

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,

Petitioner,

v.

VL COLLECTIVE IP LLC,

Patent Owner.

Case IPR2023-00628

Patent No. 7,233,790

REMOTE DEPOSITION of

MICHAEL T. GOODRICH, PH.D.

Irvine, California

Tuesday, February 6, 2024

Reporter: MaryJo O'Connor, RDR, RMR

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Tuesday, February 6, 2024

8:09 a.m. PST

REMOTE DEPOSITION of MICHAEL T.  
GOODRICH, PH.D., held in Irvine, California,  
pursuant to notice, before MaryJo O'Connor,  
Registered Diplomat Reporter, Registered  
Merit Reporter and Notary Public in and for  
the Commonwealth of Massachusetts.

1       A P P E A R A N C E S:

2

3       ATTORNEYS FOR PETITIONER:

4           (Appearing remotely)

5       WILLKIE FARR & GALLAGHER LLP

6           1875 K Street N.W.

7           Washington, D.C. 20006

8           (202) 303-1092

9       BY:     ALIZA CARRANO, ESQ.

10            acarrano@willkie.com

11            DANE SOWERS, ESQ.

12            dsowers@willkie.com

13

14

15       ATTORNEYS FOR PATENT OWNER:

16           (Appearing remotely)

17       REICHMAN JORGENSEN LEHMAN FELDBERG LLP

18           400 Madison Avenue

19           Suite 14D

20           New York, New York 10017

21           (212) 381-1965

22       BY:     MICHAEL MATULEWICZ-CROWLEY, ESQ.

23            mmatulewicz-crowley@reichmanjorgensen.com

24

25                   \* \* \* \* \*

1 -----I N D E X-----

|   |                             |      |
|---|-----------------------------|------|
| 2 | EXAMINATION of              | PAGE |
| 3 | MICHAEL T. GOODRICH, PH. D. |      |
| 4 | By Ms. Carrano              | 6    |

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6 \* \* \* \* \*

7 -----I N S T R U C T I O N S-----

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| 10 |      | (None) |      |      |

11 \* \* \* \* \*

12 -----E X H I B I T S-----

|    |                                        |      |
|----|----------------------------------------|------|
| 13 | GOODRICH EXHIBIT                       | PAGE |
| 14 | Exhibit 1001 United States Patent No.  | 13   |
| 15 | 7,233,790 B2                           |      |
| 16 | Exhibit 1003 United States Application | 39   |
| 17 | Publication No.                        |      |
| 18 | 2002/0131404 A1                        |      |
| 19 | Exhibit 1009 Document entitled "Mobile | 63   |
| 20 | Applications with J2ME, A              |      |
| 21 | White Paper" (Schlapfer)               |      |
| 22 | Exhibit 1026 Document entitled         | 15   |
| 23 | "Supplemental Declaration of           |      |
| 24 | Anthony Wechselberger"                 |      |

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## 2

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1 PROCEEDINGS

3 MICHAEL T. GOODRICH, PH.D.,

4 having been duly sworn by the Notary Public,  
5 was examined and testified as follows:

7 MS. CARRANO: This is Aliza

8 Carrano of Willkie Farr & Gallagher on  
9 behalf of petitioner Netflix, and with  
10 me is Dane Sowers, who is an associate  
11 at the firm who is just observing.

12 MR. MATULEWICZ-CROWLEY: This is

13 Matulewicz-Crowley on behalf of Patent  
14 Owner from Reichman Jorgensen Lehman &  
15 Feldberg.

17 EXAMINATION

18 BY MS. CARRANO:

19 Q. Good morning, Dr. Goodrich. How  
20 are you?

21 A. Good morning. I'm fine, thank  
22 you.

23 Q. Can you please state your full  
24 legal name and location for the record?

25 A. Michael Truman Goodrich. I'm in

11:10:29 1 Irvine, California.

11:10:30 2 Q. Have you been deposed before?

11:10:33 3 A. Yes.

11:10:33 4 Q. Approximately how many times have  
11:10:36 5 you been deposed before?

11:10:37 6 A. I've lost count, but I'm confident  
11:10:39 7 it is more than 40 times.

11:10:42 8 Q. So you understand, then, that you  
11:10:44 9 are under oath and required to answer  
11:10:45 10 truthfully just as if you were testifying  
11:10:48 11 before the Board?

11:10:49 12 A. Yes.

11:10:50 13 Q. Is there any reason why you can't  
11:10:54 14 give useful and accurate answers to my  
11:10:56 15 questions today?

11:10:57 16 A. No.

11:10:59 17 Q. Have you been deposed remotely  
11:11:02 18 before?

11:11:02 19 A. Yes.

11:11:04 20 Q. Other than the Zoom conference  
11:11:06 21 that we are on, do you have any other windows  
11:11:09 22 open on your screen?

11:11:10 23 A. No.

11:11:11 24 Q. So other than the Zoom conference,  
11:11:14 25 are you communicating with anyone else in any

11:11:17 1 other way, like through a chat or a text?

11:11:21 2 A. No.

11:11:23 3 Q. If someone is communicating with

11:11:27 4 you while we are on the record, you'll agree to

11:11:30 5 let me know?

11:11:31 6 A. Sure.

11:11:33 7 Q. Is there anyone else physically

11:11:35 8 present in the room where you're located?

11:11:37 9 A. No.

11:11:38 10 Q. And if that changes, you'll let me

11:11:40 11 know?

11:11:41 12 A. Yes.

11:11:42 13 Q. Did you bring any notes or other

11:11:46 14 materials with you that are relevant to this

11:11:49 15 case?

11:11:50 16 A. No.

11:11:51 17 Q. Are there any notes relevant to

11:11:54 18 this case in the room, like on the wall?

11:11:58 19 A. No.

11:11:59 20 Q. Any notes on your screen?

11:12:00 21 A. No.

11:12:02 22 Q. Dr. Goodrich, you submitted a

11:12:06 23 declaration for this IPR proceeding, correct?

11:12:09 24 A. That is correct.

11:12:12 25 MS. CARRANO: I'm putting your

11:12:14 1 expert declaration in the Chat for you

11:12:15 2 to download, which is Exhibit 2020.

11:12:20 3 (Document marked for

11:12:27 4 identification as Exhibit 2020)

11:12:27 5 Q. So if you go to the Chat, there

11:12:29 6 should be a link for you to click and it should

11:12:32 7 come up on your screen.

11:12:33 8 A. Yes, I have that in front of me.

11:12:36 9 Q. Okay. So you confirm that you

11:12:40 10 have your declaration, which is Exhibit 2020 on

11:12:43 11 your screen?

11:12:45 12 A. Yes. I have it in front of me.

11:12:49 13 Q. I'm going to refer to your expert

11:12:51 14 declaration during this deposition as either

11:12:53 15 Exhibit 2020, your expert declaration, or your

11:12:57 16 declaration; okay?

11:12:59 17 A. Sure.

11:13:00 18 Q. On page 63 of your declaration, is

11:13:05 19 that your signature?

11:13:06 20 A. Yes. It's on page 67 in the PDF.

11:13:24 21 Q. And you executed this declaration,

11:13:27 22 and it's dated December 22, 2023, right?

11:13:31 23 A. That's right.

11:13:33 24 Q. And will you confirm that this

11:13:37 25 Exhibit 2020 is the expert declaration that you

11:13:39 1 submitted in this IPR proceeding?

11:13:41 2 A. Yes. It appears to be that  
11:13:44 3 declaration.

11:13:45 4 Q. Are you aware of any corrections  
11:13:46 5 to your declaration?

11:13:48 6 A. In reviewing it, I recall there  
11:13:53 7 being a few typos here and there, but nothing  
11:13:56 8 that rises to the level of a correction. If  
11:13:59 9 those typos arise today, I'll be happy to  
11:14:03 10 correct them, if you feel they're causing  
11:14:05 11 confusion.

11:14:06 12 Q. All right. That would be great.  
11:14:08 13 Thanks.

11:14:08 14 And does your declaration have all  
11:14:12 15 of your opinions based on the record as of when  
11:14:18 16 you signed it?

11:14:19 17 A. Yes.

11:14:19 18 Q. Dr. Goodrich, did you prepare for  
11:14:20 19 today's deposition?

11:14:21 20 A. I did.

11:14:22 21 Q. What did you do to prepare?

11:14:24 22 A. I met via Zoom with  
11:14:30 23 Mr. Matulewicz-Crowley, who is here on the Zoom  
11:14:35 24 today, yesterday.

11:14:36 25 Q. So you only met with

11:14:38 1 Mr. Matulewicz-Crowley yesterday to prepare for  
11:14:43 2 this deposition?

11:14:43 3 A. Correct. Via Zoom.

11:14:45 4 Q. How long did you meet with him?

11:14:48 5 A. My recollection it was roughly on  
11:14:51 6 the order of four to five hours.

11:14:54 7 Q. Did you review any documents  
11:14:58 8 outside of what's in the record for this  
11:15:01 9 proceeding to prepare for today's deposition?

11:15:05 10 A. No.

11:15:06 11 Q. Did you do any additional research  
11:15:09 12 in preparation for today's deposition?

11:15:12 13 A. Just reviewing documents that are  
11:15:15 14 exhibits in this IPR.

11:15:17 15 Q. Did you conduct any research in  
11:15:21 16 formulating the opinions that are in your  
11:15:23 17 declaration?

11:15:24 18 A. I'm not sure I follow your  
11:15:26 19 question. Are you asking the process that I  
11:15:29 20 took to prepare my declaration?

11:15:32 21 Q. Let me clarify. Did you conduct  
11:15:34 22 any research outside of what documents were in  
11:15:37 23 the record in formulating your opinions that  
11:15:39 24 are in your declaration?

11:15:41 25 A. Not that I recall.

11:15:43 1 Q. If you go to paragraph 51 of your  
11:15:58 2 declaration. Let me know when you're there.

11:16:02 3 A. I'm there.

11:16:08 4 Q. In your declaration you opine that  
11:16:11 5 one of ordinary skill in the art is "an  
11:16:13 6 individual with at least a bachelor's degree in  
11:16:16 7 Computer Science or related area and two years  
11:16:18 8 of experience developing software tools and/or  
11:16:23 9 computer systems for use in online content  
11:16:27 10 management and provisioning," correct?

