that are cited in your declaration, they were -- you were the source of those articles for the declaration? They weren't provided to you, in other words?
A. Source as in I have a box of media from back in the startup days. Yeah, I have a box of, you know, magazines and press clippings. We have a press clip. And a lot of fun to just go through and dig through and just pull out interesting articles and go down memory lane.

So, yeah, have those press clippings and things. Yeah.

Q. Okay. And those articles that you cited in your declaration, they are all describing the DoDots invention and company, right?

A. I'd have to review each one to see if that's categorically true. I know that they talk about other technologies and things at the time, but the reason we kept them and put them in our press kit is because they speak to our company, our vision, our customers, our developers, our technology in different ways. Yeah.

Q. And those articles -- again, we can go through them if we need. But fair to say they all are from about the 2000 time period?

A. Yeah, I believe that's the ones we kept, and those are the people who covered us when we were in the startup. And obviously they were talking about that experience at that time.

You know, and they range from, goodness, you know, newspaper folks, tech folks -- it's a range of folks. Media spread differently back then, right? You had, actually, these tech conferences.

So depending on which one you're talking about, they spoke to our company in different ways, and we interacted with them in different ways. But, yeah,

they were all contemporaneous with the startup for sure.

Q. Sir, at some point along the way, you -- well, let me ask you this -- strike that.

What -- what became of your rights in the '083, '545, and '407 patents?

MR. IYER: Objection to form. Vague. It calls for a legal conclusion.

THE WITNESS: Yeah, I don't -- I don't know exactly what you're asking on that. Do you want to tighten that, or do you want me to just respond as is?

BY MR. BALLANCO:

Q. Let me ask you this: You transferred your rights to the '083, '454 -- '454 -- I'll get that right -- and -- the '545, and '407 patents, right?

A. So I don't remember what the patent numbers are or were or which ones were related to what. But as is standard startup practice, we transfer the intellectual property rights to the startup as part of the startup process and the funding process.

And so as a result, the company owned the IP, and that was obviously provisional patent days back then. So -- but as an inventor and as a founder, I transferred rights of the intellectual property to the startup at the time.

Q. And as it stands today, what -- what interests

do you have in the '083 patent, for example?

A. No -- no commercial interest. That's the inventor conundrum. It's -- again, I signed that over a long time ago. To be honest, I don't know who exactly owns them now. But my interest is a good trip down memory lane and a good story.

Q. You understand that the '083 patent has been asserted in the litigation against Samsung, right?

A. It's been explained to me that there is a process going on. I -- I'm surprised every day at how little I know about the way these processes unfold, so I don't know what "assert" means, and I don't know where it is in the process.

But I know we're involved in this dialogue together because of probably what you're talking about.

Q. Well, you understand that the current assignee of the '083 patent has alleged that Samsung is infringing on the claims of the '083 patent, right?

A. Not a lawyer, but that seems to resonate with what I understand.

Q. And you also understand that the current assignee of the '083 patent, as part of that lawsuit, has asked for money damages to be compensated for its alleged -- or for Samsung's alleged infringement, right?

A. I -- I'm not sure I've heard that in any

specific terms, but that makes sense to me.
Isn't that the way these things work?
Q. Well, my question, sir, is: Should the current assignee of the '083 patent recover damages for the alleged infringement, what portion of those damages do you stand to recover?
A. Oh, none. I have no ownership in these patents.
Q. Okay.
A. I signed those away a long time ago, as I mentioned.
Q. Okay. And as part of signing those patents away, you didn't retain any ability to collect damages that are recovered in a lawsuit?
A. No. Again, that was 25 years ago. That was half my age, just to be clear about how young I was as an entrepreneur.
Q. And so your testimony here today, sir, is that, to the best of your knowledge, you have no financial stake in the outcome of the patent litigation against Samsung relating to these patents?
A. That's correct. Yeah.
Again, it's -- it's -- as an inventor, there's reward, and these things get resolved in the startup landscape a lot faster than the patent landscape.

Right?

Just the way the dot.com -- excuse me -- dot.com bubble changed the face of all of our entrepreneurial experiences, the timeline of the way startups work is way different -- obviously I'm learning -- than the timeline of the way patents work. They are not coherent in time.

And so as an inventor, I get a good experience as an entrepreneur. I've learned a lot. It's rewarding to see that our invention was not just well received -- I mean really well received in the time that we had the company.

Companies loved it; analysts loved it; we won awards; we were able to hire in probably one of the tightest talent markets because it was compelling to the people we hired and to developers and engineers to work on our stuff. And that's rewarding there.

But we had to shut the company down.

So it's neat to see that that vision was prescient, that these things that we were working on 25 years ago is almost commonplace now. We completely take it for granted, the concept of apps that are powered not by local software as much as by the Internet. The concept of app ecosystems and app stores. None of that language existed 25 years ago.

So it's rewarding, as an inventor, to see the world sort of steer the direction that you had a vision for. And I have four daughters. It makes for a good story at home.

Q. Sir, during today's testimony, did you have any notes with you -- I meant to ask you this in the beginning -- that you were referring to at all during your testimony?

A. No. I was asked not to bring anything into the room. So it's just me and my clock.

Q. Okay. I thought so. I just wanted to confirm that.

A. Yeah.

MR. BALLANCO: And with that, sir, I have no further questions for you. Your counsel may, but nothing more for me.

Thank you for your time.

MR. IYER: Nothing for me. Thank you.

MR. BALLANCO: I think we can go off the record.

COURT REPORTER: Counsel, pardon me.

May I get transcript requests on the record, please?

MR. BALLANCO: Oh, sure. Gosh.

COURT REPORTER: And I have yours,

Mr. Ballanco, with the scheduling.

MR. BALLANCO: Oh, okay. Yeah, that's what I was about to say.

MR. IYER: Yeah. So then we'll request a transcript as well.

COURT REPORTER: Would you like that expedited as well?

MR. IYER: What's the regular delivery?

COURT REPORTER: Ten days.

MR. IYER: Yeah. Regular delivery.

(Whereupon the proceedings concluded at 11:14 a.m.)

ERRATA SHEET

NAME OF CASE: SAMSUNG ELECTRONICS CO, LTD. V. DODOTS LICENSING SOLUTIONS LLC
DATE OF DEPOSITION: MAY 16, 2024
NAME OF WITNESS: JOHN KEMBEL

Reason Codes:

1: To clarify the record.
2: To conform to the facts.
3: To correct transcription error.

Page _____ Line _____ Reason _____

From _____ to _____

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JOHN KEMBEL DATED

DECLARATION UNDER PENALTY OF PERJURY

I, JOHN KEMBEL, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on May 16, 2024; that I have made such corrections as appear noted on the Deposition Errata Page(s), attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

This Declaration is executed this _____ day of _____, 20___, at _____, California.

_____

JOHN KEMBEL

STATE OF CALIFORNIA))) ss.

I, Tamara Houston, RPR, CCRR, CSR No. 7244, a Certified Shorthand Reporter in the State of California, duly empowered to administer oaths, do hereby certify:

That, prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said deposition was taken down by me in shorthand at the time and place therein named, and thereafter reduced to typewriting by computer-aided transcription under my direction;

That the dismantling, unsealing, or unbinding of the original transcript will render the reporter's certification null and void.

I further certify that I am not interested in the event of the action.

In witness whereof, I have hereunto subscribed my name.

Dated: 19th of May, 2024.

Tamara L. Houston

TAMARA L. HOUSTON
CSR 7244, RPR, CCRR 140

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