11:16:28 11 A. Yes. And then I added:  
11:16:30 12 "This description is approximate,  
11:16:32 13 and more work experience could  
11:16:36 14 compensate for less education or more  
11:16:37 15 education could compensate for less work  
11:16:42 16 experience. "

11:16:47 17 Q. So you understand, Dr. Goodrich,  
11:16:49 18 that the patent at issue in this proceeding is  
11:16:52 19 U.S. Patent Number 7,233,790?

11:16:59 20 A. Yes. I refer to that as the '790  
11:17:02 21 patent in my declaration.

11:17:04 22 Q. I'm going to drop the '790 patent  
11:17:08 23 into the Chat so you have it, and that was  
11:17:11 24 submitted as Exhibit 1001 in this proceeding.

11:17:18 25 Can you confirm when you have it?

11:17:21 1 (Document marked for  
11:17:32 2 identification as Exhibit 1001)  
11:17:32 3 A. I have that.  
11:17:33 4 Q. Can you confirm that what you have  
11:17:36 5 in front of you is Exhibit 1001, which is the  
11:17:39 6 '790 patent that was submitted in this  
11:17:41 7 proceeding?  
11:17:41 8 A. Yes. That is how it is marked and  
11:17:45 9 it appears to be that patent.  
11:17:48 10 Q. You're aware that the '790 patent  
11:17:54 11 was subject to a recent examination proceeding  
11:17:57 12 at the U.S. Patent and Trademark Office,  
11:18:04 13 correct?  
11:18:04 14 A. What are you referring to  
11:18:05 15 specifically?  
11:18:06 16 Q. My question to you is that are you  
11:18:09 17 aware that the '790 patent was part of a recent  
11:18:12 18 reexamination proceeding that took place at the  
11:18:15 19 PTO?  
11:18:17 20 A. I do recall there being some  
11:18:19 21 reexamination proceedings, but I'm not  
11:18:24 22 specifically recalling this patent.  
11:18:27 23 Q. When you were putting together  
11:18:35 24 your declaration, you considered  
11:18:39 25 Mr. Wechselberger's supplemental declaration,

11:18:45 1 correct?

11:18:46 2 A. The supplemental. I'm not  
11:18:48 3 recalling whether it was the original or the  
11:18:50 4 supplemental.

11:18:52 5 Q. If you go to paragraph 2 of your  
11:19:05 6 declaration.

11:19:05 7 A. I'm there.

11:19:05 8 Q. If you see in your Material  
11:19:08 9 Considered, you list Mr. Wechselberger's  
11:19:08 10 supplemental declaration as one of the  
11:19:10 11 materials that you considered.

11:19:11 12 A. Yes. Now I recall that.

11:19:13 13 Q. Do you recall what was the subject  
11:19:14 14 matter disclosed in Mr. Wechselberger's  
11:19:18 15 supplemental declaration?

11:19:19 16 A. Not specifically, as I sit here  
11:19:21 17 today.

11:19:25 18 Q. Do you recall that the  
11:19:27 19 supplemental declaration was directed to the  
11:19:31 20 reexamination certificate that was issued for  
11:19:34 21 the '790 patent as a result of the  
11:19:37 22 reexamination proceeding?

11:19:39 23 A. Could you please upload  
11:19:42 24 Mr. Wechselberger's supplemental declaration to  
11:19:44 25 the Chat window?

11:19:47 1 Q. Yes.

11:21:42 2 (Document marked for

11:21:42 3 identification as Exhibit 1026)

11:20:01 4 Q. So I've put in the Chat

11:20:04 5 Exhibit 1026, which was submitted in this

11:20:06 6 proceeding, which is Mr. Wechselberger's

11:20:08 7 supplemental declaration.

11:20:12 8 Do you have that?

11:20:16 9 A. Yes. I have it now.

11:20:23 10 Q. And Mr. Wechselberger's

11:20:25 11 supplemental declaration, as provided in

11:20:36 12 paragraph 3 of his declaration, provides that

11:20:42 13 he submitted this declaration in view of the

11:20:47 14 reexamination proceeding that occurred with

11:20:50 15 respect to the '790 patent; is that correct?

11:20:53 16 A. Yes, I see that.

11:20:55 17 Q. So you are aware that the '790

11:20:57 18 patent was subject to a reexamination

11:21:00 19 proceeding, correct?

11:21:01 20 A. Yes. Now I recall that.

11:21:05 21 Q. And the result of that

11:21:08 22 reexamination proceeding was that Claims 1 and

11:21:13 23 8 of the '790 patent were amended, correct?

11:21:17 24 A. Yes. I recall that.

11:21:26 25 MS. CARRANO: I'm going to put

11:21:27 1 into the Chat Exhibit 2018, which is  
11:21:34 2 reexamination certificate that was  
11:21:37 3 issued by the PT0 for the '790 patent.

11:21:40 4 Can you confirm when you have it.

11:21:42 5 (Document marked for  
11:22:04 6 identification as Exhibit 2018)

11:22:04 7 A. Yes. I have that in front of me.

11:22:06 8 Q. Can you confirm that what you have  
11:22:08 9 in front of you is the Ex Parte Reexamination  
11:22:11 10 Certificate of the '790 patent, which is -- was  
11:22:14 11 submitted as Exhibit 2018 in this proceeding?

11:22:18 12 A. Yes. That's what I have.

11:22:21 13 Q. Have you seen Exhibit 2018 before?

11:22:25 14 A. I'm not specifically recalling it,  
11:22:28 15 but it's consistent with the exhibit that is  
11:22:32 16 the supplemental declaration of  
11:22:38 17 Mr. Wechselberger.

11:22:40 18 Q. All right. If you go to page 3 of  
11:22:44 19 Exhibit 2018, do you see that that page  
11:22:53 20 indicates how Claims 1 and 8 were amended  
11:22:58 21 during the reexamination proceeding of --

11:22:58 22 A. Yes.

11:23:01 23 Q. -- the '790 patent?

11:23:02 24 A. Yes, I see that.

11:23:06 25 Q. So the result of that

11:23:07 1 proceeding -- let me start over.

11:23:12 2 The result of the reexamination  
11:23:14 3 proceeding as memorialized in Exhibit 2018 was  
11:23:20 4 that Claims 1 and 8 were amended, correct?

11:23:23 5 A. Yes, I see that.

11:23:25 6 Q. In formulating your opinions in  
11:23:27 7 your declaration, you analyzed and considered  
11:23:30 8 amended Claims 1 and 8, correct?

11:23:33 9 A. Yes, that's my recollection.

11:23:35 10 Q. So just to confirm, in your  
11:23:44 11 declaration, any analysis that you have where  
11:23:47 12 you mention Claims 1 and 8, you're referring to  
11:23:50 13 the amended Claims 1 and 8?

11:23:51 14 A. That was my intention. If any  
11:23:55 15 typo slipped in, I apologize, but that was my  
11:23:58 16 intention.

11:23:58 17 Q. Okay. Let's go back to the '790  
11:24:05 18 patent. Let me know when you are there.

11:24:12 19 A. I am there.

11:24:12 20 Q. On the first page of the '790  
11:24:15 21 patent, it has a filing date of June 19, 2023.

11:24:21 22 Do you see that?

11:24:21 23 A. No.

11:24:23 24 Q. I'm sorry. Let me say that again.

11:24:27 25 On the first page of the '790

11:24:29 1 patent, it has the filing date of June 19,  
11:24:38 2 2003.

11:24:39 3 A. Yes, that is correct.

11:24:40 4 Q. For your analysis in your  
11:24:46 5 declaration, you assumed a priority date as of  
11:24:49 6 the '790 patent's filing date of June 19, 2003,  
11:24:55 7 correct?

11:24:56 8 A. I assumed that filing date, but  
11:25:10 9 then I also acknowledged that it claims  
11:25:13 10 priority to earlier filings as well.

11:25:17 11 Q. But for your analysis, you assumed  
11:25:21 12 a priority date as of the '790 patent's filing  
11:25:25 13 date of June 19, 2003, correct?

11:25:27 14 A. That's right, for the sake of my  
11:25:30 15 analysis. For this declaration, it was not  
11:25:33 16 material, as I recall, whether or not I would  
11:25:37 17 have assumed an earlier priority date such as  
11:25:40 18 June 28, 2002. So for my analysis, it was  
11:25:45 19 sufficient for me to assume a priority date of  
11:25:49 20 June 19, 2003.

11:25:52 21 Q. So you assumed the later priority  
11:25:54 22 date, correct?

11:25:55 23 A. As I mentioned, I understand the  
11:25:59 24 priority date for the '790 patent is as early  
11:26:03 25 as June 28, 2002, which is the filing date of

11:26:09 1 the earliest provisional application. But for  
11:26:13 2 my analysis, I assume a priority date of the  
11:26:17 3 '790 patent as of June 19, 2003.

11:26:22 4 Q. You didn't do any analysis to  
11:26:24 5 confirm whether the '790 patent is indeed  
11:26:30 6 entitled to the earlier June 28, 2002, priority  
11:26:35 7 date, correct?

11:26:36 8 A. That was not necessary for my  
11:26:38 9 analysis. I would reserve the right to do such  
11:26:42 10 analysis in the future, but it was not required  
11:26:45 11 for this declaration.

11:26:47 12 Q. So as far as you're concerned, the  
11:26:52 13 '790 patent may or may not be entitled to the  
11:26:54 14 June 28, 2002, priority date, correct?

11:26:58 15 A. I would answer that the same way I  
11:27:01 16 did the previous question.

11:27:04 17 Q. How would you answer that?

11:27:07 18 A. I reserve the right to do an  
11:27:11 19 analysis as to whether or not the '790 patent  
11:27:14 20 can claim priority to June 28, 2002. But for  
11:27:20 21 the sake of my analysis for this declaration,  
11:27:22 22 it was sufficient for me to assume a priority  
11:27:26 23 date of June 19, 2003.

11:27:29 24 Q. I understand that you're reserving  
11:27:34 25 your right to do that analysis. But sitting

11:27:37 1 here today, you don't know one way or another  
11:27:40 2 whether the '790 patent is actually entitled to  
11:27:44 3 the earlier June 28, 2002, priority date,  
11:27:49 4 correct?

11:27:49 5 A. That mischaracterizes what I am  
11:27:53 6 saying. I'm not saying that I don't know at  
11:27:54 7 all. It's just that I have not completed  
11:27:59 8 sufficiently an analysis to form an opinion  
11:28:02 9 that I would be ready to sign my name to.

11:28:09 10 Q. You do not have an opinion in your  
11:28:12 11 declaration as to whether the '790 patent is  
11:28:16 12 actually entitled to the earlier June 28, 2002,  
11:28:21 13 priority date, correct?

11:28:22 14 A. That is correct. It was not  
11:28:24 15 necessary for the analysis for this  
11:28:25 16 declaration.

11:28:27 17 Q. So looking at the '790 patent, the  
11:28:36 18 claims of the '790 patent recite the term  
11:28:42 19 "digital content," right?

11:28:44 20 A. Yes.

11:28:48 21 Q. And the '790 patent generally at a  
11:28:51 22 high level discloses a way to provide digital  
11:28:54 23 content to wireless services subscribers,  
11:28:58 24 right?

11:28:59 25 A. That's right.

11:29:07 1 Q. If you could turn to in the '790  
11:29:11 2 patent column 3 lines 48 through 53, let me  
11:29:17 3 know when you're there.

11:29:18 4 A. What column again?

11:29:20 5 Q. Column 3 starting at line 48.

11:29:26 6 A. I am there.

11:29:31 7 Q. The '790 patent discloses at  
11:29:34 8 column 3 lines 48 through 53 the following:

11:29:39 9 "As used in this description, the  
11:29:42 10 terms 'digital content,' 'digital  
11:29:45 11 product,' 'content,' and 'product' are  
11:29:48 12 used interchangeably and mean software  
11:29:54 13 and/or data embodying things such as  
11:29:57 14 games and other applications, applets or  
11:30:01 15 the like; images; screensavers;  
11:30:05 16 wallpaper; ring tones; etc. "

11:30:08 17 Did I read that correctly?

11:30:10 18 A. The sentence continues.

11:30:19 19 Q. The sentence does continue, but  
11:30:21 20 what I read was through line 53, correct?

11:30:24 21 A. Yes.

11:30:25 22 Q. And so the '790 patent discloses  
11:30:31 23 digital content can be software, right?

11:30:33 24 A. It is inclusive of software, yes.

11:30:41 25 Q. And digital content can be games,

11:30:43 1 images, software applications, videos, right?

11:30:45 2 A. I agree.

11:30:45 3 Q. I just want to understand some

11:30:52 4 terminology of, in your view, of a person of

11:30:57 5 ordinary skill in the art. So just so that if

11:30:59 6 we're using terms, we understand we're on the

11:31:02 7 same page.

11:31:03 8 So a person of ordinary skill in

11:31:04 9 the art, would it be fair to say that they

11:31:07 10 would understand that the term "software

11:31:08 11 application" and "application" can be used

11:31:11 12 interchangeably?

11:31:15 13 A. I agree.

11:31:16 14 MR. MATULEWICZ-CROWLEY:

11:31:16 15 Objection. Vague.

11:31:20 16 A. Generally speaking, depending on

11:31:22 17 the context, that is true.

11:31:23 18 Q. And a person of ordinary skill in

11:31:26 19 the art would also understand that

11:31:27 20 "application," "software program," and

11:31:29 21 "program" are also terms that are used

11:31:32 22 interchangeably?

11:31:33 23 MR. MATULEWICZ-CROWLEY:

11:31:33 24 Objection. Vague.

11:31:33 25 A. They can be, depending on the

11:31:35 1 context.

11:31:39 2 Q. The '790 patent uses the term  
11:31:44 3 "product entry" in the specification. Do you  
11:31:47 4 recall that?

11:31:48 5 A. Where in the patent would you like  
11:31:50 6 to point me to?

11:31:57 7 Q. Can you go to column 9 of the '790  
11:31:59 8 patent?

11:32:07 9 A. I am there.

11:32:08 10 Q. Of lines 33 -- I'm sorry, at line  
11:32:18 11 38. So if you go to column 9 line 38, the term  
11:32:23 12 "product entry" is there.

11:32:25 13 Do you see that? And I'll read a  
11:32:28 14 part of that passage. Do you see it?

11:32:30 15 A. I see the word there, yes.

11:32:32 16 Q. So at column 9 lines 38 through 40  
11:32:40 17 of the '790 patent, it says:

11:32:47 18 "The product catalog 54 contains  
11:32:50 19 descriptions of all published items of  
11:32:54 20 content," and then in parenthesis  
11:32:58 21 "(products). Referring to Figure 5, the  
11:33:00 22 catalog 54 includes, for each product  
11:33:03 23 entry 56, a reference 58 to at least one  
11:33:10 24 implementation 57 of that product. "

11:33:13 25 Did I read that right?

11:33:14 1 A. Yes.

11:33:16 2 Q. A product entry is not actually

11:33:19 3 the digital product, correct?

11:33:26 4 A. (Document review.)

11:34:30 5 Q. Dr. Goodrich, do you need me to

11:34:33 6 repeat the question?

11:34:34 7 A. No.

11:34:40 8 So in this context "product entry"

11:34:43 9 refers to an entry that is a reference to a

11:34:47 10 product in the catalog 54.

11:34:50 11 Q. So the product entry is not

11:34:52 12 actually the digital product, it's just an

11:34:55 13 entry of the product in the product catalog,

11:35:00 14 correct?

11:35:00 15 A. To say that it's not the product

11:35:03 16 would require more analysis. Typically it is

11:35:06 17 not the product. But, depending on context, if

11:35:10 18 the product, for example, was just an image, it

11:35:14 19 may be that the way the product is displayed as

11:35:17 20 a product entry in the catalog could be showing

11:35:21 21 the image, which would also be the product.

11:35:25 22 So to answer your question more

11:35:27 23 fully requires more details on context.

11:35:35 24 Q. But in respect to the '790 patent,

11:35:39 25 "product entry" wasn't one of the terms that

11:35:42 1 the '790 said was used interchangeably with  
11:35:44 2 "digital content," "content," "product,"  
11:35:50 3 correct?

11:35:51 4 A. Correct. But, like I said,  
11:35:58 5 "product," as we read earlier, can include  
11:36:02 6 images. And a person of ordinary skill in the  
11:36:06 7 art would understand that a product catalog  
11:36:09 8 could be displayed using images, in which case  
11:36:14 9 the product entry, which is just the entry in  
11:36:16 10 the catalog, could itself be showing the image,  
11:36:20 11 which is the product. So there is a slight  
11:36:24 12 overlap in that example where the product is an  
11:36:28 13 image.

11:36:30 14 In other cases, such as software,  
11:36:32 15 it is unlikely that the product entry is the  
11:36:35 16 same as the product. So it depends on context  
11:36:39 17 to disambiguate a few border cases where the  
11:36:45 18 product entry may overlap with the product.

11:36:51 19 Q. So to confirm, product entry may  
11:36:56 20 not always be the product. It could just  
11:36:59 21 merely be an entry?

11:37:01 22 MR. MATULEWICZ-CROWLEY:

11:37:02 23 Objection. Asked and answered.

11:37:02 24 A. That sounds pretty close to what  
11:37:07 25 I'm saying. So, as I mentioned, from context,

11:37:10 1 a person of ordinary skill in the art would  
11:37:11 2 understand product entry, as referenced in  
11:37:14 3 Figure 5, is an entry in a catalog to a  
11:37:20 4 product. And, generally speaking, such as in  
11:37:23 5 the case of software, the product entry is not  
11:37:25 6 identical to the product. Instead it's a  
11:37:27 7 reference in the data structure that is  
11:37:30 8 describing the product and metadata associated  
11:37:34 9 with that product.

11:37:35 10 But in the case of an image, it  
11:37:38 11 could in some examples be showing the image in  
11:37:41 12 the catalog itself.

11:37:58 13 Q. In the '790 patent, the product  
11:38:01 14 entry is not what eventually gets distributed  
11:38:05 15 to the wireless service subscribers, right?

11:38:08 16 MR. MATULEWICZ-CROWLEY:

11:38:09 17 Objection. Vague and scope.

11:38:13 18 A. As I mentioned earlier, in the  
11:38:15 19 case where the product is itself an image, and  
11:38:19 20 in the example borderline case where the  
11:38:23 21 product entry shows that image, then if the  
11:38:29 22 person purchases the product, in this case an  
11:38:32 23 image, and downloads it, then they would be  
11:38:34 24 having that image.

11:38:34 25 Q. So in --

11:38:38 1 A. There are other cases where the  
11:38:40 2 product entry would not be what is downloaded.

11:38:42 3 Q. In your example of an image, what  
11:38:44 4 actually gets distributed is an image file,  
11:38:49 5 correct?

11:38:50 6 A. Yes. That's correct.

11:39:04 7 Q. For other types of content, like a  
11:39:06 8 video file or a software product, it's not the  
11:39:11 9 product entry that gets distributed to the  
11:39:13 10 wireless service subscribers, it's the actual  
11:39:19 11 file itself. So either the executable or the  
11:39:23 12 video file, correct?

11:39:25 13 MR. MATULEWICZ-CROWLEY:

11:39:25 14 Objection. Scope. And incomplete  
11:39:29 15 hypothetical.

11:39:29 16 A. Generally speaking, that is  
11:39:31 17 accurate. What the '790 describes is that the  
11:39:37 18 product catalog shows the available products.  
11:39:43 19 And in the catalog, it also has, as shown in  
11:39:46 20 Figure 5, references to implementations. And  
11:39:51 21 ultimately what would be downloaded to a user  
11:39:55 22 device is an implementation of the product that  
11:39:59 23 was purchased.

11:40:01 24 So it would be examples of a  
11:40:03 25 software file that can be run on that device or

11:40:09 1 a video file that can be played on that device.

11:40:12 2 Q. So in your example of an image,  
11:40:17 3 and that image could be the product and the  
11:40:19 4 product entry, it's actually the implementation  
11:40:23 5 of the image like the .JPEG file that would be  
11:40:28 6 distributed to the wireless services  
11:40:32 7 subscribers, correct?

11:40:34 8 MR. MATULEWICZ-CROWLEY: Same  
11:40:34 9 objections.

11:40:34 10 A. Generally speaking, yes, that is  
11:40:36 11 true. What is distributed is an implementation  
11:40:39 12 of the product.

11:40:40 13 Q. So you mentioned the term  
11:40:47 14 "implementation." That is a claim term that's  
11:40:49 15 recited in the claims of the '790 patent,  
11:40:53 16 correct?

11:40:56 17 A. Yes. And that is how I was using  
11:40:58 18 that term.

11:40:59 19 Q. You've opined that Lion King is a  
11:41:02 20 piece of content, right?

11:41:04 21 A. That is correct.

11:41:07 22 Q. And you opine that Lion King can  
11:41:11 23 have a .MP3 implementation and a .MOV  
11:41:19 24 implementation, correct?

11:41:19 25 A. Yes, as examples, as I mentioned

11:41:22 1 in my paragraph 39.

11:41:25 2 Q. Now, you've also given the example  
11:41:27 3 that Microsoft Word is another piece of  
11:41:31 4 content, right?

11:41:31 5 A. That is correct.

11:41:31 6 Q. And Microsoft Word is a word  
11:41:36 7 processing software application?

11:41:38 8 A. That's how I was using that term  
11:41:41 9 in paragraph 39.

11:41:42 10 Q. And do you opine that Microsoft  
11:41:45 11 Word for Windows is an implementation, right?

11:41:49 12 A. Yes. As an example. Generally  
11:41:52 13 speaking, yes, that's how I was using that  
11:41:55 14 terminology in paragraph 39.

11:42:03 15 Q. And Microsoft Word for Mac is  
11:42:06 16 another implementation of the software  
11:42:08 17 application Microsoft Word, right?

11:42:10 18 A. In that example that I was giving  
11:42:12 19 in paragraph 39, that is correct.

11:42:14 20 Q. Microsoft Word for Mac and  
11:42:23 21 Microsoft Word for Windows are two different  
11:42:25 22 applications, right?

11:42:27 23 A. That's not how I was using those  
11:42:30 24 terms here, no.

11:42:34 25 Q. I understand. But those are two

11:42:37 1 different applications, right?

11:42:40 2 MR. MATULEWICZ-CROWLEY:

11:42:40 3 Objection. Asked and answered.

11:42:41 4 A. That's not how I was using that

11:42:44 5 terminology here. This was an example, and

11:42:47 6 that's how I was using that, as an example. I

11:42:50 7 could have just as easily have said Microsoft

11:42:53 8 Word for Windows 3.1, Microsoft Word for

11:42:56 9 Windows 7, Microsoft Word for Windows 8,

11:42:59 10 Microsoft Word for Windows 10 as all being

11:43:03 11 different implementations of the same content,

11:43:10 12 in this case, Microsoft Word. This was just an

11:43:12 13 example I was giving.

11:43:13 14 Q. I understand those are examples.

11:43:17 15 So sticking with the example that you have in

11:43:19 16 your declaration with Microsoft Word for

11:43:22 17 Windows and Microsoft Word for Mac, those two

11:43:27 18 programs don't have identical code, correct?

11:43:30 19 A. That's right. They have different

11:43:35 20 implementations for that same product,

11:43:37 21 Microsoft Word.

11:43:37 22 Q. So the product is not identical

11:43:39 23 for Microsoft Word for Windows and Microsoft

11:43:42 24 Word for Mac, correct?

11:43:43 25 MR. MATULEWICZ-CROWLEY:

11:43:44 1 Objection. Asked and answered.

11:43:45 2 A. I would answer that the same way I  
11:43:48 3 did before.

11:43:49 4 Q. So you agree that the Microsoft  
11:43:55 5 Word version is a Windows application, and the  
11:43:58 6 Microsoft Word version for Mac is an  
11:44:05 7 application for Mac computers, correct?

11:44:07 8 MR. MATULEWICZ-CROWLEY:

11:44:08 9 Objection. Misstates prior testimony.

11:44:10 10 A. I would say it the way I did  
11:44:12 11 before. Namely, the way I'm using those terms  
11:44:15 12 here is just as an illustrative example. I  
11:44:19 13 could have just as easily said Microsoft Word  
11:44:22 14 for Windows 3.1, Microsoft Word for Windows 7,  
11:44:25 15 Microsoft Word for Windows 8, Microsoft Word  
11:44:28 16 for Windows Vista, Microsoft Word for  
11:44:33 17 Windows 10 as being different implementations  
11:44:36 18 of the same product. That's how I'm using that  
11:44:38 19 term here in paragraph 39; that these are all  
11:44:42 20 different implementations of the same product,  
11:44:46 21 which is Microsoft Word.

11:44:48 22 Q. So an implementation of the same  
11:44:52 23 product still means that those are two  
11:44:55 24 different applications, though, right? because  
11:44:58 25 they don't have identical code. So they're two

11:45:01 1 different applications, although for Microsoft  
11:45:05 2 Word, correct?

11:45:10 3 MR. MATULEWICZ-CROWLEY:

11:45:10 4 Objection. Misstates his prior  
11:45:12 5 testimony. Asked and answered.

11:45:13 6 A. No, I disagree with that --

11:45:14 7 MS. CARRANO: No, Counsel -- I'm  
11:45:15 8 sorry, one second, Doctor. Counsel, you  
11:45:17 9 really need to not do the speaking  
11:45:20 10 objections. Those are not permitted in  
11:45:24 11 the PTAB rules. So "mischaracterizes  
11:45:25 12 evidence" is a speaking objection, so  
11:45:26 13 please refrain from doing that. You can  
11:45:29 14 stick to "vague," but going beyond that  
11:45:31 15 is a violation.

11:45:36 16 Q. I'll ask the question again,  
11:45:40 17 Dr. Goodrich.

11:45:41 18 So an implementation of the same  
11:45:43 19 product means that those are two different  
11:45:46 20 applications, because they don't have identical  
11:45:50 21 code, so they are different, correct?

11:45:56 22 MR. MATULEWICZ-CROWLEY: Same  
11:45:57 23 objections.

11:45:58 24 A. I disagree with that  
11:45:59 25 characterization.

11:46:01 1 Q. So an implementation can have two  
11:46:16 2 applications that have code that are not  
11:46:19 3 identical, correct?

11:46:21 4 A. I disagree. The way that we're  
11:46:26 5 using the word "application" in this context,  
11:46:29 6 the way I understood your question, was to be  
11:46:32 7 referring to the digital product. In this  
11:46:37 8 case, the application called Microsoft Word.

11:46:40 9 In that context, there is one  
11:46:42 10 application, Microsoft Word, which then can  
11:46:45 11 have multiple implementations, which in my  
11:46:48 12 paragraph 39 I gave as exemplary applications  
11:46:53 13 Microsoft Word for Windows and Microsoft Word  
11:46:55 14 for Apple Macs. Different implementations of  
11:47:02 15 the same application.

11:47:04 16 Q. Right. I'm trying to under  
11:47:05 17 "implementation" and what you're interpreting  
11:47:07 18 that word to mean.

11:47:09 19 So "implementation" can mean  
11:47:11 20 you're having two different versions of the  
11:47:13 21 same product. You would agree with that,  
11:47:15 22 right?

11:47:16 23 A. Yes, I agree with that.

11:47:17 24 Q. And a version of one product is  
11:47:23 25 different than a version -- than a different

11:47:26 1 version of that same product, correct?

11:47:27 2 A. I'm not disagreeing with that,  
11:47:30 3 either. Implementations that are different, by  
11:47:37 4 definition, they are different. They would  
11:47:39 5 have different bits in them, for example, the  
11:47:43 6 zeros and ones that make up the file that is  
11:47:46 7 each implementation.

11:47:50 8 Q. So, Dr. Goodrich, you've listed  
11:48:09 9 several different versions of Microsoft Word.  
11:48:13 10 Are you very familiar with the different  
11:48:15 11 versions of Microsoft Word?

11:48:17 12 A. I generally am familiar with them  
11:48:21 13 having used them over the years.

11:48:26 14 Q. Have you used versions available  
11:48:28 15 for Windows and versions available for Mac?

11:48:31 16 A. Yes.

11:48:31 17 Q. And are you familiar with what  
11:48:36 18 those versions look like at the time of the  
11:48:39 19 '790 patent, generally speaking?

11:48:40 20 A. I don't recall specifically, but I  
11:48:44 21 do recall having used such products at that  
11:48:46 22 time.

11:48:46 23 Q. Would you recall that the user  
11:48:51 24 interfaces for the Word version of Windows at  
11:48:55 25 the time of the '790 patent looked much

11:48:58 1 different than the user interface of the Mac  
11:49:02 2 version of Microsoft Word at the time of the  
11:49:05 3 '790 patent, right?

11:49:09 4 A. I don't recall that they looked  
11:49:10 5 much different. What do you mean by "much  
11:49:13 6 different"?

11:49:14 7 Q. I'm referring to the user  
11:49:15 8 interfaces. The user interfaces of those  
11:49:18 9 software products looked different, correct?

11:49:23 10 A. I am not disputing that there are  
11:49:26 11 differences, but I do not understand what you  
11:49:30 12 mean by "much different."

11:49:31 13 Q. To put it simply, the user  
11:49:33 14 interfaces between the Mac version of Microsoft  
11:49:36 15 Word at the time of the patent and the Word  
11:49:36 16 version of Microsoft Word at the time of the  
11:49:39 17 patent had different user interfaces, correct?

11:49:43 18 A. Depending on what you mean by  
11:49:44 19 "different," yes. They're not identical.  
11:49:46 20 Similarly, an MP3 file version of Lion King at  
11:49:51 21 one resolution for one device would be  
11:49:54 22 different than a .MOV version for a different  
11:49:59 23 device that had more screen real estate.

11:50:02 24 I'm not disputing the different  
11:50:04 25 implementations of the same product may have

11:50:07 1 differences that, nevertheless, a person of  
11:50:11 2 ordinary skill in the art would understand that  
11:50:13 3 they are different implementations of the same  
11:50:16 4 product.

11:50:18 5 Q. To follow up on your answer, it's  
11:50:34 6 your opinion that an MP3 file would have a  
11:50:37 7 different resolution than the .MOV file?

11:50:43 8 A. No. That mischaracterizes what I  
11:50:46 9 just said. Instead what I said is it may,  
11:50:49 10 depending on the device. So one device that  
11:50:52 11 shows MP3 files may have a smaller resolution  
11:50:56 12 than another device that shows .MOV files. And  
11:50:59 13 in that example, then the two different  
11:51:02 14 implementations would indeed look different,  
11:51:05 15 but nevertheless to a person of ordinary skill  
11:51:08 16 in the art, they would understand those to be  
11:51:11 17 two implementations of the same digital  
11:51:14 18 product, the movie The Lion King.

11:51:16 19 Q. The .MP3 format is a completely  
11:51:22 20 different format than the .MOV format, correct?

11:51:27 21 MR. MATULEWICZ-CROWLEY:

11:51:28 22 Objection. Form.

11:51:28 23 A. They are different in the sense  
11:51:30 24 that the bits, the zeros and ones that comprise  
11:51:33 25 a .MP3 file, have differences than the bits,

11:51:37 1 the zeros and the ones, that would comprise an  
11:51:41 2 .MOV file; but they do have overlapping  
11:51:44 3 functionality, specifications, terminologies.

11:51:48 4 They're not identical, if that is  
11:51:50 5 your question, but they do have overlapping  
11:51:53 6 interpretations and semantics.

11:51:58 7 Q. Would an audio file of a piece of  
11:52:00 8 content in a video file, a piece of content, be  
11:52:04 9 implementations in your opinion?

11:52:08 10 A. That depends on the context. If  
11:52:11 11 the product is something that someone could  
11:52:18 12 think of as having both the video and audio  
11:52:22 13 versions, I don't see any contradiction in  
11:52:29 14 that.

11:52:30 15 So, for example, we could have  
11:52:32 16 speech recorded of, say, the fireside chats of  
11:52:38 17 President Roosevelt before we had video, but  
11:52:43 18 nevertheless they could produce it using an MP3  
11:52:46 19 video or — yeah, MP3 or MPEG versions that  
11:52:52 20 would play the audio, and essentially just be  
11:52:55 21 audio, but maybe show some still photographs as  
11:52:55 22 well.

11:52:59 23 I don't see any reason that a  
11:53:01 24 person of ordinary skill in the art would rule  
11:53:03 25 out the possibility that a product could have

11:53:05 1 both an audio implementation and a video  
11:53:08 2 implementation as different implementations of  
11:53:12 3 the same product.

11:53:14 4 Q. Now, based on your understanding  
11:53:20 5 of the '790 patent, you've opined that  
11:53:25 6 Microsoft Word and Apple Pages are not multiple  
11:53:30 7 implementations of an individual item of  
11:53:33 8 digital content, correct?

11:53:35 9 A. Correct. In that context, I was  
11:53:37 10 using those as examples of different products,  
11:53:41 11 not different implementations of the same  
11:53:43 12 product.

11:53:44 13 Q. Microsoft Word and Apple Pages are  
11:53:47 14 both word processing applications, right?

11:53:50 15 A. That's right.

11:53:51 16 Q. And they have different names,  
11:53:52 17 right?

11:53:52 18 A. For example, they have different  
11:53:55 19 names, but there is other products that are  
11:53:56 20 also different but have the same names. So  
11:54:00 21 there is sort of -- the name itself is not  
11:54:03 22 always sufficient to disambiguate what is a  
11:54:07 23 product.

11:54:08 24 Q. Sticking with your example, and I  
11:54:15 25 know it's just an example, but Microsoft Word

11:54:17 1 and Apple Pages, they're word processing  
11:54:20 2 applications and they have different names,  
11:54:22 3 right?

11:54:22 4 A. I agree.

11:54:23 5 Q. In your declaration you provided  
11:54:38 6 opinions about a reference called Mehta,  
11:54:41 7 correct?

11:54:41 8 A. That is correct.

11:54:43 9 Q. I'm going to drop Mehta into the  
11:54:47 10 Chat. So Mehta is Exhibit 1003 that was  
11:54:52 11 submitted in this proceeding. Can you confirm,  
11:54:56 12 Dr. Goodrich, when you have it?

11:55:09 13 (Document marked for  
11:55:09 14 identification as Exhibit 1003)

11:55:09 15 A. Yes. I have Mehta in front of me  
11:55:12 16 now.

11:55:12 17 Q. Can you confirm that U.S. Patent  
11:55:14 18 Application Number 2002/0131404 A1 to Mehta is  
11:55:30 19 Exhibit 1003 that you have in front of you?

11:55:34 20 A. Yes. Where Mehta is spelled  
11:55:42 21 M-e-h-t-a.

11:55:43 22 Q. Thank you for that. So I'll refer  
11:55:45 23 to Mehta as just "Mehta" or "the Mehta  
11:55:48 24 reference" or "Exhibit 1003" in this  
11:55:51 25 deposition. Is that okay?

11:55:52 1 A. Yes. That's fine with me.

11:55:57 2 Q. Have you reviewed the Mehta

11:55:59 3 reference?

11:56:00 4 A. Yes.

11:56:00 5 Q. Have you read every single word in

11:56:02 6 the Mehta reference?

11:56:04 7 A. That's my recollection, as I'm

11:56:06 8 sitting here today.

11:56:06 9 Q. How many times have you read Mehta

11:56:10 10 thoroughly?

11:56:10 11 A. I didn't count. I'm not recalling

11:56:12 12 the exact number.

11:56:13 13 Q. Do you have an approximation?

11:56:15 14 A. Not as I sit here today, no.

11:56:18 15 Q. Did you read Mehta specifically in

11:56:21 16 preparation for your deposition today?

11:56:24 17 A. I reviewed it.

11:56:27 18 Q. Did you review Mehta in

11:56:29 19 preparation for your deposition today, though?

11:56:31 20 A. Yes. That's what I just said.

11:56:35 21 Q. In the declaration you submitted

11:56:36 22 for this proceeding, you have citations to

11:56:40 23 certain portions of Mehta, correct?

11:56:42 24 A. Yes, that's correct.

11:56:50 25 Q. Are those portions of Mehta that

11:56:51 1 you cite in your declaration the disclosures  
11:56:54 2 that you rely on in formulating your opinions  
11:56:57 3 on Mehta?

11:56:59 4 MR. MATULEWICZ-CROWLEY:

11:56:59 5 Objection. Form.

11:57:00 6 A. They're exemplary. I didn't mean  
11:57:04 7 them to be exclusive. I rely on the entirety  
11:57:07 8 of Mehta for my analysis, but I do cite to  
11:57:14 9 exemplary citations in Mehta to support  
11:57:20 10 conclusions that I reach in my declaration.

11:57:21 11 Q. In your opinion, is there any  
11:57:23 12 disclosure in Mehta that you relied on that  
11:57:25 13 contradicts any of your opinions about Mehta?

11:57:28 14 A. Not that I recall sitting here  
11:57:31 15 today.

11:57:31 16 Q. Do you know what a file history  
11:57:33 17 is, Dr. Goodrich?

11:57:34 18 A. Yes.

11:57:34 19 Q. Have you read the file history of  
11:57:38 20 Mehta?

11:57:38 21 A. Not that I recall.

11:57:39 22 Q. Mehta discloses functionally  
11:57:47 23 equivalent programs, correct?

11:57:49 24 A. Yes. That's one of the sections I  
11:57:51 25 cite to in my report -- or my declaration,

11:57:54 1 rather.

11:57:57 2 Q. And it is your opinion that  
11:58:00 3 Mehta's disclosure of functionally equivalent  
11:58:03 4 programs does not disclose implementation as  
11:58:07 5 recited in the '790 claims, correct?

11:58:09 6 A. Yes, that is correct.

11:58:13 7 Q. So just going back to the example  
11:58:15 8 that you had before of Microsoft Word and Apple  
11:58:20 9 Pages, it's your opinion that Microsoft Word  
11:58:23 10 and Apple Pages are functionally equivalent  
11:58:28 11 applications, right?

11:58:29 12 A. Yes.

11:58:30 13 MR. MATULEWICZ-CROWLEY: Object to  
11:58:31 14 form.

11:58:31 15 A. Yes. I speak to that in my  
11:58:34 16 paragraph 70 where I say:

11:58:35 17 "A POSITA would understand that  
11:58:37 18 allowing 'functionally equivalent'  
11:58:39 19 applications (e.g., Microsoft Word and  
11:58:43 20 Apple Pages; or Microsoft PowerPoint and  
11:58:47 21 Google Slides; or Google Sheets, Apple  
11:58:51 22 Numbers, and Microsoft Excel) are not  
11:58:55 23 the same as having multiple  
11:58:57 24 implementations of an individual item of  
11:58:59 25 digital content (e.g., Microsoft Word

11:59:03 1 for Windows and Microsoft Word for Apple

11:59:06 2 Macs). "

11:59:07 3 Q. To clarify, a "POSITA" in this

11:59:11 4 context means a person of ordinary skill in the

11:59:14 5 art, right?

11:59:15 6 A. That is how I used that acronym in

11:59:18 7 my declaration, yes.

11:59:19 8 Q. So just to simplify it, so just

11:59:24 9 stick with Microsoft Word and Apple Pages,

11:59:28 10 you've opined that they are functionally

11:59:30 11 equivalent programs because they are both word

11:59:34 12 processing applications, correct?

11:59:36 13 A. Yes. That's correct.

11:59:39 14 Q. So one of ordinary skill in the

11:59:45 15 art at the time of the '790 patent would also

11:59:48 16 understand that Microsoft Word for Windows and

11:59:51 17 Microsoft Word for Mac are also functionally

11:59:53 18 equivalent, correct?

11:59:55 19 MR. MATULEWICZ-CROWLEY:

11:59:56 20 Objection. Form.

11:59:56 21 A. Yes. I'm not disputing that. But

12:00:04 22 they would be even stronger than simply

12:00:06 23 functionally equivalent. They would be

12:00:09 24 different implementations of the same product.

12:00:11 25 Q. But they would still be

12:00:14 1 functionally equivalent, correct?

12:00:15 2 A. Correct. Functionally equivalent  
12:00:18 3 is broader than being the same implementations  
12:00:21 4 of -- different implementations, rather, of the  
12:00:26 5 same product. Hence, when the Mehta reference  
12:00:31 6 is referring to functionally equivalent, and,  
12:00:35 7 moreover, the way that even it's used in the  
12:00:38 8 sentence that talks about functionally  
12:00:41 9 equivalent programs, it's referring to it as a  
12:00:44 10 way to disambiguate the scenario where  
12:00:47 11 functionally equivalent programs have the same  
12:00:50 12 name and are capable of running on multiple  
12:00:53 13 kinds of devices.

12:00:54 14 So it talks about here how in the  
12:00:57 15 Mehta reference to disambiguate even in the  
12:01:01 16 case where functionally equivalent programs  
12:01:04 17 have the same name, there is additional  
12:01:08 18 metadata that is stored to disambiguate, but  
12:01:12 19 not in a way that would disclose or suggest  
12:01:18 20 different implementations of the same digital  
12:01:19 21 product.

12:01:24 22 Q. Going back to your Lion King  
12:01:36 23 example, would your opinion be that the .MOV  
12:01:42 24 version of Lion King would be functionally  
12:01:45 25 equivalent to the .MP3 version of Lion King?

12:01:52 1 MR. MATULEWICZ-CROWLEY:  
12:01:52 2 Objection. Form.  
12:01:53 3 A. I would answer that the same way I  
12:01:56 4 did with respect to Microsoft Word.  
12:02:00 5 Functionally equivalent is a broader concept  
12:02:03 6 than having different implementations for the  
12:02:05 7 same product. Hence, for the Lion King  
12:02:09 8 example, a .MP3 and a .MOV are different  
12:02:14 9 implementations of the same product. They're  
12:02:17 10 also functionally equivalent, but functionally  
12:02:20 11 equivalent is broader. Hence, when Mehta is  
12:02:24 12 disclosing functionally equivalent, it is not  
12:02:26 13 referring to it as different implementations of  
12:02:30 14 the same product. Instead, it's revealing it  
12:02:33 15 to describe how to disambiguate in its  
12:02:36 16 descriptions of all flat, not clustered in  
12:02:43 17 terms of implementations, different  
12:02:45 18 applications where functionally equivalent  
12:02:48 19 programs even with the same name can  
12:02:51 20 nevertheless be distinguished based on other  
12:02:54 21 metadata.  
12:02:55 22 Q. So you would agree, then, that  
12:03:04 23 different versions of a piece of content can be  
12:03:07 24 functionally equivalent?  
12:03:09 25 A. I would answer that the same way I

12:03:15 1 did before. To be clear, functionally  
12:03:17 2 equivalent is a broader category than different  
12:03:21 3 implementations of the same product. Hence,  
12:03:24 4 different implementations of the same product  
12:03:27 5 would be, by implication, functionally  
12:03:27 6 equivalent.

12:03:27 7 But simply saying two things are  
12:03:34 8 functionally equivalent does not imply that  
12:03:35 9 they are different implementations of the same  
12:03:37 10 product, as is this example of Microsoft Word  
12:03:41 11 and Apple Pages, and others that I gave. And,  
12:03:44 12 likewise, when Mehta describes things being  
12:03:49 13 functionally equivalent programs that have the  
12:03:51 14 same name.

12:03:54 15 Specifically, if we look at Mehta,  
12:03:57 16 now at paragraph 98 when it says:

12:04:01 17 "Specifically this information,"  
12:04:03 18 referring to all the metadata that it  
12:04:05 19 includes, it says "including the  
12:04:08 20 application source language, allows the  
12:04:11 21 MAS to store and support functionally  
12:04:15 22 equivalent programs having the same name  
12:04:17 23 that are capable of running on multiple  
12:04:20 24 kinds of devices that even may be  
12:04:22 25 written using different languages."

12:04:24 1 That phrase "having the same  
12:04:27 2 language" [sic] would be redundant if  
12:04:31 3 functionally equivalent was being used in  
12:04:33 4 the more narrow sense of different  
12:04:37 5 implementations of the same product.

12:04:38 6 So a person of ordinary skill  
12:04:41 7 in the art reading this sentence that says  
12:04:43 8 "functionally equivalent programs having the  
12:04:45 9 same name" would understand that this is  
12:04:48 10 something completely different than simply  
12:04:53 11 different implementations of the same  
12:04:54 12 product. Otherwise, that phrase "having the  
12:04:57 13 same name" is redundant. There is no reason  
12:05:00 14 to have that there.

12:05:01 15 Q. So let me understand this. So if  
12:05:05 16 a content provider like Microsoft wanted to  
12:05:08 17 submit Microsoft Word for Windows to the MAS  
12:05:17 18 system in Mehta and also wanted to submit  
12:05:25 19 Microsoft Word for Mac, MAS would be able to  
12:05:34 20 disambiguate between the two different versions  
12:05:36 21 of software, correct?

12:05:37 22 A. Yes.

12:05:38 23 MR. MATULEWICZ-CROWLEY: Objection  
12:05:38 24 to form.

12:05:39 25 A. Yes, in this example it would.

12:05:40 1 And it would list them as separate  
12:05:45 2 applications, not different implementations of  
12:05:47 3 the same application. That's how MAS would  
12:05:55 4 treat those software products, M-A-S.

12:05:56 5 Q. But the MAS would allow those two  
12:05:58 6 different versions of Microsoft Word to be  
12:06:01 7 submitted into the MAS and its repository,  
12:06:06 8 correct?

12:06:07 9 MR. MATULEWICZ-CROWLEY: Same  
12:06:08 10 objection.

12:06:08 11 A. I would not dispute that. Indeed,  
12:06:11 12 I think it would be possible, but they would  
12:06:13 13 not be considered different implementations of  
12:06:16 14 the same product. They would just, again, in  
12:06:21 15 this flat database, you list it as different  
12:06:25 16 applications. Completely different. They just  
12:06:28 17 happen to have the same name perhaps, but  
12:06:30 18 otherwise the metadata would distinguish them  
12:06:32 19 and they would be considered completely  
12:06:33 20 different products in this scenario.

12:06:35 21 Q. So to further elaborate on a  
12:06:52 22 content provider being able to submit  
12:06:55 23 downloadable applications to MAS, Apple can  
12:07:01 24 also be a content provider, correct?

12:07:03 25 A. I would not --

12:07:05 1 MR. MATULEWICZ-CROWLEY: Objection

12:07:06 2 to form.

12:07:06 3 A. Generally speaking, I'm willing to

12:07:08 4 accept that as a hypothetical.

12:07:10 5 Q. And so Apple could submit to the

12:07:13 6 MAS system disclosed in Mehta the Apple Pages

12:07:19 7 software application, correct?

12:07:19 8 A. In principle. I wouldn't dispute

12:07:21 9 that if something akin to that existed at that

12:07:24 10 time.

12:07:24 11 Q. We could stick with the word

12:07:31 12 "example," if that's easier, so we know that

12:07:34 13 that did exist at the time of the patent, if

12:07:36 14 that would be more helpful to you. Is that

12:07:38 15 okay?

12:07:38 16 A. You're the one asking the

12:07:39 17 questions. You can ask them however you want.

12:07:41 18 Q. I'm making sure you understand the

12:07:43 19 questions. So, all right, we'll stick with

12:07:46 20 Microsoft.

12:07:46 21 So Microsoft can submit to the MAS

12:07:49 22 system Windows -- the Windows version of

12:07:56 23 Microsoft Word, correct?

12:08:01 24 MR. MATULEWICZ-CROWLEY:

12:08:01 25 Objection. Form.

12:08:05 1 Q. I'll repeat the question.  
12:08:07 2 Microsoft can submit to the MAS system in Mehta  
12:08:11 3 Microsoft Word for Windows, correct?

12:08:14 4 A. I think maybe I should take back  
12:08:18 5 what I said earlier, that I'm willing to accept  
12:08:21 6 your hypothetical, because we have to recall  
12:08:25 7 what MAS stands for now. It stands for Mobile  
12:08:29 8 Application System. And what Mehta is  
12:08:32 9 revealing is a system for having downloadable  
12:08:37 10 products to small handheld devices of the time  
12:08:44 11 which are just like, you know, devices that are  
12:08:49 12 tiny little cell phones with tiny little  
12:08:54 13 screens like shown on Figure 2 in Mehta.

12:09:01 14 So examples that it talks about  
12:09:03 15 are things like Doom, Blackjack, Frog; games,  
12:09:09 16 these kind of things. So I take back what I  
12:09:15 17 said about MAS being able to handle something  
12:09:18 18 as powerful as Microsoft Word. But if you want  
12:09:23 19 to start a new hypothetical using games like  
12:09:25 20 Frog, I'm willing to accept that.

12:09:29 21 Q. So we could just understand that  
12:09:32 22 the MAS could submit a program like Frog to a  
12:09:43 23 MAS system, correct?

12:09:44 24 A. You kind of garbled the question  
12:09:49 25 slightly. So a content provider who created

12:09:51 1 the Frog program could submit that to the MAS  
12:09:52 2 system, yes.

12:09:53 3 Q. My apologies. Let me redo that  
12:09:55 4 question so the record is clear.

12:09:57 5 So a content provider could submit  
12:10:00 6 a program like Frog, which is a game, to the  
12:10:04 7 MAS system, correct?

12:10:05 8 A. Yes. That is revealed in Mehta  
12:10:08 9 and shown as an example in Figure 2.

12:10:10 10 Q. Now the Frog application that's  
12:10:21 11 submitted by that content provider is going to  
12:10:24 12 have some sort of file name associated with it,  
12:10:26 13 correct?

12:10:27 14 A. It could. It is an example, yes.

12:10:30 15 Q. And there might be a URL  
12:10:33 16 associated with it as well, correct?

12:10:35 17 A. If by --

12:10:37 18 MR. MATULEWICZ-CROWLEY:

12:10:37 19 Objection. Form.

12:10:38 20 A. If by "URL" you're referring to a  
12:10:41 21 URL that would allow the creator of the Frog  
12:10:45 22 program to upload software for the Frog program  
12:10:50 23 into the MAS, yes, that is revealed in Mehta.

12:10:58 24 Q. A URL is Uniform Resource Locator,  
12:11:01 25 correct?

12:11:01 1 A. Yes. That's what URL stands for  
12:11:05 2 in this context.

12:11:08 3 Q. And URL is effectively a unique  
12:11:11 4 Web address, right?

12:11:12 5 A. It's one way to interpret it, yes,  
12:11:15 6 that's right.

12:11:16 7 Q. And URL, it represents a location  
12:11:18 8 of a specific resource on the Internet, right?

12:11:21 9 A. That is correct.

12:11:22 10 Q. So if we're talking about a video  
12:11:25 11 or an image or an application, whatever the  
12:11:27 12 resource is, the URL is going to include a path  
12:11:32 13 and a file name, right?

12:11:34 14 A. Typically it would do that using a  
12:11:38 15 domain name as well.

12:11:40 16 Q. And the file name portion of the  
12:11:42 17 URL would have an extension that indicates the  
12:11:45 18 type of file like .JPEG or .PNG, right?

12:11:51 19 MR. MATULEWICZ-CROWLEY:

12:11:52 20 Objection. Form.

12:11:52 21 A. Typically, that's true. That's  
12:11:54 22 not always required, but typically that would  
12:11:57 23 be the case.

12:12:29 24 MR. MATULEWICZ-CROWLEY: We have  
12:12:31 25 been going about an hour, is this a good

12:12:33 1 time to take a break or soon?

12:12:35 2 MS. CARRANO: Yeah, we can take a  
12:12:36 3 break, but let's keep it short since we  
12:12:38 4 started later than anticipated. So I'm  
12:12:41 5 going to say like a five-minute break.

12:12:44 6 MR. MATULEWICZ-CROWLEY: Is that  
12:12:45 7 enough time, Mike, to run to the  
12:12:47 8 restroom or whatever else you need?

12:12:50 9 THE WITNESS: I can try. I can  
12:12:51 10 try. We'll see.

12:12:52 11 MS. CARRANO: Let's plan for five  
12:12:54 12 minutes, then. And if it's a minute or  
12:12:55 13 two longer, that's fine.

12:12:57 14 (Proceedings recessed at  
12:19:19 15 9:12 a.m., and reconvened at 9:19 a.m.)

12:19:19 16 BY MS. CARRANO:

12:19:21 17 Q. Welcome back, Dr. Goodrich.

12:19:40 18 A. Thank you.

12:19:42 19 Q. Did you talk to counsel during the  
12:19:44 20 break?

12:19:45 21 A. No.

12:19:46 22 Q. So before the break, we were  
12:19:52 23 talking about a content provider being able to  
12:19:56 24 submit content to Mehta's MAS system, right?

12:20:00 25 A. Correct. There is a screen on

12:20:03 1 Figure 9A that shows an exemplary way to do  
12:20:08 2 that.

12:20:10 3 Q. So just sticking with our Frog  
12:20:13 4 game, a content provider for the Frog game can  
12:20:21 5 submit that game to the MAS system, correct?

12:20:27 6 A. Yes. As I mentioned, there is an  
12:20:30 7 exemplary way to do that shown in Figure 9A.

12:20:33 8 Q. And that content provider can  
12:20:36 9 submit version 1.0 of Frog, for example, or --  
12:20:44 10 let me start that over.

12:20:46 11 The content provider can submit  
12:20:49 12 version 1.0 of Frog, correct? to the MAS  
12:20:54 13 system?

12:20:55 14 MR. MATULEWICZ-CROWLEY:

12:20:55 15 Objection. Form.

12:20:57 16 A. I'm -- I'm not quite following  
12:21:02 17 your hypothetical. Are you just submitting  
12:21:06 18 that we could have something called Frog that  
12:21:09 19 could have a version 1.0 and that's what the  
12:21:13 20 developer calls it?

12:21:14 21 Q. Let me start all over. So a  
12:21:18 22 content provider for the Frog game can submit  
12:21:21 23 one version of Frog, let's say version 1.0;  
12:21:26 24 would that be fair to say?

12:21:28 25 A. I'm willing to accept --

12:21:29 1 MR. MATULEWICZ-CROWLEY: Objection

12:21:30 2 to form.

12:21:30 3 A. -- that. I can accept that

12:21:34 4 hypothetical. If there is any confusion, I'll

12:21:36 5 let you know.

12:21:36 6 Q. Thank you. And that same content  
12:21:38 7 provider, if he comes out with a new version of  
12:21:41 8 Frog, like Frog 2.0, that also can be submitted  
12:21:46 9 to the MAS system, correct?

12:21:47 10 A. I would not dispute that.

12:21:50 11 Q. So you would agree, then, that the  
12:22:02 12 MAS system disclosed in Mehta would support  
12:22:05 13 multiple versions of the same piece of digital  
12:22:08 14 content to be submitted, correct?

12:22:10 15 MR. MATULEWICZ-CROWLEY:

12:22:10 16 Objection. Form.

12:22:11 17 A. Over time it could be submitted.

12:22:16 18 I'm not recalling a place in Mehta where it  
12:22:19 19 specifically talks about submitting different  
12:22:22 20 versions at the same time. Instead, it talks  
12:22:25 21 about how, for example, there can be a new  
12:22:30 22 version available in the MAS system that is  
12:22:34 23 newer than a version that had previously been  
12:22:37 24 downloaded by a subscriber and that then the  
12:22:43 25 subscriber can download the new version.

12:22:45 1 I'm not recalling a place where it  
12:22:47 2 discloses in Mehta that you can have different  
12:22:50 3 versions in the MAS system at the same time.  
12:22:53 4 But if there is a paragraph in Mehta you'd like  
12:22:56 5 to point me to, I'd be happy to consider that.

12:22:59 6 Q. Can we go to your declaration,  
12:23:46 7 Exhibit 2020 paragraph 40. Let me know when  
12:24:05 8 you are there.

12:24:06 9 A. I am there.

12:24:06 10 Q. At paragraph 40 of your  
12:24:10 11 declaration, you opine that the '790 patent  
12:24:14 12 discloses a, quote:

12:24:15 13 "Centralized, scalable store in  
12:24:20 14 which the user is only presented with  
12:24:24 15 the items of content, while the store  
12:24:28 16 maintains references to each  
12:24:31 17 implementation, unbeknownst to the  
12:24:37 18 user. "

12:24:38 19 Did I read that correctly?

12:24:40 20 A. I think so.

12:24:42 21 Q. There is no depiction in the '790  
12:24:45 22 patent of what that store display would look  
12:24:49 23 like to the user, correct? Not in any of the  
12:24:52 24 figures.

12:24:55 25 A. If by your question you're asking

12:25:35 1 are there any exemplary screenshots of what  
12:25:40 2 would be displayed to the user, I'm not  
12:25:42 3 recalling an exemplary screenshot. Instead,  
12:25:45 4 this described in words and conceptually in  
12:25:48 5 figures.

12:25:48 6 Q. So based on the disclosure in the  
12:25:51 7 '790, even if there is no figures depicting  
12:25:54 8 what the store display would look like, the  
12:25:57 9 disclosures explain that the user can see the  
12:26:01 10 digital content, correct?

12:26:03 11 A. Where are you now? In the '790  
12:26:07 12 patent?

12:26:08 13 MR. MATULEWICZ-CROWLEY:  
12:26:09 14 Objection. Form.

12:26:10 15 A. Where are you now? In the '790  
12:26:15 16 patent?

12:26:16 17 Q. I'm not referring to anything  
12:26:18 18 specifically.

12:26:20 19 A. Then I do not understand your  
12:26:21 20 question.

12:26:22 21 Q. Okay. So you would agree that  
12:26:36 22 there are disclosures in the '790 patent that  
12:26:41 23 support your opinion in paragraph 40 that there  
12:26:46 24 is a centralized, scalable store in which the  
12:26:49 25 user is presented with items of content, right?

12:26:55 1 A. Yes. I give exemplary citations  
12:26:59 2 to the '790 patent at column 1 line 50 to  
12:27:06 3 column 2 line 17 and column 8 line 66 to  
12:27:13 4 column 9 12.

12:27:13 5 Q. I want to understand what this  
12:27:18 6 display would look like to the user. So if we  
12:27:21 7 go to your example of The Lion King, in your  
12:27:26 8 opinion what the user would see, according to  
12:27:29 9 the '790 patent, in the display, the store  
12:27:36 10 display, would be the text "Lion King"? Would  
12:27:40 11 that be accurate?

12:27:41 12 MR. MATULEWICZ-CROWLEY:

12:27:41 13 Objection. Form.

12:27:41 14 A. I'm not sure what you're referring  
12:27:44 15 to here. So generally there would be a display  
12:27:47 16 that would show a way to represent the digital  
12:27:51 17 product in a way that would allow the user to  
12:27:54 18 select it. So it could be a name like The Lion  
12:27:59 19 King. It could be a thumbnail image such as a  
12:28:03 20 lion that came from the movie.

12:28:05 21 Q. Okay. So if -- I'm just trying to  
12:28:08 22 understand what the store will look like. So  
12:28:10 23 there could be a list of text describing each  
12:28:14 24 of the digital -- the pieces of digital  
12:28:17 25 content, correct?

12:28:17 1 A. For example. But this is now  
12:28:24 2 presuming that there is a product that has an  
12:28:27 3 implementation that the user could choose. So  
12:28:29 4 if there is no implementation at all for The  
12:28:32 5 Lion King on the user's device, then in my  
12:28:35 6 opinion they would not be shown any reference  
12:28:38 7 to The Lion King.

12:28:40 8 Q. That's fair. So assume that the  
12:28:43 9 user's device supports the .MOV version of Lion  
12:28:53 10 King, and so when that user goes to the store  
12:28:59 11 display, he may see -- he could possibly see  
12:29:09 12 the text "Lion King" to indicate that there is  
12:29:13 13 a Lion King implementation available for him to  
12:29:19 14 view or download, right?

12:29:21 15 MR. MATULEWICZ-CROWLEY:

12:29:21 16 Objection. Form.

12:29:22 17 A. In principle, I'm willing to  
12:29:25 18 accept that there would be such a presentation  
12:29:30 19 to the user. Because, for example, in line --  
12:29:35 20 in column 12 line -- beginning at line 13, it  
12:29:43 21 talks about how a client device will "display  
12:29:49 22 product information relating to only those  
12:29:51 23 products supported by the client device, in the  
12:29:56 24 appropriate currency and language for the  
12:30:02 25 subscriber's domain."

12:30:03 1 So in that exemplary embodiment,  
12:30:06 2 the display would include a price and the  
12:30:10 3 description in a native language.

12:30:11 4 Q. Would it be fair to say that the  
12:30:13 5 display could include the name of the piece of  
12:30:16 6 content?

12:30:20 7 MR. MATULEWICZ-CROWLEY:

12:30:21 8 Objection. Form.

12:30:21 9 A. I don't believe the '790 patent  
12:30:26 10 would rule that out as an exemplary embodiment.

12:30:30 11 Q. So sticking with what's displayed  
12:30:43 12 for a user whose device supports the .MOV file  
12:30:49 13 for Lion King, the Lion King name that would be  
12:30:57 14 displayed on the screen, that would represent  
12:30:58 15 the item of digital content; is that right?

12:31:01 16 MR. MATULEWICZ-CROWLEY:

12:31:01 17 Objection. Form.

12:31:02 18 A. In this example, that's one  
12:31:05 19 possible embodiment. For example, when we go  
12:31:07 20 to Figure 9, it talks about how you have to  
12:31:11 21 select a language and a currency based on the  
12:31:16 22 domain, and then you identify client device and  
12:31:20 23 client device capabilities. Hence, "The Lion  
12:31:25 24 King" are words in English. I presume that  
12:31:28 25 that was the English title of that movie. Then

12:31:34 1 in this example, I believe that in this  
12:31:36 2 embodiment you would see the words "The Lion  
12:31:39 3 King."

12:31:40 4 Q. And so what you would see, to  
12:31:42 5 continue with that example, you would see the  
12:31:44 6 words "Lion King," but you wouldn't see that it  
12:31:47 7 was a .MOV file necessarily, correct?

12:31:50 8 A. I agree.

12:31:53 9 Q. All the user would see would just  
12:32:06 10 be the single description of Lion King,  
12:32:08 11 correct?

12:32:09 12 A. In this hypothetical, I'm not  
12:32:12 13 ruling out that there would also be a price.  
12:32:15 14 There may be even an image in the form of a  
12:32:20 15 thumbnail image, a very small image, as well as  
12:32:25 16 possibilities.

12:32:27 17 But in this example, I was  
12:32:29 18 highlighting the feature of the '790 patent  
12:32:33 19 that would allow it to not have to show that  
12:32:36 20 this is a .MOV file, because the system of the  
12:32:41 21 '790 patent already will only show content that  
12:32:46 22 can be having implementations that would work  
12:32:49 23 on the user's device.

12:32:52 24 Q. So just to sum it up, the user  
12:32:55 25 wouldn't see the file extension of the format

12:32:57 1 of The Lion King, which could be a .MOV file,  
12:33:02 2 for example?

12:33:02 3 MR. MATULEWICZ-CROWLEY:

12:33:02 4 Objection. Form.

12:33:03 5 A. I'm not ruling out that in another  
12:33:06 6 embodiment that you would also show that, just  
12:33:09 7 to confirm to the user that you're only showing  
12:33:12 8 them implementations that would work. I'm just  
12:33:14 9 saying that this is a feature that now the '790  
12:33:18 10 enables. You don't have to show that to the  
12:33:20 11 user.

12:33:21 12 Q. But the name Lion King, whether or  
12:33:25 13 not it has an extension or not, what's  
12:33:27 14 displayed, if it's the text "Lion King," that  
12:33:31 15 would represent the digital content, correct?

12:33:33 16 MR. MATULEWICZ-CROWLEY:

12:33:34 17 Objection. Form.

12:33:34 18 A. It could in this example, along  
12:33:37 19 with the price. And there would be the  
12:33:41 20 language in English in this case, "Lion King."

12:33:44 21 Q. Right. So putting aside the price  
12:33:46 22 and language, just focusing on the digital  
12:33:49 23 content, "The Lion King" text, that would be  
12:33:54 24 the represent -- that would represent the  
12:33:56 25 digital content itself, "The Lion King," right?

12:34:01 1 MR. MATULEWICZ-CROWLEY:  
12:34:01 2 Objection. Form.  
12:34:02 3 A. It could, depending on the context  
12:34:04 4 and what we're calling the screen -- there is a  
12:34:06 5 lot of details here that would have to be  
12:34:09 6 filled in. I don't feel comfortable just  
12:34:13 7 saying blatantly that it can do for all. But  
12:34:17 8 in this hypothetical we've been discussing,  
12:34:20 9 that would be one way you could represent The  
12:34:21 10 Lion King is with text.  
12:34:30 11 Q. So switching gears a little bit,  
12:34:32 12 there is another reference that you've  
12:34:35 13 considered called the Schlapfer reference,  
12:34:37 14 correct?  
12:34:37 15 A. Yes.  
12:34:38 16 Q. I'm going to drop that into the  
12:34:40 17 Chat, and that is Exhibit 1009 to Schlapfer.  
12:34:49 18 Can you confirm when you have it.  
12:34:51 19 (Document marked for  
12:35:11 20 identification as Exhibit 1009)  
12:35:11 21 A. I have that.  
12:35:11 22 Q. Can you confirm that Exhibit 1009  
12:35:15 23 to Schlapfer is on your screen?  
12:35:19 24 A. Yes.  
12:35:25 25 Q. And so you've considered the

12:35:28 1 Schlapfer reference in formulating your  
12:35:29 2 opinions that's in your declaration, correct?

12:35:31 3 A. Yes.

12:35:32 4 Q. And it's your opinion that the  
12:35:35 5 Schlapfer reference was not publicly  
12:35:39 6 accessible?

12:35:40 7 A. It is my opinion that  
12:35:44 8 Mr. Wechselberger, however you say his name,  
12:35:47 9 has not shown that.

12:36:08 10 Q. At paragraph 102 of your  
12:36:11 11 declaration. Let me know when you're there.

12:36:15 12 A. I am there.

12:36:16 13 Q. At paragraph 102 of your  
12:36:18 14 declaration, you state:

12:36:19 15 "Petitioner's evidence merely  
12:36:23 16 states that Schlapfer was accessed at  
12:36:27 17 [link] but Petitioner provides no  
12:36:29 18 evidence that that link was public.  
12:36:33 19 Instead, Schlapfer very well may have  
12:36:39 20 been hosted on an internal Ericsson  
12:36:43 21 server and accessible via a protected  
12:36:47 22 and private URL. "

12:36:48 23 Do you see that?

12:36:49 24 A. Yes.

12:36:51 25 Q. So isn't that what you described

12:36:56 1 at the bottom of paragraph 2 of your  
12:36:58 2 declaration would be known as an intranet, not  
12:37:04 3 the Internet?

12:37:05 4 A. It depends on the context what  
12:37:08 5 would that be. If that would be considered  
12:37:11 6 intranet or part of the Internet.

12:37:13 7 Q. Well, would anyone in the public  
12:37:16 8 have access to an internal Ericsson server?

12:37:22 9 MR. MATULEWICZ-CROWLEY:

12:37:22 10 Objection. Form.

12:37:23 11 A. I'd need more details to be able  
12:37:25 12 to answer that question. Here I'm saying  
12:37:30 13 simply that Mr. Wechselberger has not  
12:37:33 14 established that this document was publicly  
12:37:36 15 available. Full stop.

12:37:37 16 Simply saying that there is a link  
12:37:39 17 that somebody did click who was inside the Web  
12:37:44 18 page of Ericsson doesn't establish that  
12:37:50 19 somebody outside of Ericsson could get to that  
12:37:52 20 Web page.

12:37:53 21 Q. So would someone who didn't work  
12:37:57 22 at Ericsson have automatic access to an  
12:38:01 23 internal Ericsson server that was only  
12:38:03 24 accessible via a protected and private Internet  
12:38:07 25 URL?

12:38:09 1 A. I'd need more time to answer that  
12:38:11 2 question. Generally speaking, that is -- would  
12:38:14 3 not be possible. And then it depends on what  
12:38:17 4 you mean by "access."

12:38:19 5 So, for example, I know of there  
12:38:22 6 being secret websites that technically are on  
12:38:27 7 the Internet. Anybody who knows the full path  
12:38:30 8 of the URL can access that file, but there is  
12:38:36 9 no link pointing to that file. So there is  
12:38:39 10 literally nothing on the Internet you could  
12:38:41 11 click to find it or search an index that would  
12:38:44 12 return that URL. And only if somebody, for  
12:38:48 13 example, e-mailed that URL to you would you be  
12:38:53 14 able to know it and find it. In my opinion,  
12:38:55 15 that would not be a public accessible URL.

12:39:00 16 Q. If Schlapfer was accessible via  
12:39:04 17 the public Internet and not by a secret link,  
12:39:09 18 just go to Google, search it, find it, then  
12:39:15 19 would you have a basis for opining that  
12:39:17 20 Schlapfer was not publicly accessible?

12:39:22 21 A. In this example I would need to  
12:39:24 22 see evidence that a person of ordinary skill in  
12:39:27 23 the art using reasonable diligence searching  
12:39:30 24 for the topics of Schlapfer could use some kind  
12:39:34 25 of an indexing service to find it.

12:39:38 1 So I'd need to see that evidence,  
12:39:40 2 and Mr. Wechselberger didn't provide anything  
12:39:43 3 even close to that.

12:39:58 4 Also, I've been told -- and I  
12:40:00 5 agree, because I've done this hack, it's  
12:40:02 6 trivial -- simply putting a date on a document  
12:40:05 7 does not establish that that is the date it was  
12:40:07 8 created. And, likewise, I've seen plenty of  
12:40:12 9 examples where an initial date was put in and  
12:40:15 10 then a document was edited many years later,  
12:40:19 11 and they never update the date.

12:40:21 12 So, in my opinion, simply listing  
12:40:23 13 on the front that it has July 2001 on its face  
12:40:29 14 is not sufficient to establish that as its date  
12:40:33 15 for the entire document.

12:40:34 16 MS. CARRANO: I have no further  
12:40:35 17 questions for you, Dr. Goodrich. I pass  
12:40:41 18 the witness.

12:40:42 19 MR. MATULEWICZ-CROWLEY: Let's  
12:40:43 20 take a short break.

12:40:44 21 MS. CARRANO: All right.

12:40:44 22 (Proceedings recessed at  
12:40:44 23 9:40 a.m., and reconvened at 9:46 a.m.)

12:46:56 24 MR. MATULEWICZ-CROWLEY: I have no  
12:46:58 25 questions for you.

1 (Time Noted: 9:46 a.m.)

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C E R T I F I C A T E

I, MICHAEL T. GOODRICH, PH.D., do  
hereby certify that I have read the  
foregoing transcript of my testimony, and  
further certify that it is a true and  
accurate record of my testimony (with the  
exception of the corrections listed below):

| Page | Line | Correction |
|------|------|------------|
|------|------|------------|

Signed under the pains and penalties of  
perjury this \_\_\_\_\_ day of \_\_\_\_\_ ,  
2024.

\_\_\_\_\_  
MICHAEL T. GOODRICH, PH.D.

C E R T I F I C A T E

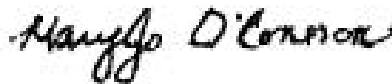
COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

I, MaryJo O'Connor, a Notary Public  
in and for the Commonwealth of  
Massachusetts, do hereby certify:

That MICHAEL T. GOODRICH, PH.D.,  
the witness whose testimony is hereinbefore  
set forth, was duly sworn by me and that  
such testimony is a true and accurate record  
of my stenotype notes taken in the foregoing  
matter to the best of my knowledge, skill  
and ability.

IN WITNESS WHEREOF, I have hereunto  
set my hand and Notarial Seal this 6th day  
of February 2024.



---

MARYJO O'CONNOR, RDR/RMR  
Notary Public

My Commission expires:  
September 12, 2025